More doubts emerge over BP's Tangguh project

Two studies commissioned by BP have highlighted serious concerns over the impact of the planned Tangguh gas project in West Papua.

BP has announced the findings of two studies it commissioned to examine the potential impacts of the Tangguh gas project in Bintuni Bay, West Papua, on human rights, local communities and the environment. The questions raised by the reports and the way in which the information has been managed by BP throw further doubt on the company's claim that the Tangguh project will be a model of corporate social responsibility.

The giant Tangguh gas extraction and liquefied natural gas processing (LNG) project, due to start construction this year, is highly controversial. The project has caused alarm because it is being developed in a disputed territory where human rights abuses by the military and police forces are carried out with impunity. The project is bringing huge changes to local communities and their way of life, which is largely dependent on the Bay's natural resources. The development is located in a fragile, forested environment, near the largest remaining mangrove stands in Southeast Asia.

Human rights impact report
The first study, a human rights impact assessment (HRIA), compiled by former US State Department official Bennett Freeman and US lawyer Gare Smith, was presented to BP in April 2002. This is the first time that BP has conducted a study focused solely on human rights. But the report was not published in full, despite clear public interest in its findings. BP only put out a 7-page summary of recommendations. Even then, it took the company ten months to do this. The summary, plus BP's 21-page response, were only made available in February this year, despite repeated requests from NGOs.

The HRIA summary recommendations cover many of the concerns that Papuan and international NGOs have raised. They include the recommendations that BP should:

- Pay a "fair" price for land based on the value of comparable land owned by subsistence cultures elsewhere in Papua;
- Help local and provincial governments develop guidelines to demarcate the boundaries of traditional lands; Pay restitution for trees felled and for loss of fishing grounds;
- Encourage the central government to guarantee revenues as outlined under Special Autonomy;
- Establish laws regarding the sale and use of communal land and squatting on indigenous lands, to limit immigration;
- Establish training courses to challenge existing assumptions regarding racial superiority/inferiority;
- Give Papuans preference in securing senior positions.
On the issue of human rights and security, the authors recommend that the company should:

- Urge the highest levels of the Indonesian government to limit TNI (Indonesian armed forces) and Brimob (special forces police) deployments and, if necessary, seek support for this position from the US and UK governments;
- Develop a written policy regarding the provision of equipment to state security forces;
- Use the ICRC (International Committee of the Red Cross) for security force training;
- Take into account past human rights records of military personnel deployed in the region, raise specific cases at the highest levels, seek investigations and accountability for abuses committed in the project area and unimpeded access for NGOs investigating alleged abuses;
- Provide a local security and human rights "hotline" for emergency use.

BP's lengthy responses to these issues are varied, but they largely consist of confirmation that the concerns are already being taken care of as recommended by the report, or are being addressed in a way that is considered more appropriate. See [http://www.bp.com/location_rep/indonesia/tangguh_project/index.asp](http://www.bp.com/location_rep/indonesia/tangguh_project/index.asp) for links to the full response.

**TIAP report**

The other study is the first report of the Tangguh Independent Advisory Panel (TIAP) which was established by BP in early 2002 to provide external advice to BP's senior decision-makers on the non-commercial aspects of the Tangguh project. Again, there was a long delay (around 6 months) between its completion and its publication on BP's website in March 2003. It is not clear whether this report, or the HRIA, has been made available in Indonesian or appropriate Papuan local languages.

The TIAP is chaired by US Senator George Mitchell and includes Lord Hannay from the UK, former ambassador Sabam Siagam from Jakarta and the Reverend Herman Saud from West Papua.

The TIAP report is wider in scope than the HRIA. The issues include community development, security, training and employment of Papuans and the environment. The Panel reports that Tangguh is "both welcomed as a new model for international corporate conduct and feared because of Papua's past experience" (with Freeport). According to Mitchell, the massive financial benefits outweigh the problems with Tangguh ([Guardian 12/Mar/03](http://www.guardian.co.uk心裡headlines/story/0,6804,395003,00.html)).

