

Executive Summary

Introduction

On April 27, 2006, the Inspection Panel received a Request for Inspection of the West African Gas Pipeline (WAGP) Project.

The Request was submitted by the Ifesowapo Host Communities Forum of the WAGP Project (the “Association”) through their representatives from Olorunda Local Government Area of Lagos State, Nigeria. Additionally, the Panel received a letter from Friends of the Earth Ghana (FoE-Ghana), expressing its support for the Request and asking to be added to the Request. The Association and FoE-Ghana represent local people living in Nigeria and Ghana and are also referred to as the Requesters.

The Project

The Project consists of the construction of a new pipeline system that will transport natural gas from Nigeria to Ghana, Togo and Benin. The Project includes spurs to provide gas-to-power generating units in Ghana, Benin, and Togo, the conversion of existing power generating units to gas, and, as needed, additional compression investments. The new pipeline (678 kilometers long) originates at a connection to the existing Escravos-Lagos Pipeline in Nigeria. Fifty-eight kilometers of pipeline and other ancillary facilities are to be constructed in southwestern Nigeria, and the pipeline then runs off-shore to a terminal point in Takoradi, Ghana.

According to the Project Appraisal Document (PAD), the Project aims to contribute to, *inter alia*, “improving the competitiveness of the energy sectors in Ghana, Benin, and Togo by promoting the use of cheaper and environmentally cleaner gas from Nigeria in lieu of solid and liquid fuels for power generation and other industrial, commercial uses, and diversifying energy supply sources.”

The International Development Association (IDA) (hereinafter referred to as “the Bank”) has provided a guarantee, in the amount of US\$50 million, for certain obligations of Ghana related to the purchase of natural gas from the West African Gas Pipeline Company Limited (WAPCo). The Multilateral Investment Guarantee Agency (MIGA) has provided a US\$75 million in political risk guarantee to WAPCo in relation to the construction of the pipeline and associated facilities. The Project is implemented by WAPCo. Current shareholders of WAPCo include Shell, Chevron, Nigerian National Petroleum Corporation (NNPC), Volta River Authority (VRA) of Ghana, BenGaz of Benin, and SotoGaz of Togo (the Sponsors).

The Claims of the Requesters

The Requesters believe that the Bank did not comply with its policies and procedures in relation to the Project, and that the Project will cause irreparable damage to their land and destroy the livelihoods of their communities. Requesters from Nigeria's Delta Region are mainly concerned with the Project's impact on gas flaring reduction and with the safety of an existing pipeline to which WAGP is to be linked. The Requesters and affected communities living near the gas pipeline in Nigeria complain mainly about low compensation rates for the land they had to give up for the pipeline. Those living in southwestern Nigeria, where the pipeline goes under the sea, claim that the construction process hurt their fishing enterprise. The Requesters from Ghana are concerned about inadequate consultation regarding the Project's economic viability, the pipeline's safety, and its impacts on coastal fisheries.

(i) Environmental Assessment and Environmental Issues

The Requesters from Nigeria assert that the Environmental Assessment (EA) for the WAGP should have included the effects of the Project on the existing Escravos-Lagos Pipeline System (ELPS) to which the WAGP will be linked. They believe that the ELPS is unsafe because of its history of poor maintenance and accidents. Moreover, they state that the EA identified the importance of an emergency response system for the construction and operation of the Project. However, they question whether local people will be able to utilize and understand such a system in the case of an accident. They cite several instances of oil and gas related accidents. Similarly, the Requesters from Ghana doubt that Ghana has the capacity to respond to such accidents.

The fishermen among the Requesters in Nigeria believe that the construction of the gas pipeline polluted the water and damaged their nets so that they were no longer able to catch fish in the area. The Requesters in Ghana stress that fishing is essential to their livelihoods and that continued impact assessments should have been conducted to avoid any negative Project impacts on livelihoods and the fisheries ecosystem.

(ii) Economic Evaluation and Gas Flaring

The Requesters from Nigeria question the economic evaluation of the Project and believe that it was based on incorrect assumptions about its impact on the reduction of flaring of "associated gas" (gas recovered when oil is being extracted) in Nigeria. According to them, the assertion that such associated gas would be a significant source for the pipeline is misleading given the actual amount of associated gas to be exported. The Requesters claim that without assurance that the Project will only use associated (otherwise flared) gas rather than less-costly non-associated gas, the Project will not attain its objectives.

The Requesters from Ghana add that Ghana's Energy Commission has also raised concerns about the Project's long term economic benefit to Ghana and the Requesters believe that these concerns have not been taken into account in the consultation process and will not be adequately addressed in the future.

(iii) Disclosure of Information and Consultation

The Requesters claim that the disclosure of relevant information, such as the EA and Resettlement Action Plan (RAP), was inadequate. They also claim that the economic and financial analysis of the Project was never disclosed.

