

# Tanggung, BP & International Standards

*An analysis of the commitments made by BP in relation to BP Tangguh in West Papua and their social and environmental responsibilities.*

By Andrew Hickman & Paul Barber  
(Edited by Carolyn Marr)

April 2011



**DTE**  
**Down to Earth**

## Table of Contents

1. Introduction.....	3
2. BP Tangguh Key documents and reports.....	5
Environmental and social impacts.....	5
Integrated social program (ISP).....	5
Land acquisition and resettlement.....	6
Human rights and security.....	6
Monitoring reports.....	7
Tangguh Independent Advisory Panel (TIAP).....	7
LARAP External Monitoring Panel.....	7
Lenders' External Panel.....	7
Operator's Social Reports.....	8
Other documents.....	8
3. Tangguh's Environmental and Social Impact Assessment (AMDAL) document.....	9
AMDAL rationale, structure and background.....	9
Description of Tangguh project structure, environment and context.....	10
Key anticipated Impacts.....	10
Wider 'significant impacts'.....	11
Environmental Impacts.....	11
Social Impacts.....	12
Resettlement.....	13
Employment.....	13
Economic Impacts and Transparency.....	14
Monitoring and Compliance measures.....	14
4. BP Tangguh and human rights.....	16
Field guidelines on security (Juklap).....	16
Voluntary Principles on Security and Human Rights (VPs).....	17
UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.....	18
UN Global Compact: Complicity in human rights violations.....	18
OECD Guidelines on Multinational Enterprises.....	19
5. BP Tangguh Land Acquisition and Resettlement Action Plan (LARAP) .....	20
Involuntary resettlement policies.....	20
Project-affected peoples (PAPs).....	21
Legal framework.....	22
6. International Standards and Company Codes. ....	23
International Standards.....	23
Company Codes.....	24
Appendix.....	26

# 1. Introduction

Increasingly, the world is becoming aware of the responsibility to protect human rights and the environment in which we live. As businesses profit from supplying an ever-expanding demand for goods and energy, the squeeze on the world's resources is getting tighter, bringing with it the potential for conflict, human rights abuses and damage to the environment.

In recent years, the business community has been under pressure from civil society demands that it take responsibility for the impact of operations to exploit natural resources around the globe and refrain from investing in projects that violate rights or lead to environmental destruction.

Companies have responded by producing policies, signing up to codes of practice and making commitments to uphold standards. However, since these commitments are mostly voluntary, non-legally binding and without mechanisms for redress, there remains ample scope for corporate abuse – especially in countries where laws governing corporate behaviour are weak or law enforcement is inadequate.

The Tangguh Liquefied Natural Gas (LNG) project in West Papua, controlled jointly by the UK-based transnational company, BP, and the Indonesian state oil company, Pertamina, is one operation where many promises of corporate social responsibility (CSR) have been made.

The Tangguh LNG project has been set up to extract, process and supply LNG to markets around the world (including China, Korea, the United States and Mexico). With proven reserves of 14.4 trillion cubic feet (tcf) in the Berau and Bintuni bay area of West Papua (expanding potentially to 23.7 tcf), the project aims to supply LNG to world markets for at least 20 years. It is expected that this project will be hugely profitable. Precise figures are difficult to establish, but, as an indication of potential income generated, the project's Environmental Impact Assessment (EIA) talks about a potential revenue for the Indonesian government of US\$12 billion in production sharing and taxes over the life of the project<sup>1</sup>

BP, the operating company, says:

*“The Tangguh LNG Project provides an innovative approach to sustainable development, cultural preservation and biodiversity conservation. From the outset, this huge undertaking has been designed and implemented with a number of key principles in mind: community, partnership, consultation and corporate responsibility.”<sup>2</sup>*

How can we decide whether BP is measuring up to these principles and all the standards they encompass?

From a broad human rights and self-determination perspective, it can be argued that BP's behaviour is far from responsible because it is investing in a politically volatile territory with a large military presence which acts with impunity, where previous large resource extraction projects have an abysmal record on human rights and the environment. In 2002, BP commissioned a Human Rights Impact Assessment of the project which pointed clearly to the risks involved in operating in West Papua, but the company decided to push ahead with the project anyway.

---

<sup>1</sup> see ANDAL Section 6.2.1.2.1

<sup>2</sup> Quoted from description of the Tangguh LNG project on BP's website. <http://www.bp.com/sectiongenericarticle.do?categoryId=9004779&contentId=7008759>

From another broad perspective – that of climate change - it can also be argued that it would be more responsible of BP to leave the gas in the ground, and spare our over-loaded atmosphere from more climate-changing greenhouse gases.

However valid these objections are, the fact is that Tangguh is going ahead and local communities are already seeing profound changes to their way of life. How far BP is measuring up to its more specific commitments on human rights, security and the environment is one basis from which these communities and civil society in general can monitor the impacts and, where required, demand better.

This document is our attempt to map out those commitments, to outline the standards of corporate behaviour that BP has agreed to comply with, in a concise and accessible way. It does not cover BP's obligations under local and national laws.

First, we list the key documents and reports relating to Tangguh, then go into more detail in three areas: human rights, land acquisition and resettlement, and Tangguh's Environmental and Social Impact Assessment (AMDAL). Finally, we list some of the more general international instruments and standards applicable to the BP Tangguh project which have not been covered in earlier sections.

As international law covering transnational companies' obligations on human rights and the environment is still being developed, many of the standards mentioned here are voluntary or self-regulated. There is little authoritative system of arbitration, outside Indonesian national and local law<sup>3</sup>, that could allow for remedy or compensation when standards are broken or damage is caused (see international standards section). While there is, in theory, the potential for people suffering negative impacts from Tangguh to pursue a case in the UK courts, the logistical, legal, financial obstacles to doing so are huge<sup>4</sup>.

We hope that accessible information on the standards and BP's commitments on Tangguh will be a useful tool in holding the company and its partners to account. We hope it will assist civil society efforts to measure BP's compliance with these standards and commitments and help reveal the reality behind the company's claim that Tangguh is a "world class model for development"<sup>5</sup> in a politically and socially complex and environmentally sensitive region.

---

<sup>3</sup> In 2007 Indonesia became one of the few countries in the world to incorporate corporate social responsibility into national laws. For more background see DTE newsletter 74, page 16 at <http://dte.gn.apc.org/74hcs.htm>

<sup>4</sup> This issue is discussed in *Filling The Gap: A New Body To Investigate, Sanction And Provide Remedies For Abuses Committed By UK Companies Abroad*, A Report Prepared For The Corporate Responsibility (CORE) Coalition Jennifer A. Zerk, December 2008

[http://corporate-responsibility.org/wp/wp-content/uploads/2009/09/Filling-the-Gap\\_dec08.pdf](http://corporate-responsibility.org/wp/wp-content/uploads/2009/09/Filling-the-Gap_dec08.pdf)

<sup>5</sup> This phrase is repeated often in company and TIAP literature. The issue is discussed in DTE newsletter article "Tangguh – adapting to the West Papuan context?". See: <http://dte.gn.apc.org/73tan.htm>

## 2. BP Tangguh Key documents and reports

### ***Environmental and social impacts***

Detailed Environmental and Social Impact Studies were carried out between 2000 - 2002 and approved by an Indonesian government committee in accordance with Indonesia's Environmental and Social Impact Assessment (ESIA/AMDAL) regulation. The assessment was reported in three documents, all required under the regulation:

- an environmental impact assessment (ANDAL), analysing the project's environmental and social impacts
- an environmental management plan (RKL), outlining management and mitigation plans
- an environmental monitoring plan (RPL), detailing monitoring and compliance plans

The RKL has several appendices that describe key socio-economic development commitments including:

- Appendix B – Workforce Management Program
- Appendix C – Recognition Program for Directly Affected Villages
- Appendix D – Program for Other Stakeholders' Interests
- Appendix E – Procedure for Conflict Resolution
- Appendix F - Indigenous Peoples Development Plan (see below)
- Appendix G - Land Acquisition and Resettlement Action Plan (see below)
- Appendix H - Public Consultation and Disclosure Plan.