But the report underplays the high costs to indigenous communities represented by threats to the environment, livelihoods, social and cultural disruption, increased tension brought about by increased police and military presence in the region, and the potential for conflict between communities.
The TIAP report does not address some of the crucial questions raised by DTE in a meeting with TIAP members in April 2002 (see DTE 53/54:7). These include:

- Land and resource rights and the conflict between Indonesian state law and adat or customary law. In fact the Panel avoids this crucial issue by stating that BP's compliance with Indonesian law is outside the scope of the Panel's inquiry;
- The right of the local communities to reject the project. Neither the TIAP report nor the HRIA report summary recommendations tackle this fundamental question. The whole TIAP mission is based on the understanding that the project will go ahead and that the question is how to do it best, not whether to do it at all;
- The possible link between Tangguh and the Wasior killings and resulting terrorising of communities by the Indonesian military/police;
- The likelihood that the presence of the Tangguh project will increase human rights violations given the long history of appalling human rights abuses in West Papua, committed by the security forces, which have never been properly investigated. The only case mentioned is that of independence leader Theys Eluay, which, the Panel says, was raised by almost everyone they met.

**Women ignored**

There is no discussion of the particular impacts that the project may have on women, in either the TIAP report or the HRIA summary. This is a serious flaw. Recent studies have highlighted the fact that women suffer disproportionately large negative impacts from extractive industries (see, for example, article on women and mining, DTE 56).

**Security and human rights concerns**

There is widespread concern about security at Tangguh because the Indonesian military have a legal obligation to protect 'vital national assets'. BP's plans for a ground-breaking community-based security set-up, which avoids military or police guards at the site, has not yet been accepted at central government level. This is clear from BP's response to the HRIA report which refers to the "considerable animosity among some of the various stakeholders" and adds that reconciling these "sharply diverging opinions" will be neither easy not straightforward. (p.19).

The TIAP team rates security as possibly "the most difficult and sensitive issue for BP" (p.20) both because of the military's legal obligation to protect 'vital national assets' and because the TNI (armed forces) may place financial demands on BP. The team was told that up to 80% of TNI revenues have been derived from businesses and protection of facilities (p.20/21). This confirms what Papuans already know: that military corruption and rent-seeking behaviour in West Papua is deeply entrenched, and provides a strong economic motivation to retain a large presence in the territory (see DTE 55:1, for example, on the military involvement in logging in West Papua and report on Freeport, this issue.)

BP acknowledges that an increased police presence in the Bintuni Bay area will be required during the project's construction phase to maintain law and order. The company says this has already been authorised but not yet carried out. The company stresses that
the police and army has maintained a presence in the area for decades, so that the project will not introduce security forces into the area, but rather influence the numbers, locations and roles they will perform. No figures are given either for existing levels of police and military in the area or for anticipated increases.

**Police role**

BP appears to be over-optimistic about the role of the police, which, the company hopes, will respond better to local priorities under Papua's Special Autonomy arrangements. This attitude fails to take into account the role of Brimob, the notoriously brutal police mobile brigade, used by government authorities and companies to suppress local opposition to projects such as mines, plantations and logging.

It is true that the reputation of the regular Papuan police force did improve under the command of Insp.Gen. I Made Mangku Pastika. He was involved in discussions with civil society leaders on promoting Papua as a 'Zone of Peace' and, during the investigations into the August 2002 Freeport murders, voiced suspicions that the army special forces (Kopassus) were implicated. But Pastika was replaced as Papua police commander in November 2002. In January this year his deputy was also transferred out of Papua - a move which is believed to relate to the police's investigation into the Freeport killings.

**Military context**

The prospects for the demilitarisation of Papua demanded by Papuan civil society leaders, don't look good. In Indonesia as a whole the military's influence is on the increase (see box).

