

# **TANGGUH PROJECT RESPONSE: HUMAN RIGHTS AND SECURITY MONITORING ASSESMENT AND PEER REVIEW**

**August 22, 2005**

## **Introduction**

The purpose of this document is to respond to the comments and recommendations made to BP in the “Human Rights and Security Monitoring Assessment and Peer Review of the Tangguh Liquefied Natural Gas (LNG) Project” (Assessment and Peer Review) by Tony Ling and Gare Smith. This Response should be reviewed in parallel with the Assessment and Peer Review. The views, opinions and conclusions expressed in the Assessment and Peer Review are those of its authors and should not be regarded as those of BP or the Tangguh Project.

The Tangguh LNG Project is a natural gas development project located in the Berau-Bintuni Bay area of Papua, Indonesia, which will produce liquefied natural gas (LNG) for marine export. BP serves as the operator of the Tangguh Project. Construction of the plant and associated facilities commenced in early 2005. Project plans and activities integrate social, environmental and economic considerations with the aim of preventing or mitigating adverse impacts, while enhancing Project benefits for the communities around the area. Further information on Tangguh can be found on the BP website [www.bp.com](http://www.bp.com).

## **Human Rights, BP, and the Tangguh Project**

BP shares the common goal of promoting respect for human rights in its business activities, particularly those set forth in the United Nations Universal Declaration of Human Rights. BP helped pioneer the U.S. /U.K. Voluntary Principles on Security and Human Rights (Voluntary Principles), which guides security arrangements around energy projects, and has incorporated them in BP’s Code of Conduct for Security Providers in Indonesia.

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. Many of these programs are contained in the integrated Environmental and Social Impact Assessment (AMDAL) of the Tangguh Project, which was approved by the Indonesian Government in October 2002. The Tangguh Project’s Social Responsibility Policy covers a variety of issues relating to the Project’s ethical and social 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/UK 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.*

### **The Human Rights and Security Monitoring Assessment and Peer Review**

In keeping with the Tangguh Project's commitment to the Voluntary Principles, BP requested two security and human rights experts to evaluate the degree to which the Project is successfully implementing this commitment. These experts are Foley Hoag attorney Gare Smith and SCP/BTC Security Advisor Tony Ling. Gare Smith is a former Deputy Assistant Secretary in the U.S. State Department's Bureau of Democracy, Human Rights and Labor. Tony Ling has extensive experience on BP projects all over the world including Colombia, Angola and the SCP/ BTC gas and oil pipelines in Azerbaijan, Georgia and Turkey.

This Assessment follows-up upon the Human Rights Impact Assessment of the Tangguh Project conducted in 2002 by Gare Smith of Foley Hoag, and Bennett Freeman, an independent consultant. A summary of the 2002 Assessment and BP Response can be found on [www.bp.com](http://www.bp.com).

### **BP's Response to Individual Recommendations of the Human Rights and Security Monitoring Assessment and Peer Review**

Each recommendations made by Tony Ling and Gare Smith in the Assessment and Peer Review is noted in italics, followed by BP's response.

#### **High Priority – Potential Breach of Voluntary Principles Commitment**

There were no high priority compliance findings.

#### **Priority – Risk of Project Disruption or Reputation/Legal Damage**

##### **Risk Assessment: Identification of Security Risks**

- *The Project Security Manager should “own” the top strategic risks to the Project. These should be agreed upon by BP Berau and provide a focus for risk management.*

BP has appointed two Project Security Managers who will operate on a back-to-back rotation basis. The Security Managers will report to two back-to-back Field Managers, who are responsible for the implementation of risk mitigation plans.

- *Provide regularized reporting on the web of non-confidential, noncommercial information regarding security and human rights issues impacting the Project.*

It is BP's policy to exercise transparency wherever possible. There will be some documents that are commercially or legally confidential or that are unable to be disclosed because other parties do not give their permission for them to be disclosed. In the security and human rights area, disclosure of sensitive information needs to be weighed against the potential for material risk to people, the environment and assets, and any effect that disclosure may have on the overall integrity of the security system.

As a demonstration of our commitment, we have sought agreement with the Indonesian Police to make available on the BP web site ([www.bp.com](http://www.bp.com)) the agreement between the Tangguh Project and the Police on Tangguh security (referred to in Indonesian as the JUKLAP, and by others as the "MOU"). However, BP will not make publicly available internal risk assessments as these are viewed as containing sensitive information and could pose a risk to the integrity of the Tangguh Project's security. We will continue to identify means for communicating the Project's progress and its issues as we go forward, using the Tabura newsletters and through the Project's stakeholder outreach efforts. For example, the most recent Tabura published two articles April 2005 addressing security and human rights efforts.