More specifically, they assert that they did not have timely access to the EA. They understand that the EA is now available on the internet, but assert that the EA is still difficult to access and understand, given the size of the document, the lack of internet access in their area and the low literacy level in their community. As a result, the Requesters claim that many of the stakeholders did not have access to information about the Project and that the members of the communities could not understand the information that was provided.

(iv) Involuntary Resettlement and Poverty Reduction

The Requesters along the Nigerian portion of the pipeline claim that the Bank has failed to comply with its Policy on Involuntary Resettlement. They fear that the Project will negatively impact their livelihoods. They claim that the Project will not restore or improve their standards of living and that the compensation provided is inadequate.

The Requesters assert that compensation does not account for the loss of land, trees and/or other assets, including future income streams, and they express their concern regarding valuation methods to determine compensation rates. Moreover, the Requesters assert that the RAP lacks mechanisms to secure long-term employment for affected members of their communities. As a result, they believe that the people of their communities will become further impoverished.

(v) Supervision

The Requesters claim that many of the above-mentioned problems stem from Management's failure to comply with the Bank's Policy on Supervision.

Response from Bank Management

In its Response of June 2006, Management states that the Bank has made significant efforts to apply its Policies and Procedures. Management recognizes, however, that further work will be needed on supervision of the Project and compliance with the Bank's Policies.

(i) Environmental Assessment and Environmental Issues

Management claims that the Project will not cause major impacts in Nigeria and explains that the EA did not include the ELPS, because it was not part of the Project's area of influence. Management cites an ELPS Integrity Study, which described the ELPS pipeline as being in good condition overall and having sufficient capacity to operate

under the Project. Regarding safety issues, Management reports that WAPCo conducted a community meeting attended by residents from at least three of the communities that submitted the Request and that WAPCo issued a system-wide Emergency Response Plan on May 19, 2006, and intends to prepare site-specific response plans.

With regard to the problem of water pollution in the Badagry area (in Nigeria) and the alleged loss of fisheries, Management indicates that it would pursue a preliminary investigation into the matter. However, Management deems it unlikely that the problems are related to the Project. In Response to the Requesters' concerns regarding possible negative impacts on livelihoods and fisheries in Ghana, Management believes that the environmental monitoring plan included an assessment of these impacts and contains measures to deal with them adequately.

(ii) Economic Analysis and Gas Flaring

Management believes that it considered all feasible alternatives and adequately evaluated the sustainability of the Project. It also believes that the economic analysis and the PAD draw a realistic picture of the Project's contribution to the reduction of gas flaring. Management indicates that while flaring reductions are not explicitly mentioned as one of the Project objectives in the PAD, it does "*make a modest contribution to flaring reduction.*" According to Management, the annual volume of associated gas (normally flared) is even included as one of the Project's monitoring indicators.

(iii) Disclosure of Information and Consultation

Management claims that frequent and extensive consultations were held regarding the EA, the RAP, and the issue of compensation. Management acknowledges, however, that the disclosure of information needs to be improved in the Project. Management also acknowledges that disclosure should have been supplemented with translations of summaries of RAPs and EMPs in the local language.

(iv) Involuntary Resettlement and Poverty Reduction

Management indicates that it would ensure that the principle of "*replacement value*" will be applied for land and assets and, if the principle for compensation had been applied inconsistently, the Bank will ensure that it gets corrected.

During consultations held by the Bank in 2004, Management and WAPCo assured the participants that government rates would not be used as a basis to determine compensation amounts. Management confirms that it is reviewing the actual payments "*to ensure that, regardless of OPTS [Oil Producers Trade Section] rates or any mark-ups agreed, the principle of replacement value for lost assets was met.*"

Regarding the issue of employment of local affected people, Management claims that most landowners have lost only small parts of their land and thus do not need alternative employment. Management mentions several employment activities that would benefit

people living in the Project area. Additionally, Management emphasizes that WAPCo has instituted Community Development Programs.

(v) Supervision

Management states that supervision includes multiple layers of oversight, but acknowledged that further work will need to be done and that a field mission was delayed.

The Investigation Report and Applicable Policies and Procedures

This Report concludes the Panel’s investigation into the matters alleged in the Request for Inspection. The Chair of the Panel, Werner Kiene, led the investigation. Two expert consultants, on social issues and resettlement, and on environment, assisted the Panel in the investigation.

The Panel reviewed relevant Project documents and other relevant materials provided by the Requesters, Bank Staff, government representatives, local authorities, WAPCo representatives, individuals and communities living in the areas affected by the Project, non-governmental organizations and other sources. The Panel organized three visits to the areas affected by the Project, in June 2006, January 2007 and July 2007, and interviewed Bank staff in Washington and in the offices in Abuja and Accra.

During its visits, the Panel met with Requesters and other individuals and communities, local and national government authorities, WAPCo staff, representatives from non-governmental organizations, relevant experts and others. The Panel wishes to extend its sincere thanks and appreciation to all of those with whom it met for their time and cooperation.