This spells bad news for West Papuans. Recent military operations in the central highland area around Wamena have heightened tensions. TNI 'sweeping' operations have burned down villages and schools and killed villagers' livestock. The operations are ostensibly in response to a raid in April on a military post in Wamena during which two officers were killed and another injured. At least one of the Papuans arrested following the incident has died after being tortured in detention. There is widespread belief that the military may have been involved in the original attack in order to provoke conflict.

What does this unstable and unpredictable situation mean for Tangguh? Increasing military dominance in Jakarta, growing TNI confidence (bolstered by international support for the post 9/11 'war against terrorism') and continuing impunity will certainly not help BP's bargaining position when it comes to negotiating the terms of community-based security at Tangguh.

The TIAP report says that BP should work to accomplish a sound basis for co-operation on the security-based security concept, if possible, before a final decision is made to proceed with the whole project. In its response, BP says it agrees with this recommendation. However, it is very hard to believe that BP really will consider pulling out of Tangguh, if it can't get the security arrangements it wants.
New concerns

Several concerns have emerged recently which could make it more difficult for BP to fulfil its commitments at Tangguh. They include:

- The Bali bomb and its aftermath, including recent anti-terrorist legislation. This could lead to the criminalisation and branding as terrorists of local people who protest against projects in their areas (see also DTE 56:14).
- The trials of the seven Kopassus soldiers accused of involvement in the murder of pro-independence leader, Theys Eluay, in which maximum sentences of three and a half years were handed down by the military court. The TIAP report refers to the outcome of these trials as "a first test" of the viability of Special Autonomy (p.10) and Papua's 'new relationship' with Indonesia.
- Increase in military powers: a new military bill will, if passed, increase the military powers to intervene in domestic security affairs. Critics say the bill paves the way for a military take-over of the country. Most contentious is a provision which gives the TNI commander powers to mobilise troops in an emergency, without a Presidential decision.
- The division of Papua into three provinces, which will stall Special Autonomy and raises the potential for more tension and conflict in West Papua (see also main text). Bintuni, where Tangguh is located, has already been declared a new Kabupaten (district) under separate administrative changes agreed last year. This also entails boosting levels of military and police along with the setting up of a new district government apparatus.

Revenues, expectations and the World Bank

One important concern highlighted by the TIAP report is the fact that the "momentum of expectation" among local people and the "considerable impatience for tangible benefits" could easily turn into resentment if concrete results are not seen soon after LNG exports begin. It also points out that there will be a delay of some years (it could be a decade)
between LNG production start-up and the flow of substantial revenues into Papua. This is because debt servicing and recovery costs take up most of the earnings in the first years after production start-up. To address this, TIAP puts forward a highly controversial idea: that BP should consider the possibility of an externally-financed line of credit to "bring forward and smooth out the flow of revenues to Papua from the project".

According to media reports, the company is already in discussion with the Word Bank about this. The Bank's chief economist in Jakarta, Bert Hofman, has been quoted as saying it's a "good idea".

This immediately raises a host of questions. Does the World Bank's record in Indonesia make it suitable to play such a role? The Bank stands accused of colluding in massive corruption during the Suharto presidency and has not answered demands to cancel the resulting 'odious' debt inherited by successive Indonesian governments. Civil society organisations remain critical too, of the Bank's capacity to deliver pro-poor development, when it is governed by the global economic priorities of the US and other rich countries. Under such circumstances, would a World Bank loan have the desired stabilising effect? Who would pay for the loan? Would West Papua be expected to foot the bill when it would be BP that benefited from any increased stability? Also, the loan would not come directly to the Papuan regional government but, like all World Bank loans, would go through Jakarta. Would Papua trust Jakarta to manage the loan? Would it be wise to tie Papua to Jakarta in such a way, when there is a possibility that West Papua's political status may change?

**Revenues**

Another crucial question is who would pay back the debt if the project didn't live up to expectations? It is by no means certain how many LNG 'trains' or terminals will be built as this depends on gas markets. BP only plans to build 2 trains in the near term but this could be expanded to 8 trains, if the markets materialise.