The AMDAL documents, running to over 1,000 pages of text and almost 2,000 pages of appendices, can be obtained from DTE. A 94-page summary of the AMDAL documents produced by the Asian Development Bank in 2005 is available via the BP website at:

[www.bp.com/tangguh](http://www.bp.com/tangguh) → Environment and society → Environment → Tangguh Environmental Impact Assessment

### ***Integrated social program (ISP)***

An ISP Unit was established to develop and implement policies and programs to meet the commitments set out in the AMDAL. The ISP encompasses 15 specific programs, including resettlement, community action plans, workforce management, education, vocational training, community health programs, enterprise development, business empowerment, and in-migration. Information about these programs is available at:

[www.bp.com/indonesia/tangguh](http://www.bp.com/indonesia/tangguh) → Integrated Social Programs

A 225-page Indigenous Peoples Development Plan submitted to the ADB in 2006 sets out how the project intends to meet the social and environmental requirements of the AMDAL process and the

requirements of the ADB's Indigenous People's Policy through implementation of the ISP (an earlier version of the Plan was included as an annex to the RKL – see above).

[www.bp.com/tanggung](http://www.bp.com/tanggung) → Integrated Social Programs → Integrated Social Program (PDF document)

### ***Land acquisition and resettlement***

A Land Acquisition and Resettlement Action Plan (LARAP) was developed by BP as part of the AMDAL process to address the acquisition of land and involuntary resettlement of villagers affected by the project. It is intended to provide compensation for lost assets, livelihoods and income; assistance for relocation; and assistance for rehabilitation to achieve at least the same level of well-being with the project as without it.

[www.adb.org/Resettlement/plans.asp](http://www.adb.org/Resettlement/plans.asp)

### ***Human rights and security***

BP claims that its operations in Indonesia are guided by policies, which are in line with the United Nations Universal Declaration of Human Rights, and the Voluntary Principles on Security and Human Rights (a set of principles drawn up by the US and UK governments, mining and energy companies, and NGOs).

[www.bp.com/tanggung](http://www.bp.com/tanggung) → Integrated Social Programs → Human rights and Tangguh → Voluntary Principles

BP has published a general guidance note on human rights that explains what human rights mean to BP and its position on key issues, such as the circumstances in which a company can be complicit in human rights violations and whether it should avoid or leave 'difficult' countries.

[www.bp.com/humanrights](http://www.bp.com/humanrights) → BP's Human Rights Guidance Note

(The issue of businesses and human rights and the concepts of 'Sphere of Influence' and 'Complicity' are discussed in two reports to the UN Human Rights Council by the Special Representative of the Secretary-General on Human Rights and Transnational Corporations and other Business Enterprises, John Ruggie at:

[www2.ohchr.org/english/bodies/hrcouncil](http://www2.ohchr.org/english/bodies/hrcouncil) → 8<sup>th</sup> session → Documentation → Reports → A/HRC/8/5 and A/HRC/8/16)

In April 2002, a Human Rights Assessment of the proposed project was carried out by two consultants, Gare Smith and Bennett Freeman. A Summary of Recommendations and Conclusion is available on the BP Tangguh website, but BP has declined to publish the full report.

[www.bp.com/tanggung](http://www.bp.com/tanggung) → Integrated Social Programs → Human rights and Tangguh → Human Rights Assessment of the Proposed Tangguh LNG project

BP's response to the Human Rights Assessment has not been made available on the BP Tangguh website, but can be obtained from DTE.

In 2005 a Human Rights and Security Monitoring Assessment and Peer Review was undertaken by Gare Smith and Tony Ling. Their report and BP's response are published on the BP Tangguh website

[www.bp.com/tangguh](http://www.bp.com/tangguh) → Integrated Social Programs → Human rights and Tangguh → Human Rights and Security Monitoring Assessment and Response to the Human Rights and Security Monitoring Assessment

A key component of BP's commitment to human rights is the Integrated Community Based Security (ICBS) program, which uses a community policing system in cooperation with the local police. A set of Field Guidelines governs BP's relationship with the local police and incorporates the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials as well as the Voluntary Principles. The full version of the Field Guidelines are not advertised on the BP website, but are available there at:

[http://www.bp.com/liveassets/bp\\_internet/globalbp/STAGING/global\\_assets/downloads/T/Tangguh\\_Field\\_Guidelines\\_BP\\_Papaun\\_Police.pdf](http://www.bp.com/liveassets/bp_internet/globalbp/STAGING/global_assets/downloads/T/Tangguh_Field_Guidelines_BP_Papaun_Police.pdf)

Other documents on human rights available via the 'Human Rights and Tangguh' and 'Tangguh Integrated Community Based Security' web pages include:

'Tangguh Project Security Procedure: Managing Allegations of Abuse or Related Incidents in the Provision of Security';

[www.bp.com/tangguh](http://www.bp.com/tangguh) → Integrated Social Programs → Human rights and Tangguh → Tangguh Project security procedure

Reports on Tangguh – Police cooperation between 2003 - 2007, including details of joint exercises and payments made by BP to the Police:

[www.bp.com/tangguh](http://www.bp.com/tangguh) → Integrated Social Programs → Tangguh Integrated Community Based Security → Tangguh\_Police\_Coordination

## ***Monitoring reports***

### **Tangguh Independent Advisory Panel (TIAP)**

TIAP, headed by the former US Senator George Mitchell, was set up by BP to provide advice to senior BP decision-makers on non-commercial aspects of the project, including its effects on the local communities and the environment. It undertakes regular visits to the project site and in 2008 issued its sixth report. The reports and BP's responses are available on the BP website:

[www.bp.com/tangguh](http://www.bp.com/tangguh) → Tangguh overview- Papua → Tangguh Independent Advisory Panel

### **LARAP External Monitoring Panel**

The implementation of the LARAP has also been monitored by an external Panel. The Panel's reports and BP's responses are available at:

[www.bp.com/tangguh](http://www.bp.com/tangguh) → Integrated Social Programs → Resettlement

The Panel's 2007 report was its second and last. Future monitoring of the LARAP will be covered by an external Panel appointed by the project's main lenders.

### **Lenders' External Panel**

The Lender's External Panel was appointed for a three-year period from February 2007 to undertake regular monitoring and evaluation of environmental and social aspects of project. The Panel is contracted by the ADB, Japan International Finance Management (Tangguh) Corporation,

and Mizuho Corporate Bank Ltd. Its Compliance Monitoring Reports (the third and most recent is dated October 2008) are published on the ADB website at

<http://www.adb.org/Documents/SEMRs/INO/38919/default.asp>

### **Operator's Social Reports**

BP is required to submit regular six-monthly reports to the Lenders' Group on implementation of the LARAP and the ISP and on Environmental, Health and Safety aspects of the project. It is one of the purposes of the Lenders' External Panel to review and comment on the Operator's reports, which are available at

[www.adb.org/Documents/SEMRs/INO/38919/default.asp](http://www.adb.org/Documents/SEMRs/INO/38919/default.asp)

### ***Other documents***

Report and Recommendation of the President of ADB to the Board of Directors on the Proposed Loan to the Tangguh LNG Project

[www.adb.org/Documents/RRPs/INO/38919-INO-RRP.pdf](http://www.adb.org/Documents/RRPs/INO/38919-INO-RRP.pdf)

Stakeholder Updates – Quarterly Updates from BP Tangguh are available at

[www.bp.com/tangguh](http://www.bp.com/tangguh) → Reports and Publications → Stakeholder Updates



### **3. Tangguh's Environmental and Social Impact Assessment (AMDAL) document**

The AMDAL document outlines the Tangguh project's remit, environment and potential impacts, as well as arrangements for managing, mitigating and monitoring those impacts and compliance plans. In over 8,000 pages of information, it is the principal source of detailed information about the project and the main basis upon which it is described to the general public. The bulk of the Assessment is an analysis of the project. This analysis starts with an outline and description of the project and the environment within which the project will be established. It goes on to outline anticipated environmental and social impacts and to set out the main standards that those impacts will be measured against, distinguishing between the various phases of pre-construction, construction, operation and post-operation. Following this analysis, the AMDAL sets out, in two different plans, the ways in which the project's impacts will be managed, and then how they will be monitored and compliance with these plans and standards established.