With respect to this Project, the Panel assessed whether the Bank complied with the following applicable Operational Policies and Procedures:

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|-------------------|--|
| OP/BP 4.01 | Environmental Assessment |
| OP/BP 4.12 | Involuntary Resettlement |
| OD 4.15 | Poverty Reduction |
| OP 10.04 | Economic Evaluation of Investment Operations |
| OP/BP 13.05 | Project Supervision |
| World Bank Policy | on Disclosure of Information |

Context

The Project should be viewed in the broader context of Nigeria’s and the region’s hydrocarbon economy and its social and environmental dimensions. Nigeria has more than 250 oil and gas fields, including approximately 2,600 producing oil wells that yield about 2 million barrels of oil per day. Worldwide, Nigeria is the ninth largest gas producer and potentially a major gas supplier. However, a large portion of the gas

associated with oil production is currently flared. Nigeria is reported to be the world's largest gas flaring country in spite of the government's legislation intended to reduce flaring and completely cease flaring by 2008.

The development of the Nigerian oil industry has affected the country in a number of ways, both positive and negative. Oil has been the foundation for the country's remarkable economic growth, but exploration and production of oil and gas also have had adverse effects on the livelihood and environment of communities living in the production area and near the pipelines.

Social and political conflicts are considered to be rooted in the inequitable social relations that underlie the production and distribution of profits from oil, and its adverse impact on the fragile ecosystem of the Niger Delta. Hydrocarbon extraction in the Niger Delta has caused critical environmental effects such as: contamination of streams and rivers by drill cuttings and drilling fluids; oil spillage from wells, pipelines and tankers; gas flares causing noise, light and air pollution in nearby villages; and effluent discharges from oil and gas installations and refineries.

In 2004, the lost opportunity value of flared gas was estimated at US\$2.5 billion and the adverse environmental costs were similar in scale, including from approximately 70 million metric tons of CO₂ emissions a year. The local-area population reported to the Panel that the impacts of the gas flaring on people and the environment -- intense pollution and heat over extended periods of time -- are ravaging and extreme.

Social Issues -- Analysis of Compliance

In response to the Request, the Panel focused its analysis on displacement issues brought to its attention by Requesters in Nigeria. The development of WAGP involves the displacement of people associated with the land acquisition of 144 hectares for pipeline construction and operation in Nigeria, including the right of way (ROW) and ancillary facilities. The 25 meter-wide ROW traverses 23 western Nigerian communities, including the 12 communities submitting this Request. Other social issues, including impacts relating to gas flaring, are addressed in other Chapters of the Report.

The Panel acknowledges the complexity of land tenure arrangements in West Africa and notes that efforts were made under the Project to address the related social issues. However, in its investigation, the Panel discovered significant flaws and shortcomings in the application of the Bank's Policy on Involuntary Resettlement. **By not ensuring that WAPCo followed important elements of Bank Policy, Management undercut the Bank's development contribution to this Project. More significantly, the necessary measures to avoid impoverishment of the displaced populations were not and still are not in place.**

Baseline Socio-Economic Data

Many of the problems that are raised in the Request can be linked to the lack of adequate socio-economic data on affected communities and households. Without underlying socio-economic numbers, resettlement planning and mitigation measures risk falling short of what is required by Bank Policies to safeguard affected people, including vulnerable groups, against risks of impoverishment.

The Bank's Policy on Involuntary Resettlement calls for the assessment of these risks, and related mitigation measures, to be based on an accurate census survey with details on current occupants, displaced households, livelihood, expected loss (total and partial) of assets, and vulnerable groups. There should not be a reliance on averages or aggregates as was done in this Project. The Policy requirements cannot be met by general data on the Project affected area or populations, nor by extrapolation from a sample. Additional studies on land tenure, transfer systems, and patterns of social interaction are also required.

The Panel found that Management did not ensure that the requisite socio-economic information was gathered as called for in the Bank Policy. This does not comply with OP 4.12. The Panel finds that the absence of adequate baseline information makes it impossible to ensure that the impacts and potential impoverishment risks facing local people are properly addressed, as required under the Bank's Resettlement Policy.

(i) Number of Displaced Persons

The Panel expert identified methodological problems in the approach to identifying the number of people claiming ownership on the Nigerian ROW, that bring into doubt the size of the affected population. The plots acquired for the Project appear to be portions of extended family holdings. The socio-economic data which led to decisions on resettlement options, however, did not fully reflect the land tenure system along the ROW.

The Panel finds that the complexities of the traditional land tenure system, wherein large extended families control land and the heads of these families distribute user rights among members of the extended family, were not adequately taken into account. This does not comply with OP 4.12. The size and economic holdings of the extended families was - and still is - unknown. Such an analysis would have helped to prevent the lack of transparency in the way compensation payments were made.

