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MULTILATERAL DEVELOPMENT BANK ASSISTANCE PROPOSALS

LIKELY TO HAVE ADVERSE IMPACTS ON THE ENVIRONMENT, NATURAL RESOURCES, PUBLIC HEALTH AND INDIGENOUS PEOPLES

September 2002 – October 2004

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Acronyms

ACG	Azeri, Chirag and Deepwater oil field development
ADB	Asian Development Bank
AfDB	African Development Bank
BIC	Bank Information Center
BOOT	Build Own Operate Transfer contract
BP	British Petroleum
BTC	Baku-Tblisi-Ceyhan Oil Pipeline Project
CA	Concession Agreement
CAO	Compliance Advisor and Ombudsman
EBRD	European Bank for Reconstruction and Development
ECA	export credit agency
EEC	European Economic Commission
EGAT	USAID Bureau for Economic Growth, Agriculture and Trade
EI	extractive industry
EIA	environmental impact assessment
ESIA	environmental and social impact assessment
EU	European Union
EPA	U.S. Environmental Protection Agency
GoC	Government of Cambodia
GoG	Government of Georgia
GoL	Government of Lao
GoP	Government of Peru
GoU	Government of Uganda
HGA	Host Government Agreement

IDB	Inter-American Development Bank
IBRD	International Bank for Reconstruction and Development (World Bank)
IDA	International Development Association (World Bank)
IFC	International Finance Corporation (a component of the World Bank)
IFI	International Finance Institutions Act
IMF	International Monetary Fund
IP	indigenous peoples
IUCN	World Conservation Union
MIGA	Multilateral Investment Guarantee Agency (World Bank)
MDB	Multilateral Development Bank
NGO	Nongovernmental Organization
NPA	National Protected Area
NT2	Nam Theun 2 Hydropower Project
NTPC	Nam Theun 2 Power Company Limited
PCS	Peruvian Civil Society
PPA	Power Purchase Agreement
PPC	USAID Bureau for Policy and Program Coordination
RAMSAR	The Ramsar Convention on Wetlands
ROW	Right of Way
SCP	South Caucus Pipeline
SEIC	Sakhalin Energy investment Company Limited
SP	safeguards policy
TG	Tuesday Group
USAID	United States Agency for International Development

USED	U. S. Executive Director
U.S. Ex-Im	U.S. Export Import Bank
USG	United States Government
WAGP	West African Gas Project
WBG	World Bank Group (including IBRD, IDA, IFC, and MIGA)
WGW	western Pacific gray whale

Executive Summary

This report covers a two-year period (September 2002 to October 2004) and provides to the Committee on Appropriations and the Committee on Financial Services of the House of Representatives, and the Committee on Appropriations and the Committee on Foreign Relations of the Senate, information regarding the performance of the U.S. Agency for International Development (USAID) in carrying out the tasks assigned in Title XIII of the International Financial Institutions Act. With this report, the mandated semi-annual reporting on "those [multilateral development bank (MDB)] assistance proposals likely to have adverse impacts on the environment, natural resources, public health, or indigenous peoples" will be re-instituted.

During the period covered by this report, USAID has focused not only on:

- working with USAID Regional Bureaus, USAID field missions and other U.S. Federal agencies, in particular the Department of the Treasury, the Department of State, the Environmental Protection Agency (EPA), and the U.S. Executive Directors' Offices at the MDBs to assure adequate attention to priority MDB projects; and
- participation through Treasury-led interagency processes to engage with project sponsors, MDB staff, civil society and project affected communities;

but also on:

- restructuring the "Tuesday Group," a monthly meeting of United States Government (USG) and nongovernmental organization (NGO) representatives designed to increase information about and engagement in key environmental and social aspects of MDB projects; and
- analyzing USAID field missions capacity to respond to USAID's Early Notification System.

MDB Project Review: MDB projects with the potential for adverse environmental and social impacts are initially identified by USAID field missions, U.S. Federal agencies and NGOs. Criteria for selecting identified MDB projects for review include: 1) consideration of potential adverse impacts on the environment, natural resources, public health and/or indigenous peoples; 2) ability to serve as a model for similar projects within a sector with potential adverse impacts on environment, natural resources, public health and/or indigenous peoples; 3) potential adverse environmental and social cumulative impacts through impacting the same resource or project interactions on multiple resources; and/or 4) potential to undermine USAID's sustainable development activities.

The selected MBD projects targeted for review during the period covered by this report are either candidates for financing or have been approved for financing by the African Development Bank (AfDB), the Asian Development Bank (ADB), the Inter-American Development Bank (IDB), the European Bank for Reconstruction and Development (EBRD), and the International Bank for Reconstruction and Development (WBG). Projects reviewed fall into one of two categories:

1) Projects for which respective MDB institution(s) have publicly released final environmental impact assessments (EIAs) 120 days prior to Board vote and whose potential adverse environmental and social impacts have been identified by USAID field missions, the

Department of the Treasury and/or other U.S. Federal agencies. These projects are referred to in this report as **Final EIAs**.

- Azerbaijan, Georgia, Turkey – Baku-Tbilisi-Ceyhan Oil Pipeline
- Azerbaijan, Georgia, Turkey – South Caucasus Gas Pipeline and Shah Deniz Gas Fields
- Indonesia – PT South Pacific Viscose
- Uganda – Farm Income Enhancement and Forest Conservation

2) Projects with USAID engagement during the period of time when project sponsors were developing or revising EIAs to meet respective MDB standards and safeguard policies. These projects are referred to in the report as **Early Engagement**.

- Peru – Camisea Natural Gas Project
- Russia – Sakhalin II Phase 2 oil and gas development
- Laos – Nam Theun 2 Hydropower Project
- Nigeria, Benin, Togo, Ghana – West African Gas Project

This report notes that delaying USAID engagement until final EIAs are released by respective MDBs (120 days before the Board vote), often results in unsatisfactory results in terms of preventing or mitigating negative environmental and social impacts.

To increase its effectiveness in the oversight process, USAID has begun exploring new approaches to engage further upstream in the project proposal process. The restructuring of the Tuesday Group (TG) is one way of creating opportunities to engage with projects further upstream in their development process (Annex A). Restructuring includes efforts to proactively identify projects earlier in their development cycle, increase advance circulation of information to participants for fuller discussion during TG meetings and identify projects for in-depth follow-up meetings between USG and NGOs.

Based on the six high-profile hydrocarbon projects reviewed, the report identifies a number of findings or lessons learned and challenges for the MDBs and the loan process in the hydrocarbon sector. For example, USAID finds that:

- Prior to the release of the final EIA by the respective MDB institution, 5 projects proposed for MDB financing or risk guarantees had already initiated preconstruction or construction activities. By establishing the project footprint prior to a thorough review of the final EIA by the MDB, civil society and project-affected communities, it becomes extremely difficult to change the project dynamics (which encompasses design, construction and operation phases) to enable it to meet relevant MDB and/or international environmental and social standards.
- According to the Multilateral Financial Institution Working Group on the Environment, "associated facilities" are other (non-MDB-financed) projects that are physically related to the project under consideration or are inevitable because the primary project was developed. In three of the hydrocarbon projects reviewed, pipeline financing was independent of

financing for the development of oil/gas fields, processing and export facilities. Even when the MDB financed only the pipeline, it is critically important to assess impacts for either avoidance or mitigation measures for the project as a whole.

- The MDBs have improved their handling of environmental assessments over the years as measured by a decrease in the number of projects opposed by the U.S. on Pelosi Amendment grounds by releasing them to the public 120 days prior to Board vote. However, USAID analyses, with input from other U.S. Federal agencies and Tuesday Group participants, continue to identify significant EIA deficiencies ranging from inadequate alternative analyses to insufficient baseline data and subsequent impact/mitigation analyses in at least five of the projects reviewed.

- Indigenous peoples can be disproportionately impacted relative to other project-affected communities by MDB projects. Assessing the scope of this impact is made more difficult by the lack of baseline information on their livelihoods, spiritual beliefs and cultural practices. It is also difficult to determine who is actually representing indigenous peoples' issues.

- Project sponsors interact with communities in a number of ways including informing them of upcoming project activities, negotiating compensation for those activities, offering compensation when negative impacts occur and providing employment opportunities. At the same time, local or national mechanisms to moderate interactions between affected communities and project sponsors may be weak.

- In a number of countries, hydrocarbon sector development is expanding at a greater speed than the environmental and regulatory capacity of host governments to oversee this development. This is compounded by the fact that civil society in these countries also lacks the capacity to provide oversight critical to ensuring that environmental and social standards and safeguards are complied with by both project sponsors and host governments.

- As a development agency, USAID is concerned with the lack of transparency and civil society review of Host Government Agreements (HGA), Power Purchase Agreements (PPA) and Concession Agreements (CA) negotiated between project sponsors and developing countries. USAID field missions, however, have been unable to address this, even given the lead time of the Early Warning Notification. In several projects reviewed, these types of agreements contain critical information on environmental and social obligations, in addition to the economic viability of the project to inform both the EIA analysis and civil society participation. Further, these agreements have the potential to undermine national laws and the ability to create a chilling effect on the adoption of new national laws that are more stringent than what is referenced in the specific agreement.

A more complete discussion of these findings and challenges is included in the full report.

MDB Policies and Strategies: In addition to reviewing MDB projects, USAID takes part in the Treasury-led interagency process of reviewing MDB policies, strategies and action plans which ultimately provide the framework for MDB-supported projects. Development of the ADB Forest Policy, IDB Environment Policy, IDB Indigenous Peoples Policy and IFC Safeguards Policy will be closely followed and analyzed with comments provided to the Department of the Treasury. Additionally, World Bank project proposals implemented under the

Infrastructure Action Plan, Water Sector Strategy, and Middle Income Strategy will be closely monitored to identify early in the process projects that have a high potential for adverse impacts on the environment, natural resources, public health or indigenous peoples. Finally, implementation of the World Bank management response to the Extractive Industries Review will also be closely monitored.

Report Structure: Following the Introduction, the report is divided into the subsequent sections:

Section 1: Review of Final EIAs

Section 2: Early Engagement in MDB Projects

Section 3: Lessons Learned/Challenges

Section 4: MDB Policies and Strategies

Section 5: Annexes

Conclusion: As a result of consistent engagement on the part of the U.S. government and increasing pressure from both international and locally-affected stakeholders, the MDBs have improved their handling of environmental impact assessments over the years. U.S. opposition to projects based on Pelosi amendment 120-day public disclosure requirement has generally decreased since the Pelosi Amendment came into force in 1991. However, USAID still has concerns over the substance and quality of the environmental assessments as highlighted in Section 3 "Lessons Learned." Additionally, there continues to be a steady number of proposed projects with significant potential environmental and social impacts highlighting the need for continued monitoring of MDB projects by USAID.

This report does not prejudge the U.S. government's position where final versions of projects or policies have not yet been considered by the MDB executive boards. Rather it serves as a record of USAID's environmental and social monitoring of MDB projects and policies.

Introduction

MULTILATERAL DEVELOPMENT BANKS' ASSISTANCE PROPOSALS LIKELY TO HAVE ADVERSE IMPACTS ON THE ENVIRONMENT

This report covers a two-year period (September 2002 to October 2004) and provides to the Committee on Appropriations and the Committee on Financial Services of the House of Representatives, and the Committee on Appropriations and the Committee on Foreign Relations of the Senate, information regarding the performance of USAID in carrying out the tasks assigned in Title XIII of the International Financial Institutions (IFI) Act. With this report, the mandated semi-annual reporting on "those [multilateral development bank (MDB)] assistance proposals likely to have adverse impacts on the environment, natural resources, public health, or indigenous peoples" will be re-instituted.

Title XIII of the IFI Act directs USAID to ensure that MDB assistance proposals are reviewed by USAID and other U.S. Federal agencies to determine whether the proposals will contribute to the sustainable development of the borrowing/project country. The reviews address the potential adverse effects on the environment, natural resources, public health and indigenous peoples. USAID and its partner reviewing agencies are to recommend measures, including alternatives, that could eliminate or mitigate adverse impacts. After evaluating MDB proposals, USAID undertakes an affirmative investigation on projects that may have substantial adverse impacts and ensures that the resulting information is made available to the public. Additional details on USAID's role in review of proposed MDB project loans and the loan process are provided in Annex B.

Section 1

REVIEW OF FINAL EIAs

USAID's review of each of the MDB projects below is based on the final project environmental impact assessments (EIA). USAID's review consisted of: a) review of EIA adequacy under the Pelosi Amendment (Section 1307, see Annex B) and/or b) identification of outstanding Title XIII environmental and social issues (environment, natural resources, public health and indigenous peoples). Based on consultations with NGOs and USAID regional bureau and field mission, one project (Baku-Tbilisi-Ceyhan Oil Pipeline) was subject to an affirmative investigation, which included a site visit. Following each review, recommendations were developed for submission to the Department of the Treasury as part of their consideration of potential loan conditions and assessment of the EIA under the Pelosi Amendment. Selected projects that have received MDB financing with outstanding adverse environmental and social impacts will continue to be monitored by USAID.

Baku-Tbilisi-Ceyhan Oil Pipeline

Project description: The Baku-Tbilisi-Ceyhan (BTC) Oil Pipeline Project is a 1,760 km pipeline from Baku, Azerbaijan through Georgia to an export port in Ceyhan, Turkey. The BTC pipeline will be able to transport up to one million barrels of crude oil per day from a cluster of discoveries in the Caspian Sea, known collectively as the Azeri, Chirag, Gunashli (ACG) field. BTC is owned by BTC Co., whose shareholders consist of a group of 11 petroleum companies with British Petroleum (BP) as the operator and largest shareholder (30.1%). American petroleum companies involved are Unocal (8.9%), Statoil (8.7%) and ConocoPhillips (2.5%).

SOURCE: BRITISH PETROLEUM

Financing: BTC was approved for financing by the International Finance Corporation (IFC) and the European Bank for Reconstruction and Development (EBRD) in November 2003. IFC financing consisted of a $150 million A loan and $150 million B loan (syndicated to commercial banks) for the BTC pipeline as well as a $60 million A loan and $60 million B loan for Azeri, Chirag and Deepwater Gunashli (ACG) Phase 1 oil field development. EBRD financing comprised the same loan amounts. The U.S. Ex-Im Bank also funded the BTC project. Project sponsors and the IFC suggest that both BTC and ACG projects could serve as models for hydrocarbon development within the region and influence improvements in environmental governance of the overall sector.

USAID review: USAID's affirmative investigation of the BTC project contained three components: 1) a review of the final Georgian environmental and social impact assessment (ESIA) under the Pelosi Amendment, 2) identification of potential Title XIII environmental and social issues and 3) a site visit to Azerbaijan and Georgia. Meetings were held in Washington with the Caspian Development Advisory Panel, BP, the Department of the Treasury, U.S. Ex-Im Bank, EPA and Washington-based NGOs prior to the site visit. The Azerbaijan site visit consisted of three days of meetings with BP, BTC Co., the Ministry of Ecology and Natural Resources, and local NGOs. The 12 day Georgian site visit consisted of meetings with Ministry of Environment officials, including its Minister, the Georgian International Oil Corporation (GIOC), the Chairman for the Commission on the BTC Main Export Pipeline, local and international NGOs, Georgian scientists, Georgian Glass and Mineral Water Co., N.V., and one local government leader of an affected village. There was also a one day visit to a portion of the pipeline under construction in the Lake Tsalka area and half day visit to a project-affected village.

SOURCE: JAMES LEATON/WWF-UK

Pipeline right of way between the Qtsia Tabatskuri Protected Area (IUCN category IV) and Lake Tabatskuri. Unprotected topsoil lies to the right.

SOURCE: JAMES LEATON/WWF-UK

Access road for construction through Qtsia Tabatskuri wetlands. This is an important area for migratory birds, as well as the globally threatened endemic Black Grouse.

Due to significant concerns expressed by independent Georgian scientists concerning the routing, hydrogeology and biodiversity aspects of the project, USAID's review focused primarily on the Georgian component of the BTC project. A limited review was conducted for the Azerbaijan and Turkey BTC and ACG Phase 1 environmental and social impact assessments (ESIAs).

USAID's review of the Georgian ESIA for the proposed BTC project revealed that the analysis of alternatives and key baseline data associated with the project were not sufficient, and did not meet USAID internal standards (22 CFR 216). The review of the Georgian ESIA revealed key elements that were missing in project documents including the ESIA, addendum, and Contractor Control Plans:

• An analysis of routing alternatives was not conducted according to standard EIA practices. For the strategic and national levels of corridor selection the analysis needed to provide a thorough description of alternatives that facilitated their side-by-side comparison in terms of their technical, social, environmental, economic and security risks and benefits. This also needed to be done for segments of the preferred 500m right-of-way (ROW).

SOURCE: JAMES LEATON/WWF-UK

Illegal logging trucks near the Lake Tabatskuri section of pipeline right of way.

• Critical baseline information, impact analyses for determining to what extent impacts can be mitigated and mitigation, measures were absent. For example:

– *Hydrogeology in the Borjomi region:* Additional research needed to be conducted to bridge the information gap raised by Georgian and other scientists. This additional research is required to make a proper assessment of the risks on pollution of the groundwater springs and mineral water aquifer to determine if the pipeline routing presented an acceptable risk and, if so, to develop mitigation measures using the most precise and accurate information possible.

– *New and/or improved access roads:* Prior to additional road construction/improvement, a complete analysis of the entire road development in conjunction with the pipeline ROW development needed to be undertaken to determine the extent of impacts (direct, indirect and cumulative) and to identify proper avoidance and mitigation measures.

– *Outstanding biodiversity data issues:* Prior to additional construction, key deficiencies in data collection for endangered species along the pipeline ROW needed to be obtained. This data should include estimates of population size and habitat use – i.e. feeding, nesting sites. A clear methodology and decision-making process for determining when pre-clearance surveys were required needed to be delineated within the context of biodiversity impact and adequate time allotted to conduct surveys and develop mitigation measures and monitoring plans. A biodiversity monitoring plan needed to be developed and implemented for the entire project.

– *Blind faults:* The presence of blind faults needed to be assessed through seismic surveys. This would provide the missing information required to thoroughly review the various routes and improve pipeline alignment along environmentally sensitive areas of the route.

In addition to these concerns about the ESIA, USAID's review identified the following substantive Title XIII environmental and social issues:

- Lack of government capacity to oversee and monitor construction and operation phases of project, including interaction between affected communities and project sponsor
- Lack of definition of mechanisms for transparent revenue management from oil production/transit proceeds
- Potential cumulative negative impacts of non-ACG oil (which may not be produced following relevant MDB and/or international environmental and social standards) transported via BTC pipeline
- Absence of a decommissioning plan and of designated resources for pipeline decommissioning

USAID's transmittal letter to the Department of the Treasury raising issues identified under the Pelosi Amendment and broader Title XIII review with recommendations is provided in Annex C.