#### ***AMDAL rationale, structure and background***

Before a project such as the Tangguh LNG project can be established in Indonesia, Indonesian law requires the production of an Environmental and Social Impact Assessment or AMDAL. This regulation demands the production of three main elements: an Environmental and Social Impact Analysis (ANDAL), an Environmental and Social Management Plan (RKL) and an Environmental and Social Monitoring Plan (RPL). Submission of this Assessment, as in the case in other parts of the world, is a pre-requisite to the granting of consent to develop such a project.

In 2005, the Asian Development Bank (ADB), one of the financial backers of the project, produced a document summarising these 8,000 pages of text and updating it with subsequent studies. Along with the original AMDAL, this ADB document titled the 'Summary Environmental Impact Assessment' (SEIA) has been used as the main basis for the information contained within this DTE overview<sup>6</sup>. [See <http://www.adb.org/documents/environment/ino/ino-tangguh-lng-project.pdf> ]

Environmental and Social Impact Assessments (EIA / ESIA) are one of the means by which companies can promote their corporate social responsibility (CSR) intentions and attempt to convince the public (and authorities) that the proposed project will bring more benefits than it will have negative social and environmental impacts. It is clear that these documents are often far from neutral or independent assessments of the potential impacts, given that they are usually commissioned directly by the companies proposing these developments. Instead, it must be assumed that the information and standards set by these documents are weighted in favour of the commercial interests of those involved. As an illustration of this, in its Tangguh 'Summary Environmental Impact Assessment' (SEIA), under the title 'The Need for the Project', the ADB describes the benefits and improvements anticipated as “critically important at the local, provincial, national and international levels”. Similarly, the conclusions of the SEIA present an assertively upbeat assessment of the economic and social prospects offered by the Tangguh project for the people of Papua, while giving less attention to the potential negative aspects.

---

<sup>6</sup>The references to these two documents are preceded with either the word 'ANDAL' or 'SEIA'.

## **Description of Tangguh project structure, environment and context**

The introduction to the SEIA makes reference to the financial and commercial structure upon which this project has been established. With a capital investment of more than US\$ 5 billion, the project is shared between various different companies from Indonesia, China, Japan and the UK. BP along with PERTAMINA (The Indonesian State Oil and Gas Company) are established as the main operators responsible for implementation of the project. In turn, this company has subcontracted to other companies the day to day implementation of various different aspects of the construction and running of the project.

The site of the project at Saengga / Tanah Merah was selected from amongst a list of 17 possible sites within the 250 kilometres of gas fields identified. The ANDAL describes the scope of the project in some detail, outlining 5 main components: gas production, gas transmission, gas processing and onshore site, marine facilities and air facilities. It outlines the project implementation schedule and the organisational structures being established to construct and run the project. It describes the anticipated wastes generated. It also describes workforce issues and outlines the resettlement process of Tanah Merah village. [Resettlement is explained in more detail within the Land Acquisition and Resettlement Action Plan (LARAP) – see separate LARAP section]. It also explains the various alternative options studied in the project design and planning stages.

Finally, the ANDAL details the environmental, social, cultural and economic context within which the Tangguh project is being established. Included within this is an overview of the project's social and development programmes [later to incorporate the Integrated Social Programme (ISP)]. In the 'Background' Section of the ANDAL, there is a list of Indonesian government laws, regulations, directives and decrees which relate to the different aspects of the Tangguh project. Section 1.2 of the ANDAL, 'Policy Base for Environmental Management', details key provisions under:

- Indonesia's 1997 environment law (including environmental management, community rights, obligations and role, and community participation);
- the 1999 law on environmental impact analysis
- the 1999 law on regional autonomy
- the 2000 law on special autonomy for Papua.

## **Key anticipated Impacts**

Key anticipated impacts listed are [see ANDAL Section 2.1.3 - TOR Key Issues]:

- Socio-economic impacts from an initial large construction workforce estimated at a maximum of approximately 5,800 workers, and later, from a smaller operations workforce numbering an estimated 500 workers (350 on site at any one time);
- Resettlement of the local community of Tanah Merah;
- Loss of traditional land and near-shore rights of the local communities;
- Land disturbance, loss of timber, and loss of wildlife habitat from land clearing;
- Impacts to mangrove areas from pipelines and marine dock facilities;
- Impacts on water quality from produced water, sewage, and other discharges, and from sediment loading during construction and during nearshore and offshore dredging;

- Impacts on offshore and nearshore fishing and fishing rights of way;
- Waste generation from industrial and community activities;
- Air quality impacts during construction and operation from stationary and mobile emissions sources, and from fugitive dust;
- Noise and light impacts;
- Impact of restricted access to coastal fishing areas, traditional farming and hunting grounds, and other land uses.

Some of these quantified impacts are outlined in more detail as follows:

- Estimated annual emissions from the LNG plant [ANDAL, Section 5.4.2.1.3 (Table 5.14)].
- Estimated environmental resources to be consumed by the project [SEIA, Section VI, Part B, 163].

### ***Wider 'significant impacts'***

Section 6 of the ANDAL evaluates the 'significant impacts' of the Tangguh project. In doing so, it refers to some of the wider social, environmental and political issues relevant to the Tangguh project. Section 6.5 discusses the 'cumulative impacts of Tangguh and non-Tangguh activities' referring to issues such as land rights, employment opportunities, tax revenues and social unrest. However it states that these issues are 'beyond the control of the Tangguh project' [see ANDAL, Section 6.5.2]. This raises key questions about Tangguh and other high-impacts projects like it: what exactly does 'beyond the control of the project' mean? Do BP and its partners interpret 'beyond the control of the Tangguh project' as 'beyond its responsibility'? Shouldn't a company refrain from making investments in locations where there is a high risk of negative impacts which are beyond its control in this way?

### ***Environmental Impacts***

Environmental aspects covered in the AMDAL include pollution standards, biodiversity and CO<sub>2</sub> emissions.

More specific standards are outlined for noise, atmospheric emissions, water quality, sanitary waste, onshore soil conditions, marine sediments and seismic survey activities. Generally, the standards set out are those required under Indonesian law. However, there is also reference to Dutch conservation standards and the UK's Joint Nature Conservation Committee (JNCC) [the UK government's statutory advisory body on nature conservancy] as well as World Bank standards [see SEIA V.A. and Appendix 8].

The Project has entered into a partnership with various different governmental and non-governmental institutions to undertake a 'Biodiversity action plan' on areas such as fisheries, land-use, mangroves, flora and fauna. This is intended to support conservation issues within the Bintuni and Berau regions, as well as promoting awareness and training on these matters [SEIA V.B.2.h].

The AMDAL estimates that a total of 3 million tonnes of CO<sub>2</sub> will be emitted each year from the removal of CO<sub>2</sub> from the natural gas. This, combined with emissions from fuel combustion to power the LNG plant, would lead to a total of 4.67 (mtpa) million tonnes per year [SEIA V.B.2.a]. The SEIA estimates that burning gas by consumers in countries where the Tangguh LNG is sold, will produce an additional 20.9 mtpa CO<sub>2</sub> [SEIA Appendix 10, table A10.1]. It argues that these

figures compare favourably to the level of emissions from other forms of fossil fuels. The SEIA goes so far as to say that the Project will yield “Substantial global environmental benefits” by replacing coal or oil [SEIA IX.189 and SEIA VI.B]. This claim rests on the assumption that if the gas weren’t exploited, then the equivalent amount of coal and oil would be used instead, rather than a scenario where these gas emissions add to, rather than replace, other fossil fuels. The claim is hard to justify given today’s urgent need to cut global emissions and is undermined by the Tangguh project's continued unwillingness to finance carbon capture and storage technology.

## **Social Impacts**

The AMDAL categorises its social impact and programmes on communities by proximity to the Tangguh operations. The two principle categories are Directly Affected Villages (DAV) and Indirectly Affected Villages (IAV). Criteria used to establish these categories include loss of land, necessity of physical relocation, effects from seismic work, impacts from offshore development locations and proximity to the Tangguh site [SEIA III.C. 76-77].