It is also by no means assured that the revenue split in favour of Papua is secure, since Jakarta appears to be determined to undermine Special Autonomy by splitting Papua into three provinces (see below). Even if Special Autonomy does survive, Papua gets 70% of revenues for the first twenty five years only, after which it is reduced to 50%. Since Tangguh has an estimated lifetime of at least 30 years, this has clear implications for Papua's future income.

(Source: *Human Rights Assessment of the Proposed Tangguh LNG Project Summary of Recommendations and Conclusion*, Presented to BP Indonesia April 19, 2002, Gare A. Smith, Foley, Hoag & Eliot, LLP, Bennett Freeman, Consultant; *Human Rights Assessment of the Proposed Tangguh LNG Project*, BP Response February 2003; *Tangguh Independent Advisory Panel: First Report on Tangguh LNG Project*, October 2002; *Tangguh Independent Advisory Panel BP Response to the first report on the Tangguh LNG project*, September 2002. The documents (minus the annexes to the TIAP report) are linked from
Special Autonomy and the 3 provinces split
George Mitchell and his fellow panel members are confident about the possibilities for Tangguh's success under Special Autonomy, the law passed in October 2001, which is part of Indonesia's overall decentralisation programme. Special Autonomy is also supported by the US and European governments as the best way to solve Papua's political conflict, despite the fact that many Papuans see it as just a stepping stone to independence.

However, the Panel does recognises that Special Autonomy's implementation in West Papua is by no means assured and that it would be unwise for BP to rely on it.

Recent moves by the Jakarta government to undermine Special Autonomy play out this concern. In January this year, Megawati issued a Presidential Instruction to implement a 1999 law which splits Papua into three separate provinces. This is seen as a deliberate attempt to sabotage autonomy in West Papua because, according to the Special Autonomy law, any policy affecting Papuans must be approved by the Papuan People's Assembly (MRP). This body, which is key to the proper functioning of autonomy, has not yet been set up (due to Jakarta's delay in issuing the necessary regulation and questioning of its legality.) In fact, Special Autonomy, supposedly in effect since January 2002 in West Papua, has not been implemented because the required government regulations have not materialised.

The Papuan human rights group ELSHAM believes that the division of Papua will increase Jakarta's exploitation and militarisation of West Papua. Each new province will have a military command, and there will be more military control over business operations.

According to one report, Papuans have declared that they will call a referendum if Jakarta does not revoke the Presidential Instruction. (Cenderawasih Pos, 8/Feb/03, cited in Jakarta Post 19/Feb/03)

(Additional sources: Jakarta Post 13/Mar/03; Analysis by Neles Tebay, received 19/Feb/03; Green Left Weekly 26/Feb/03; Harian Papua Post 27/Feb/03 with comment from Tapol; ELSHAM Papua and AWPA media release 23/Feb/03)

Tangguh Update:
Resettlement: construction of the resettlement village for the families moved from the project site, started on February 5th. The houses being constructed for the resettled villagers will use 30 cubic metres of timber each. BP has said the wood will come from legally licensed producers (but there is disagreement within Indonesia as to what constitutes "legal" see DTE 56:6 and DTE 53/54:10).
**AMDAL:** (Environmental Impact Assessment): the final AMDAL, approved by central government in October 2002, is now being "socialised" to local NGOs and communities. BP is asking communities to get involved in implementing the AMDAL and monitoring the project's progress. WALHI and other organisations state that the AMDAL is invalid because there had been no legal authority to approve it, since the environmental agency Bapedal was merged with the environment minister's office. However, BP argues that the environment minister who approved the AMDAL did indeed have the legal authority to do so.