Current status: This project was approved by both EBRD and IFC Boards in November 2003 with many of USAID's identified environmental and social concerns outstanding. In late July 2004, the Government of Georgia imposed a two-week suspension in construction of the pipeline in an environmentally sensitive area for independent experts to review environmental and safety concerns. Construction was resumed following the suspension period. This project continues to be a subject of discussion at Tuesday Group meetings and USAID will continue monitoring it.

South Caucasus Gas Pipeline and Shah Deniz Gas Fields

Project description: The Shah Deniz project is for the offshore gas/condensate field development in the Caspian Sea. The South Caucasus Pipeline (SCP) transports gas from the Shah Deniz field to the Turkish-Georgian boarder. The Shah Deniz gas condensate field is located off shore of Azerbaijan in the Caspian Sea and is estimated to have approximately 30 trillion cubic feet of gas-in-place and condensate-in-place of over 1.5 billion barrels. The SCP will be a 690 km 42" diameter lined coated pipeline constructed parallel to the BTC pipeline from Azerbaijan through Georgia to the Turkish-Georgian border, where it will connect with the Turkish domestic gas network. BOTAS, the Turkish State pipeline company, is constructing a connector pipeline from Erzurum to the Turkish-Georgian border. The SCP will have capacity of 20 bcma with compressor and off-take facilities, metering and other ancillaries with 30-year design and 99% availability.

Financing: The Shah Deniz and South Caucasus Pipeline projects were approved for $100 million financing each by EBRD. Both loans were for SOCAR, Azerbaijan's state-owned oil and gas company, to help it finance its10% stake in both projects.

USAID review: The connector "Turkish" pipeline is considered an "associated facility," which is defined by the Multilateral Financial Institution Working Group on the Environment as any other (non MDB-financed) project that is physically related to the project under consideration or is inevitable because the primary project was developed. The proposed Shah Deniz development depends on identification of a market for its gas production. Turkey has a large and growing internal market for gas with a strong economy to commit to payments over the long term. Both proposed EBRD-financed projects are not economically viable without the Turkish section. Consequently, both EBRD projects and the Turkish section are mutually dependent and as such USAID considered them as one project for environmental assessment purposes. EBRD staff did not conduct their own environmental due diligence on this portion of the project.

Although at the time, EBRD was not legally included under the Pelosi Amendment, the Department of the Treasury does have a general policy of applying the Pelosi Amendment to EBRD projects. Since an EIA for the Turkish section of the South Caucasus Pipeline had not been conducted and subsequently not available to the public and Board at least 120 days prior to EBRD vote, the Pelosi Amendment (Section 1307) was not satisfied. In a transmittal letter to the Department of the Treasury, USAID recommended that the Secretary of the Treasury instruct the U.S. Executive Director to not vote in favor of the project (Annex D).

Current status: This project was approved by the EBRD Board in March 2004 with U.S. government support.

PT South Pacific Viscose (Indonesia)

Project description: P.T. South Pacific Viscose, Indonesia (SPV), one of the world's largest producers of viscose staple fiber (VSF), a natural fiber derived from a renewable natural resource and used mainly in the textile industry. SPV approached the IFC for assistance with a US $19 million project that comprises: (i) the installation of a coal-fired boiler to achieve self-sufficiency in power generation; (ii) various essential capital expenditures; (iii) refinancing of two term loans; and (iv) provision of working capital financing. This project will make SPV self-sufficient in power generation, stabilize and increase its production efficiency through the modernization of its production facilities, and ultimately enhance its strong domestic and international market position.

Financing: The IFC proposed to finance up to US $9.5 million to P.T. South Pacific Viscose, Indonesia (SPV). The project will help finance the 2004 and 2005 capital expenditures of SPV's five-year US $52 million capital expenditure master plan developed by the company's management in close consultation with its shareholders. The key component of the project is the captive power generation plant, which will make SPV self-sufficient in power, and will thereby eliminate its dependence on increasingly unstable and expensive power from the national grid. Part of the project funds will be used to finance essential capital expenditures that had been deferred while the company resurfaced from the Asian crisis and the subsequent restructuring in 2000.

USAID review: The USAID Bureau for Economic Growth, Agriculture and Trade (EGAT) expressed concern over the source of the charcoal and the raw material for carbon disulfide. These concerns do not appear to have been addressed by the relevant parties. EGAT also questioned why, given the problem of illegal logging in Indonesia, the IFC was putting this project on a fast track. The USAID Bureau for Policy and Program Coordination (PPC) facilitated communication with the U.S. Executive Director (USED)'s World Bank staff and found that the pulp comes from outside Indonesia. Therefore, illegal logging within Indonesia, in this case at least, was not a concern.

Current status: The project was approved on June 2, 2004 with U.S. government support.

Uganda Farm Income Enhancement and Forest Conservation Project

Project description: This project was proposed for AfDB financing to improve natural resources management. The project seeks to increase incomes and improve the quality of life and food security of poor subsistence farmers and their families through sustainable management of natural resources and development of agricultural enterprises. The Forestry Support Component supports community management of watershed and tree-planting for re-vegetation of degraded watershed. The Agricultural Enterprise Development Component supports small-scale irrigation and crop development, soil fertility management to produce higher value-added crops, apiculture promotion, and improved agricultural marketing of the higher quality crops.

USAID review: The USAID/Uganda Mission identified four areas of concern, all of which have potential environmental implications:

1) Impact on Government of Uganda (GoU) Budget Ceilings – Due to concerns about Uganda's excessive foreign debt and the need to reduce the government's fiscal deficit, Uganda's public sector spending, including in the agriculture and environment and natural resources (ENR) sectors, is constrained under the terms of the GoU's Medium-term Expenditure Framework (MTEF). Including this project within the environment and natural resources sector expenditure ceiling would likely put constraints on future funding by other donors. While the Ugandan Ministry of Finance Planning and Economic Development has indicated it will adjust the sector budgets to allow for the release of the AfDB funds, the mission recommended that the AfDB obtain much greater clarity as to how the budget ceilings will be adjusted to incorporate this large AfDB effort.

2) Inconsistency with Donor-Supported Policy Reforms – The National Forestry Plan (NFP) is the sector-wide plan for the development of the forestry sector in Uganda and sets out a number of strategies to implement the 2001 National Forestry Policy. The GoU has estimated the indicative cost of implementing the NFP at US $38 million over 10 years, with over 40% of this budget being spent on developing the District Forest Service. While the GoU and donors are contributing to the NFP implementation, this plan is currently under-funded. As designed, the forestry component of the proposed project runs the risk of undermining implementation of the NFP by diverting focus and resources away from that effort.

3) Institutional Arrangements – The project assumes that the institutions supporting the sector are effectively resourced and staffed. However, this is currently not the case. The GoU has not met its commitments to fund the National Forest Authority (NFA) or the Forestry Inspection Division (FID), nor to increase the number of staff and fund recurrent operational costs for forestry administration at central and local levels. For example, this fiscal year the GoU has committed only 10% of what was expected to the NFA, while the FID and District Forest Service (DFS) have little or no operational budgets. The project, as currently designed, does not provide the funding needed to bring forestry staffing levels up to the levels required to effectively implement the program. Similarly, while the project claims to provide operational funding to support forestry administration, this is for project activities only. As mentioned in the first concern above, the result of absorbing this project into the MTEF ceiling will likely be that funding for the broader NFP priorities will be squeezed. The risk of such a scenario and the implications for sustainability need to be addressed.

4) Inadequate Consultations during the Design – Consultations with other donors during the design of the project were inadequate. Neither the Environment Donor Group, the ENR Sector Working Group, nor the donors working in the forestry sector were consulted. No one appears to have spoken to USAID or to representatives of the relevant USAID-funded projects. Feedback provided by local donor representatives appeared to have had little effect on the design of the project.

Current status: USAID's comments were incorporated into the AfDB's statement: "The AfDB staff has addressed the various concerns about inadequate consultations, impact on GoU budget ceilings, institutional arrangements and other issues that were raised by the donor community, including USAID/Uganda, U.K., and Nordic countries." The project was approved in September 2004 with U.S. government support.

SECTION 2 EARLY ENGAGEMENT IN MDB PROJECTS

Each MDB project discussed below was identified for early engagement by USAID based on consultations with U.S. Federal agencies and Tuesday Group participants. The scope of USAID's early engagement review consists of analysis of draft EIAs, site visits, and discussions with NGOs and project-affected peoples, project sponsors, and MDB staff as part of the Treasury-led interagency process. Discussions with project sponsors and MDB staff are intended to recommend changes in project design and implementation to address adverse environmental and social impacts identified prior to release of the final EIA. Following release of the final EIA, USAID's review consists of: a) a review of EIA adequacy under the Pelosi Amendment, and b) identification of outstanding Title XIII environmental and social issues (environment, natural resources, public health and indigenous peoples). Following this review, recommendations are developed for submission to the Department of the Treasury as part of their consideration of potential loan conditions and assessment of the EIA under the Pelosi Amendment (Section 1307).

Peru's Camisea Natural Gas Project

Project description: The development of Peru's Camisea natural gas resources has been an objective of foreign investors and the government for the past 23 years. At the end of 2000, the Government of Peru (GoP) signed a 33-year BOOT (Build Own Operate Transfer) contract with the Transportadora de Gas del Peru consortium (TGP) and a concession agreement with Pluspetrol Corporation, which finally enabled the project to move forward.

The Camisea project is divided into two organizational components. The upstream component, led by Pluspetrol, includes development of the natural gas fields located within a 1200-square kilometer block located in primary tropical forest areas overlapping 80% of the Nahua-Kugapakori Indigenous Reserve, plus a fractionation plant (for separating liquids associated with gas into commercial products) and marine terminal within the buffer zone of Paracas Marine Reserve, Peru's only national marine reserve and a designated RAMSAR site (wetland of international importance, especially for migratory birds). The downstream component includes the development of dual pipelines, one for natural gas (714 km) and one for liquids (540 km), running parallel from the Camisea field to the coastal area of Paracas. The natural gas pipeline will turn north for domestic distribution in Lima and Callao, while the liquids pipeline will connect to the fractionation plant and marine terminal.

The upstream consortium is led by Pluspetrol (Argentina, 36% ownership), and includes Hunt Oil, (U.S., 36%), SK, (South Korean, 18%) and TecPetrol (Argentina, 10%). The downstream consortium, TGP, is led by Tecgas (Techint Group, 31.4%) and includes Hunt Oil (19%), Pluspetrol (19%), SK (9.5%), Sonatrach (Algeria, 11%), Tractebel (Belgium, 8%), and GyM (Peru, 2%). (note: percentages may have shifted somewhat since initial ownership structure) Tractebel has a con-

tract for distribution of gas in Lima. Until the domestic market for natural gas is developed, the majority of revenue will come from both export and domestic sales of liquid products (i.e., naphtha, butane and propane).

Financing: TGP is the recipient of a US $75 million IDB loan for pipeline construction, which is intended to leverage US $315 million in additional private sector lending.

USAID review: The scope of USAID's affirmative investigation consisted of: a) a review of the final EIA for adequacy under the Pelosi Amendment, b) identifying Title XIII environmental and social issues and c) a site visit. The Treasury-led site visit, with USAID participation, consisted of 18 days in Peru visiting a substantial portion of the project and meeting with civil society, affected communities, GoP officials, local and international NGOs and project sponsors. Following the site visit, in an effort to promote international environmental and social standards for the project, USAID was involved in a number of Treasury-led meetings in Washington with local and international NGOs, project sponsors, IDB staff, State, EPA, U.S. Ex-Im Bank and to a lesser extent the GoP.

USAID's review of the fractionation plant and marine terminal final EIA under the Pelosi Amendment concluded that it was not sufficient and so did not meet the test of being completed and made publicly available 120 days before the IDB Board vote (section 1307 (a)(1)). This conclusion required USAID to recommend that the Secretary of the Treasury instruct the U.S. Executive Director to not vote in favor of the proposed Camisea Natural Gas Project (Annex E). The following reasons for reaching the conclusion of an inadequate EIA were:

- The alternative site selection analysis was not conducted according to standard EIA practices. A thorough description of alternatives in an EIA process facilitates their side-by-side comparison in terms of their technical, social, environmental and economic risks and benefits. The alternative site selection process in this case was based on engineering and economic factors not taking into account environmental and social risks and benefits.
- The EIA associated with the proposed site was clearly deficient and lack comprehensive analysis concerning potential adverse impacts (direct, indirect and cumulative) of construction and operation activities on resident and migratory birds, marine species, including sea turtles, fish, mammals and the benthos (organisms that live on the ocean floor).
- The lack of baseline information and comprehensive analyses of direct, indirect and cumulative impacts of the proposed activity makes it impossible to determine what mitigation measures to recommend and to what extent impacts can be mitigated.
- The environmental monitoring plan to identify project impacts during construction or operation phases was deficient.
- The EIA lacked an adequate spill response plan and was deficient in not including all petroleum products that would be associated with the facility.

Additionally, USAID's review revealed the following substantial adverse environmental and social impacts that USAID believes need to be remedied:

- lack of knowledge of indigenous peoples land/natural resource use around natural gas well platform sites within the Nahua-Kugapokori Indigenous Reserve and associated direct and indirect impacts of the project activity
- lack of appropriate measures to control migration of colonists into the Nahua-Kugapokori Indigenous Reserve
- lack of biodiversity baseline data and inadequate biodiversity monitoring given the unavoidable and irreversible losses of primary and secondary tropical forests and montane cloud forests along the pipeline ROW
- inadequate erosion control and revegetation plan along the pipeline in sensitive ecosystems resulting in severe erosion, potable water contamination, increased sediment deposition in waterways and loss of topsoil
- lack of adequate revenue management and development/planning capacity within the regional government in order to handle large revenue flows from royalties
- lack of adequate mechanisms for interactions between affected communities and project sponsors
- lack of adequate GoP capacity to effectively monitor and enforce components of the project
- lack of appropriate site selection analysis and subsequent EIAs for the fractionation plant and marine terminal associated with the project

Prior to the IDB Board meeting, U.S. government representatives met with IDB staff, project sponsors to encourage adoption of a set of environmental and social protection provisions. Some U.S. government recommendations were adopted before the Board meeting. For example, the GoP created the Paracas Bay Commission as part of its efforts to ensure that environmental conditions at Paracas Bay would improve despite the presence of the fractionation plant and marine export terminal. USAID's Peru Mission is providing US $2 million to support these efforts and help facilitate the coordination and functioning of the Commission.

Although the U.S. Executive Director abstained from voting on the project, the IDB Board approved funding of the "downstream component" with negotiated U.S. government conditions from both U.S. Ex-Im Bank and other U.S. Federal agencies. These negotiations set the precedence for an MDB to apply cross-conditionality to entities that are not directly receiving the loan in question.

With the concurrence of the Department of the Treasury, USAID led an interagency team to Peru (May-June 2004) to assess the status of loan conditions for financial closure. The U.S. government team assessed substantial portions of the project including Las Malvinas, well platforms, flowline, pipeline right-of-way, and the fractionation plant and marine terminal. The team met with Peruvian government officials, the Camisea Ombudsman, project sponsors (TGP, PlusPetrol),

a USAID contractor supporting the Paracas Bay Commission (IRG), URS (IDB's independent consultant firm), industrial fishmeal plant owners, artesinal fishers, and NGOs/Peruvian Civil Society (PCS). Follow-up visits were also conducted with the same two project-affected communities the U.S. government delegation met with in 2003. These interviews were conducted with the same headman for each community and with community members present. The trip report is provided in Annex F. USAID's technical assessment of the status of the financial closure conditions, taking into account the IDB report summarizing performance of the environmental and social commitments revealed that not all of the conditions were substantially fulfilled.

Current status: Loan closure occurred in November and loan disbursement is expected in December 2004. The IDB is required to document the fulfillment of conditions associated with both loan closure and disbursement. NGOs and the IDB disagree as to the status of certain loan conditions. The Department of the Treasury is continuing to discuss with IDB management the implementation of various conditions attached to the loan. Efforts are underway for the U.S. government to review loan conditions tied to first disbursement.

Sakhalin II Phase 2 Oil and Gas Development

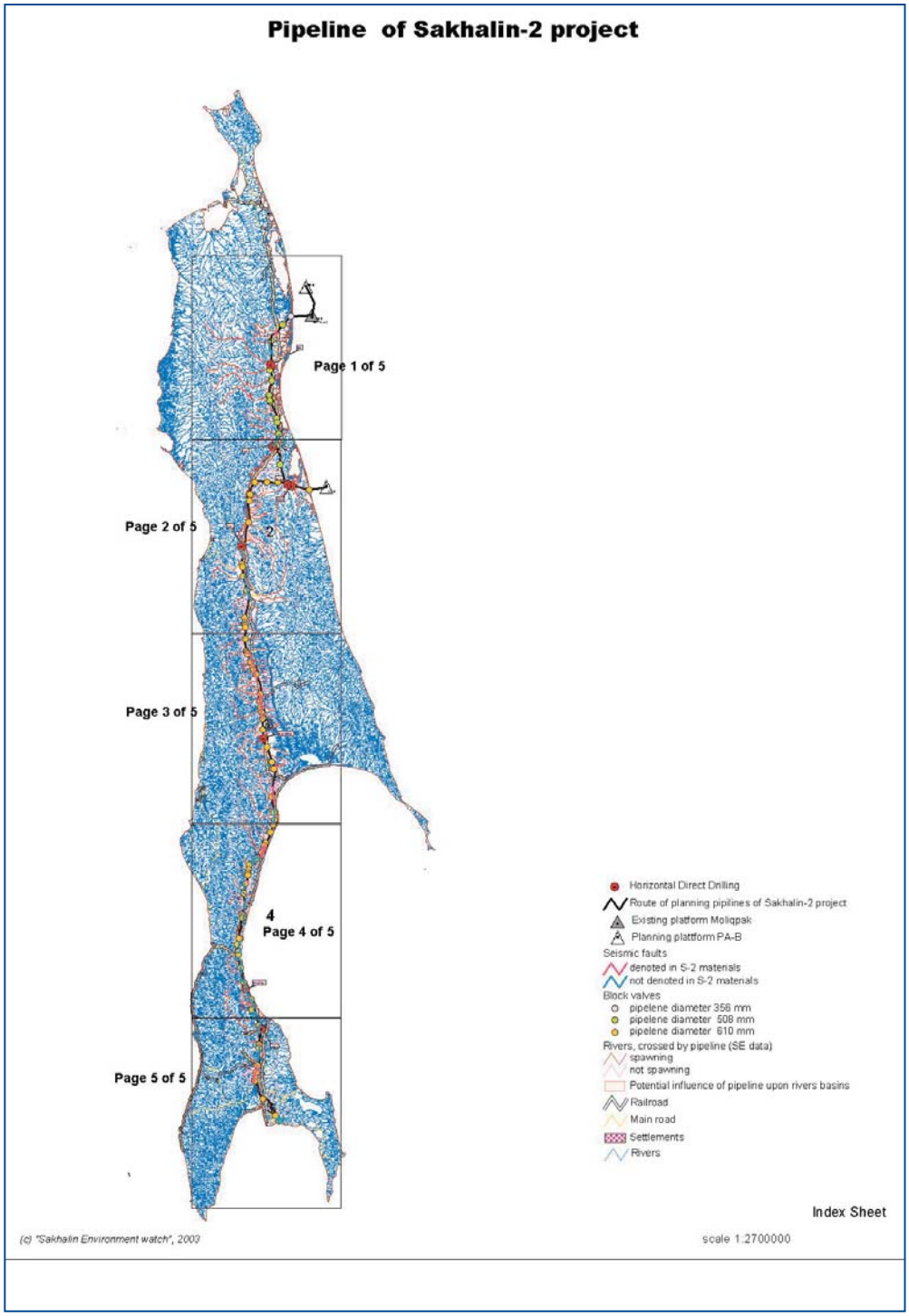
Project description: The Sakhalin II Phase 2 Oil and Gas Development project is a US $10 billion private sector project offshore of Sakhalin Island, Russia. The project is operated by Sakhalin Energy Investment Company Limited (SEIC). SEIC shareholders are Royal Dutch/Shell (55%), Mitsui (25%) and Mitsubishi (20%). Sakhalin II Phase 2 is part of a series of offshore oil and gas developments under a Production Sharing Agreement concluded in 1994 between the Government of the Russian Federation, the Sakhalin Oblast Administration and SEIC.