The Panel further observes that the number of displaced persons reported in the RAP was determined using a figure for "average" household size which the RAP itself notes is "*surprisingly low*." The Panel expert determined that **the size of the displaced population seems to be underestimated as a result of the methodology used for their identification.**

Similarly, the proportion of the extended family's holdings taken by the WAPCo land acquisition -- a direct indication of the degree of disruption to the basic economic unit -- is unknown. **It may be the case that the takings had nominal impacts on the overall productive capacity of the extended family. However, it may also be the case that some were disproportionately damaged. Without knowledge of the socio-economic organization, it is impossible to assess the impoverishment risk.**

(ii) Vulnerable Groups

The Bank's Involuntary Resettlement Policy calls for paying particular attention "*to the needs of vulnerable groups among those displaced (...).*" The RAP prepared for the Project, however, did not contain adequate information on the needs of vulnerable groups that were to be affected by the Project ROW in Nigeria. These included women, the elderly, the poor, and tenants. **The Panel finds that Bank Management failed to ensure that the Sponsor performed an adequate analysis of the socioeconomic risks to vulnerable peoples. This does not comply with Bank Policy on Involuntary Resettlement, and denied these peoples the protections provided under the Policy.** Since no studies were carried out or mitigation has occurred, population along the ROW remains at risk.

(iii) Land and Productive Assets of Displaced Persons

A critical element in meeting Bank Policy on Involuntary Resettlement is to properly identify the lands and productive assets of the displaced persons. The Panel notes, however, that since such data had not been collected, a questionable "shortcut" was used by dividing the average of land taken by the average household land holdings. On this basis, the Project planners concluded that the Project would take away less than 4 percent of the total land holdings cultivated by the affected households. There were no adequate data available to verify this claim.

On the other hand, in Project documents presented to the Board, it was stated that "*owners lose less than 6 percent of their total land holdings.*" This figure was meaningless in terms of identifying the actual risks of any individual household. The same defective methodology was used to report estimated household income losses, resulting from the loss of land, as being less than 2 percent of total household income. **The Panel finds that Management did not ensure that Project planners used reliable and specific data on individuals or households affected by the ROW, rather than assumptions and averages.**

As a result of these flaws in methodology, **the Project documents presented to the Board at the time of Project approval included incorrect and incomplete information on livelihood and impoverishment risks. This was inconsistent with OMS 2.20 and OP 4.12.**

Loss of Livelihood, Under-Compensation, and Harm

(i) Land-for-Land Option

The Bank's Involuntary Resettlement Policy gives preference to land-based resettlement strategies for displaced persons whose livelihoods are land-based. **The Panel finds that a land-based resettlement option, described as an alternative within the RAP and encouraged as a preference in OP 4.12, was not effectively offered to the displaced persons as a viable option for livelihood restoration. This is inconsistent with the provisions and objectives of OP 4.12.**

In addition, the critical decision to support the policy option of cash compensation as the method for addressing livelihood risks of a land-based economy was based on an assertion that there existed an active market for land in the affected area -- a factor recognized under Bank Policy in determining whether cash compensation is the appropriate method. This assertion, however, was not supported by WAPCo's Environmental and Social Impact Analysis or Estate Surveys. The Panel observed that an active market was apparent in residential plots, but that does not mean that there is an active market in traditional agricultural lands through which the pipeline crosses.

(ii) Livelihood Restoration and Method to Establish Cash Compensation

The RAP states that landowners "*are expected to be able to restore income streams without further assistance once they have received compensation for their land and assets.*" Accordingly, **the RAP transferred the burden for the restoration of livelihood onto the displaced persons, once they had obtained cash compensation, without providing additional assistance as called for in Bank Policy. The Panel finds that issues of livelihood restoration, resettlement assistance beyond compensation, and benefit-sharing were not properly negotiated with the displaced persons. This does not comply with Bank Policy on Involuntary Resettlement.**

The RAP further states that compensation negotiations would be based on "*the willing buyer/willing seller arrangement.*" The negotiation would take place using an adjusted Nigerian oil-sector (OPTS) rate as a basis for negotiation for land, crops, commercial activities and market squares. WAPCo and the Bank agreed to pay for lost assets and full income restoration through cash compensation. Full compensation, mentioned throughout sections of the RAP, is defined as the OPTS rates for land and crops, adjusted by a 10-fold multiplier and an adjustment for inflation.

The Panel reviewed evidence indicating that those sub-contracted to establish a fair price for the land in question thought that they had to bargain rates down to the lowest level possible. The Panel also heard many concerns about the use of the OPTS rates as a starting point for determining compensation. The OPTS-based approach, combined with multiple references to the national legal framework and evidence of efforts to acquire land at low cost, created a strong likelihood that the affected people would receive less than they were entitled to under the Policy. **The Panel finds that Management failed to**

comply with the Bank’s Policy on Involuntary Resettlement by accepting the use of a formula that is not based on the livelihood restoration objectives of OP 4.12.