#### **Risk Assessment: Rule of Law**

- *Research and consider what action, if any, is needed to ensure that prosecuting authorities and the judiciary are capable of holding accountable individuals believed responsible for human rights violations in a manner that respects the rights of the accused. If the judicial system lacks the political will or the capacity to do so, approach the U.S. and U.K. embassies, as well as appropriate international organizations, regarding the feasibility of establishing rule of law and training initiatives.*

Through Tangguh's Integrated Social Program, the Project's initial focus is to support a number of capacity building programs aimed at local governments, doing so in partnership with Indonesian authorities and with international and local NGOs. These programs have focused on local government planning and budget administration. Plans are in place to partner with a human rights and legal aid NGO to strengthen local and adat institutions that will include initiatives to enhance understanding and application of the Indonesian human rights law.

#### **Public Security: Security Arrangements/Consultation**

- *Address the concerns of the North Shore communities before they lead to serious security incidents. Consider taking steps to provide North Shore residents with vocational training, health care facilities, schools, loans for micro-enterprise business efforts, and contracts for the provision of services -- such as ferrying individuals to the Project area.*

BP recognizes that there is a perception of unfairness among some of the stakeholders on the North Shore of Bintuni Bay and that this perception may affect community relations with the Tangguh Project. The North Shore has always been an integral part of the Project's Integrated Social Program (ISP) for the area. BP agrees that there is a need to increase the pace of program delivery. Activities are underway in the areas of water and sanitation, health care provision, basic education, and boat maintenance training.

- *Encourage the Government of Indonesia to be transparent with respect to the flow of revenues stemming from the Project. Urge authorities in Jakarta to clarify the implementation of the revenue-sharing provisions of the Special Autonomy Law.*

BP is committed to the principle of transparency. With respect to the Tangguh Project, BP will exercise transparency wherever it is able to do so. As a contractor to the Government of Indonesia, BP must abide by the country's Oil and Gas law and data confidentiality requirements.

Publication of all receipts and disbursements of the Tangguh Project's revenues would need the approval of the Government of Indonesia. To date, early estimates of revenues, based on specified assumptions, have been provided in the Tangguh Environmental and Social Impact Assessment (referred to in Indonesia as the AMDAL) that was approved by the Government in October 2002, as well as in the Summary Environmental Impact Assessment that was submitted to the Asia Development Bank in July 2005. BP also supported the Indonesian upstream oil and gas regulatory body, BPMIGAS, in its July 2004 socialization efforts with the Papua government on the Tangguh Plan of Development (POD), which included BPMIGAS-provided information on revenue flows and Project contributions.

BP will continue to work with BPMIGAS in seeking clarification of the implementation of the Special Autonomy Law.

### **Public Security: Deployment & Conduct/Competency**

- *The provision of room, board, and money to on-site public security forces must not be allowed to blur the distinction between whom these individuals take their orders and owe their allegiance. The system of payments should be put into a document reflecting an agreement between the Project and the National Police regarding the reason for these payments, and emphasizing that the officers are working solely under instruction from their superiors.*

BP could only provide support to the Police after prior approval and authorization from BPMIGAS, the Indonesian upstream oil and gas regulating body. All monetary payments to the Police could only be made through BPMIGAS based upon standards and procedures issues by BPMIGAS. The mechanism for this is covered by the agreement between BP and the Police command in Papua (the JUKLAP). The JUKLAP clarifies

roles and accountabilities, which has been made publicly available by BP on its web site: [www.bp.com](http://www.bp.com).

### **Public Security: Deployment and Conduct/Mitigation of Negative Consequences**

- *Consideration should be given to providing the police with some form of non-lethal equipment. There are an increasing number of non-lethal security containment or dispersal aids available. The Security Team should research these and test their acceptability to non-governmental organizations (“NGOs”) as equipment that could be transferred to the police. If any equipment is provided to the police, (1) it should be fully documented, (2) its provision should be publicly justified, and (3) its use should be monitored.*

The JUKLAP does not allow BP to provide the Police with any weapons or weaponry (whether lethal or non-lethal) nor provide any funds in order to procure weapons or weaponry, ammunition, equipment or supply.