Phase 2 will consist of developing 1) a second oil well platform (located adjacent to the endangered western Pacific gray whale (WGW) feeding grounds) and 2) subsea pipelines going from both offshore oil platforms through the southern end of the WGW feeding grounds. These pipelines will feed into an onshore processing facility located between Nabil and Lunsky Bays. Approximately 800 km of onshore pipeline will cross over 1100 rivers, streams, and lakes, some of which are spawning grounds for common and endangered Pacific salmon species and other endangered fish species. Additionally, the pipeline will cross active seismic faults of 8-9 Richter scale activity over 20 times. South of the oil platforms, two offshore gas platforms will be developed. The world's largest liquefied natural gas plant with a loading jetty will be built in Aniva Bay which is known as a spawning, feeding and wintering ground for valuable commercial marine species. Aniva Bay is also the location of the oil export terminal with a subsea oil pipeline to tanker loading unit. Additionally, there is an associated infrastructure upgrade project to support the logistics of construction and operation. Project completion and operation is expected in 2006.

SOURCE: SAKHALIN GREENPEACE

Western Pacific gray whale with Sakhalin II, Phase 1 offshore oil platform – PA-A in the background.

Financing: Sakhalin II Phase 2 is tentatively scheduled for a vote at the European Bank for Reconstruction and Development (EBRD) Board in Spring 2005. EBRD is expected to finance about US $100-200 million. U.S. Ex-Im Bank is also considering about US $100 million financing for



the project. U.S. Ex-Im Bank's expected Board date is Spring 2005. The largest amount of financing (about US $300-400 million) is expected to come from the Japanese Bank for International Cooperation.

USAID review: Potential adverse environmental and social impacts associated with this project have been the subject of a number of monthly-held Tuesday Group meetings and special NGO briefings for Congressional staff and U.S. government. Although not exhaustive, based on the information that has been presented to date, what follows are some examples of specific areas of concern.

- Analysis of alternatives, which would include a side-by-side comparison of technical, social, environmental and economic risks and benefits for each alternative, including "no project" alternative, criteria used for assessment and discussion of analytical process for selecting the preferred alternative.
- Baseline data and subsequent impact analyses for rare and threatened aquatic and terrestrial species (including the western Pacific gray whale, listed as endangered under the U.S. Endangered Species Act)
- Data on and analysis of cumulative impacts of the proposed project and other current and foreseeable offshore oil and gas developments in the region
- Data on and analysis of ocean current and oil spill modeling/response to determine potential impact on marine mammals and fisheries

- Data on and analysis of spills/leaks behavior at river crossings, subsea pipelines and platforms, detection sensitivity, containment methods, time lines for containment, best and worst case scenarios
- Data on mixing and transport of hydrocarbons within the water column, rate of evaporation and dispersion with respect to physical environment and seasonal factors which influence these processes
- Data for assessing seismic risk and potential impacts associated with pipeline crossings of rivers and tributaries, subsea pipelines and offshore platforms.
- Data and analyses of environmental impacts of the Infrastructure Upgrade Project
- Impact assessment for project decommissioning and financial resources required for environmentally and socially sound decommissioning
- Deficient information on both the technical and monitoring plans which need to be developed prior to any construction – including Infrastructure Upgrade Project activities

The Department of the Treasury has initiated its due diligence process under Title XIII for this project. During this time, the Department of the Treasury requested USAID's continued involvement in analyzing EBRD projects, just as the Agency has done in the past for input into the Department of the Treasury's decision-making process.

Current status: Although construction of components for the onshore facilities is proceeding, the offshore construction for the oil platform (PA-B) and subsea pipelines was delayed until an independent scientific review is conducted on potential project impacts on the western Pacific gray whale (WGW). In August 2004, Shell contracted with the World Conservation Union (IUCN) to facilitate the independent scientific review. The review should be completed by early 2005 with results incorporated into the project EIA addendum. The EIA addendum is expected to be made available to the public shortly afterwards. Depending on when remaining information gaps are filled by the
project sponsor, lenders are expected to declare the full suite of environmental documents suitable for public disclosure sometime during Spring, 2005.

In early September, 2004 a vessel working on the project associated with the Infrastructure Upgrade Project was grounded by a typhoon close to the city of Kholmsk. News and NGO reports from the area indicate that approximately 100 tons of heavy fuel oil and diesel were spilled and the response team/equipment did not respond promptly, however, EBRD staff who subsequently visited the site confirmed that appropriate actions were taken. USAID will be closely following the oil spill clean-up efforts by both project sponsors and the government.

Lao Nam Theun II Hydropower Project

Project description: Nam Theun 2 Hydropower Project (NT2) is a US $1.1 billion, 1,070 megawatt, private sector hydro-electric project in Lao PDR. This project has been under consideration by the Government of Lao (GoL) and various developers since the late 1980s. The project objective is to generate electricity mainly for export to Thailand via the Electricity Generating Authority of Thailand with GoL revenues used for poverty reduction and environmental protection activities.

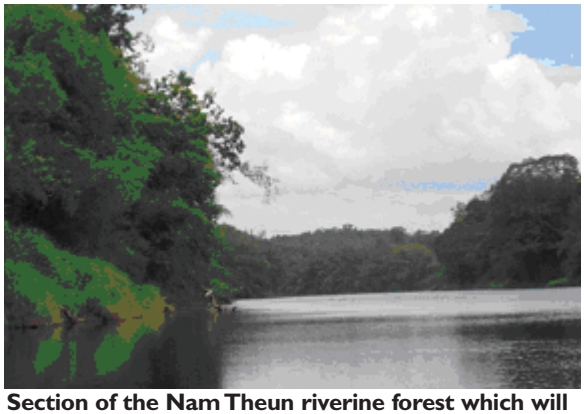
SOURCE: SOUVANNO SPHABMIXAY

Village overlooking the Nakai Plateau. This village, along with 20 others, will be relocated and 40% of the plateau will be inundated when the dam is completed.

The proposed 48m high NT2 is a trans-basin diversion hydropower project, located on the Nam Theun River, a major tributary of the Mekong. The reservoir for NT2 will flood approximately 40% of the Nakai Plateau resettling more than 5,700 indigenous peoples and potentially impacting numerous rare and endangered species. Operation of the dam will require annually diverting approximately 7 billion cubic meters (approximately 30% of Nam Theun River annual flow volume) to the generating station turbines and releasing the water into the Xe Bang Fai River through the Nam Phit River. The Nam Phit is to be dredged and widened to become the outflow channel. The Nakai Nam Theun Protected Area has been designated as a natural habitat offset for loss of the Nakai Plateau under the WB's Natural Habitat safeguard policy.

This project triggers all ten of the World Bank's safeguard policies:

- Environmental Assessment
- Natural Habitats
- Pest Management
- Cultural Property
- Involuntary Resettlement
- Indigenous Peoples
- Forests
- Safety of Dams
- Projects on International Waterways
- Projects in Disputed Areas

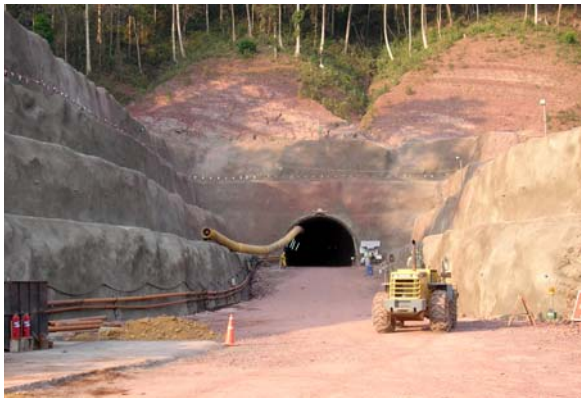


SOURCE: SOUVANNO SPHABMIXAY

Section of the Nam Theun riverine forest which will be lost when the dam is completed.

Financing: The GoL and developers are seeking a partial risk guarantee from the World Bank and the Asian Development Bank which would lower the cost of finance for the project and make it more financially attractive to private investors. They are also seeking support from the World Bank for an associated project to support social and environmental mitigation activities and rural development activities for the people living in the Xe Bang Fai area.

In addition to the World Bank (WB) and the Asian Development Bank (ADB), several export credit agencies (ECAs) and private banks have been approached for funding. The ADB has provided technical assistance to GoL on the NT2 project and the project is included in the ADB's "Greater Mekong Subregion Regional Cooperation Strategy and Program 2004-2008." Project sponsors look towards WB funding to



SOURCE: FIVAS

Excavation access tunnel, which is (+/- 70m) close to the pressure tunnel and power station.

provide a signal to private banks that the project meets international environmental and social standards.

The Power Purchase Agreement (PPA) between the Electricity Generating Authority of Thailand and the Nam Theun 2 Power Company Limited (NTPC) was signed on November 8, 2003. Although neither the WB nor ADB have come to a definitive decision that each would bring the project to their respective Boards, the PPA provides for substantial penalties to accrue if financial closure is not completed by May 7, 2005. Projected Board dates for both banks are March 2005. Preconstruction project activity is currently underway and full-scale construction is anticipated to begin in September/October 2005.

USAID review: This project has been the subject of a number of monthly-held Tuesday Group meetings and special NGO briefings for Congressional staff and the U.S. government, as well as the subject of previous USAID MDB Reports to Congress. Although not exhaustive, based on the information that has been presented to date, what follows are some examples of specific areas of concern to USAID.

- Adequacy of proper consultations with project-affected communities and indigenous peoples.
- Adequacy of resettlement and compensation of over 5,700 indigenous peoples on the Nakai Plateau.
- Mitigation of environmental impacts that have already occurred such as the extensive deforestation on the Nakai Plateau in anticipation of the proposed dam.
- Potential impacts on biodiversity in the Nakai Plateau, since the reservoir will inundate habitat for approximately 60 species of birds and mammals – some of which are rare and endangered, such as Asian elephants and white-winged ducks – in addition to disrupting migration routes.
- Adequacy of establishing the Nakai Nam Theun National Protected Area as an appropriate trade-off for habitat loss and the capacity of the GoL to manage the area effectively.
- Adequacy of information and analyses concerning water flow and quality and subsequent impacts on fisheries and other aquatic organisms for both the Nam Theun and Xe Bang Fai.
- Adequacy of information and analysis on impacts to the Xe Bang Fai ecosystem and to the livelihoods of the indigenous peoples depending on the Xe Bang Fai and on seasonal flooding (number of people potentially affected).
- Potential for increased water-related diseases (malaria, dengue fever, and schistosomisis).
- Adequacy of mechanisms in place for GoL revenue management.
- Adequacy of analyses of trans-basin water diversion impacts.

- Adequacy of cumulative impacts analysis of hydropower projects in the Mekong basin.
- Economic viability of the project in the context of continued dam developments within the Greater Mekong subregion and future energy needs.

An interagency site visit to Lao (the Department of the Treasury, USAID (Washington and Thailand) the department of state, and the Office of the U.S. Director to the ADB) was conducted in early May 2004. In Vientiane, meetings included various GoL ministries/agencies, international NGOs, the project sponsor, the private sector, and multilateral agencies. Site visits included: the Nakai Plateau (reservoir area), the planned resettlement area and pilot village, the Nakai-Nam Theun National Protected Area (proposed as a WB offset for loss of habitat to NT2 reservoir) and the Xe Bang Fai affected communities. In Thailand, meetings were held with local and international organizations.

Current status: USAID conducted a follow-up site visit in October 2004 to meet with the GoL, project sponsors and NGOs in Vientiane and Bangkok. The WB is continuing to work with the project sponsor and GoL to address all of the Bank's safeguard policies. Draft safeguard documentation, including the Environmental Assessment and Management Plan, the Social Development Plan and the Social and Environmental Management Framework and Operational Plan (for the Nakai-Nam Theun watershed) have been released. By mid-September 2004, all in-country, regional and international consultations were completed. WB project appraisal is expected to begin in early 2005.

West African Gas Pipeline

Project description: The West African Gas Project (WAGP) was first conceived in the early 1980s by the Economic Community of West African States (ECOWAS) and the Governments of Ghana, Togo, Benin and Nigeria as a vehicle to facilitate regional economic growth, trade and energy security. The project will transport Nigerian natural gas to Ghana (90%), with smaller amounts to Togo and Benin. The pipeline project, estimated to cost US $535 million, will be implemented by the West African Gas Pipeline Company Limited (WAPCo), which is owned (directly or indirectly) by Chevron Nigeria Limited (36.7%), NNPC (25%), Shell Petroleum Development Company of Nigeria Limited (18%), Volta River Authority of Ghana (16.3%), Societe Beninoise de Gaz S.A. (2%) and Societe Togolaise de Gaz S.A. (2%).

The gas to be transported in the WAPCo pipeline will be produced and processed in the Niger Delta area. The gas will be transported through the existing gas pipeline, the Escravos-Lagos Pipeline System, to the existing terminus of that system near Lagos where the WAPCo pipeline will commence. The total length of the pipeline is approximately 690 km of which 620 km is built offshore. Initially the pipeline's capacity will be about 150 MMScf/day and it is expected to undergo several stages of expansion to eventually achieve its maximum capacity of approximately 450 MMScf/day.

Financing: WBG proposed financing consists of: borrowers ($275 million), IDA ($60), IDA Guarantee ($50) and unidentified foreign multilateral institutions ($150).

USAID review: Social and environmental issues associated with the West Africa Gas Pipeline raised consistently by various NGOs at the monthly Tuesday Group meeting, and at meetings with USAID and the U.S. government include:

- Continued absence of information as to the composition of gas sources to supply WAGP. Based on previous sponsor statements there are high expectations that associated gas (AG) will be used; however NGOs have not been able to get any concrete information. There is a lack of information on the additional infrastructure and costs required to capture gas if AG is to be utilized and on the potential costs to end consumers.
- The draft Nigerian EIA excludes an assessment of the upstream components required for supplying the pipeline (i.e. Escravos-Lagos pipeline, associated/non-associated gas fields)
- The Escravos-Lagos pipeline was built prior to the Nigerian EIA requirement and under Nigerian law there is a legal requirement for an environmental audit to determine the integrity of the existing pipeline for increased gas pressure and other potential impacts.
- Issues of affordability of WAGP for Ghana and costs/benefits to populations of the four countries involved.
- The draft Ghana EIA does not address the indirect or cumulative impacts of any increased industrial capacity resulting from the WAGP gas supply.
- The mechanisms by which the Niger Delta communities will benefit from this project are still unclear.
- The adequacy of public consultations and information dissemination (all countries).
- The volumes of EIA material are overwhelming, and important pieces of information needed to inform decision-makers appear to be buried (all countries).
- The adequacy of compensation for temporary and permanent losses of land use for the pipeline right-of-way and for potential communal violence dealing with issues of ultimate ownership of land as well as how compensation has been negotiated and paid (Nigeria).

Current status: The Board date is expected to be at the end of November 2004.

Section 3

LESSONS LEARNED/CHALLENGES

This report notes that delaying USAID engagement until final project EIAs are released by respective MDBs 120 days before the Board vote often results in unsatisfactory results in terms of preventing or mitigating negative environmental and social impacts. To increase its effectiveness in the oversight process, USAID is exploring new approaches to engage further upstream in the project proposal process.

As part of this effort, USAID will routinely review sectoral specific projects and synthesize key project elements in order to identify "lessons learned" and the challenges that need to be overcome in order to achieve a positive project outcome. This series of analyses will assist USAID's early engagement efforts by providing a blueprint for reviewing sectoral-specific projects.

The following 12 "lessons learned" and challenges result from USAID's review of six high-profile hydrocarbon projects over the past two years. These projects are the Baku-Tblisi-Ceyhan oil pipeline, the South Caucasus gas pipeline and Shah Deniz gas fields, the Camisea natural gas project, Sakhalin II phase 2 oil and gas development, and the West African gas project. Although the lessons are oriented to hydrocarbon projects, several of them may be applicable to projects in other sectors.

LESSON 1 – Project's ability to meet relevant environmental and social standards is susceptible to being compromised by initiation of construction activities, in addition to economic and political factors.

Prior to the release of the final EIA by the respective MDB institution, sponsors of five projects reviewed had either initiated preconstruction or construction activities. By establishing the project footprint prior to a thorough review of the final EIA by the respective MDB, civil society and the project-affected communities, it becomes extremely difficult to change the dynamics of the project to avoid, eliminate or mitigate the adverse impacts that may result from it. Projects at this stage in the process make it difficult, if not impossible, for U.S. government recommendations to be fully implemented in a meaningful manner that has the potential to change project dynamics to enable projects to meet MDB and/or international environmental and social standards. The final EIA should reflect changes in project design and plans for construction and operation phases as a result of consultations with MDB and project sponsor and/or project sponsor and project-affected communities.