The project has established various community development programmes for DAVs and some IAVs<sup>7</sup>. These programmes are elaborated in detail in the Integrated Social Programme (ISP), which was put together to implement the commitments set out in the AMDAL [see also Key Documents and Reports section]. In particular, there is a commitment to provide funding of US\$30,000 per DAV per year for the first 10 years of Tangguh's existence (since 2002). These include projects on health, sanitation and infrastructure. More widely, in the Bintuni bay region, the AMDAL establishes programmes in the field of health and education, economic development and governance.

In the wider Bird's Head region, BP commits to participate in 'induced development' through the Diversified Growth Strategy (DGS) programme in conjunction with the Indonesian Government and the United Nations Development Programme (UNDP), focusing on areas such as Fak Fak, Sorong and Manokwari [see SEIA V.B.2.g and SEIA V.B.1.f.134-135]<sup>8</sup>. These programmes follow a strategy of business empowerment, immigration and workforce management, spatial planning and community awareness and management of change.

An Indigenous People's Development Plan was submitted to the ADB in 2006, but it is unclear how this fits with BP's commitment to the DGS. It also remains to be seen how this plan will deal with the right of indigenous peoples to 'free, prior and informed consent' confirmed in the 2007 UN Declaration on the Rights of Indigenous Peoples [see also Key Documents and Reports section].

Neither human rights nor security are mentioned within the AMDAL. Considering the Papuan context and the interrelated nature of these issues with social and environmental aspects of the project, this is a serious omission. Instead, BP Tangguh has produced a separate document of 'field guidelines on security' (JUKLAP) and this programme is referred to under the title of an 'Integrated Community-based Security' programme [see Human Rights section]. A separate Human Rights Assessment was carried out in 2002, but not made public [see Key Documents section].

---

<sup>7</sup>Sometimes referred to as the 'Community Action Programme' or 'Community Action Plans'.

<sup>8</sup>BP Tangguh's concept of 'induced development' and its relation to wider development programmes are elaborated further in the SEIA document [SEIA V.B.2.g]. This approach to development appears to favour governance and macro-economic issues rather than focusing on rural community empowerment. It has to be questioned whether this approach to development benefits the communities that BP Tangguh claims to be supporting.

## **Resettlement**

The AMDAL outlines the communities and locations of the affected villages and sets out BP's intentions to undertake a programme of 'resettlement with development'. A specific document outlining the Tangguh project's commitments in this resettlement process is contained in BP Tangguh's Land Acquisition and Resettlement Action Plan (LARAP). As with the categorisation of 'affected villages', the AMDAL and LARAP were originally written without reference to the ADB's guidelines on involuntary resettlement, but subsequently updated [see also LARAP section].

## **Employment**

The majority of BP Tangguh's commitments on employment refer to the initial construction phase of the project. The project was 'expected' to provide 5,800 temporary jobs during this period, with preference being given to job applications from the DAVs. However, these figures were conditional on the 'requisite skills' being available. A significant part of the workforce was anticipated to be recruited from other parts of Indonesia. Other commitments made in respect of the construction period included that "at least one construction job will be offered to each DAV household".

The AMDAL anticipated that this large construction workforce could potentially cause a variety of social problems, especially due to a large influx of immigrant workers from other parts of Indonesia. Measures taken to mitigate possible problems include discouraging unauthorised travel to the vicinity and the establishment of a 'workforce management plan' to be implemented from the regional growth centres of Manokwari, Sorong and Fak Fak. As well as this, except for workers from the DAVs, the workforce were to be accommodated within the project site.

During the operations phase, it is anticipated that the project will directly employ about 450 people, of which 250 will be on the Tangguh site at any one time. There is to be a project employment bias in favour of local people. However, from the figures below it is clear that the percentage of the workforce from local villages and, indeed, from Papua itself is likely to be comparatively small [SEIA V.B.2.e.147].

The figures given for employment from the DAVs during the operations phase are:

- 42 unskilled positions (all of the available positions).
- 25 of the 50 low-skilled positions.
- 3 of the skilled positions.

The 'target' figures given for employment for people from other parts of Papua are:<sup>9</sup>

- A total of 92 positions.
- 31% of these jobs in the initial operations phase
- 62% after 10 years
- 85% after 25 years (including 10 supervisory positions filled by people from the DAVs).

---

<sup>9</sup>These 'target figures' are not firm commitments, but rather 'target figures on which the training programme will be based' [SEIA V.B.2.e.147].

Opportunities will be given for local enterprises to provide service contracts to the project [SEIA V.B.2.e.148]<sup>10</sup>.

## ***Economic Impacts and Transparency***

The amounts of money involved in the Tangguh project are very large. As well as the capital investment of US\$5 billion, a further estimated US\$54 million will be spent on operating costs for the two LNG 'trains' in Bintuni Bay per year.

The Project states that there is a total budget allocation of US\$62 million for the first 5 years for the AMDAL studies, biodiversity programmes, environmental surveys, social programmes and resettlement project. For example, it emphasises the investment it is making to re-inject drilling mud and cuttings and other drilling measures to avoid mangrove damage.

These figures, together with a quantification of the environmental 'costs and benefits' are used to promote Tangguh as a worthwhile project. In this way, the 'benefit' is quantified as high as US\$959 million per year, with the figure of US\$10,378 million given for the predicted life of the project (20 years) [see SEIA, Section VI, B, 168].

The SEIA admits that "it is difficult in practice to place economic value in monetary terms on environmental impacts" and therefore "the results of economic analysis in this section can only reflect part of the picture". However, some of the environmental impacts are listed. These include; the exclusion of 3,266 ha of forest and 4,555 ha of sea from economic, fishing and navigation uses; the discharge of pollutants into the marine and land environment and the local discharge of 4.67 mpta (million tonnes per year) of carbon dioxide into the atmosphere. This is actually claimed as a financial benefit by giving them a 'net present value' in comparison to other fossil fuel emissions<sup>11</sup>. Finally, this calculation dismisses any social costs as being compensated for by the project's social and other programmes (such as the LARAP). Of course, calculating costs and benefits in this way does not take into account some of the potential negative impacts associated with some of the 'benefits', such as increased tension or conflict between directly and indirectly affected villages, due to differentiated treatment by the project.

The large amounts of tax and income revenues from this project will inevitably have a big impact on the economic life of Papua and Indonesia. The AMDAL document does not deal in any substantive way with the issue of the project's financial transparency, nor how these revenues will be distributed within Indonesia and Papua.

## ***Monitoring and Compliance measures.***

The SEIA sets out a table summarising the Environmental Management Plan (RKL) and Environmental Monitoring Plan (RPL). The table lists the issues and impacts mentioned above. It describes the mitigation measures relevant to each of these categories, the means of implementing them and the parts of the Tangguh project responsible for carrying these measures out [SEIA VII.A.1.172].

These issues include land clearing, marine construction, drilling, workforce, resettlement, atmospheric emissions, waste disposal, LNG plant operations, transport movements and the implementation of the community development programme.

<sup>10</sup>As with some other aspects of the Tangguh project, all these statements of intent with regards employment are meant to be monitored by both the ADB and TIAP reporting processes.

<sup>11</sup>Given the widely accepted consensus on the dangers of carbon emissions and global warming, here is an example of a company looking to commodify those carbon emissions (through assigning them a monetary value) in order to gain profit from them.

This internal system of monitoring and compliance applies within BP Tangguh and also to its contractors. In turn, it is stated that different agencies, ministries or departments of the Indonesian government receive six-monthly reports collated by the project to ensure adherence to environmental policies, procedures and management plans [SEIA VII.C.176]. A yearly external audit is also undertaken by independent auditors [SEIA VII.C.177]. In addition, regular external monitoring is done by both the ADB, part of the 'External Lenders Panel', and the Tangguh Independent Advisory Panel (TIAP). However, none of these internal or external systems of monitoring and compliance can be said to be completely independent, given that all the agencies involved have some kind of financial relationship with the Tangguh project.