### **Public Security: Deployment and Conduct/Reporting Use of Force**

- *Ensure that police officers providing services for the Project are aware of their obligation to provide, and have the capacity to provide, medical aid for persons injured by the use of force. Renew the offer to provide First Aid training to the police.*

BP will extend an offer for First Aid training.

### **Public Security: Consultation and Advice/Meetings**

- *Take steps to more broadly publicize the Project’s initiatives to promote respect for human rights in discussions with stakeholders and on the web. In addition to describing best practices, recognize and be candid about the challenges and issues the Project is facing.*

BP will use the quarterly Stakeholder Updates reports and the Tabura newsletter to communicate on issues and challenges faced by the Tangguh Project. For example, the April 2005 Tabura newsletter included two articles related to Project human rights-related efforts.

- *The Security Team, particularly the Tangguh Security Manager, should play a central role in meetings with local leaders, representatives of civil society/NGOs, and the socially responsible investing (“SRI”) community. Consider hosting regular meetings with representatives of these groups in Jayapura and Jakarta, and occasional meetings in London and Washington with international NGOs and lenders.*

The Tangguh Security Managers, while continuing with informal communication channels, have plans to establish formal communication lines with relevant stakeholders through periodical meetings such as the Consultative Security Forum and the Communication Forum. As currently envisioned, the Consultative Security Forum would comprise village leaders, religious leaders, and local government officials for purposes of discussing security issues. The Communication Forum would be aimed at a broader constituent element in Bintuni Bay. Outside of Papua, BP plans to continue to meet with international NGOs, academics, the SRI community and others, as we have been doing in Indonesia, the UK, USA, and Australia on a regular basis over the last three years.

- *Seek to establish confidence-building measures, build bridges, cross-pollinate ideas, and create improved lines of communication between the National Police and the Indonesian National Army (“TNI”). Urge the creation of ombudsman positions for the police and the military as the institutions develop a working relationship.*

BP has been supportive of such measures in its dialogue with the Police, military and Governmental authorities, and will continue to be so. The National Human Rights Commission (KOMNAS HAM) is the government-chartered independent entity that has investigative authority over human rights allegations. BP is supportive of KOMNAS HAM’s developing role, and has included the Papua branch in the Project’s human rights training program.

#### **Public Security: Consultation and Advice/Training**

- *Ensure that training regarding operationalization of the Voluntary Principles is provided to security forces that might be assigned to protect the Project. Consider partnering with appropriate private and public organizations to establish a sustainable training program. Urge the security forces to follow-up with independent monitoring, combined with remedial steps to address shortcomings.*

There are provisions in the MOU between the Project and the Police for training that includes joint training programs. To date, members of the Police in Papua have participated in Project-sponsored human rights training and in training related to community policing. There are provisions in the MOU that address monitoring the readiness of the Police which will be encouraged.

- *Encourage Brimob, the police mobile brigade, and TNI forces to be trained regarding operationalization of the Voluntary Principles.*

There is no Brimob or TNI military presence at the site, and BP does not anticipate such presence with the Project’s integrated community-based security program. However, in BP’s regular liaison visits to Police and military commanders, BP will encourage such training in their on-going training programs.

### **Public Security: Response to Abuses/Recording and Reporting**

- *Complete work with the National Police to establish a credible and transparent system through which allegations of human rights abuses can be investigated and addressed.*

Consistent with the reporting obligations under the Juklap and the Voluntary Principles, a Tangguh Project procedure has been drafted to address allegations of human rights abuses, which will be socialized with the National Police and other Governmental entities. Once the review and socialization process has been completed BP will share it with Project stakeholders.

### **Public Security: Response to Abuses/Monitoring Investigations**

- *The Project needs to be prepared to respond immediately to allegations of misconduct or complicity in alleged human rights abuses. The Security Team should complete its draft response process for managing human rights and disseminate it so that all personnel are aware of their responsibilities and accountabilities with respect to the investigation and reporting of alleged human rights abuses. Tabletop exercises should be held, possibly with support from representatives of civil society.*

BP agrees that the Project needs to be prepared to respond to allegations of misconduct or complicity in alleged human rights abuses. This will be part of the procedure referred to above.