This dynamic is further complicated by project completion and product delivery deadlines that are being driven by economic and political factors in addition to contractual agreements (e.g. Host Government Agreements, Power Purchase Agreements) containing substantial monetary penalties to either project sponsor or host government if project completion and product delivery dates are not met. These financial penalties provide a greater incentive for project parties to not substantively change the project dynamics to eliminate or mitigate adverse environmental and social impacts.

Camisea: The Camisea Natural Gas Project is a good example of how tight contractual deadlines created incentives for project sponsors to not effectively deal with potential adverse environmental and social impacts. There were several key factors in the decision of the project sponsors not to undertake a site selection alternative analysis for the fractionation plant and marine terminal following international EIA practice. These factors included the projected costs associated with building a breakwater (approximately US $50 million) and equally importantly the fact that changing the site and building a breakwater would delay project start time. This would have resulted in financial losses to the project sponsors due to the delay in product sales and to a financial penalty imposed by the government. Consequently, neither project sponsors nor the Government of Peru (GoP) were willing to accrue the costs to undertake the effort to conduct a valid site selection alternative analysis when the siting decision was not going to change.

Baku-Tblisi-Ceyhan (BTC): At the time the Georgian Minister of Environment signed the environmental permit for construction to proceed, a number of conditions were attached in order to remedy deficiencies in the ESIA. Recently, the Government of Georgia (GoG) imposed a two week suspension on construction of the BTC pipeline in the Borjomi region which is a sensitive site for both environmental and security reasons. The GoG wanted independent experts to conduct safety tests. The Minster of Environment expressed continued concerns about the environmental impact stating that some of the conditions of the environmental permit had not been met. It is not clear how effectively the GoG's concerns were addressed due to the contractual deadline and to its financial responsibility if there were any substantial delays in project completion.

Sakhalin 2, Phase II: Preconstruction and construction activities have begun on the land components of the project prior to release of the final EIA. Preliminary reviews of draft project documents for Sakhalin 2 reveal inadequate biodiversity baseline information. There is a lack of baseline data and subsequent analysis on rare/endangered aquatic species, salmon migration routes, and salmon fry critical habitat use. There is an absence of data and of identification of sensitive habitats critical for rare/endangered resident and migratory bird species. There appears to be no supporting data to conclude that there is no impact on rare/endangered terrestrial species within the facilities footprint and pipeline right-of-way.

Challenges: MDBs should use their influence with key project decisions to ensure appropriate sequencing of the steps in the EIA process and commencement of construction activities in order for decisonmakers to make fully informed decisions and ensure that prevention/mitigation measures are not precluded by earlier actions. MDBs can encourage sponsors to take certain actions such as suspension of project preconstruction/construction activities or allow for a grace period in contractual agreements to allow for a change in the project dynamics, to enable the project to meet relevant MDB and/or international environmental and social standards Otherwise, MDB support of projects where this cannot be accomplished sends a signal to other potential project sponsors that they can bring in poorly-designed projects to MDBs too late in the process for there to be meaningful change in project dynamics. Prior to MDB engagement and substantial investment of staff and resources, MDBs should be able to demonstrate to their respective Boards that MDB engagement is intended to bring the proposed project to relevant MDB and/or international environmental and social standards and contribute financial, environmental and social additionality to the project.

LESSON 2 – Associated facilities need to be included in MDB safeguard review.
According to the Multilateral Financial Institution Working Group on the Environment,

"associated facilities" are other (non MDB-financed) projects that are physically related to the project under consideration or are inevitable because the primary project was developed. In three hydrocarbon projects reviewed, MDB financing of the pipeline was independent of MDB financing for the development of oil/gas fields, processing and export facilities.

Camisea: The Camisea project consisted of two separately financed sections of which IDB financed the pipeline section. The IDB acknowledged that the entire project, gas fields, pipelines, fractionation plant and marine terminal needed to be consistent with IDB policies. Thus the IDB applied its environmental and social safeguard policies to both sections of the project. In addition to applying its safeguard policies to the entire project, the IDB loan document referenced relevant loan conditions as cross-conditions with default implications for the IDB loan.

South Caucasus Pipeline: The South Caucasus gas pipeline was constructed to transport gas to the Turkish-Georgian border, at which point the Turkish state-owned gas company would construct a connector pipeline from the border to Turkey's domestic gas pipeline. Although EBRD financing was not sought for the Turkish section of the pipeline, the Turkish section is considered an associated facility through which the vast majority of the gas will be sold. The EBRD-financed sections of the project are not economically viable without the Turkish section. Consequently, both sections need to be considered as one project for environmental and social assessment purposes. However, this was not the case as an EBRD-sanctioned EIA was not conducted for the Turkish component of the project.

Challenges: MDBs should not support financing projects when associated facilities have not met respective MDB environmental and social standards and safeguard policies. In order to ensure that environmental and social conditions are met by all parties to a project, MDBs should consider a range of mechanisms, including employing cross-conditionality for MDB-financed and non-financed sections with default implications for the MDB-financed loan.

LESSON 3 – MDBs need to continue improving the quality of EIAs by addressing key fundamental deficiencies.

The MDBs have improved their handling of environmental assessments over the years, as measured by a decrease in the number of projects opposed by the U.S. on Pelosi Amendment grounds (by releasing them to the public 120 days prior to Board vote). However, USAID analyses, with input from other U.S. Federal agencies and Tuesday Group participants, continue to identify significant EIA deficiencies among the projects reviewed. These deficiencies are of concern if they have not been addressed prior to preconstruction or construction activities, because options for avoiding or mitigating potentially irreversible impacts might either not be identified, or if identified, may not be able to be implemented. Thus, there continues to be a need for monitoring and increasing U.S. government efforts to engage upstream in the project cycle. Elements of EIAs that were deficient include:

- analyses of alternatives and comparisons based on technical, social, environmental and economic risks and benefits
- baseline data on resources with the potential to be significantly impacted; this is coupled with a lack of comprehensive analyses to determine whether impacts can indeed be mitigated and appropriate mitigation measures

- biodiversity baseline data that lack comprehensive analyses for rare and endangered species used to determine whether impacts can indeed be mitigated and to identify appropriate mitigation measures
- analyses of cumulative impacts and impacts from project-induced development
- incorporation of an adaptive management and monitoring plan
- incorporation of the cost of mitigation measures and environmental damage in the projects economic analyses
- maintaining the substantive and procedural integrity of the EIA process

Illustrative examples of several project EIA deficiencies are described below.

Analyses of alternatives and comparisons based on technical, social, environmental and economic risks and benefits

A thorough, unbiased and transparent alternatives assessment is one of the main tenets of international EIA policy and the most important contribution the EIA can make to improving decision-making. The alternative analysis is designed to ensure that environmental and social impacts are taken into account during the decision-making process. In the absence of such consideration, the EIA tends to be directed to supporting or affirming the selected alternative preferred by the sponsor to the detriment of the other potential options.

Camisea: The site selection alternative analysis for the location of the fractionation plant and marine export terminal was not conducted according to standard EIA practices. The project site chosen is located in the buffer zone of Peru's only national marine reserve, a RAMSAR site and one of four critical migratory stopovers for North American shorebirds. Although IDB involvement required a site selection alternative analysis, this was done well into project financial and engineering design. The analysis was based primarily on engineering and economic factors and did not adequately take into account the environmental and social risks and benefits. Consequently, the analysis was not comprehensive and was implemented at a point where it did not factor into the original decision-making process, making it financially and politically difficult to change the selected site.

Baku-Tblisi-Ceyhan (BTC): The analysis of alternatives was evaluated at three levels: 1) regional strategic routes, 2) national level 10 km corridor selection and 3) 500 m right-of-way selection. USAID's review focused on the regional and national level analysis which revealed deficiencies in the alternatives analysis.

At the regional level, the final environmental and social impact assessment (ESIA) discusses five strategic route options and concluded that the "Baku-Tbilisi-Ceyhan route represented the lowest environmental risk option." This assessment lacks transparency since documents supporting this conclusion were not available for the public to review. Therefore, it is unclear how environmental and social impacts were factored into the risk assessment and decision-making process for selecting the final strategic route.

The national level 10 km corridor selection for Georgia did not provide a transparent, systematic comparison of environmental, social, economic, technical and security considerations for determining the preferred corridor route. Key technical components that are deficient include:

- Not all feasible and potential route alternatives were examined in a timely manner to allow for inclusion into the decision-making process.

- Specific criteria used to develop definitions of environmental and social impacts were absent. Consequently, it is unclear how these definitions were translated into values that reflected severity of environmental and social constraints.

- Impacts of key ecologically sensitive areas within the preferred corridor were not included in the initial evaluation – such as Bedeni Plateau, Mt. Taukvetili, Kodiana and Sakire forest. Impacts on other sensitive sites within the preferred corridor such as ground water sources for Borjomi/Bakuriana, Ktsia Tabaskuri and Lake Tsalka were not fully taken into account. Additionally, The Ktsia-Tabatskuri Managed Area, equivalent to an IUCN Category IV, was not recognized until late in the process and subsequently not factored adequately into the alternative site analysis.

Biodiversity baseline data that lack comprehensive analyses for rare and endangered species used to determine whether impacts can indeed be mitigated, and to identify appropriate mitigation measures

A substantial portion of production facilities and pipeline right-of-way(s) are located in natural habitats with varying richness of biodiversity. All five of the hydrocarbon project EIAs USAID has examined in the past two years have been deficient in the baseline biodiversity data needed for a comprehensive analyses of rare and endangered species.

WB guidance states that where there is a lack of information, EIA reports should provide baseline data on the biodiversity in the project area and in its area of influence. This would require collecting information where data gaps exist. The information required is more than a mere presence or absence of species.

Camisea: This project begins and ends in areas of high biodiversity, yet USAID analysis identified a lack of adequate baseline information to inform the EIA process. Montane cloud forests contain some of the highest levels of endemic species and biodiversity. Inadequate attention was given to these areas along the pipeline right-of-way. For Paracas Bay, the site of the fractionation plant and marine terminal, the EIA lacked baseline data on marine biodiversity, including four species of IUCN endangered/threatened marine turtles and a number of marine mammals. Additionally, Paracas Bay is one of four migratory stopovers for North American shorebirds. No baseline data were collected beyond mere species absence and population numbers sampled during a limited period. During construction of the gas well platforms and collection pipes, within primary tropical rainforest, the project sponsor did not undertake any biodiversity monitoring.

Baku-Tblisi-Ceyhan(BTC): This project did not provide adequate biodiversity baseline data. For example, the Georgian ESIA did not identify all sections of the pipeline where species are protected by Georgian law are present. The Georgian ESIA did not include a quantitative evaluation of endangered species to help determine impacts, mitigation measures and monitoring programs. Specific examples include the treatment of the endemic Caucasus black grouse and grey partridge, as well as aquatic species. For Turkey, inadequate attention was given to critical wetlands, bird assessments and endangered species. In fact, BTC's own document states that "Turkey is relatively under-surveyed," yet there appears to have been no effort to improve data gaps.

Nam Theun 2: As seen in draft project documents for Laos Nam Theun 2 hydropower project, the absence of adequate biodiversity baseline data is not only a hydrocarbon sector project issue. At the dam site, baseline biodiversity data for rare and endangered species appears to consist of only absence/presence data with no quantifiable baseline to measure trends against direct, indirect, and/or

cumulative impacts. The Ministry of Agriculture lists 18 species of mammals and birds that are considered acute or high national priority and over 25 species that are considered globally threatened (critical, endangered or vulnerable). A biodiversity assessment for only the Nakai Nam Theun National Protected Area (NPA) is proposed for initiation in September 2004. This assessment should provide baseline information on the NPA prior to full-scale dam construction that is scheduled to begin in October 2005. However, this assessment does not appear to provide information on usage of the Nakai Plateau for species utilizing both the NPA and the Plateau and the potential impacts of inundating the Plateau. Additionally, the timing of baseline data collection is problematic, since it will not be incorporated into the final EIA for use by decision-makers prior to the Board vote.

Baseline data on fisheries for both impacted river-basin systems (Nam Theun and Xe Bang Fai) appear to be narrowly focused on classical taxonomy to identify what species are endemic. It is unclear whether additional baseline data including genetic analysis to determine population differences for management purposes, sensitive fish habitats, such as spawning areas, and analysis of impacts of water quality, fluctuation and temperature on aquatic species will be incorporated into the final EIA and made available for use by decision-makers.

Maintaining the substantive and procedural integrity of the EIA process

The integrity of the EIA process can be undermined through a number of avenues ranging from deficiencies in the EIA content to undue pressure on politically weak and resource constrained environment ministries to the lack of public consultation. An additional concern for developing countries is the voluminous material that is produced for the EIAs which must be analyzed in a limited period of time. Neither environment/regulatory government agencies nor civil society have the capacity to review this overwhelming amount of information. In many cases, this is compounded by the piecemeal approach to providing supplemental material and by not integrating this material into the entire project assessment. When it is not cost effective to rewrite the entire EIA to accommodate supplemental information, decision-makers and stakeholders need to understand the relationship of the supplemental information to the overall EIA.

A project's "social license to operate" can be jeopardized if shortcomings in the substantive and procedural integrity of the EIA process erode public confidence and good will. MDBs have an incentive to avoid such reputational risks.

Camisea: The fundamental premise and integrity of the EIA process were eroded when the GoP approved the fractionation plant separately from the marine terminal. This two-step process allowed for immediate construction of the less controversial component of the coastal facilities, thereby putting pressure on the GoP agency responsible for the environment, INRENA, to approve construction of the marine terminal.

Baku-Tblisi-Ceyhan (BTC): Given the amount of material to review for the ESIA, the Minister of Environment requested and received technical assistance from the Dutch Commission on Environmental Impact Assessment. It should be recognized that most developing countries do not have the ability to tap into these technical resources.

Another concern for the integrity of the Georgian ESIA process, that did not appear to be resolved, was the pressure put upon the Minister of Environment to approve the environmental permit for construction of the pipeline with outstanding environmental concerns. The Minister of Environment approved the permit, but with a number of conditions (such as requesting additional analyses of a

series of potential landslide areas along the route and another routing alternative) in an attempt to remedy deficiencies in the ESIA.

Challenges: MDBs should be diligent in continuing to improve EIA content while maintaining the integrity of the EIA process. MDBs should ensure that internationally, nationally and locally recognized biodiversity hotspots are identified clearly in project EIAs so that a better understanding of potential project impacts is possible. MDBs need to require biodiversity baseline information that can be analyzed and used as part of the decision-making process. Sequencing of collection efforts needs to be accomplished in a manner that maintains the integrity of the EIA process and information use for decision-makers. MDBs should substantively remedy any deficiencies that occur in either in the EIA substance or process prior to their providing financing to the project. MDBs should ensure that governments and project sponsors behave in ways that do not erode EIA integrity. It is these types of instances that raise civil society concerns and in countries where access to information is scarce, increases civil society's distrust of government and project sponsors. Additionally, when there is a lack of government and civil society capacity to review EIAs, MDBs should provide a mechanism for independent assistance to both entities.

LESSON 4 – Independent monitoring and independent scientific review are two mechanisms to help achieve unbiased resolution of controversial concerns.

In cases of high-profile projects, where potentially significant adverse environmental and social impacts have been identified, and project dynamics have resulted in stakeholders perceiving a bias in project development, independent monitoring and independent scientific review are two mechanisms to help achieve unbiased resolution of the concerns.

Camisea: Although there are a number of mechanisms established by the project sponsors, IDB and the government for project monitoring, USAID believes there are still problems including inconsistency in how reports are made public, the lack of field staff to resolve disagreements between project sponsors and local communities concerning monitoring and project impacts and the lack of a mechanism through which stakeholders can determine whether identified problems have been resolved. These factors and others have created a sense of mistrust and a credibility gap between civil society and project sponsors, the government and the IDB. Peruvian civil society continues to propose an independent monitoring system to provide the transparency and independence to bridge this credibility gap.

Sakhalin 2, Phase II: The controversy surrounding project impacts on the U.S. Endangered Species Act-listed western Pacific gray whale (WGW) is a good example where an independent scientific review could provide unbiased analysis. Data presented to-date is inadequate to demonstrate that construction and operation activities, including increased vessel traffic, will not negatively impact the WGW either during its migration or while it is on its feeding grounds. Analysis of cumulative impacts of disturbances throughout the range of the WGW, impact of subsea construction and an oil spill during either ice or ice-free ocean conditions is also lacking. Project sponsors' contractors studying the WGW have stated that there will be no impact that is not subject to mitigation, while independent cetacean researchers have stated the opposite. In response to these concerns, Shell contracted with the World Conservation Union (IUCN) to facilitate an independent review of the project, specifically focusing on potential impacts to the WGW. The findings of the scientific review are expected to be released in mid-February 2005.

Challenges: MDBs should seriously consider independent monitoring for projects with the potential for significant adverse environmental and social impacts, and where the MDB is not able itself to resolve serious concerns by project-affected communities and the project sponsor's view of the situation. In the Camisea project, there is a conflict of interest for the contractor hired by the project sponsor to provide unbiased science to determine baseline conditions, impact analysis, and mitigation measures for the EIA because these consultants were contracted to also implement the resulting project environmental management plan. MDBs should consider commissioning independent scientific reviews to determine the adequacy of impact analyses, avoidance, management and mitigation measures for highly controversial concerns in the EIAs.

LESSON 5 – Special attention is needed to ensure indigenous peoples are not disproportionately impacted by project activities.

It is highly likely that indigenous peoples (IP) can be disproportionately impacted relative to other project affected communities. Assessing the scope of this impact is made more difficult by the lack of baseline information on their livelihoods, spiritual beliefs and cultural practices. It is also difficult at times to determine who is actually representing these peoples – international NGOs, national NGOs, or the host government – since each of these entities usually has its own special interests and agendas.

Camisea: About 80% of the natural gas concession is located within the Nahua-Kugapakori Indigenous Reserve. There is little independent information to determine the extent of land and natural resource used by indigenous peoples and consequently the impacts of the project on their livelihoods. There have been reports of increased disease transmission since project activities were initiated. The national representative organization for these peoples states that prior informed consent, as required by Peruvian law (as a signatory of ILO Convention 169), was not given for activities within the Reserve. The GoP agency responsible for indigenous peoples' issues currently lacks the capacity to effectively monitor and address these issues.