Finally, BP Tangguh has a system of public consultation and disclosure (such as the TIAP meetings) that, in theory at least, gives the public and interested parties the chance to influence the development and functioning of the project. While these events tend to be carefully stage-managed to put BP in a positive light, 'stakeholder' meetings can provide an opportunity for critical voices or protests to reach the company and its shareholders, and for a greater level of information about the project to reach the public domain. How relevant or useful that information is, and whether BP acts on any of the inputs made at these events, is, of course, a different matter.

The real monitoring of BP Tangguh's compliance to the standards and commitments that it has set out in its extensive documentation will have to be done by the local communities and peoples whose lives are impacted directly or indirectly by the project.

## 4. BP Tangguh and human rights

The Tangguh project's social responsibility policy states that:

*This project supports the principles enshrined in the UN Universal Declaration of Human Rights, as well as the US/UK 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.*

As part of its commitment to human rights, BP operates an Integrated Community Based Security (ICBS) programme, which uses a community policing system in cooperation with the local police. A set of Field Guidelines governs BP's relationship with the police.

BP's commitment to human rights is also regulated by its signature of the UN Global Compact and its obligations under the Organisation for Economic Cooperation and Development (OECD) Guidelines on Multinational Enterprises.

### **Field guidelines on security (Juklap)**

The relationship between BP and the police is governed by a set of guidelines known as the Field Guidelines or Juklap. These were agreed by BP and the Papuan Provincial Police (POLDA Papua) in April 2004 to be used by both of them in providing security for the Working Area of the Tangguh project. (The agreement was controversially signed by a police commander, Timbul Silaen, indicted on crimes against humanity charges in East Timor).

The Working Area is defined as:

- a) The Tangguh LNG Refinery including jetties and any other areas used to support the refinery construction activities;
- b) Babo Airfield; and
- c) LNG production platforms located in Bintuni Bay.

In normal secure conditions, BP is responsible for security within the Working Area. If the situation becomes dangerous, BP should also take care of security but may ask for assistance from POLSEK (Police sub-precinct) or POLRES (Police Precinct). In extremely dangerous situations, BP may request immediate security assistance from POLSEK/POLRES. If the situation deteriorates, the TNI may be brought in.

The guidelines provide a list of possible threats to the security situation. That list can be used to assess the level of perceived danger to the project. It includes:

- i) Blockage
- ii) Hostage situation
- iii) Coercion



- iv) Assault
- v) Theft
- vi) Demonstration
- vii) Violation of customary rights/entitlement
- viii) Issues arising from regional expansion.

The guidelines include special procedures for dealing with demonstrations by employees within the Work Area and demonstrations outside/nearby the Work Area.

In all cases, both BP and POLDA undertake to comply with human rights standards set out in the Voluntary Principles on Security and Human Rights and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

### ***Voluntary Principles on Security and Human Rights (VPs)***

A set of principles drawn up by the US and UK governments, mining and energy companies, including BP, and NGOs. The VPs are also incorporated into the Tangguh project's Environmental and Social Impact Assessment (AMDAL).

Key points:

- Individuals implicated in human rights abuses should not provide security services for companies
- Force should be used only when strictly necessary and should be proportionate to the threat
- Individuals should be allowed to exercise their right to freedom of association and peaceful assembly
- In their discussions with governments, companies should promote international law enforcement principles. These principles require that law enforcement officials must respect human rights, including the right to freedom of expression, the right not to be tortured and ill-treated, the right not to be subjected to arbitrary detention and other important rights.

The VPs state that “All allegations of human rights abuses by private security should be recorded. Credible allegations should be properly investigated. In those cases where allegations against private security providers are forwarded to the relevant law enforcement authorities, Companies should actively monitor the status of investigations and press for their proper resolution.”

In addition: “Companies should record and report any credible allegations of human rights abuses by public security in their areas of operation to appropriate host government authorities. Where appropriate, Companies should urge investigation and that action be taken to prevent any recurrence. Companies should actively monitor the status of investigations and press for their proper resolution.”

## ***UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials***

A set of principles agreed by the UN.

Key points:

- Law enforcement officials (including police and military personnel) should always use non-violent means before using force and firearms
- They may use force and firearms only if other means are ineffective
- When force and firearms are unavoidable, officials shall exercise restraint and act in proportion to the seriousness of the offence
- They shall minimize damage and injury, and respect and preserve human life
- Everyone is allowed to take part in lawful and peaceful assemblies. Officials shall avoid the use of force in dispersing unlawful assemblies. Where that is not practicable, minimum force shall be used.

All documents on human rights available via

[www.bp.com/indonesia/tangguh](http://www.bp.com/indonesia/tangguh) → Integrated Social Programs → Tangguh Integrated Community Based Security

[www.bp.com/indonesia/tangguh](http://www.bp.com/indonesia/tangguh) → Integrated Social Programs → Human rights and Tangguh

## ***UN Global Compact: Complicity in human rights violations***

BP has undertaken, through its signature of the UN Global Compact (an initiative of businesses that claim to be committed to sustainability and corporate citizenship), to ensure that it is not complicit in human rights abuses. Complicity ranges from direct complicity (assisting state forces in violating human rights by, for example, paying for security protection) to silent complicity (failing to challenge known systematic or continuous human rights violations whether or not they are related to the company's business activities). In order to avoid complicity, businesses are advised by the Global Compact to privately and publicly condemn systematic or continuous human rights violations.

Complicity is not yet a legally defined by international standards, but a US court has recently held under the Alien Torts Claims Act that the energy giant ExxonMobil has a case to answer for its alleged complicity in abuses committed by TNI personnel paid to protect its operations in Aceh.

Notwithstanding the absence of legal liability for silent complicity, BP could certainly be urged to condemn systematic or continuous human rights violations in the region of the Tangguh project and be publicly criticised if it fails to do so.

[www.unglobalcompact.org](http://www.unglobalcompact.org)

## ***OECD Guidelines on Multinational Enterprises***

The guidelines apply to OECD member countries, including the UK, and to the operations anywhere in the world of companies, such as BP, based in member countries.

They cover such areas as human rights, disclosure of information, anti-corruption, labour relations and the environment. As regards human rights, companies are required to:

‘Respect the human rights of those affected by their activities consistent with the host government’s international obligations and commitments’ [General Policy 2]

Under this policy BP could be held to account if it fails to comply with international standards on human rights set out in, for example, the international covenant on civil and political rights, which the Indonesian government has ratified.

OECD member countries each have a National Contact Point (NCP) to which anyone can make a complaint. The NCP for the UK is in the Department for Business Enterprise and Regulatory Reform. There are no formal sanctions for companies that do not respect the guidelines, but publicising a complaint could be an effective means of persuading the company to change its behaviour.

[www.foe.org/oecdguidelines](http://www.foe.org/oecdguidelines)

[www.berr.gov.uk](http://www.berr.gov.uk)

## 5. BP Tangguh Land Acquisition and Resettlement Action Plan (LARAP)

The development of the Tangguh project required the acquisition of two areas of land on the south shore of Bintuni Bay. Firstly, a 3,266-hectare plot for the LNG processing plant and other onshore facilities in an area occupied by Tanah Merah village, comprising 127 households and over 650 people. Secondly, a 200-hectare plot, adjacent to Saengga village to the west, to support the resettlement of the Tanah Merah community.

Later, in response to a request by the Tanah Merah community to separate into two groups, a third area of land was acquired for those who chose to resettle in nearby Onar village. 101 households were relocated to the new Tanah Merah village and 26 households were relocated to the new Onar Lama village.

A Land Acquisition and Resettlement Action Plan (LARAP), completed in 2006 and available on the Asian Development Bank (ADB) website, has been developed by BP to address the involuntary resettlement of the affected villagers, as required by Indonesian law and international best practice. Its aim, according to the company, is to achieve 'resettlement with development' by ensuring 'that resettled households achieve better livelihoods than they would have if resettlement had not taken place'.

The LARAP was approved and endorsed by the ADB, one of the main financiers of the Tangguh project. An external panel, the Resettlement Monitoring and Advisory Panel, monitors its implementation. An Indonesian-language summary of the LARAP has been distributed to all households affected by resettlement.