### **Private Security: Capacity and Professional Standards**

- *Steps should be taken immediately to address and improve communications between Project security and the local communities in implementing the ICBS. Outreach might be made to some of the institutions of civil society most supportive of the ICBS for advice in resolving these issues. The ICBS cannot be allowed to fail.*

The Assessment and Peer Review noted that the security company had experienced some communication frustrations with local Papuans. However, it also noted that over 90 percent of the private guard workforce is composed of individuals from local communities and commended the security company for the training the guards have received with respect to objective criteria, and the sense of pride the guards have with respect to their work. BP is doing further work with the private security firm on aspects to improve communications with the local communities.

### **Private Security: Responsibilities of Contracting Company/Monitoring**

- *Consideration should be given to providing the guard force with some form of non-lethal equipment. There are an increasing number of non-lethal security containment or dispersal aids available. The Security Team should research*

*these and test their acceptability to NGOs as equipment that could be transferred to the guards. If equipment is provided to the guards, (1) it should be fully documented, (2) its provision should be publicly justified, and (3) its use should be monitored.*

BP is considering the use of less than lethal alternatives, such as pepper spray, for self-defense purposes, and BP's consultation includes external stakeholders, such as NGO's and embassies.

- *Any decision by BP Berau to issue pepper spray or similar controversial non-lethal equipment should be influenced by U.S., U.K., and E.U. law, which is evolving, as well as the opinions of external stakeholder groups.*

The decision to use oleoresin capsicum (pepper) spray will involve all stakeholders, as well as U.S., U.K. and E.U. law.

### **Recommendations -- Low Risk of Breach, Disruption, or Reputational/Legal Damage**

#### **Risk Assessment: Identification of Potential for Violence**

- *Document the dates of and topics discussed at all information-gathering meetings regarding the potential for violence. .*

The Project does have an internal record keeping structure to record security-related incidents, and a database is planned to capture records of external meetings.

- *Meet with village leaders and institutions of Papuan civil society as part of the continuing assessment of the potential for violence.*

This is an ongoing process that has already been started.

#### **Risk Assessment: Equipment Transfers**

- *In considering whether to provide equipment to security forces, take direction from the guidelines established by BP for doing so with respect to the South Caucasus Pipeline ("SCP") and Baku-Tbilisi-Ceyhan ("BTC") Projects.*

In developing the Security plan for Tangguh, BP has incorporated the most appropriate best practices from other BP projects worldwide. This process will continue.

#### **Risk Assessment: Security Organization**

- *The Project Security Manager should report to the Performance Unit Leader. Consideration should also be given to appointing back-to-back expatriate field security supervisors working at the Project Security Manager's discretion.*

BP has appointed two back-to-back national Tangguh Project Security Managers. They will report directly to the two back-to-back expatriate Field Managers, who report to the Performance Unit Leader. The Tangguh Project Security Managers also have a parallel reporting structure to the Jakarta-based BP Business Unit Security Manager.

### **Public Security: Security Arrangements/Consultation**

- *Ensure that members of the Security Team play a central role in the dialogue with local communities.*

The Security team will be part of future community meetings via the Community Forum and Consultative Security Forum that are being planned by the Project. Two kick-off meetings and training programs for these forums have already been conducted over the last six months; one for the North Shore community representatives and one for the South Shore.

- *Establish a “Security Committee” with local community leaders and representatives of the BP Berau Security Team, the Private Security Provider, and the police. The committee could provide oversight for the community and local “eyes and ears” for the Project. It could also serve as a forum for emergency consultation and coordination, early warning, and crisis response -- to minimize the development of a situation under which the Private Security Provider would need to call upon the police or the police would need to call upon the TNI.*

The Tangguh Project has plans to establish a Consultative Security Forum.

- *Establish a security and human rights “hotline” through which the Security Committee could meet on an emergency basis and individuals could report incidents allegedly involving human rights abuses.*

As part of its Code of Conduct, BP has an established “hotline” for the reporting of suspected breaches of BP policy, which may include reports of health, safety or environmental incidents, unethical conduct, violations of law, and/or inappropriate behaviors. Plans are in place to expand and reinforce it with staff and contractors. In addition, the planned Community and Consultative Security Forums will provide further means for reporting any concerns. Measures are also being evaluated by the Project for the people living in nearby communities that may have no access to phones.

- *The Project website should address the nexus of human rights and security, and identify the steps the Security Team has taken to operationalize the Voluntary Principles.*

With the agreement of the Police, BP has taken the initial step of displaying the Tangguh Project’s commitment to the Voluntary Principles by making the agreement between BP

and the Police (JUKLAP) available on the BP website: [www.bp.com](http://www.bp.com). In addition, a summary of the previous Human Rights Assessment was placed on the website along with reviews conducted by the Tangguh Independent Advisory Panel. In the future, we plan to post additional information on the website pertaining to the Project's efforts on human rights and security.