Nam Theun 2: The World Bank has designated the Nakai Nam Theun National Protected Area as an offset under its Natural Habitats Policy in exchange for inundating the Nakai Plateau. This area is home to the Vietic hunter-gatherer peoples who are considered to be threatened with extinction. Government policy, which predates this project and is applied nationwide, is to settle these peoples and move them into communities of different ethnic groups within and outside of the Protected Area. Reports indicate that Vietic groups forced to relocate and settle have not done well. There is no GoL entity primarily responsible for protecting the rights and livelihoods of these peoples. World Bank staff report working with the GoL to address concerns over relocation of the Vietic peoples.

Challenges: Depending on the MDB involved, issues surrounding indigenous peoples are partially or fully covered by the respective institution's resettlement and/or indigenous peoples policies. MDBs need to ensure their policies are being thoroughly followed. Additionally, MDBs should ensure that project affected indigenous peoples are fully consulted. In circumstances where information on indigenous peoples livelihoods, spiritual beliefs and cultural practices is not available, MDBs should work with IP representatives or appropriate entities to obtain the required information for appropriate analysis to be incorporated into EIA prior to project initiation. In projects where physical resettlement of indigenous peoples is not an issue, MDBs need to ensure that they are at least as well off over time as they would have been without

the project. This includes providing the flexibility within projects to make mid-course adjustments in programs to mitigate project impacts. Finally, government capacity to protect the rights of indigenous peoples needs to be created and/or strengthened.

LESSON 6 – A project Ombudsman's office or similar entity is desirable to ensure fair interactions between project sponsor and project affected communities.
Project sponsors interact with communities in a number of ways including informing them of upcoming project activities, negotiating compensation for those activities, offering compensation when negative impacts occur and providing employment opportunities. At the outset of most projects, there is often no transparent mechanism to moderate interactions between affected communities and project sponsors. Additionally, in some cases, (e.g. BTC under the Host Government Agreements), third-party rights are unclear and expediency through a national court system is impractical.

> *Camisea:* The IDB public sector institutional strengthening loan provided funds for the establishment of a project-specific Ombudsman's Office. This effort did not get underway until project construction was nearly completed, and is only funded through the first year of operations. Although a number of communities in the Huamanga region did not appear to be reached, based on discussions with the Ombudsman's Office, the ombudsman does appear to provide an effective mechanism for the project-affected communities that were reached.

Challenges: MDBs should to work with host governments and civil society prior to local negotiations over project activities (such as compensation agreements, property rights transfers), to determine whether a mechanism (e.g. a project ombudsman office) needs to be established to rapidly resolve disagreements between project-affected communities and project sponsors. Additionally, where indigenous federations clearly represent indigenous project-affected peoples, MDBs should ensure that long-term support for strengthening that representational capacity is provided.

LESSON 7 – Increased potential for migration and resource access needs to be analyzed as part of the EIA with controls implemented at appropriate times during project construction and/or operation.
In at least two of the projects reviewed, rights-of-way for oil/gas pipeline routes establish new entry points into natural habitats or indigenous peoples' territories that were previously inaccessible. New and/or increased access into these areas has the potential negative implications of increased natural resource extraction (particularly timber and wildlife) and increased human settlement. These two incursion events acting singularly or synergistically have the potential to negatively impact indigenous peoples' livelihoods, spiritual beliefs and cultural practices and biodiversity conservation.

> *Camisea:* Camisea's natural gas fields are located within a 1200 square kilometer block of a primary tropical forest area of which 80% overlaps the Nahua-Kugapakori Indigenous Reserve. To date, natural barriers have impeded migration of outsiders and access to natural resources within the Nahua-Kugapakori Indigenous Reserve, other protected areas, and communal reserves in the Lower Urubamba. Although rivers provide some access to outsiders and project access roads into the area were avoided, the pipeline right-of-way serves a role similar to roads and provides a conduit for

access into these sensitive areas. Some, but not all, access control measures have been undertaken by both GoP and project sponsors. Peruvian NGOs have reported migration events of colonists into the Lower Urubamba. Control of access into this region is critical to the well-being of the indigenous peoples, some of whom have limited to no contact with the outside world, and to biodiversity conservation.

Baku-Tblisi-Ceyhan (BTC): Prior to additional road construction/improvement, a complete analysis of the entire road development in conjunction with pipeline right-of-way development needed to be undertaken to determine the extent of impacts (direct, indirect and cumulative) and identify proper avoidance and mitigation measures. This did not occur and consequently there are reports of increased illegal logging in several areas. The Minister of Environment also raised this issue as an important concern.

Challenges: MDB reviews of EIAs need to pay special attention to access control measures to protect against adverse impacts in situations where the right of way offers increased access to natural habitats and migration into indigenous peoples territories. MDBs should determine whether gaps exist in host government capacity to control access via legal mechanisms and in resources (financial and staff) for monitoring. Where gaps exist, MBDs should ensure that means to support strengthening government and local community capacity are implemented.

LESSON 8 – Government and Civil Society Capacity needs to be strengthened to ensure adequate oversight of hydrocarbon projects.

In many countries, hydrocarbon sector development is expanding at a greater speed than the environmental and regulatory capacity of host governments. This lag in capacity, with the resulting problems, has been witnessed in Peru, Georgia, and Chad/Cameroon. This is compounded by the fact that civil society in these countries also lacks the capacity to provide the oversight critical to ensuring that environmental and social safeguards are complied with by both project sponsors and host governments.

Camisea: The IDB attempted to accomplish this aspect of capacity building with the GoP by providing a US $5 million public sector institutional strengthening loan to support the capacity of the GoP in key aspects of the Camisea project. Although this loan did not accomplish some of its goals prior to when they were relevant – either during project construction or operation it did provide support in key areas. On one hand, the government's hydrocarbon regulatory agency, OSINERG, has been able to increase its capacity and its field staff has done an effective job of monitoring the project. On the other hand, CONAPA, which is responsible for indigenous peoples' issues, still requires increased capacity to fully implement its mandate.

Challenges: MDBs should engage earlier with governments that are planning to develop or expand their hydrocarbon sector. MDBs should ensure that time bound action plans for improving government capacity in the sector have benchmark indicators (i.e. monitoring and regulatory actions, enforcement of standards, civil society participation in environmental and social decision-making and public availability of environmental and social information) for both the construction and operation phases.

LESSON 9 – Sound and transparent revenue management are keys to ensuring revenue from hydrocarbon projects contribute to development objectives.
Sound and transparent management of revenues are critical for projects to contribute to development objectives. A key recommendation of the WB Extractive Industries Review is to promote transparency of the revenues from extractive industry (EI) operations to governments and for disclosing EI payments to governments. Additionally, USAID would like to see a commitment by recipient governments to budget transparency of revenues and expenditures to credibly assess whether EI-related public revenues are allocated for purposes associated with the public good.

Camisea: The Cuzco regional government will receive 50% of the royalties from the Camisea project. The GoP and IDB recognize that the regional government needs support in developing its revenue management and planning capacity to handle the large inflows of revenue it will receive.

Challenges: MDBs should ensure that the required technical assistance is provided to improve the budget process and transparency of revenue inflows and outflows. Sufficient funds need to be allocated to support the ability of the project country to avoid, minimize and mitigate environmental problems. MDBs should support governments to have in place a functioning system for the independent auditing of accounts and widespread public dissemination of the audited results.

LESSON 10 – Environmental and social components of Host Government Agreements(HGA)[1]/Power Purchase Agreements (PPAs)[2]/Concession Agreements (CA)[3] need to undergo a transparent public consultation process prior to their adoption.
As a development agency, USAID has concerns with the lack of transparency and civil society review of these types of agreements for developing countries. These agreements have the potential to undermine national laws and the ability to create a chilling effect for the adoption of new national laws that are more stringent than what is referenced in the agreement. Project PPAs and CAs contain critical information as to environmental and social obligations, in addition to the economic viability of the project, needed to inform both EIA analysis and civil society consultation.

Baku-Tblisi-Ceyhan(BTC): The BTC HGAs are one of the most high profile of these types of agreements to date. Although these agreements were disclosed to the public following their adoption, the GoG appeared to completely rely on the state-owned oil company, GIOC, without broader consultations either within the government or with civil society during the negotiation process. NGO legal analysis revealed that in the case of Georgia, the HGA was invoked to override its national Water Act in areas where such an override was needed in order to develop the pipeline right-of-way. NGOs were concerned with BTC's decision to contract out the rule of law that would prevent the

1. Host Government Agreements are legal contracts between the state and project sponsor which identifies both parties' rights and obligations to ensure the success of the proposed project (e.g. BTC).
2. Power Purchase Agreements are legal contracts between the supplier and purchaser that identify both parties' rights and obligations (e.g. Bujagali, Nam Theun 2).
3. Concession Agreements are legal contracts between the state and project sponsors that can outline environmental and social obligations of both parties (e.g. Nam Theun 2).

government from delaying the project in relation to any action based on environmental and social (e.g., health) concerns except in the case of a national emergency. Additionally, NGOs claimed that the stabilization clause transferred the financial burden from the investor to the government if the government instituted more stringent legislative standards that impacted the project. (note: This is contrary to U.S. practice in a regulatory environment.) Because of the confusion surrounding these issues, project sponsors subsequently issued a legal document that clarified the primacy of national law. However, additional NGO analysis stated that the documents were narrowly drafted and did not appear to resolve the deficiencies in the HGAs.

Nam Theun 2: Both the PPA and the CA associated with this project provide key information in determining the environmental and social impacts and the financial viability of the project. The CA provides the environmental and social obligations of the GoL and project sponsors. If this information isn't available to the public, it is not possible to monitor compliance with these obligations. Information contained in the PPA could provide stakeholders information on the cost of the project incurred by Laotian citizens when they purchase their power. Project sponsors are concerned that full disclosure of these documents will lead to NGOs taking portions out of context in their attempt to stop the project. In light of these issues, project sponsors have publicly disclosed key provisions of the CA regarding environmental and social responsibilities and a summary of the PPA.

Challenges: MDBs that support projects that are guided by HGAs, PPAs, CAs and other similar agreements should undertake a transparent public analysis and consultation to determine the implications for sustainable development and the environmental and social impacts. USAID would like to see an ex ante presumption of disclosure of these documents allowing for redaction of commercially proprietary information.

LESSON 11 – Cumulative impacts from future hydrocarbon field development using MDB financed pipelines may be significant.

At least three of the oil/gas projects' pipelines were designed with capacity that is greater than the oil/gas fields developed under the specific project. The implication is that oil/gas production subsequently flowing through the pipeline(s) from future development may not require MDB financing and thus not be developed to meet international environmental or social standards.

Camisea: As part of the IDB loan conditions, the GoP was required to implement the necessary policy and legal changes to require all future hydrocarbon concessions with output flowing through the Camisea pipeline to conform to internationally recognized environmental and social safeguards and standards, regardless of whether or not those concessions receive official public assistance. The GoP has required inclusion of language that refers to international environmental/social principles in at least one legal contract for additional concession agreements where the Camisea pipeline would be used. However, the language refers to the "Energy and Biodiversity Initiative" and "The Equator Principles," neither of which are international safeguards or standards.

Challenges: To mitigate the cumulative impact of a MDB-financed pipeline(s), MDBs should require that all oil/gas flowing through project pipeline(s) in the future is produced and transported in a manner that meets internationally recognized social and environmental safeguard policies and standards for hydrocarbon extraction (e.g. IFC or WB). In a country where hydrocarbon development is prominent, it is also desirable for MDBs to work with governments to reform environmental and social practices of the sector to avoid creating an "enclave" of the MDB project with the larger sector.

LESSON 12 – Decommissioning of production facilities and pipelines needs to be integrated into the EIA and designated resources identified for the decommissioning.

The final disposition of production facilities and pipeline(s) is a significant component in the long-term environmental impact of a project. In at least two of the projects reviewed, control and operation of facilities/pipeline(s) are handed over to host governments thereby making it their responsibility for decommissioning them.

Baku-Tblisi-Ceyhan(BTC): In the case of BTC and related oil fields, there is no detailed decommissioning plan for any of the three countries. The hand-over of facilities to state-owned SOCAR and GIOC will occur after 20 years when the oil field productivity is below profitable rates unless supplemented with oil from other sources. Therefore, the financial resources that would be ultimately required for decommissioning are uncertain. Additionally, SOCAR does not have a sound environmental performance record with other oil fields under its management regime.

Challenges: MDBs should ensure that project sponsors have prepared and incorporated into the EIA a decommissioning plan based on present techniques with an obligation for modifications according to any new technologies at the time prior to decommissioning. Establishment of a designated decommissioning fund prior to project operation should be required to ensure that adequate funds are available for proper decommissioning of production fields and pipeline(s).

Section 4

MDB POLICIES AND STRATEGIES

In addition to reviewing MDB projects, USAID takes part in the Treasury-led interagency process of reviewing MDB policies, strategies and action plans. Since these documents ultimately provide the framework for MDB supported projects, it is important to ensure that they contain adequate provisions to ensure environmentally and socially sound projects. The following policies are currently under development and will be closely followed and analyzed with comments provided to the Department of the Treasury.

- ADB Forest Policy

  ADB is undertaking a revision of its 1995 Forest Policy. This process was initiated in mid-2000. Following consultations with stakeholders, a revised Draft Forest Policy Paper will be made available for additional stakeholder comments. The initial timeframe for release of draft was July 2004, but as of September 2004 it was still under preparation.

- IDB Environment Policy

  The Inter-American Development Bank (IDB) is developing a new Environment and Safeguards Compliance Policy that will replace its outdated 1979 Environment Policy. The new policy will attempt to operationalize the environmental mandates of the 1994 Eighth Replenishment of Capital (Resources). A draft profile of the policy was approved by the Board on March 18, 2004. The policy sets out two policy Directives: 1) mainstreaming the environment into overall economic and social development and 2) safeguarding the environment in all Bank activities. The IDB has also established a panel of world experts to

advise it on strengthening its environmental and social policies and its operations to promote sustainable development. A draft policy is expected for review in Fall 2004.

- IDB Indigenous Peoples Policy

  The IDB is developing its first policy for addressing indigenous peoples with consultations beginning in Summer 2004. The expected Board date is in early 2005. The final policy is to set out "key general principles that form the basis for its more specific directives." The IDB released a profile of its proposed policy and will be issuing a draft policy for stakeholder comments in Fall 2004.

- IFC Safeguards Policy (SP)

  The International Finance Corporation (IFC) is currently in the process of updating its safeguard policies. Its current set of safeguard policies, based largely on the WB's operational policies, was adopted in 1998. In 2001, the IFC management requested a review of the SP by IFC's Compliance Advisor and Ombudsman (CAO). The CAO review recommended that the IFC take steps to improve SP effectiveness and impact, in addition to clearly demonstrating the IFC's leadership in environmental and social sustainability. The IFC has launched a series of regional consultations to be completed before the end of 2004 to determine whether the new policies will enable it to fulfill its social and environmental objectives.

The following documents have been approved by respective MDB institutions. However, given their inherent potential for adverse environmental and social impacts, their implementation through MDB funded projects will be closely monitored.

- World Bank Group Infrastructure Action Plan

  The Infrastructure Action Plan (IAP) was adopted by the Board in July 2003. The IAP is aimed to reposition infrastructure – comprising energy, water supply and sanitation, transport, urban, and telecoms – as key contributions to achieving the Millennium Development Goals (MDGs).

  The IAP is linked with both WB Middle Income Countries and Water Resources Sector strategies. A component of the Middle Income Strategy is identifying safeguard pilots to test the use of country environmental assessment systems that will be used for implementing safeguards in infrastructure. Part of the Water Resources Sector Strategy is WB re-engagement as a partner in developing high-reward-high-risk water infrastructure focusing on hydropower projects.

- World Bank Group (WBG) Water Sector Strategy

  The Water Resources Sector Strategy builds on the principles of the 1993 Water Resources Management Policy Paper and the lessons from the 2001 Operations Evaluation Department assessment of the Policy Paper implementation. The three main messages of the strategy are: 1) simultaneously improve the management of water resources and investment in developing water resources; 2) improvement of water resource management requires greater attention to the prioritization and sequencing of reforms with linkage to

broader political and economic reform efforts and 3) WB re-engagement as a partner in developing high-reward/high-risk water infrastructure. The latter uses a new approach that focuses primarily on the development risks of not being involved.

- World Bank Group Middle Income Strategy – Action Plan

  As part of the Bank's commitment to the implementation of the post-Monterey global development goals, this Action Plan (AP) aims to develop a more effective approach to supporting the development efforts of the Middle Income Countries (MICs). The AP identified a number of WB internal factors as obstacles in lending to MICs. The MICs strategy recommends changes to a number of WB practices including safeguard policies which are identified as an obstacle to timely quality lending. To reduce the costs of compliance with safeguard requirements, the AP aims to accelerate the ongoing initiative to rely on national environmental and social safeguard systems in countries, where such systems are deemed adequate by the WB.

- World Bank Group Extractive Industry Review

  In 2000, the World Bank Group announced that it would conduct a comprehensive assessment of its activities in the extractive industries sector (oil, gas and mining). The review included an independent stakeholder consultation process led by Dr. Emil Salim and it culminated in a final report released in late 2003 and WBG management response released in June 2004. The final WBG management response following input from the Board was released in September 2004. At the same time, WBG management responded to a series of internal evaluations of the WBG's role in extractive industries.

REORGANIZATION OF TUESDAY GROUP

Complementing the U.S. government interagency review process is the Tuesday Group (TG) which is comprised of concerned NGOs and U.S. Federal agencies. Meeting monthly for more than a decade, it addresses policies, macroeconomic and project loans of the MDBs. Meetings are held in Washington and attended by representatives of several agencies and about 25 NGOs as well as guests from around the world. USAID and the Bank Information Center (BIC), an NGO serving citizens groups concerned about MDBs, co-chair the meetings. Minutes from the meetings are shared with about 165 NGOs worldwide.

Proposal for Restructuring Tuesday Group (adopted June 2004)

The objective for restructuring is to ensure TG is a vehicle for substantive input on the policies and projects of the MDBs. The restructuring proposal seeks to address several issues raised by TG participants: informed discussion at TG requires advance circulation of information; many important MDB issues that deserve TG attention require more proactive identification and preparation; agenda items often require more structure to ensure full discussion. The new TG format will be reviewed after several meetings and is open for further refinement.