### ***Involuntary resettlement policies***

The LARAP was designed to comply with policies of the Asian Development Bank (ADB) and the World Bank on involuntary resettlement. The ADB requires:

- compensation to replace lost assets, livelihoods and income
- assistance for relocation, including the provision of relocation sites with appropriate facilities and services
- assistance for rehabilitation to achieve at least the same level of well-being with the project as without it

The key principles for assessing and planning involuntary resettlement as defined by the ADB are:

(a) *Involuntary resettlement should be avoided whenever feasible.*

(b) *Where population displacement is unavoidable, it should be minimized by providing viable livelihood options.*

(c) *Replacing what is lost.* If individuals or a community must lose all or part of their land, means of livelihood, or social support systems, so that a project might proceed, they will be compensated and assisted through replacement of land, housing, infrastructure, resources, income sources and services, in cash or kind, so that their economic and social circumstances will be at least restored to the pre-project level. All compensation is based on the principle of replacement cost.

(d) *Each involuntary resettlement is conceived and executed as part of a development project or program.* Affected people need to be provided with sufficient resources and opportunities to re-establish their homes and livelihoods as soon as possible, with time-bound action in coordination with the civil works.

(e) *The affected people are to be fully informed and closely consulted.* Affected people are to be consulted on compensation and/or resettlement options, including relocation sites and socio-economic rehabilitation. Effective grievance procedures must be established.

(f) *Social and cultural institutions.* Institutions of the affected people and, where relevant, of their hosts, are to be protected and supported. Affected people are to be assisted to integrate economically and socially into host communities so that adverse impacts on host communities are minimized and social harmony is promoted.

(g) *No formal title.* Absence of formal legal title to land is not a bar to entitlements. People without formal land title and those with established use rights must be recognized.

(h) *Identification.* Affected people are to be identified and recorded as early as possible in order to establish their eligibility through a population record or census that serves as an eligibility cutoff date, preferably at the project identification stage, to prevent subsequent influx of encroachers or others who wish to take advantage of such benefits.

(i) *The Poorest.* Particular attention must be paid to the needs of the poorest affected people and vulnerable groups that may be at high risk of impoverishment. This may include those without legal title to land or other assets, households headed by females, the elderly or disabled and other vulnerable groups, particularly indigenous peoples. Appropriate assistance must be provided to help them improve their socio-economic condition.

(j) *The full resettlement costs* are to be included in the presentation of project costs and benefits.

### ***Project-affected peoples (PAPs)***

Three groups of people have been identified as being affected by the project. They are those affected by:

- exploration phase seismic work
- land acquisition (that is, the owners of the acquired land, who are from the Wayuri, Sowai and Simuna clans)
- resettlement (including those physically relocated, and those living in the host villages of Saengga and Onar)

The resettled community and the host communities are referred to as Resettlement-Affected Villages (RAVs) and are all included in various aspects of the resettlement programme set out in the LARAP.

(A larger group of nine villages (700-800 households) have been classified by the project's Environmental and Social Impact Assessment (AMDAL) as Directly-Affected Villages (DAV's) and a further 24 villages as indirectly affected to some extent.)

In order to achieve the objective of 'resettlement with development', the LARAP includes development programmes on agriculture, fisheries and micro-enterprise. It makes a commitment to provide opportunities for employment during the construction phase to at least one member of every village affected by resettlement.

More generally, it states:

*The overall objective in Tangguh resettlement is that resettled and host communities are assisted to sustainably improve and surpass their income, standards of living, and livelihoods (in real terms) over and above pre-Project (displacement) levels or expected levels without the Project.*

*In implementing the [LARAP] plan, the Tangguh Project is committed to replace and upgrade existing village assets and services, as well as improve the livelihood standards of the Tanah Merah community and of the host villages, Saengga and Onar. Although replacing and improving assets and services is important for community re-establishment, the core resettlement efforts will be medium- to long-term programs designed to ensure that the affected communities can increase the sustainable productivity of their natural resource-based activities (i.e., agriculture and fishing), and offering expanded and diversified income-generation opportunities (i.e., employment, small business development) to its residents.*

The physical relocation of the affected communities has now been completed and programmes to support improved livelihoods for the resettled and host communities are being carried out.

In its most recent report dated August 2007, the Resettlement Monitoring and Advisory Panel identified problems relating to granting legal ownership of houses and house-plots to resettlers; the lack of progress in transferring the management and costs of electricity and water to the resettled communities, and in transferring infrastructural assets to community management; and large departures from the policy of priority job allocation to residents of RAVs and DAVs. The latter problem, if not remedied, could carry ‘serious risks to LARAP’s ultimate success’, said the Panel.

## **Legal framework**

Because of the presence of traditional indigenous (or *adat*) communities, the project’s land acquisition and compensation policies aim to take into account both the formal system of Indonesian law and the customary rights of the affected communities, as well as the ADB and World Bank guidelines.

The LARAP notes that the recognition of *adat* communities is particularly significant in Papua. The Special Autonomy Law passed in 2001 specifically addresses the protection of *adat* communities and the status of traditional rights (*hak ulayat*). However, the LARAP acknowledges two key difficulties with *adat* rights. Firstly, the tension between the statutory or formal legal system and *adat* rights, which frequently gives rise to uncertainty and conflict, and secondly, the difficulty of identifying the true characteristics of *adat* (*hak ulayat*) rights and *adat* norms.

The project claims to have addressed these two difficulties in the acquisition and resettlement process by ongoing consultation, clarification and documentation of agreements. It states that it has adhered to applicable Indonesian law and policy while at the same time seeking to uphold the evolving and unclear requirements of the *adat* system.

A table comparing the project actions with the ADB policy requirements and Indonesian law is set out in the Appendix.

LARAP: [www.adb.org/Resettlement/plans.asp](http://www.adb.org/Resettlement/plans.asp)

LARAP external monitoring reports: [www.bp.com/indonesia/tangguh](http://www.bp.com/indonesia/tangguh) → Integrated Social Programs → Resettlement

AMDAL: [www.bp.com/indonesia/tangguh](http://www.bp.com/indonesia/tangguh) → Integrated Social Programs → Summary Environmental Impact Assessment (SEIA)

## 6. International Standards and Company Codes.

### *International Standards.*

At the root of the modern system of international standards for human rights is the Universal Declaration of Human Rights (UDHR) and the core UN treaties on human rights.<sup>12</sup>

Both Indonesia and the UK are party to the UDHR and many of its principles are enshrined in their national laws. BP also publicly supports the declaration.

International law maintains that governments have the principal responsibility to promote and protect human rights, but companies can be complicit in abuse. Increasingly companies are being subject to a greater level of accountability for the circumstances and consequences of their operations.

International instruments on indigenous peoples' rights are also relevant to the Tangguh project, since it is located on indigenous customary land in Bintuni Bay. The recently adopted UN Declaration on Indigenous Peoples<sup>13</sup>, affirms the rights of indigenous peoples, including an inalienable collective right to the ownership, use and control of lands, territories and other natural resources. It also highlights the requirement for free, prior and informed consultation, participation and consent in activities of any kind that impact on indigenous peoples, their property or territories. It also establishes the requirement for fair and adequate compensation for violation of the rights recognised in the Declaration.<sup>14</sup>

International treaties on the environment and sustainable development which both Indonesia and the UK have ratified, and which are of relevance to Tangguh, include the Convention on Biological Diversity (CBD)<sup>15</sup>, the Ramsar Convention on Wetlands<sup>16</sup> and the United National Framework Convention on Climate Change (UNFCCC).<sup>17</sup>

CBD articles 8(j), 10(c) 17.2 and 18.4 are seen as particularly important to indigenous peoples.