Moreover, the Panel discovered a major flaw in how the stated approach was applied. A Panel review of the compensation payout spreadsheets confirms that the agreed upon 10-fold multiplier in providing compensation was not applied. **As a result, the displaced people were paid one-tenth of what was planned in the RAP. This has resulted in a major failure to comply with Bank Policy on Involuntary Resettlement, and to ensure that the displaced people are at least as well-off as they were before the displacement as required by this Policy.**

Furthermore, the Panel found that **the compensation methodology did not take into account income foregone for the loss of perennial crops.** The loss of perennial crops is different from annual crops, a factor ignored in the estate agent valuations. **In addition, contrary to Bank Policy, the Panel finds that transaction costs were borne by the displaced persons, which further reduced their chances of being as well off after the transaction as before.** In this regard, the Panel also heard reports that a portion of compensation payments made available to the displaced people may have been appropriated, within the community, by local groups of young men, further reducing compensation to the displaced people.

(iii) Remedial Steps

Following the Request for Inspection, the Bank recognized that serious shortcomings existed with respect to the resettlement planning. Among the remedial actions initiated, the Project took steps to hire a legal expert and a valuation expert to assess, across the Nigerian section of the pipeline, the current values of each type of asset lost to the project.

As of the Panel’s visit, valuations of income stream losses from agriculture had yet to be calculated. The valuator is collecting sample land plot prices, not individual data from the project-affected persons. The planned updating of the baseline study of the directly affected families, including their progress on income restoration, has yet to be completed. The valuator’s terms of reference did not include determining whether the compensation rates met OP 4.12 objectives.

The Panel observes that Management and WAPCo recognized that under-compensation occurred, and are preparing for another compensation disbursement. The Panel notes and appreciates these actions.

The Panel is concerned, however, that this is being done without consultation with the displaced peoples, identifying or preparing mitigation for at-risk populations, without setting clear eligibility requirements based on local land tenure, without correction for the transaction cost error discussed above, without benefit-sharing provisions for the displaced population, and without determining whether cash compensation is or is not the appropriate instrument to be used to avoid Project-

induced impoverishment. In addition, the recommendation for a uniform rate for the entire ROW, adjusted into three zones based on type of land use endangers again the application of the principle of full replacement value.

Development Assistance – Sharing in Project Benefits

To avoid displacement-induced impoverishment, OP 4.12 provides, as one of its objectives, that “*resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits,*” including through development assistance actions.

The Panel does not question Management’s view that community facilities that the Project installed were important for the well-being of the local population. However, the Panel could find no evidence that adequate development assistance, such as land preparation, credit, training or post-construction job opportunities were considered for displaced persons in addition to compensation. **The Panel finds that Management permitted an involuntary resettlement to begin without a development assistance component as required by OP 4.12 that would provide targeted investment resources to enable the persons displaced by the Project to share in Project benefits.**

Disclosure of Information and Consultation

The Bank’s Involuntary Resettlement Policy, OP 4.12 states that “*displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.*” Bank Policy on Environmental Assessment similarly contains provisions to ensure meaningful consultations with project affected people. The Bank Disclosure Policy requires, *inter alia*, that the Borrower make the draft RAP available before appraisal (i) at the InfoShop and (ii) in-country, at accessible locations and in a form and language that are accessible to potentially affected persons and NGOs.

(i) Findings on Disclosure of Information

The Panel notes that following a review process by Management, the draft RAP was publicly disclosed on July 7, 2004. The Panel found no evidence, however, of attempts to meaningfully present the draft RAP to the displaced persons. On November 2, 2004, Management informed the Board that community members were aware of the existence of an EA and RAP for elements of WAGP, but the Panel found that few had seen them.

In Igbesa, the area with the highest concentration of displaced persons, disclosure of many engineering documents in English was evident to the Panel in July 2007, but not of the RAP. **The Panel finds that there was a failure to adequately disclose critical RAP information necessary for the displaced persons to make meaningful, informed choices about livelihood restoration. This does not comply with OP 4.12 on Involuntary Resettlement, or with the Bank’s Policy on Disclosure of Information.**

As part of Management's proposed actions in response to the Request for Inspection, a Yoruba translation of the executive summary was prepared about 24 months following the last compensation payment. During its field visit in July 2007, the Panel found no evidence of distribution of this document in the key resettlement area of Igbesa. Regardless of its distribution, **the Panel finds that disseminating such information on livelihood, compensation and other resettlement entitlements years after the displaced persons have made decisions on these matters is neither meaningful nor timely. This does not comply with Bank Policies on Involuntary Resettlement and Disclosure of Information.**

(ii) Findings on Consultation

The Panel notes that the Project sponsors did, in fact, conduct various consultation activities with some of the affected communities during the period in which the RAP was being developed. The records indicated that the focus was on introducing the Project concept, health and safety concerns, and the gathering of public support for the Project. **However, the Panel found only limited evidence that efforts were made to integrate the consultation process into the preparation of the RAP, and in particular to inform the displaced persons of their entitlements under the RAP. This lack of meaningful and timely consultation prevented participation and informed negotiation of resettlement options by the displaced persons as called for in OP 4.12. The Panel finds that Management did not provide adequate guidance and instructions to the Project Sponsor to carry out meaningful consultation with the displaced people.**

Grievance Mechanism

According to OP 4.12, the Bank requires the Sponsor to make arrangements for affordable and accessible procedures for third-party settlement of disputes arising from resettlement.