A Steering Committee comprised of USAID, Bank Information Group, the Department of the Treasury, and an NGO to be determined, will confer monthly to plan the ensuing TG meeting:

- Set agenda for following TG via submitted proposals (NGOs or U.S. Federal agencies) and by proactively identifying issues and relevant presenters/responders
- Use Chatham House Rule
- Operate via meetings, calls and emails

Any differences will be resolved by the co-chairs (USAID and BIC).

Criteria used by the Steering Committee for determining which submitted issues are prioritized for in-depth discussion or only as an announcement:

- Identifiable environmental and social impacts
- Sustained engagement by project proposer to help achieve objectives
- Importance of potential implications of the project/policy
- Leverage TG can bring towards contributing to positive changes with respect to project/policy

NGOs and U.S. Federal agencies are to submit a one-page outline of proposed project/policy issue for initial discussion to TG co-chairs at least three weeks prior to TG meeting (see timeline below). Format for one-page submission should identify:

- Project/policy/issue
- Potential environmental and social impacts

- Importance of potential implications of the project/policy (e.g. why discuss this project versus the 100+ category A projects per year that need to be reviewed?)
- Decision points/timeline for proposed intervention(s)
- Objectives of proposed intervention(s)
  - Note: Proposed interventions are directed towards U.S. government or NGOs and may be different depending on U.S. government entity.
- Groups working on issue

Presenters of accepted agenda items are to prepare a 2-3 page (max) presentation and submit to TG co-chairs no later than one full week prior to TG meeting. This will enable TG co-chairs to distribute agenda and submissions to TG participants at least one full week prior to next TG meeting. Suggested format for Tuesday Group presentation:

- Background
- Key Issues
- Proposed intervention(s)/timeline, including objectives of proposed intervention(s)
- Proposer's contribution and sustained engagement to help achieve objectives (i.e. project specific analyses, field outreach, time commitment)

Supporting documents can also be submitted for distribution.

TG meeting format and discussion

- Last minute agenda items for emerging issues (for flagging important developments, not for in-depth discussion)
- Follow up items from previous meetings
- Discussion moderated by TG co-chairs (BIC or USAID). Purpose of discussion is to clarify points made in presentation, to offer additional information, and to facilitate follow-up
- Minutes will be taken and circulated of meeting

Follow-up after TG presentation:

- Relevant organizations will communicate among themselves to determine response to presentation.
- Appropriate organization will inform TG of decision at the next meeting
- As required, relevant organization will host separate project specific meetings
- As required, project updates will be provided during future TG meetings

– Note: TG co-chairs will provide an example of follow-up submission (1 page max). Supporting documents can also be submitted for distribution.

One project will be selected for discussion under Chatham House Rule as a test case for determining practicality and receptivity for a blanket adoption of Chatham House Rule at TG. This will require an explicit agreement by all participants.

Timeline for setting agenda

- **Week 1** – TG meeting
- **Week 2** – Proposed agenda items submitted and Steering Committee makes decisions
- **Week 3** – Notify presenters so they can prepare document and submit to TG co-chairs
- **Week 4** – Send out agenda and documents – at least one full week prior to next TG meeting

Annex B

USAID's Review of Proposed Multilateral Development Bank Loans

In the late 1980s Congress found, and stated in Title XIII of the International Financial Institutions Act, that U.S. assistance to the MDBs should promote the sustainable use of natural resources, the protection of the environment, public health and the status of indigenous peoples. But Congress found that "MDB projects, polices and loans have failed… to provide adequate safeguards" and that sometimes their borrowers do not ensure that appropriate policies and procedures are in place to use natural resources sustainably, and that the MDBs do not yet provide systematic and adequate assistance to their borrowers" in this regard.

Congress therefore required the Department of the Treasury, the Department of State, the Environmental Protection Agency, the National Oceanographic and Atmospheric Administration, the Council on Environmental Quality and USAID to help develop and promote mechanisms and institutional and procedural arrangements within the MDBs to ensure sustainable use of natural resources and protection of these values. As part of this process, USAID draws information from our own investigations, other agencies, other countries, and the public to enhance USAID notices and reports.

Congress set out in Title XIII several elements of USAID's role:

> In the course of reviewing assistance proposals of the multilateral development banks, the Administrator of the Agency for International Development shall ensure that other agencies and . . . USAID field missions . . . analyze . . . the environmental impacts of multilateral development loans well in advance of such loans' approval to determine whether the proposals will contribute to the sustainable development [emphasis added] of the borrowing country. . . .
>
> [S]uch reviews shall address the economic viability of the project, adverse impacts on the environment, natural resources, public health, and indigenous peoples, and recommendations as to measures, including alternatives, that could eliminate or mitigate adverse impacts. . . .

> If . . . any such loan is particularly likely to have substantial adverse impacts, the Administrator . . ., in consultation with the Secretary of the Department of the Treasury and the Secretary of State, shall ensure that an affirmative investigation of such impacts is undertaken in consultation with relevant U.S. Federal agencies. If not classified under the national security system of classification, the information collected pursuant to this paragraph shall be made available to the public. . . .
>
> [T]he Administrator . . . shall identify those assistance proposals likely to have adverse impacts on the environment, natural resources, public health, or indigenous peoples. The proposals so identified shall be transmitted to the Committees [of jurisdiction in the U.S. Congress].

As one of its steps in reviewing MDB activities for environmental soundness, USAID sends information about these projects and other activities to its missions around the world for review and comment through its Early Project Notification (EPN) system. When information derived through the EPN system or other research raises substantial questions or provides a new perspective, it is shared with Treasury, other agencies, and in cases of loans particularly likely to have substantial adverse effects, with the public.

Within this context, USAID develops information and analysis concerning specific bank projects and overall processes. This information and analysis is shared with other agencies. USAID also bring its own expertise to interagency review meetings at two levels: the environmental reviews that occur weeks or months before the relevant MDB board votes, and the overall review that occurs as little as a week or two before the boards vote.

THE PELOSI AMENDMENT

USAID's role under Title XIII complements the Pelosi amendment in (section 1307, 22 U.S.C. 262m-7). The Pelosi amendment in most cases requires that the United States

> … not vote in favor of any MDB action which would have a significant effect on the human environment, unless for at least 120 days before the date of the vote an assessment analyzing the environmental impacts of the proposed action and of alternatives of the proposed action has been completed by the borrowing country or the institution, and made available to the board of directors of the institution. Such assessment or a comprehensive summary must be made available to the MDB, affected groups and local nongovernmental organizations. These provisions do not apply where the Secretary of Treasury finds compelling reasons to believe that disclosure in such a case would jeopardize the confidential relationship between the borrower country and the respective bank.

Consideration of the adequacy of such assessments is part of the USAID and interagency process of reviewing proposals. The Department of the Treasury uses this input in making recommendations to the U.S. Executive Directors (representatives of the U.S. government on each bank's board of directors (USEDs)).

Pelosi Amendment — Sec. 1307 of the International Financial Institutions Act of 1977, as amended, Title XIII.

Assessment Of Environmental Impact of Proposed Multilateral Development Bank Actions.

(a) Assessment Required Before Favorable Vote on Action

(1) In General – Beginning two years after December 19, 1989, the Secretary of the Department of the Treasury shall instruct the U. S. Executive Director of each multilateral development bank not to vote in favor of any action proposed to be taken by the respective bank which would have a significant effect on the human environment, unless for at least 120 days before the date of the vote

(A) An assessment analyzing the environmental impacts of the proposed action and of alternatives to the proposed action has been completed by the borrower or the institution, and been made available to the board of directors of the institution; and

(B) Except as provided in paragraph (2), such assessment or a comprehensive summary of such assessment has been made available to the multilateral development bank, affected groups, and local nongovernmental organizations.

(2) Exceptions and reports

(A) Exceptions – The requirement of paragraph (1)(B) shall not apply where the Secretary finds compelling reasons to believe that disclosure in any case described in paragraph (1) would jeopardize the confidential relationship between the borrower and the respective bank.

(B) Reports by Secretary – The Secretary shall submit a quarterly report in writing to the Committees specified in subsection (f)(1) of this section of the findings described in subparagraph (A).

(b) Access to Assessments in All Member Countries.

The Secretary of the Department of the Treasury shall seek the adoption of policies and procedures, through discussions and negotiations with the other member countries of the multilateral development banks and with the management of such banks, which result in access by governmental agencies and interested members of the public of such member countries, to environmental assessments or documentary information containing comprehensive summaries of such assessments which discuss the environmental impact of prospective projects and programs being considered by such banks. Such assessments or summaries should be made available to such governmental agencies and interested members of the public at least 120 days before scheduled board action, and public participation in review of the relevant environmental information should be encouraged.

(c) Consideration of Assessment. – The Secretary of the Department of the Treasury shall

(1) Ensure that an environmental impact assessment or comprehensive summary of such assessment described in subsection (a) of this section accompanies loan proposals through the agency review process; and

(2) Take into consideration recommendations from all other interested U.S. Federal agencies and interested members of the public.

(d) Development of Procedures For Systematic Environmental Assessment.

The Secretary of the Department of the Treasury, in consultation with other U.S. Federal agencies, including the Environmental Protection Agency, the Department of State, and the Council on Environmental Quality, shall

(1) Instruct the United States Executive Director of each multilateral development bank to initiate discussions with the other executive directors of the respective bank and to propose that the respective bank develop and make available to member governments of, and borrowers from, the respective bank, within 18 months after December 19, 1989, a procedure for the systematic environmental assessment of development projects for which the respective bank provides financial assistance, taking into consideration the Guidelines and Principles for Environmental Impact Assessment promulgated by the United Nations Environmental Programme and other bilateral or multilateral assessment procedures; and

(2) In determining the position of the United States on any action proposed to be taken by a multilateral development bank, develop and prescribe procedures for the consideration of, among other things

(A) The environmental impact assessment of the action described in subsection (a) of this section;

(B) Interagency and public review of such assessment; and

(C) Other environmental review and consultation of such action that is required by other law.

(e) Use of United States Personnel.

The Secretary of the Department of the Treasury, in consultation with the Secretary of State, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality, the Administrator of the Agency for International Development, and the Administrator of the National Oceanic and Atmospheric Administration, shall

(1) Make available to the multilateral development banks, without charge, appropriate United States Government personnel to assist in

(A) Training bank staff in environmental impact assessment procedures;

(B) Providing advice on environmental issues;

(C) Preparing environmental studies for projects with potentially significant environmental impacts; and

(D) Preparing documents for public release, and developing procedures to provide for the inclusion of interested nongovernmental organizations in the environmental review process; and

(2) Encourage other member countries of such banks to provide similar assistance.

(f) Reports.

(1) In General – The Secretary of the Department of the Treasury shall submit to the Committees on Foreign Relations and Environment and Public Works of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives

(A) Not later than the end of the 1-year period beginning on December 19, 1989, a progress report on the efficacy of efforts by the United States to encourage consistent and timely environmental impact assessment of actions proposed to be taken by the multilateral development banks and on the progress made by the multilateral development banks in developing and instituting environmental assessment policies and procedures; and (B) not later than January 1, 1993, a detailed report on the matters described in subparagraph (A).

(2) Availability of Reports – The reports required by paragraph (1) shall be made available to the member governments of, and the borrowers from, the multilateral development banks, and to the public.

(g) For the purposes of this section, the term "multilateral development bank" means any of the institutions named in section 1303(b) of this Act, and the International Finance Corporation.

Annex C

Baku-Tblisi-Ceyhan Oil Pipeline — transmittal letter to the Department of the Treasury

U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

OCT 29 2003

MEMORANDUM

TO: William E. Schuerch, Deputy Assistant Secretary for Multilateral Development Banks and Specialized Institutions, U.S. Department of Treasury

FROM: Barbara Turner, Acting Assistant Administrator, Bureau for Policy and Program Coordination, U.S. Agency for International Development

DATE: October 28, 2003

SUBJECT: USAID Issues and Recommendations on the Baku-Tbilisi-Ceyhan Oil Pipeline Project for IFC/EBRD Financing

As part of USAID's due diligence under the International Financial Institutions Act (Title XIII), USAID has reviewed the Baku-Tbilisi-Ceyhan (BTC) Oil Pipeline Project which is scheduled for International Finance Corporation (IFC) and European Bank for Reconstruction and Development (EBRD) board votes scheduled for Oct 30, 2003, and Nov 11, 2003, respectively.

USAID has a long history of support for the Baku-Tbilisi-Ceyhan oil pipeline project and considers that the proposed IFC loan to the BTC consortium an important long-term investment in the economic development and regional security of the Caspian and Black Sea region. It makes a major environmental contribution by helping to relieve the growing pressure on the environmentally-sensitive Bosphorus Straits from increasing oil tanker traffic. The BTC consortium has worked hard with the stakeholders to develop a politically, economically, technologically and environmentally sound project. Although we would have liked to have seen a more systematic comparison of alternative routes, the Consortium's current and planned investments in environmental mitigation, support for biological diversity projects, community development along the route, and broader economic and social development in the region add to the basic merits of the project, which is likely to be the first of what promises to be several major pipelines to transport the significant Caspian oil and gas resources to international markets. Nevertheless, the issues identified below under USAID's Title XIII review and subsequent recommendations demonstrate that there are deficiencies in the project which need to be addressed. We believe it is important for all donors to help ensure the project succeeds in meeting its economic objectives, eliminates or mitigates adverse impacts and contributes to the sustainable development of the three countries involved, Azerbaijan, Georgia and Turkey.

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WASHINGTON, D.C. 20523

USAID's identification of issues and subsequent recommendations, which should be carried out during project implementation, are intended to: a) further develop the capacity of the host environmental authorities and technical institutions to monitor the environmental performance and impact of the project; b) investigate further and monitor the risks from geological faults along the route and the potential for major seismic events; c) resolve outstanding questions concerning the impacts of potential breaks and spills on the Borjomi water system; and d) establish Emergency Response and Oil Spill Response Plans and Operations Environmental Management and Health and Safety Management System Plans based on transparent international peer review.

Issues:

USAID Title XIII review focused primarily on the Georgian component of the BTC project with limited review of the Azerbaijan and Turkey BTC components and ACG Phase 1. The following are issues identified with the project:

A) EIA Review:

- The analysis of alternatives and key baseline data associated with the project are not sufficient and do not meet USAID internal standards (22 CFR 216).
- Inadequate critical baseline information and impact analysis for determining mitigation measures and to what extent impacts can be mitigated

B) Title XIII environmental and social issues:

- Lack of government capacity to oversee and monitor construction and operation phases of project, including interaction between affected communities and project sponsor
- Lack of definition of mechanisms for transparent revenue management from oil production/transit proceeds
- Potential negative impacts from production and transport of non-ACG oil
- Absence of decommissioning plan and targeted resources for pipeline decommissioning

Recommendations:

A) Recommendations to correct the underlying deficiencies of the Georgian ESIA and supporting material. (note: Some of these recommendations will have limited potential of influencing the project dynamics because construction started last spring (2003) with preconstruction activities to-date involving at least 120 km out of 248 km for the Georgian section of the pipeline.)

1. *Hydrogeology in the Borjomi region:* Additional research needs to be conducted to bridge the information gap to make a proper assessment of the risks on pollution of the groundwater springs and mineral water aquifer to determine if this is an acceptable risk and, if so, to develop mitigation measures on the most precise and accurate information possible.
2. *New and/or improved access roads:* Prior to additional road construction/improvement, further analysis of the road development in conjunction with ROW development needs to be undertaken to determine the extent of impacts (direct, indirect and cumulative) and identify proper mitigation measures.

3. *Outstanding biodiversity data issues:* A biodiversity monitoring plan needs to be developed and implemented for the entire project. Prior to additional construction, key deficiencies in data collection for endangered species along the ROW need to be corrected. This data would include estimates of population size, habitat use – i.e., feeding, nesting. A clear methodology and decision-making process for determining when pre-clearance surveys are required needs to be delineated within the context of biodiversity impact and adequate time allotted to conduct surveys and develop mitigation measures and monitoring plan.
4. *Potable water resources:* The potential impacts of an oil spill on potable water resources needs to be adequately assessed and alternative sources of water identified.
5. *Blind faults:* In discussion with the IFC geo-technical advisors, the presence of blind faults needs to be assessed through seismic surveys. This would provide missing information to assess the various routes and improve pipeline alignment along environmentally sensitive areas of the route.

B. Recommendations associated with the identified Title XIII environmental and social issues. These are intended to improve the project's environmental governance and provide the host government the capacity to oversee and monitor construction/operation of this project and other related hydrocarbon projects.

1. IFC and EBRD should request time-bound measures for appropriate host-government ministries and institutions to strengthen their capacity and independent parties to monitor ACG and BTC construction/operations and future hydrocarbon projects. For example, restructuring or supplementing the current World Bank loan in Georgia to direct more resources towards the Ministry of Environment.
2. IFC and EBRD should request from SOCAR a time bound action plan and resource allocation for upgrading its practices on the ACG and BTC project as an internal standard for improved performance for all of their facilities.
3. IFC and EBRD should ensure that the required technical assistance is provided to Azerbaijan State Oil Fund to improve the budget process and assure that funds are allocated to support the ability of the country to avoid, minimize and mitigate environmental problems on this and related projects. A similar fund might be created for Georgia to achieve the same objectives as above.
4. Complete in a timely and rigorous manner Emergency Response and Oil Spill Response Plans and Operations Environmental Management and Health and Safety Management System Plans based on transparent international peer review.
5. IFC and EBRD should seek to ensure that all oil flowing through the BTC pipeline is produced and transported in a manner that is at least consistent with environment standards under ACG Phase 1 and international standards at the time of production.
6. IFC, working with the World Bank, and EBRD should provide assistance to develop politically feasible interim measures for a Caspian Sea Oil Spill Response Plan until such time that the littoral states reach a permanent agreement.
7. The IFC and EBRD should request the establishment of a designated decommissioning fund prior to operation of pipeline to ensure adequate funds are available for proper decommissioning of the pipeline and ACG fields.
8. The IFC and EBRD should require each government to either deploy or establish a special unit (national ombudsman) dedicated to rapidly resolving disagreements between communities and project sponsors.

9. The IFC and EBRD should ensure the project sponsors had adequate environmental insurance or performance bond to cover damages from an oil spill including a catastrophic rupture where there are gaps in current coverage.

Annex D

South Caucasus Gas Pipeline and Shah Deniz Gas Fields — transmittal letter to the Department of the Treasury

U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT

MAR - 8 2004

MEMORANDUM

TO: John Taylor, Under Secretary for International Affairs
U.S. Department of Treasury

FROM: AA/PPC, Barbara Turner (Acting)

SUBJECT: Treasury Request for USAID Position on the European Bank for Reconstruction and Development (EBRD) Proposed Financing of the Shah Deniz and South Caucuses pipeline.