The UN has also been developing specific guidelines for transnational companies. In August 2003, the UN Sub-Commission on the Promotion and Protection of Human Rights approved the UN Norms on the Responsibilities of Trans-national Corporations and Other Business Enterprises with Regard to Human Rights (also known as the UN Norms)<sup>18</sup>. However these were not adopted by the Commission itself (now replaced by the Human Rights Council)<sup>19</sup>. To take the work on human rights and corporations forward, in July 2005, Kofi Annan appointed Professor John G. Ruggie to be Special Representative of the UN Secretary-General on business and human rights.<sup>20</sup> He has

---

<sup>12</sup> See <http://www2.ohchr.org/english/law/index.htm#core>

<sup>13</sup> <http://www.un.org/esa/socdev/unpfii/en/declaration.html>

<sup>14</sup> See background information on the Declaration on the Rights of Indigenous Peoples, IWGIA, at <http://www.iwgia.org/sw356.asp>

<sup>15</sup> <http://www.cbd.int/>. CBD articles 8(j), 10(c) 17.2 and 18.4 are seen as particularly important to indigenous peoples.

<sup>16</sup> The Ramsar Convention provides the framework for national action and international cooperation for the conservation and wise use of wetlands and their resources. See <http://www.ramsar.org/>

<sup>17</sup> <http://unfccc.int/2860.php>

<sup>18</sup> [http://www.unhcr.ch/huridocda/huridocda.nsf/\(Symbol\)/E.CN.4.Sub.2.2003.12.Rev.2.En](http://www.unhcr.ch/huridocda/huridocda.nsf/(Symbol)/E.CN.4.Sub.2.2003.12.Rev.2.En)

<sup>19</sup> The UN Norms are the most progressive of all the different standards that have been produced so far. Activists are pushing for a system of legal accountability for companies, which can be enshrined in national laws and also move towards accountability in international law.

<sup>20</sup> For the Special Representative's mandate see:

[http://ap.ohchr.org/documents/E/HRC/resolutions/A\\_HRC\\_RES\\_8\\_7.pdf](http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_8_7.pdf)

proposed a policy framework to guide the understanding of and responses to the issue of business and human rights, organised around the three principles of protect, respect and remedy.<sup>21</sup>

The UN Global Compact, is a voluntary initiative for business based on ‘ten universally accepted principles’. These are derived from the UDHR, the International Labour Organization's Declaration on Fundamental Principles and Rights at Work, the Rio Declaration on Environment and Development and the United Nations Convention Against Corruption. Membership of the Compact involves annual reporting. BP plc signed up in 2000.<sup>22</sup>

Although less stringent, the Organisation for Economic Co-operation and Development's (OECD) 'Guidelines on Multinational Enterprises' have the advantage over the UN Norms in that they include a complaints procedure for breaches of the guidelines. The guidelines cover areas such as employment and industrial relations, disclosure (transparency), environment and taxation. Complaints can be brought to 'contact points' in OECD member countries. This procedure emphasises conciliation behind closed doors over public arbitration, but does offer the possibility of some form of accountability. On the negative side, the procedure does not offer legal redress, although, in theory, this could lead to legal action in relevant courts.<sup>23</sup>

'The Extractive Industries Transparency Initiative' (EITI) is a set of voluntary principles that seeks to improve governance, through strengthening transparency and accountability, particularly in the mining and extractive industries.<sup>24</sup> BP supports these principles, but as yet the government of Indonesia has not signed up. Consequently, they will have limited impact upon the transparency and accountability of revenue flows between Tangguh and the Indonesian government.

There are many other 'global norms' that are not listed here. Some are more relevant to specific areas, such as the International Organisation for Standardization (“ISO”) environmental standards or the US-UK Voluntary Principles on Security and Human Rights (see BP Tangguh and human rights section). Other standards may be required by financing agencies such as the World Bank or the Asian Development Bank (see AMDAL and resettlement sections).

## **Company Codes**

Alongside these ‘soft laws’ and voluntary principles are BP and Pertamina's own company codes of conduct. Much is made of these standards in the company literature, but they are essentially internal and have little to no standing outside the companies themselves. That said, companies and individuals can be 'named and shamed' if they are found to be in violation of the codes.

Pertamina, for example, has a code of corporate governance, a code of conduct, as well as a company charter and board manual.

BP has codes of conduct, statements on group values, policies (including workforce health, safety and security commitments) and ethics, and publishes annual 'sustainability reports' on its performance on social and environmental matters. After BP in Colombia was accused of complicity in human rights violations, BP published a document called 'Human Rights – A

---

<sup>21</sup> See *The Corporate Responsibility to Respect: A Human Rights Milestone* By Navanethem Pillay, United Nations High Commissioner for Human Rights at

[http://www.ohchr.org/Documents/Press/HC\\_contribution\\_on\\_Business\\_and\\_HR.pdf](http://www.ohchr.org/Documents/Press/HC_contribution_on_Business_and_HR.pdf).

In June 2008, the Human Rights Council states formally recognised for the first time that business must also play its part in the realisation of human rights when they adopted a resolution which included the statement: “transnational corporations and other business enterprises have a responsibility to respect human rights.”

<sup>22</sup> <http://www.unglobalcompact.org/AboutTheGC/>

<sup>23</sup> Other so-called ‘soft law’ instruments include the ILO Tripartite Declaration and the United National Global Compact.

<sup>24</sup> See <http://eitransparency.org/>



guidance note', where BP sets out its intentions on upholding human rights standards. These discussed the issues of complicity and due diligence, and the circumstances by which companies might benefit from and / or contribute to violations of those rights<sup>25</sup>. Finally, the Tangguh operation has a grievance procedure for 'community at a local level'<sup>26</sup>.

BP and BP Tangguh's company public relations literature talks much of corporate social responsibility and environmental protection, but whether or not it will contribute to real change in behaviour in frontline operations like Tangguh remains to be seen.

---

<sup>25</sup> See BP's website:

[http://www.bp.com/liveassets/bp\\_internet/globalbp/STAGING/global\\_assets/downloads/H/Human\\_rights\\_guidance.pdf](http://www.bp.com/liveassets/bp_internet/globalbp/STAGING/global_assets/downloads/H/Human_rights_guidance.pdf)

<sup>26</sup> See BP's website:

[http://www.bp.com/liveassets/bp\\_internet/indonesia/STAGING/home\\_assets/downloads/g/Grievance\\_community\\_procedure\\_March\\_2006.pdf](http://www.bp.com/liveassets/bp_internet/indonesia/STAGING/home_assets/downloads/g/Grievance_community_procedure_March_2006.pdf)

## Appendix

Project actions compared to ADB policy requirements and Indonesian law  
[LARAP Table 4.2, pp 49-52]

ADB Policy Requirements	Indonesian law	Project action
Provide compensation for lost assets, livelihoods and income.	<p>Provide compensation for the appropriation of land title, buildings, plants and other objects related the land (PD 55, A12).</p> <p>The community affected should be given reasonable compensation so as to increase their livelihoods (<i>Bali Decree</i>)</p>	<p>Project has provided compensation in the form of: A combination of cash and in-kind benefits (as detailed in this chapter and Chapter 8 and Appendices 8.1–8.3).</p> <p>Food support for interim period move to new village.</p> <p>Targeted assistance (path, boats, outboard motors) to facilitate access to more distant fishing grounds and sago holdings</p>
Provide assistance for relocation, including sites for resettlement and appropriate facilities and services.	<p>Compensation may take the form of resettlement (PD 55, A13).</p> <p>If the total number being relocated exceeds 100 people or 20 households, and there is no affordable housing in the near vicinity, the <i>Kabupaten</i> government should develop a location specifically for resettlement.</p> <p>The government should also build infrastructure and public facilities at this location. These should include access roads and walking paths; water drainage system; drinking water, and electricity; medical, education, religious and sports facilities.</p>	<p>Project acquired 200 ha of land for construction of the resettlement village and reconstruction of host villages.</p> <p>Project facilitated right to use land at Onar.</p> <p>Project has constructed houses, public facilities and services (as detailed in Chapter 8 and Appendices 8.1–8.3).</p> <p>Assistance was provided for physical relocation at community and household level.</p>
Provide assistance for rehabilitation (at same level of well-being as without project).	<p>The affected community should be provided with rehabilitation and development assistance. This should be designed to increase the livelihood of the community and to help the community making necessary adjustments to the new environment (<i>Bali Decree</i>).</p>	<p>Project has established livelihood restoration programs, including agriculture, fisheries and microenterprise.</p>