**Land rights:** The land required for the project was in an area classified by the Indonesian government as 'production forest'. The land is also claimed by local communities. According to BP, the process ran as follows: the land was relinquished to the government by local communities (this was prior to BP's involvement in the project, when the US company ARCO was in charge), then the government issued HGU (construction) rights to BP which will last for 30-50 years. The land will then revert to the government. BP told NGOs in West Papua that the Indonesian government has promised to return the land to the original adat owners. However, it is not clear whether this commitment is on paper and how legally binding it is.

**Construction of facilities:** in April BP announced that a consortium of Kellogg, Brown and Root (US); JGC Corporation (Japan) and PT Pertafenikki Engineering (Indonesian-Japanese joint venture) had won the bid for engineering, procurement and construction for the Tangguh LNG complex, worth around $1.4 billion. Work to upgrade an old airstrip started in November 2002. This will be used until another airstrip is constructed at the project site.

**Water and waste:** a desalination plant will be constructed to provide drinking water at the project site, but not for local communities. Hazardous waste will be stored and then taken to a suitable disposal facility (at present there is only one of these in Bogor, West Java). Other waste will be recycled, incinerated, composted or put in a landfill which will be built at the site.

**Gas leaks:** BP says that every effort is being made to ensure that leaks from the 25 km of undersea pipelines do not happen. But how far can this be trusted when leaks occurred very recently at its Java operations? (see DTE 56:11) Globally, BP's safety record has also come under scrutiny. Hypothetical modelling of a leak in the AMDAL shows that the environmental impacts would be "not severe", but that economic and political impacts would be "significant".

**Impact on forests:** As the LNG site is on state 'production forest' land, BP is required to reforest an area twice as large as the area it is taking. BP says it is currently in discussion with the forestry department on this.

**Shareholdings and financing:** In February BP sold 12.5% of its shares in Tangguh to China's CNOOC for $275 million, leaving BP with 37.2% of the project. In the Annex to
the TIAP report BP notes that $2,250 million of financing is required for the first 2 gas trains.

**LNG sales:** Pertamina said in March it was in talks with Japan's Tohoku Electric Power Co Inc with prospects for the company to buy 2 million tonnes. Tangguh will also take part in a tender to supply 1.6 million tonnes of LNG to Taiwan. Tangguh already has a contract to supply 2.6 million tonnes per year to a planned terminal in Fujian province, China, starting 2007. In 2001, Pertamina signed a memorandum of understanding with GNPower to supply 1.3 million tonnes of LNG to the Philippines.

**Revenues for Papua:** estimates range from US$100m/year by 2016 to US$225m/year at peak depending on how many LNG 'trains' are constructed. *(Reuters 25/Apr/03; 26/Mar/03; Asia Pulse/Antara 1/Apr/03 and others)*

**NGOs launch OECD complaint against BP's BTC pipeline project**

Groups from seven countries have submitted complaints to the British, French, German, Italian, and U.S. governments charging that BP and its consortium partners in the proposed Baku-Tbilisi-Ceyhan (BTC) oil pipeline are breaching the OECD s Guidelines for Multinational Enterprises.

The proposed oil pipeline would span 1,056 miles (1,760 kilometers) from the Azerbaijan capital of Baku, through Tbilisi Georgia, ending in the Mediterranean city of Ceyhan, Turkey. A gas pipeline also is planned to follow the same route. BP is the lead sponsor; there are nine other participants in the consortium. The BTC consortium is seeking the political and financial support of their countries export credit agencies, the European Bank for Reconstruction and Development and the International Finance Corporation of the World Bank Group.

The OECD Guidelines cannot be legally enforced. But they are increasingly regarded as a key yardstick of corporate social responsibility.

The groups' complaint is at [http://www.foe.org/camps/intl/Appendices.htm](http://www.foe.org/camps/intl/Appendices.htm)

**BP AGM action**

For information about activities around BP's April AGM in London, see [www.risingtide.org.uk](http://www.risingtide.org.uk)

The Indonesian version of the DTE 55 article 'A Visit to BP's Tangguh project' is now on our website at [http://dte.gn.apc.org/55iBP.htm](http://dte.gn.apc.org/55iBP.htm).