#### **Public Security: Security Arrangements/Communicating Human Rights Policies**

- *Continue to build relations with the TNI and encourage respect for human rights.*

BP will continue to maintain its constructive dialogue with TNI.

- *Move forward with the concept of establishing a search and rescue agreement with the Air Force and seek to insert the Voluntary Principles into the agreement as a precedent for expanding the military's commitment to the Voluntary Principles.*

BP will be considering a search and rescue agreement with the Air Force as a contingency measure.

#### **Public Security: Security Arrangements/Transparency**

- *Press the National Police to publicly release the Joint Decree in its entirety.*

The JUKLAP has been placed on the BP website: [www.bp.com](http://www.bp.com).

- *Consider inviting, through BP, a senior National Police officer to a plenary meeting of the Voluntary Principles.*

BP is working with the Voluntary Principles on Security and Human Rights (VPHR) meeting forum and consideration is being given to extend invitations to Indonesian authorities. The VPHR includes extractive industry companies in Indonesia and international embassies to promote the Principles and encourage best practices.

#### **Public Security: Deployment and Conduct/Use of Force**

- *Continue to work with the police to ensure that they take adequate steps to prevent any individual who has been credibly linked to human rights abuses from providing security service for the Project.*

BP can make its position clear, as stated in the Voluntary Principles on Security and Human Rights, but cannot directly control State assignments. BP will consider on a case-by-case basis any situation where an individual with credible allegations of human rights abuse had been made against them and is appointed to a direct role with the Tangguh Project.

- *Encourage the training of police officers by external instructors with respect to technical proficiency in the handling and use of their firearms.*

It is inappropriate for BP to have any involvement with Police firearms training, as this is a matter under the control of the Police. BP is encouraging the Indonesian authorities and international human rights organizations to offer training consistent with the UN Code on the Use of Force and Firearms.

### **Public Security: Consultation and Advice/Training**

- *Urge the U.S. and U.K. governments to provide positive feedback to the Government of Indonesia for the commitment of the National Police to adhere to the Voluntary Principles.*
- *Request that the U.S./U.K. embassies host a conference regarding challenges associated with operationalizing the Voluntary Principles and responding to security threats and the coordination of different law enforcement agencies.*

Conversation with respective embassies has been initiated on these issues and dialogue is continued individually and through the VPHR meetings described above for purposes of promoting application of the Voluntary Principles.

- *Seek to leverage and expand current U.S. and U.K. police training programs, such as that offered by International Criminal Investigative Training Assistance Program (“ICITAP.”)*

This will be taken up with appropriate staff in the US and UK embassies as part of our regular meetings with them.

- *Investigate partnerships with international institutions, such as UNDP and UNHRC, in police training programs.*

Conversation with a number of organizations is underway to identify suitable options.

### **Public Security: Response to Abuses/Recording and Reporting**

- *Urge the Government of Indonesia to lift its ban prohibiting international human rights monitors from visiting certain Indonesian provinces, including Papua.*

BP has expressed its support for the United Nations Universal Declaration on Human Rights on many occasions, and looks to Governments to fulfill their obligations with respect to human rights. BP recognizes that the decisions by a country as to whom it admits are sovereign, political, and often complex. BP does not have a role to play regarding governmental admissions policy per se, although we are supportive of the Government’s efforts to protect and promote human rights. BP supports the principle of

transparency and in general encourages others to do so, including where human rights are involved.

### **Private Security: Capacity and Professional Standards**

- *Resurrect the Tangguh Security Enterprises (“TSE”) concept, establishing a community-led security company and contracting it to guard the facilities, and give the Private Security Provider the incentive to make it work.*

BP is considering a number of security options for the operation phase of the project that will include the TSE

- *The all-black uniform worn by the Private Security Provider could be construed as intimidating. Recommend altering at least one component, such as the shirt, to another color.*

Although BP does not believe the guard uniforms are intimidating, BP has liaised with the security company, which now has plans to change the uniforms.

### **Responsibilities of Contracting Company: Investigation of Alleged Abuses**

- *Villagers and members of civil society should be informed regarding how to report perceived misbehavior of private security guards.*

The Project has plans to establish a Communications Forum as well as a Consultative Security Forum, which will be vehicles for communicating such information.