In the field the Panel was informed that few grievances have been reported. The Panel notes that without meaningful consultation, including access to the RAP and without an effective disclosure procedure, the displaced persons could not have understood grievance avenues available to them. The Panel notes that external reviews of the RAP section on complaints/grievance resolution identified concerns relating to the lack of procedural clarity with respect to use of the mechanism by affected-people. The Panel notes that recent steps have been taken to provide more information regarding the grievance system, but this has occurred after critical decisions were made in the resettlement process. **The Panel finds that Management failed to ensure that the Sponsor had in place an effective grievance process to identify and redress resettlement issues, as required by OP 4.12.**

Institutional Capacity

In line with OP 4.12, due diligence in relation to the present Project requires that Management and the government determine whether WAPCo had the capacity and financing to carry out a RAP in accord with Bank standards. BP 4.12 further requires the Task Team leader to assess, inter alia, the Borrower's commitment to and capacity for implementing the resettlement instruments.

The Panel notes that Management held a training session on safeguard issues in 2007, only after the Request for Inspection was submitted. This session might have introduced some WAPCo staff to the Policies for the first time. During Panel interviews, WAPCo staff commented, "*had we known what we were supposed to do, we would have done it.*"

With regard to the Borrower capacity, the Panel finds that Management did not comply with the requirements of BP 4.12, including those to assess the Borrower's commitment to and capacity for implementing the resettlement instrument, and mitigating significant risks, including risk of impoverishment, from inadequate implementation of the resettlement instrument. **The Panel further finds that Management did not adequately review and inform the Board of the Sponsor's past experience and limited capacity with implementing operations involving similar involuntary resettlement activities. This is inconsistent with the provisions of OP/BP 4.12 and OMS 2.20.**

Environmental Issues -- Analysis of Compliance

Bank Policy OP 4.01 requires environmental assessment (EA) of projects proposed for Bank financing in order to assess the project's potential environmental risks in an integrated way and ensure informed decision-making. According to OP 4.01, the EA should take into account "*the natural environment (air, water, and land); human health and safety; social aspects (involuntary resettlement, indigenous peoples, and physical cultural resources); and transboundary and global environmental aspects.*"

Categorization/ Screening

Scrutiny of the Regional and Nigerian EA documents shows them to be of good standard and include the elements of Annex B of OP 4.01. **The Panel finds that the Project was correctly assigned "Category A."** **The Panel further finds that because the Project involves four countries, a consolidated "Regional Assessment" was appropriate.**

Independent Advisory Panel

OP 4.01 provides that for Category A projects that are highly risky or contentious, or involve serious and multidimensional concerns, the Borrower should normally engage an independent advisory panel of internationally recognized specialists.

There is, however, no evidence that the independent advisory panel of internationally recognised environmental specialists was constituted during the planning and design phases of the Project. **The Panel finds that the failure to establish the independent advisory panel during the planning and design stages of the Project, and the delay in its establishment during Project implementation, did not comply with OP 4.01.**

Analysis of Alternatives

The analysis of alternatives is handled comprehensively in the Regional Assessment: chapter 3 of this Assessment deals exclusively with project alternatives while chapter 4 deals with alternatives in project design. Fourteen project alternatives were analysed, eight main alternatives and six variations of these. **The OP 4.01 requirement that alternatives be evaluated has been met. However, the lack of a full economic evaluation of the alternative offshore pipeline route for the Nigerian section is a significant shortcoming and is not consistent with OP 4.01.**

Disclosure of EA Documents and Consultation

The EA documentation is of good quality and is written in sound technical English, but requires a high degree of education to be fully comprehended. For the existing upstream Escravos-Lagos pipeline (ELPS), an Environmental Audit (or risk assessment) in the form of an Integrity Study was undertaken. This document, however, apparently was not placed in the public domain. **The Panel finds that the apparent non-disclosure of this assessment of the ELPS, and the fact that its findings and recommendations are not taken up in the Environmental Assessment Reports, is not in accord with paragraphs 15 and 16 of OP 4.01.** This is of particular significance in the present situation, in light of the many expressions of concern in the Request and by members of local communities about issues relating to the ELPS.