ADB Policy Requirements	Indonesian law	Project action
<p>Involuntary resettlement should be avoided.</p>		<p>Project considered a total of 17 sites during the site selection process (see Section 2.4). A choice of possible sites was reduced to three. The final choice was made with the agreement of the community, knowing that it would require land acquisition and resettlement.</p>
<p>If population displacement is unavoidable, impact should be minimized by providing viable livelihood options.</p>		<p>The resettlement sites were chosen by the villagers. Both sites are similar to the situation at Tanah Merah, and support similar social interaction and use of resources (shore line marine resources, fishing grounds, access to forest lands for cultivation and access to forest to collect forest products).</p>

ADB Policy Requirements	Indonesian law	Project action
<p>Replace what is lost: Individuals and communities must be compensated and assisted through replacement of land, houses, infrastructure, resources, income sources, services in cash or in-kind.</p> <p>Restoration of their their economic and social circumstances to pre-project levels.</p> <p>Compensation should be based on the principle of replacement cost.</p>	<p>Compensation may take the form of money, land in substitution, resettlement, a combination of two or more forms of compensation as referred to above or other forms as agreed upon by the parties concerned (PD 55, A 13).</p> <p>The Land Acquisition Committee shall conduct an inventory of land and plots, including buildings, plants and other objects related to the land (BPN 1, A 11).</p> <p>After counselling and the determination of the boundaries, the Land Acquisition Committee shall convene a meeting of the government agency requiring the land, land titleholders and owners of buildings, crops or other objects in order to negotiate the form and amount of compensation (BPN 1, A 14).</p> <p>Compensation for the land controlled with the right jointly held by a group of people shall be given in the form of construction of public facilities or other forms beneficial to the local community (PD 55, A14).</p> <p>The price for land is based on the real value, taking into account the latest Land and Building Tax for such land (PD 55, A15).</p> <p>Other factors should also be taken into account when establishing a value for the land (BPN 1, A 16)</p>	<p>Project surveyed land and conducted a consultative land acquisition process involving government, advisors, and the clans, to reach a negotiated settlement which included cash and in-kind benefits.</p> <p>Project conducted an inventory of assets (houses, infrastructure, fruit trees, sago, plants) and assets were either replaced or compensation was provided in line with government legislation.</p> <p>Project has replaced in full the assets lost in Tanah Merah. The quality of the replacement assets far exceeds what was previously owned or used. The Project has also provided substantial additional infrastructure, including housing for teachers, religious leaders and health staff, a health clinic and market place, village government offices and a cooperative building, as detailed in Appendix 8.1 and 8.2.</p> <p>Each household in Tanah Merah Baru has been provided with a 500m2 house plot, together with gardens and agroforestry. The Project will assist in obtaining land title.</p> <p>Sources of income (primarily fishing) have been restored and enhanced with capacity-building programs.</p> <p>Heath and education programs have been introduced, together with the provision of high school and boarding house (which did not exist</p>

	<p>The selling value of buildings and plants is established by the relevant Regional Administration's agency (agriculture and public works) (PD 55, A15).</p> <p>Efforts shall be made to ensure that compensation is in a form that will not change the living pattern of the community, taking into account the possibility of resettlement to a suitable location (BPN).</p>	previously)
Carry out involuntary resettlement as a development project.		The involuntary Resettlement Program has been implemented with the aim of achieving resettlement with sustainable development.

ADB Policy Requirements	Indonesian law	Project action
<p>PAPs should be fully informed and closely consulted on:</p> <p>Compensation</p> <p>Resettlement options</p> <p>Socioeconomic rehabilitation</p> <p>Pertinent resettlement information should be provided at the key times.</p> <p>Opportunities should be given to allow PAPs to engage in choosing, planning and implementation options.</p> <p>Grievance procedures must be established.</p> <p>If PAPs are particularly vulnerable, social preparation is needed to enhance capacity.</p>	<p>Negotiations are to be conducted directly between the land titleholders concerned and the government agency requiring the land (PD 55, A 10).</p> <p>A Land Acquisition Committee (LAC) should be formed in each regency and municipality. The LAC should include relevant government agencies (agriculture, land, public works), together with the head of the village in which the land is situated. The LAC is required to:</p> <p>Assess and propose the amount the compensation</p> <p>Provide information and counselling regarding the reasons the land is required</p> <p>Hold negotiations to establish the amount and form of compensation</p> <p>Witness the implementation of the handing over of compensation to holders of land title and rights over buildings, plants and other objects on the land.</p> <p>The LAC shall provide explanations to both parties in order to reach agreement in the negotiations, particularly with regard to compensation (BPN 1, A 16):</p> <p>The government agency requiring the land should provide counselling to the community affected by the construction. The reasons for the construction should be explained in order for the</p>	<p>A key feature of the Project is on-going consultation. PAPs have been fully informed and consulted at all stages and on many aspects of the Project (land acquisition, construction, relocation and restoration).</p> <p>Meetings with the clans and the communities in early 1999 discussed land acquisition, resettlement and the way in which compensation would be provided.</p> <p>Choices regarding resettlement sites were provided. PAPs have been consulted on the type of program to be provided, and appropriate design.</p> <p>PAPs have continuous access to the Resettlement Team through formal and informal mechanisms.</p> <p>The Project has recognized the indigenous nature of most of the PAPs, and has sought to ensure that all outcomes adequately take into account such special characteristics. The needs of vulnerable households have been taken into account in developing programs and activities.</p>

	community to have an understanding of and accept the development (BPN 1, A 9).	
<p>Social and cultural institutions to be protected and supported.</p> <p>Integrate PAPs and hosts socially and economically so as to minimise adverse impacts and promote social harmony.</p>		<p>The Project is cognizant of cultural and <i>adat</i> institutions, and has consulted on, and facilitated, appropriate <i>adat</i> procedure.</p> <p>Project has provided assistance to host communities to develop houses and physical infrastructure and to develop services (e.g. health and education). Project has encouraged the sharing of certain facilities between resettlers and host, where appropriate.</p> <p>Social and <i>adat</i> ceremonies generally include both resettlers and hosts.</p>

ADB Policy Requirements	Indonesian law	Project action
<p>No formal title: Indigenous groups and people who have claims to land without formal legal rights and those with usufruct/customary rights to land and resources must be entitled to benefits</p>	<p>LAC is required to conduct surveys regarding the legal status of the land title to be relinquished.</p> <p>Compensation shall be given to specified categories of people using land without title (BPN 1, A 20).</p> <p><i>Adat</i> land rights (rights for communal land from which the <i>adat</i> communities derive their daily necessities) should be recognized to the extent that they still exist and are exercised in accordance with <i>adat</i> law (BPN 5).</p> <p><i>Adat</i> land rights, to the extent that they still exist, are to be exercised in accordance with <i>adat</i> law. Such rights can be relinquished and acquired by a third party. If such acquisition is in accordance with statutory requirements then the <i>adat</i> title is extinguished and cannot be revived (PSAL).</p>	<p>Traditional land rights and fishing rights of the three clans have been recognized by the Project. Compensation has been provided to the three clans based on this recognition.</p>
<p>Identification of PAPs through census to establish cut-off date and prevent an influx of encroachers or others who wish to take advantage of benefits.</p>	<p>The LAC shall survey the boundaries of the land to be acquired, and conduct an inventory of the land and plots, including buildings, plants, and other objects relating to the land (BPN 1, A11). As part of the planning and land acquisition process, the Regency government should carry out a basic survey and social economic survey in order to acquire data relating to the social economic situation of the affected community. The basic survey should be carried out at the start of the project. The date</p>	<p>Project carried out a census of Tanah Merah and Saengga in 2001 and 2002, respectively.</p>



	on which the survey is carried out should be used as the basis for determining the cut-off date for the registration of the community who is going to receive compensation ( <i>Bali Decree</i> ).	
Special attention to the poorest PAPs and vulnerable groups		The Project has recognized the indigenous nature of most of the PAPs, and has sought to ensure that all outcomes adequately take into account such special characteristics. The needs of vulnerable households have been taken into account in developing programs and activities.
Full resettlement costs to be reflected in Project costs and benefits		The Resettlement Program was fully budgeted within Project cost