Background

On Tuesday, March 9th, the EBRD Board is scheduled to vote on two proposed EBRD loans to SOCAR, Azerbaijan's state-owned oil and gas company.

1. The Shah Deniz project is subject to a $110 million loan for an offshore gas/condensate field in the Caspian Sea.

2. The South Caucasus Pipeline (SCP) project ($60 million loan) is being constructed to transport gas from the Shah Deniz field to the Turkish-Georgian border.

The Turkish stated-owned gas company, BOTAS, will construct a connector pipeline from Turkey's border with Georgia to Turkey's domestic gas pipeline.

USAID Position

Both the Shah Deniz project and the South Caucasus Pipeline appear to meet the Pelosi amendment. However, the associated facility financed by Turkey has not made available an EIA to the public and the Board 120 days prior to the EBRD Board voting date.

Therefore, USAID recommends that the USED abstains.

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Annex E

Camisea Natural Gas Project — transmittal letter to the Department of the Treasury

U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT

JUL 22 2003

MEMORANDUM

TO: Clay Lowery, Deputy Assistant Secretary for International Debt and Development Policy Analysis, U.S. Department of Treasury

William E. Schuerch, Deputy Assistant Secretary for Multilateral Development Banks and Specialized Development Institutions, U.S. Department of Treasury

FROM: Barbara Turner, Acting Assistant Administrator, Bureau for Policy and Program Coordination, U.S. Agency for International Development

SUBJECT: USAID Recommendation for U.S. Vote on the Inter-American Development Bank (IDB) Camisea Energy Project (Peru)

RECOMMENDATION

USAID recommends that the U.S. Government **should not support** on the IDB Camisea Energy project to be presented to the Board of Executive Directors on July 30, 2003.

Despite the significant economic benefits that could accrue from the project to the Peruvian economy, USAID believes the U.S. should not support the project as it poses **significant environmental and social concerns that to date have not been sufficiently addressed.**

RATIONALE

Camisea Natural Gas Pipeline project is Peru's largest private investment project, involving $1.8 billion in the first phase. The project is projected to add as much as $1.0 billion to Peru's GDP for many years. The project will attract substantial foreign direct investment. Construction has already added some 8,000 jobs to the Peruvian economy, and thousands more direct and indirect jobs are

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anticipated. The revenue associated with this project is critical to the Peruvian government's ability to provide services and assistance.

However, several areas of concern have been raised in the course of USAID's Environmental Title XIII Pelosi analysis. They include the effect of the pipeline, marine terminal and loading platform on Paracas Bay and Block 88 concerns such as ethnic and resource use mapping and environmental/social monitoring. The Government of Peru (GOP) is enthusiastic about the project, but shares many of the same concerns. The GOP, LAC/W and the Mission believe that a partnership with international financial institutions (IFI) will help to ensure that the potentially negative environmental and social impact of the project are mitigated.

Addressing the many of the issues that USAID's Environmental review identified would be ill-served through purely private funding. There is a real risk that the GOP will pursue solely private funding if IFI funds are denied. A partnership between the GOP and IFIs will provide a strong counterbalance to purely business concerns and ensure an equitable balance between the overwhelming employment and development needs of the country and long term commitment to management of the ecosystem and protection of human rights.

As part of the U.S. Agency for International Development's (USAID) due diligence under the International Financial Institutions Act (Title XIII/Pelosi Amendment), EGAT Bureau has reviewed the Camisea Natural Gas Project which is scheduled for Inter-American Development Bank (IDB) Board vote on or about July 30, 2003. USAID's detailed review of the project consists of an 18 day site visit to Peru visiting a substantial portion of the project and meeting with civil society, affected communities, Government of Peru (GoP) Officials, local and international NGOs and project sponsors.

Following the site visit, EGAT has been involved in a number of meetings in Washington with local and international NGOs, project sponsors, IDB staff, Treasury, State, EPA, Ex-Im Bank and to a lesser extent GoP. Although EGAT recognizes the importance of this project to the GoP, there are substantial Title XIII environmental and social issues on which neither the IDB nor the sponsors appear to have made substantial progress in addressing. Most siginificant among them is the lack of appropriate site selection analysis and subsequent EIAs for the fractionation plant and marine terminal associated with the project.

With respect to the EIAs, USAID's responsibility under the Pelosi Amendment requires us to recommend that the Secretary of Treasury instruct the U.S. Executive Director (USED) to not vote in favor of the proposed Camisea Natural Gas Project. The basis for this recommendation is that the site selection analysis and subsequent EIAs for the fractionation plant and marine terminal associated with the project are insufficient and do not meet the test of being completed and made publically available 120 days before the vote [section 1307

(a)(1)] (Attached please see the analysis completed by Paul DesRosiers, Bureau Environment Officer for EGAT)

A number of other environment and social issues were also found in our analysis. They include:

- Lack of knowledge of indigenous peoples land/natural resource use around well platform sites within the Nahua-Kugapokori Indigenous Reserve and associated direct and indirect impacts of the project activity.
- Lack of appropriate measures to control migration of colonists into the Nahua-Kugapokori Indigenous Reserve.
- Lack of biodiversity baseline data and inadequate biodiversity monitoring given the unavoidable and irreversible losses of primary and secondary tropical forests and montane cloud forests along the pipeline ROW.
- Inadequate erosion control and revegetation plan along the pipeline in sensitive ecosystems resulting in severe erosion, potable water contamination, increased sediment deposition in waterways and loss of topsoil.
- Lack of adequate revenue management and development/planning capacity within the regional government to handle large revenue flows from royalties.
- Lack of adequate mechanisms for interactions between affected communities and project sponsors.
- Lack of adequate GoP capacity to effectively monitor and enforce components of the project.

Specific reasons for our findings on the fractionation plant and marine terminal portion include:

- The site alternative selection analysis was not conducted according to standard EIA practices. A thorough description of alternatives in an EIA process facilitates their side-by-side comparison in terms of their technical, social, environmental and economic risks and benefits. The site alternative selection process in this case was based on engineering and economic factors not taking into account environmental and social risks and benefits.
- The EIAs associated with the proposed site are clearly deficient and lack comprehensive analysis concerning potential adverse impacts (direct, indirect and cumulative) of construction and

operation activities on resident and migratory birds, marine species, including sea turtles, fish, mammals and the benthos.

- The lack of baseline information and comprehensive analysis of direct, indirect and cumulative impacts of the proposed activity makes it impossible to determine what mitigation measures to recommend and to what extent impacts can be mitigated.

- Deficient environmental monitoring plan to identify project impacts during construction or operation phases.

- The lack of an adequate spill response plan and deficiency in not including all petroleum products that will be associated with the facility.

Annex F

USAID Camisea Trip Report — May 28 – June 9, 2004

A team of USAID and State Department staff spent two weeks in Peru conducting a follow-up assessment of Peru's Camisea Natural Gas Project. Prior to the site visit, interagency discussions took place involving the Department of the Treasury, State and USAID concerning the purpose and scope of the visit. The team consisted of Leslie Johnston, Senior Environmental Policy Adviser, Economic Growth, Agriculture and Trade Bureau at USAID Washington; Victor Bullen, Regional Environmental Adviser for USAID La Paz, and Linda Allen, AAAS Fellow, State/WHA/EPST. Johnston and Bullen participated in the first interagency site visit with the Department of the Treasury last March/April 2003. This trip report does not reflect a consensus position between USAID and the Department of State.

The U.S. government team assessed substantial portions of the project including Las Malvinas, well platforms, flowline, pipeline right-of-way, and the fractionation plant and marine terminal. The team met with Peruvian government officials (GTCI – Grupo Tecnico de Coordinacion Interinstitucional del Proyecto Camisea, OSINERG – Organismo Supervisor de la Inversion en Energia, CONAM – Consejo Nacional del Ambiente, INRENA – Instituto Nacional de Recursos Naturales, and MINSA – Ministerio de Salud); the Camisea Ombudsman; project sponsors (TGP, PlusPetrol); a USAID contractor (IRG); URS (IDB's independent consultant firm); industrial fishmeal plant owners; artesian fishers; and NGOs/Peruvian Civil Society (PCS), including two of the experts chosen by PCS to work with the IDB to develop performance criteria (condition Update – 5(a)). Follow-up visits were also conducted with the same two communities the U.S. government delegation met with last year. These interviews were conducted with the same headman for each community and with community members present.

It is acknowledged that much progress has been made in addressing the impacts of the Camisea project, but more work remains to be done. The following highlights concerns raised by stakeholders or directly observed by the U.S. government during the site visit. Comments included herein that are based on meetings with various stakeholders do not reflect the views of the U.S. government and in some cases have not been substantiated by the U.S. government. Observations and comments are not necessarily related to conditions for loan closure.

FIELD VISIT

I. Right of Way (ROW)

Due to time constraints, the team was only able to overfly from approximately kp 350 to kp 0 of the ROW. Due to cloud coverage, certain sections of the ROW (i.e. Toccate area) were not visible. For other sections, the overflight was higher than normal due to safety precautions resulting from filling the lines with nitrogen and then gas. The team was able to walk/drive two short sections of the ROW – around Kepashiato (kp ~125) and the section entering the Machiguenga Reserve (~59-60). Mechanical completion of the pipelines, which comprised the conclusion of the physical construction and testing of the pipelines, was on May 22nd.

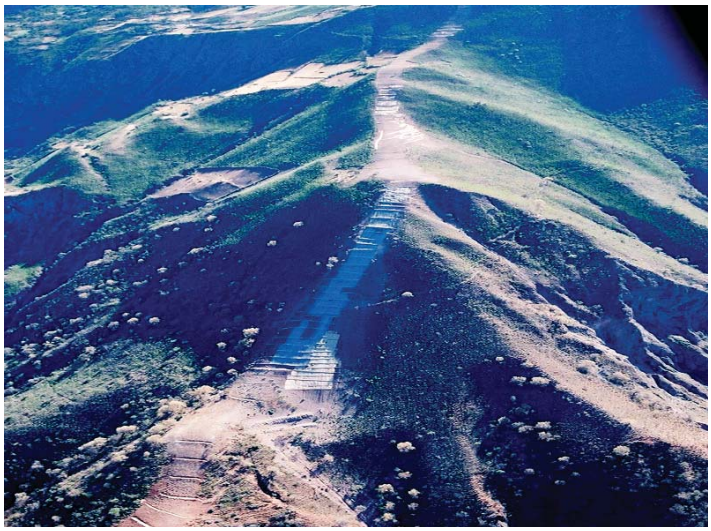
Sierra section (kp 350 – Apurimac River crossing ~kp 170):

- *Erosion Control.* A large section of the ROW has permanent erosion control measures. Geotech mats were observed in some steep ROW sections. Portions of the ROW that continue to be problematic are the steep side slopes where limited to no erosion controls were visible and several ROW river/stream crossings. In the vicinity of the Apurimac River crossing there were stretches without erosion control measures in place. However, permanent erosion control work in this area was to start in two weeks. Sections of the ROW from the Apurimac River crossing showed serious erosion along the side slopes. This also includes at least one 6 m wide ridge where there are no erosion control measures along the side slopes. This area is subject to natural slides so will be more difficult to control erosion.

  The stretch of ROW in the area of Rio Alfarpampa is reportedly permanently affected by land slides. TGP was requested to provide URS elaboration for this area but only provided information specific to kp 182. It was also reported that in another area, slides had bent the pipes (which presumably required their replacement – although not indicated in notes). Currently work is ongoing in that section to divert water to prevent future slides. In the area of Acocro, due to a geological fault, 4 km of pipe had to be realigned. Discussions indicate that that are still problems in this area.

Revegetation. Revegetation efforts directly on the ROW are a mixture of crops (i.e. barley – which has been harvested by local farmers) or rice straw. There are some sections which are still bare ground. Bofedales (highland wetlands) were said to be revegetated with clover. No observations of revegetation on the side slopes were made. There was separation of topsoil from subsoil during the construction period.

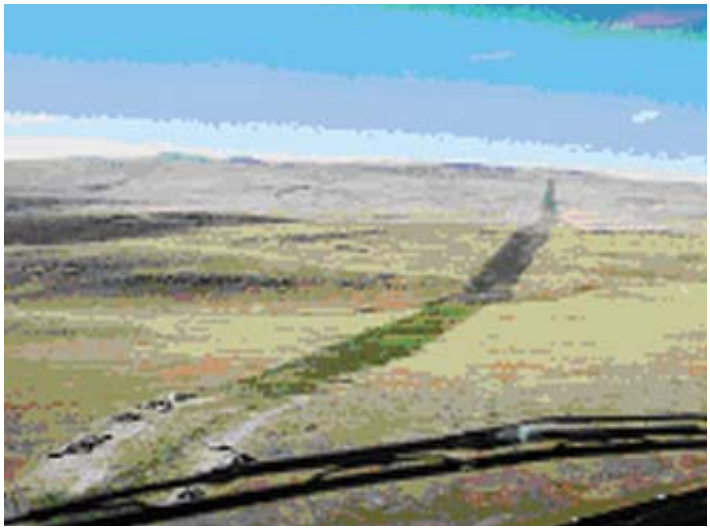
- *Environment issues and progress.* There is an agreement for TGP to pay for additional Park rangers to protect vicunas from poachers. TGP also financed the establishment of an 8 km



SOURCES: VICTOR BULLEN, USAID

Section of ROW which highlights the use of erosion control barriers, geotech mats and erosion on the side slope.

Steep side slope off ROW where no erosion control measures are in place.



Revegetated ROW

ROW with limited revegetation

SOURCES: VICTOR BULLEN, USAID

fence for the safe capture of vicunas. This has resulted in a 50% increase in the vicuna population from 20% due to greater protection and safer capture conditions.

Bofedales (wetlands) crossings were identified as sensitive areas and worked differently than rest of ROW. Geomembrane was used on either side of trench. However, it is not know whether the hydrology of thebofedales have been impacted.

- *Social issues and progress.* Sixty-six communities are affected by the project. According to TGP, the main complaint received was related to being able to work on the pipeline. TGP was able to satisfy 60-80% of the communities complaints. TGP used 90% local labor in 72% of communities where the pipeline crossed. They used a three month rotational system for working on the pipeline for laborers from each community. With respect to social problems occurring as a result of a boom-bust cycle, TGP believes these communities are accustomed to this type of noncontinuous work. TGP has not received any complaints from communities where agreements have been finalized and completed.

Selva section (Comerciato River crossing – Las Malvinas)

- Erosion Control. Erosion control has taken place in parts, but not all of the observed ROW. The Comerciato River crossing still requires extensive erosion controls in some areas. Similar to the sierra, the majority of the steep side slopes do not have erosion control measures. Geotech mats have been placed on some steep slopes but only down to approximately 50 m from the top of slope. In the Alto Shimaa area, erosion control is in place. Around Kp 87, is a narrow 4 m wide ridge with exposed rock – permanent erosion control on this section should be finished by October 2004. From Mantalo (~ kp 70) almost to the Machiguenga Reserve (Kp 59-60) there are no permanent erosion control measures. However, erosion control work is being carried out (via physical barriers and planting vetiver) in the section of the ROW entering into the Machiguenga Reserve. Along this section of ROW, temporary erosion measures have clearly failed and there is serious side slope erosion where no erosion controls are in place.

SOURCES: VICTOR BULLEN, USAID

Comerciato river crossing

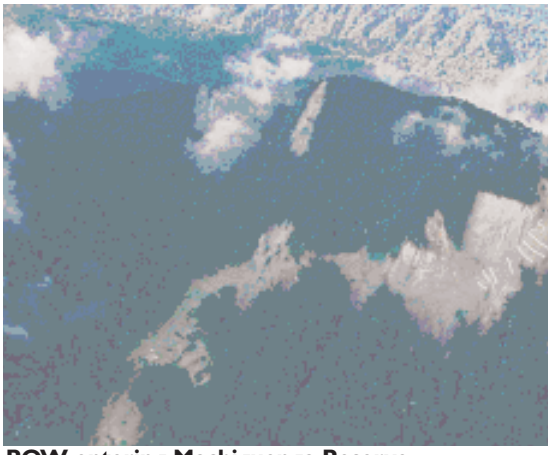
Section of ROW with revegetation and side slope with geotech mats

SOURCES: VICTOR BULLEN, USAID

ROW with side slope erosion with some use of geotech mats.

ROW with side slope erosion and absence of erosion control measures on slopes.

SOURCES: VICTOR BULLEN, USAID



ROW entering Machiguenga Reserve.

ROW with temporary erosion control and no erosion control measures on side slope.

SOURCES: VICTOR BULLEN, USAID

Kudzu invading ROW at ~kp 125.

- ***Revegetation.*** Parts of the ROW are revegetated while other parts appear to be exposed dirt/rock. Contrary to the revegetation plan, TGP stated that they would not be revegetating the steep side slopes or some of the cut side slopes. At kp 125, there is about a one km stretch of kudzu which, based on its aggressive nature (climbing small shrubs/plants) and larger leaves, appears to be Pueraria lobata (species determination needs to be confirmed). Although this species was not planted by the sponsor, the actions of developing the ROW have made conditions conducive to its growth on and along the ROW. We observed kudzu vines starting to cover larger plants within the ROW. TGP said they were not going to plant any trees since they would be over taken by kudzu. TGP also stated that they would not be removing it from this revegetated area since it was "green." Kudzu is an exotic, invasive species.

  Six out of the 13 nurseries spread out along the ROW will remain active for the next five years, the period of time for TGP's revegetation program. Approximately 800,000 trees have been planted. On steep areas of the ROW, vetiver (exotic species) has been planted as erosion control. There is an 85% survival rate of seeds/seedlings planted along the ROW. TGP stated they did not plant species which were predominant in the area or proportional in distribution. The types of plants used were based on seed availability around the nursery as TGP tried to make things as simple as possible for the communities. Unlike the sierra, URS stated that there was no separation of topsoil from subsoil.

- ***Biodiversity.*** Although TGP routinely says they are doing biodiversity monitoring, the scope of this monitoring is not clear. In addition, it is not apparent how the data is being collected, managed and analyzed with subsequent input into management decisions and mitigation activities. In discussions with TGP, there continues to be a lack of appreciation to the biodiversity importance of the montane cloud forests.

SOURCES: VICTOR BULLEN, USAID

ROW with revegetation.

ROW with permanent erosion control.