Other EIA reports were made available to the public and to stakeholders as required by the OP 4.01. However, no documentation has been seen that would meet the OP 4.01 requirement that the Borrower provide relevant material in a timely manner *“prior to consultation and in a form and language that are understandable and accessible to the groups being consulted.”* Although many meetings were held with communities and stakeholders, the adequacy with which they were prepared to engage meaningfully in the consultation process must be questioned. The Panel observed that affected communities appear not to have been provided with understandable relevant materials on the overall environmental documentation prior to these meetings. **The requirement of OP 4.01 that disclosure be in a form and language that is understandable to the groups being consulted has not been met.**

Assessment of “Upstream” Impacts and the Escravos-Lagos Pipeline System

The Requesters contend that the existing ELPS, to which WAGP connects, is unsafe and that an EIA should be prepared for this existing pipeline. Management states that the project EA covers both the upstream gas source and pipeline safety issues, and that the

Project Sponsor prepared an Integrity Study to review the safety of the existing structure. Management further states, however, that the ELPS is not part of the Project's area of influence, and that an EA of the ELPS "*was neither necessary nor appropriate.*"

(i) Project Area of Influence

The Panel first considered the scope of the Project's "area of influence" to determine if it includes the upstream Escravos-Lagos pipeline and gas supply system. The determination of area of influence is a basic element of OP 4.01 to ensure that the potential impacts of a project are properly and adequately assessed and addressed.

The Panel notes that although the WAGP is not responsible for the operation of the existing Escravos-to-Lagos pipeline, both the extraction of gas and the operation of the existing ELPS are essential for gas to flow through the WAGP. They are therefore integral to the WAGP initiative. In this regard, the Regional EIA and the Nigeria EIA indicate that WAGP could induce environmental and socioeconomic secondary impacts "upstream" and "downstream" of the Project. For example, upstream of the Project, industry may "*increase oil and gas development in order to supply additional natural gas through WAGP*" by drilling new wells in new fields. It also forecasts that the ELPS has the capacity to deliver gas to WAGP in the next 5–10 years without need for modification, but adds that if gas demand rises above a certain level there might be a need to upgrade the lines feeding into the ELPS, augment surface facilities, and so forth.

The Panel finds that the gas supply system upstream of WAGP is within the Project's area of influence under OP 4.01. The Regional EIA properly flags that the Project might have potential impacts in these upstream areas, but an analysis of their nature and scope has not yet been carried out. The findings of the Integrity Study of the ELPS are noted below.

The Panel also observes that in various Project documents, Bank Management itself makes a linkage between WAGP and the upstream reduction of gas flaring, in this case to highlight a projected benefit of the Project. The Panel considers that this reinforces the view that **the Project and associated facilities and supply areas should be viewed as an inter-connected system for purposes of environmental assessment, considering both potential benefits and adverse impacts. The Panel is concerned that Project documentation was not consistent in defining the Project's area of influence.**

(ii) Integrity Study and Safety of the ELPS

The Management Response states that the ELPS Integrity Study constitutes an environmental audit, which is an appropriate instrument for ELPS given that it is an "existing facility." The Panel notes that OP 4.01 specifies that a range of EA instruments may be used to satisfy the Bank's EA requirement, depending on the project, and that "environmental audits" are an instrument to determine environmental areas of concern at an existing facility. **The Panel finds support for the view that this is an appropriate EA instrument for the ELPS.**

Under OP 4.01, such an EA instrument could be included as part of the overall EA documentation. This would have helped to address a key concern in the Request. **As noted above, however, the Integrity Study of the ELPS was not made part of the EA documentation and apparently has not been publicly disclosed. This has impeded the ability of Requesters and members of the public from being informed of, and providing comments on, this important and controversial subject.**

With respect to the safety issues, the Integrity Study found several shortcomings that led to internal inspection of most sections of the ELPS. This led to a thorough review and inspection as a result of which defects have been detected and corrected, and safety and operational systems modernised. **The Panel's expert concluded that the linkage of the WAGP and ELPS has had the overall effect of improving the safety of the Escravos-Lagos pipeline.**

Emergency Response and Contingency Plans

During the Panel's visit to Nigeria, it was told that before the pipeline carries gas, a series of community meetings would be held to inform persons living near the pipeline of appropriate emergency responses in the case of gas release, fire or explosion. The Panel found that sound and wide ranging emergency response plans have been compiled but, as of July 2007, had not been communicated to communities along the Nigerian portion of WAGP's ROW. **Such emergency response plans will not be effective unless communities are properly informed, both orally and via clear, understandable written text in a form that can be retained and readily accessed, before the pipeline becomes operational.**

Fisheries and Livelihoods of Fishing Communities in Nigeria

The Panel encountered numerous fishermen from the Ajido community who believed that their nets were fouled by a greenish-brown substance during the 2006 fishing season and that this occurred at about the time the pipeline was being drilled under the bed of Badagry Creek. A particle size analysis was undertaken by a researcher the Requesters had hired. This analysis allowed the mass of substance adhering to the nets to be determined but not its biological or chemical composition. Unfortunately no sample of the offending substance was subjected to microscopic or microbiological examination or to chemical analysis to determine its identity and none was preserved to allow for later testing. **Precisely what the offending substance was remains unknown.**

According to the Panel expert, the speculation that Bentonite used as a drilling lubricant for the Horizontal Directional Drilling (HDD) operation caused the net fouling is without scientific foundation. In order for Bentonite to have adhesive qualities a small amount of water must be mixed with a large amount of Bentonite. However, a relatively small amount of Bentonite was used during the drilling operation and according to the operators there was no leakage of it.