- ***Shimaa community (Upper Urubamba).*** Since last year's meeting, the issue of relocating the three families that were separated from the rest of the community by the ROW has been resolved. All three families now have new homes constructed within the past year (see below). However, similar issues which were discussed last year were raised again. For example, there continues to be contamination of Rio Shimaa, Rio Cumpirusiato and smaller streams with landslides resulting in dirty water for some families along the ROW. They are seeing an increase in colds within the community, although reasons for the increase are unknown. They do not believe process issues with TGP have gotten better or worse, although it is still slow. Similar to last year, there still seems to be a lack of communication between the community and TGP. The community has received final compensation and appear to be satisfied, however there is confusion with respect to payment for the use of a small section of their land. They are not impressed by the quality of erosion control and revegetation. Some of the plants are dieing and they are not sure if TGP will come back to replant. They also preferred to have had kepashi palm and spanish cedar planted. They do want to develop a long term relationship with TGP since they do not feel the GoP is responsive. As with last year, their priority issue continues to be building the bridge to connect the remainder of their community on the other side of the Shimaa river.

II. Las Malvinas

- ***Erosion Control.*** Overflight along the flowlines did not show any serious problems with erosion control.

- ***Revegetation.*** The flowline from well sites SM1 to SM3 has been closed and revegetated. The flowline from SM1 to Las Malvinas was not closed yet (it was to be closed within the next few weeks). Kudzu (Pueraria phaseoloides) was used at a number of landfill sites, around the airport landing strip and at San Martin 1 (unclear if it is used at SM3). At SM1, we observed two small cecropia trees that have kudzu crawling up them, the one at the right of the picture appears smothered completely. During March 2003 U.S. government visit,

SOURCES: VICTOR BULLEN, USAID

PP told USAID/Department of the Treasury that the kudzu at SM1 was going to be removed, however, it was still present. URS has observed that the kudzu around the airport is beginning to invade the selva. They reported that this observation was also made by OSINERG.

SOURCE: VICTOR BULLEN, USAID

SM1 site with kudzu crawling up small cecropia trees.

- ***Environmental issues and progress.*** OSINERG stated that although there were no major environmental problems, three problems were raised:

– The EIA was originally approved requiring the reinjection of production water into another well site, which is considered international best practice. PP recently submitted a modification to the EIA for permission to treat and dispose of the production/condensate water into the Rio Urubamba. The amount of water to be discharged is 500 barrels/day. The reason for this request is that the location and design for the disposal well sites are still under study. Once a location and design is finalized it will take at least 4-6 months to develop the reinjection site. Ministry of Energy and Mines decided in early June to approve the change.

– Although no critical examples were cited, there are delays in carrying out mitigation measures. The example given concerned the closure of the flowline from SM1 to Malvinas. They were concerned that closure had not begun and were not sure when it would occur even though the nurseries are in place. When we asked Pluspetrol (PP) about this they said it was to begin within two weeks. Thus, there seems to be some lack of communication between OSINERG and PP.

– There continues to be lack of compliance with biodiversity monitoring which OSINERG views as a point of noncompliance with the EIA. The whole process has been stuck in planning stage and nothing has been done. PP confirmed that no biodiversity monitoring was taking place. PP stated that a draft was presented to NGOs/PCS in December 2003 and they were still waiting for comments from them. (During the Lima NGO meeting, they stated that comments had already been provided earlier in the year.) Both PP and TGP are in process of developing TOR for bidding from selected institutions to begin the work during the fourth quarter of 2004.

OSINERG also raised the possibility that PP will be fined in their next report regarding the shoe-flies. Shoe-flies can be described as short access roads that loop around segments of the ROW.

Confederation/ Representative Organization	Indigenous Group	Location
Comaru	Machiguenga	Block 88
FECUNAMA	Machiguenga	Neuvo Mundo
FECOYANI	Yeni	Sephua
Organization of Indigenous Regional Alaia	Ashenka	Transit along Rio Urubamba

- ***River issues and progress.*** There is a river traffic monitoring program with 20 monitoring stations in selected communities along the Rio Urubamba. All four indigenous groups are involved with this program.

  PP's most recent fishing report does not show evidence of significant impact of PP activities on fisheries. However, to accommodate river traffic, fishing times have been changed. PP plans to continue this monitoring program for one more year. With respect to additional construction activities for the development of CS1 and CS3 – PP did not know whether they would continue the monitoring program through that construction period. TGP will add three new monitoring sites so the entire basin will be covered.

- ***Social issues and progress.*** OSNERG makes monthly monitoring trips into the Nahua-Kugapokori Indigenous Reserve (NKR) to determine any instances of contact with isolated peoples (IP) – i.e. IP around platforms or PP employees/contractors leaving platforms seeking out IP. During the rainy season, they go into NKR with a boat and interpreter. During the dry season, they talk with monitors in each community to see if they are aware of any disturbances. To-date they have not seen any problems. OSNERG has assumed CONAPA's role since CONAPA does not have the capacity.

- OSINERG stated that PP reacts rapidly on social issues and are carrying out their obligations to communities.

- ***Segakiato community (Lower Urubamba).*** The community is satisfied with PP and most problems seem to be resolved. However, one key area of concern was emergency health care and evacuation to Las Malvinas for treatment. There is a difference of opinion between PP and the community as to what constitutes an emergency. OSINERG stated that they were trying to resolve this issue by coming up with guidelines. The community has a vaccination program and a trained health promoter. The on-site health service is good as long as there are medical supplies available. Health status is the same as before PP activities. They have an environmental monitoring program and send monthly reports to PP. There are no grave environmental problems. Since the completion of construction last year's problem with boat traffic is not longer an issue. The situation with wildlife scarcity is also beginning to improve. The construction of the Community Center (below) is in progress and should be completed by August 2004. Other community priorities include a water system and electrification. Studies have been initiated for both of these projects.

SOURCE: VICTOR BULLEN, USAID

Community house under construction at Segakiato.

III. Paracas Bay

- ***Paracas Bay Commission (PBC).*** CONAM stated they were not consulted with the establishment of the PBC and are not pleased that the PBC was placed under their responsibility. They were equally displeased with the fact that USAID funds targeted for other CONAM activities had to be reoriented towards the PBC. CONAM also stated that part of the "plan of the plan" is to identify what entity or authority is required for implementing the plan" and they would pull out at that point in time.

  CONAM initially did not take any steps to promote PBC as a participatory body resulting in the disenfranchisement of many of the

stakeholders. However, there has been recent forward momentum with developing a common vision for the PBC. A one-day strategic planning workshop meeting was held in late-May which resulted in a participatory and collaborative atmosphere. If follow-up workshops are as productive and positive as this one, the PBC will be well on its way to achieving its vision. All participants interviewed spoke very highly of this workshop.

However, there are still a number of pitfalls for this process to be completely successful given all the stakeholders' preconceived beliefs, agendas, etc., and thus the process should not be forced in order for the PBC to have complete ownership of its role and function. The view of several stakeholders is that PBC is a Lima-based initiative and lacks transparency with respect to funds.

Infighting between MEM and CONAM as to transfer/spending of funds has impeded implementation of the PBC. As of June 8, 2004, there was no administrative support (i.e. office, equipment) for the PBC regional coordinator residing in Paracas. USAID authorized purchase of vehicle for the PBC that as of June 8, 2004 was still in Lima.

USAID/Peru has contracted with IRG to provide support to the PBC. IRG has been a pivotal player in this process and it is clear that without their involvement PBC activities would not have achieved the progress to date. IRG has been instrumental in organizing a series of technical studies and keeping the momentum moving. It is important for USAID to continue supporting PBC through IRG to help establish a fully functioning PBC.

There is still the outstanding issue of what happens to the intent and activities of the PBC when its mandate to function ends in September 2004. The September 2004 language is not specifically in the decree but is embedded into the *compromiso* which includes the key milestones:

- Draft TOR for Plan (Oct 30, 2003)
- Consultation with stakeholders (Nov 30, 2003)
- Baseline diagnostic studies (March 30, 2004)
- PBC prepares the plan (September 2004)
- Plan implementation (10 years)

- ***PlusPetrol's Activities.*** There still remain concerns with the lack of baseline data and of analyses for project impacts, i.e increased tanker/boat traffic on benthic community. Because of these issues there is concern that the reduced monitoring frequency during operation phase will not be adequate.

  There still remain concerns as to the quality of PP monitoring system, lack of control points within the Bay, lack of indicator species to identify ecosystem integrity and the lack of analysis of the data to analyze trends. Data are not integrated over a timeline so difficult to determine impacts unless they are severe. At the PBC meeting, the need for independent monitoring was raised because participants could not trust either PP or GoP.

Given the presence of heavy metals in the Bay, there is concern of the potential accumulation in marine organisms. This issue apparently has not been investigated either before and after dredging activities.

OSINERG has three pending actions against PP for noncompliance: 1) environmental monitoring (not following standard procedures, biodiversity not using the right expertise), 2) dredging at night and 3) lack of authorizations/permissions.

PP has not joined the UK Oil Spill Response Group as discussed last year prior to EXIM Board vote. They are currently talking with a Florida-based oil spill response organization.

- ***Recent Fish Die-off.*** There is not a unified government position as to the cause of this event. There are strong feelings from various stakeholders that the GoP response was inadequate and there is not a unified approach to determine actual cause and implementation of additional monitoring within the Bay to assess long-term implications.

  There is need for an early warning system/mechanism to be put in place to prevent/mitigate this type of incident in the future but it does not appear that any steps are being made to accomplish this.

- ***Biodiversity.*** There continues to be concerns over the deficiency of biodiversity baseline data and the ability to identify impacts due to either construction or operation of facilities. Problems cited with respect to monitoring included the absence of a proper monitoring grid for the bay to be able to detect changes, the absence of control points inside the bay, methodological concerns such as the collection of benthic samples and frequency of monitoring during the operations phase.

  To fully understand the impacts on the Bay there needs to be a systematic integration of all sampling/monitoring activities.

IV. Community Relations

- ***TGP's Local Development Program (LDP).*** (note: LDP is part of Access Control Plan.) OSINERG and URS raised the issue of the LDP being poorly implemented. To date, only three projects out of about 50 have been completed and all three were in the Sierra region. There appears to be disagreement between OSINERG and TGP over the timeframe envisioned for the LDP. The lack of implementation of tangible projects under the LDP is undermining TGP's credibility, and harming TGP relations with communities along the ROW. TGP has done other projects in communities not under the LDP, but these have been ad-hoc in nature and each community is treated differently. There appears to be a general lack of coordination and transparency in TGP for these projects.

- ***(In)Voluntary Resettlement.*** OSINERG and URS raised the issue of two communities (Collpa, Huayllahura) near PS#3 on the ROW where families are located in very close proximity to ROW. In one area, more families are moving in due to increased access to the road and perceived job employment opportunities. TGP committed to resettlement of only the original four families but has not actually moved the families nor appear to have dealt with the

larger issue of new families moving in. In the other community, the ROW divides the community in half and efforts have only been made to move the few homes closest to the ROW back some few meters. There is no effort to relocate the community so that it will not be divided by the ROW; this appears to be a similar situation to Shimaa community where the three to four houses that were separated from the rest of the community by the ROW and were relocated.

- ***Community monitoring.*** Pronaturaleza's community monitoring program stopped in November 2003 and was recently resumed in April 2004. The resumption of the monitoring is designated as the "second phase." For Block 88, additional environmental components were added, such as flowlines, production wells, Las Malvinas solid waste and water treatment. This activity has evolved from merely reporting back information to the communities to discussions of the results and implications for the communities. The community of Segkiato appeared to be well trained and actively participating in the monitoring program. There is about 30% turnover in community monitors per year.

- ***Compensation.*** TGP and PP are finalizing compensation agreements with all project-affected parties. Shimaa and Segakiato appeared to be satisfied with levels of compensation, although there was some confusion in Shimaa on compensation for land used for a pump station. OSINERG/URS are concerned about the lack of standards for establishing compensation levels for dealing with spillovers and the variation in compensation between the different communities, especially in the selva. OSINERG has requested information on the compensation from TGP but have not received it.

V. Health

PP and TGP have an agreement with the MINSA in Cuzco to provide transport services to evacuate individuals with serious health problems (area from the Pongo to Malvinas). There appears to be some misunderstanding about the types of illnesses that warrant evacuation. As far as OSINERG can tell, there have been no health/epidemiological outbreaks in the area. However, they acknowledged that without adequate baseline data it is difficult to tell. Nutrition is a problem in the Nanti communities (Marankiato and Montetoni) but not with the isolated peoples.

NGOs/PCS are aware of the health study that was conducted by MINSA which identified health risks. There is concern within the community that this report has not been made available to the public despite assurances that it would.

The GoP health-related IDB condition is being supported with US $100k from the Private Sector Institutional Strengthening Loan. This is not seen as sufficient resources to fulfill the obligation given the scope of required activities. Common health problems include intestinal problems/parasites, Hepatitis B, and yellow fever. The GoP is seeing an increase in influenza in the area. MINSA has completed a vaccination program. There is not an integrated effort between the various health services (PP, TGP, GoP) which is further impeded with absence of information sharing.

At the 5th Session of the National Commission Health of Indigenous Communities, MINSA was informed that Nanti communities did not want to have medical infrastructure within their communities. The Nanti believe that the health workers coming into the area are spreading disease. GoP is developing a national strategy for the Amazon/Sierra to be able to more effectively reach these communities. They estimate that their new plan will reach one million people.

There is concern with potential health problems in Paracas ranging from ingestion of fish contaminated by heavy metals into the food chain and the net exploitation of the ecosystem and subsequent nutritional impacts.

VI. Access Control

TGP has identified four areas of migration risk which was determined by access and land availability. Areas identified at risk were due to either a junction of an existing road/river or junction of ROW/river. PMAC (a community monitoring program) has added access control as a new component of its monitoring activities. TGP is not planning on using vegetative plugs as a measure of access control since they feel that the erosion control barriers will not enable vehicles to pass. They do not think people will enter via foot or with pack animals. They believe that there are no migration problems in the Lower Urubamba since the area has been titled since the 1980's (note: this contradicts TGP Access Control Plan which mentions migration into the Lower Urubamba (Sepahua) resulting from previous Shell activities).

TGP provided US $250k to INRENA (either in 2002 or 2003) to construct guard posts. Similar to discussions last year, there are still no guard control posts in place. INRENA held an initial bidding process for the construction of the guard posts, but only one unsatisfactory bid was received. Their current plans are for INRENA to construct the posts themselves. INRENA has conducted an analysis for the placement of the guard posts. (note: Guards are already in place and the posts are to be completed by October 2004 (IDB, 9 July).)

INRENA has completed an analysis on the legal mechanisms to control access. It appears at present, GoP does not have the tools to deal with illegal migrants – only if settlers invade communities with registered titled lands. GoP is increasing the presence of institutions to protect peoples rights – such as the Defensoria del Pueblo.

There is a lack of PCS participation with INRENA's work on access control.

OSINERG has not seen any incursions into the Lower Urubamba. However, a recent report (Nov 9-20, 2003) by an IDB consultant mentioned "invasion of areas adjacent to the ROW by farmers at the Urubamba river crossing (kp 12), with active clearing, burning and planting of rice, yucca (manioc) and plantain."

VII. Camisea Ombudsman

Since the U.S. government visit in March 2003, the Ombudsman's office has made substantial progress. They have three regional offices – Quilabamba, Ayacucho and Pisco. They see PP and TGP as having very different strategies dealing with communities. PP has a very strong and active approach where as TGP activities and involvement are more diffuse.

Typical problems that they have dealt with are construction dust and agriculture problems. Some cases where there is poor communication between the parties, lack of clear baselines or voids in the EIA make it difficult to reach an agreement. The office has worked on 140-150 cases. Approximately 75% are from La Convencion, some from Ayacucho and a small number from Pisco region. There have been no claims in Huancavelica which could be due to poor information access by peasant communities and lower population density resulting in fewer people impacted. The Ombudsman mandate ends in August 2005.

VIII. Camisea Fund

GTCI is the responsible entity for designing the Camisea Fund (CF). There have been two rounds of consultations with PCS. During the recent site visit, the U.S. government del was informed that GTCI was working in parallel with Congress to establish the law which will enable the creation of the CF. The CF needs to be an independent institution and subject to public scrutiny. Some member of Congress believe that the GoP contribution of 7.5% of royalties is not enough and would like to see it increased. However, GoP would like to see only 1/3 or less of public funds going into the CF. This could mean either increased participation by other entities or a reduction in GoP contribution since at this point in time the level of GoP contribution is not legally mandated. GoP is looking at opening the window between September and December 2004. A key problem is the constitution of the Board of Directors to make sure the purpose of the Fund is achieved and that the 15-20 (?) provinces, NGOs and CS are properly represented. GTCI is exploring the idea of setting up an Advisory Council of Experts to meet on a monthly basis. The key is to be able to work in the poorest areas and select projects so communities feel engaged in the process.

IX. Hydrocarbon Policy – Blocks 56/57/90

The GoP has required inclusion of language that refers to international environmental/social principles in the legal contract for Block 56 and an additional convenant for blocks 57 and 90 which had a previously signed contract. The language states that the contractor will utilize appropriate techniques such as the "Energy and Biodiversity Initiative" and guidelines such as "The Equator Principles," neither of which are international standards.

PeruPetro sees as a fundamental task the revision of the Environmental Protection in Hydrocarbon Activities Norm (Law) which the DGAA is the responsible entity. There are three IDB consultants working on this and GTCI feels satisfied with the work.

Block 56 development is an important component to Hunt's proprosed LNG facility. Current status activities:

- Negotiations with GoP with respect to royalties is complete
- DGAA, PetroPeru and Defensoria de Pueblo developed a report on activities prior to PP entry into the Block. (IDB has a copy of this report)
- TOR for EIA was discussed with NGOs in Lima
- GoP introduced PP to the communities who they are now in discussions with and getting baseline data

PP conducted the first biodiversity baseline study during March 2004 (wet season) and will conduct the dry season baseline in July 2004. PP stated they would send the TOR and the EIA to USAID for comments but it has not been received. Conservation International discussed the fact that although they had provided comments they did not see an improvement in the TOR.

There is an outstanding issue related to the expansion of the pipeline within the Andean region. The Dept of Cuzco is going to have a natural gas line which can either be a new pipeline directly from Las Malvinas or from the take-off point at Kepashiato. Because of transport fees, the new pipeline from Las Malvinas is desirable.

X. Construction Camp Closures

During camp closures, TGP is transferring sites back to communities without returning them to their original condition. Although this is being done at the request of the communities, some of improvements or structures that are left on site may not be sustainably managed and may end up as environmental liabilities. OSINERG/URS believes that this is not in line with either the EIA or Social Plan that says to restore and revegetate camps unless the infrastructure meets the requirements for sustainability and the community has the capacity to maintain it.