There is no record as to whether Management briefed WAPCo as to how the incident was to be investigated and whether or not samples of the offending substance were to be analysed. A lesson to be learned is that project-related incidents need to be comprehensively and rigorously investigated and documented.

Fisheries and Livelihoods of Fishing Communities in Ghana

The Requesters in Ghana claim that an assessment of the Project's impacts on fisheries should be carried out and affected people along the coastline should be consulted. The Panel observed that the first and second season Environmental Baseline Surveys contain considerable detail on fish and fisheries along the route of the pipeline. Both onshore and marine fisheries are considered, and the fisheries components of the two environmental baseline studies are thorough. **The Panel notes that during the Inspection Panel's July 2007 visit to Ghana neither artisanal fishermen nor fisheries regulators expressed concern about potential negative effects of the WAGP on their future livelihoods.**

Project Contribution to Gas Flaring Reduction

In response to the Request, the Panel reviewed Project documents and other data to understand what might be the effect of the Project on the serious problem of gas flaring in Nigeria, and to determine whether this effect had been fairly described in line with Bank Policy -- in particular to the public and locally affected communities. **The Panel wishes to note that during its investigation visit, members of communities from the Delta region came to meet with the Panel to describe the serious impacts they endure from the flaring, and ask for all that can be done to reduce and eliminate this problem near their villages.**

This Investigation Report describes apparent inconsistencies in Management documents with respect to the expected contribution of flaring reduction. **The Panel notes the importance of ensuring a transparent monitoring of the impact of the Project on gas flaring. The Panel trusts that Management will specifically address this issue in its Response to this Report.**

The Panel expert also observed that the WAGP may improve air quality due to decreased emissions, but flare reduction due to the Project may largely take place away from villages. The Panel notes that the Project may have given rise to the impression among affected people that the Project would reduce flaring in their areas. **The Panel observes that although a few statements in Management documents were pointing out that the Project impact on overall flaring reduction would not be substantial, the documents included a lot of text on gas flaring that was imprecise and suggestive of much larger benefit.** This raises a systemic issue as discussed in the concluding section of this summary.

Project Implementation and Supervision

OP 13.05 on Supervision states that project supervision covers monitoring, reporting, and other actions to ascertain whether the Borrower is carrying out the project with due diligence, to identify problems and recommend to the Borrower ways to resolve them, to recommend changes, as needed, as the project evolves or circumstances change, and to identify key risks and recommend strategies and actions.

Mission Duration, Frequency and Expertise

The Panel notes that there were long gaps between supervision missions prior to the Request. Furthermore, safeguard staff mainly concerned themselves with Project preparation and were far less involved in the construction phase of the Project. **The Panel finds that Management did not ensure adequate supervision during the construction phase. This did not comply with Bank Policy on Supervision.**

The issues of involuntary resettlement required particular attention in supervision. Though Management identified several problems regarding the compensation process, it was slow to address them. **The Panel finds that Management's lack of diligent supervision created a responsibility vacuum during the RAP implementation. This did not comply with the Bank Policy on Supervision, and led to problems in the resettlement process.**

Systemic Issues

The Panel notes that this investigation revealed some systemic issues that have affected the Bank's overall compliance with its Operational Policies and Procedures in the context of this Project. Some of these issues are noted below.

(i) Supervision of Public-Private Partnership Projects

The Panel notes the Bank's efforts to broaden its portfolio through support of public-private partnerships of the kind funded under this Project. However, as the Report shows, private partners are often chosen for their strong technical competence in a particular field, but may not be well equipped to address the range of Bank Policy requirements absent effective guidance, engagement and project supervision.

In the present case, **the Panel is concerned that Management put too much faith in the Project Sponsor's ability to handle complex social issues** in spite of the troubled history of some of the participating companies' involvement in the Nigerian oil and gas sector.

(ii) Acting on Early Warning Signs - - Resources for Supervision

The Panel also observes that a number of warning signs that appeared in the design phases of the Project were not properly interpreted and dealt with. For instance, **Management did not adequately follow up on the warnings relating to the RAP**

process that were raised and discussed in the monitoring reports. One important reason is an apparent lack of available supervision resources in terms of funds and safeguards expertise. **Providing sufficient resources and using them for mitigating emerging problems would have been particularly important in a complex Project such as WAGP.**

(iii) Complex Regional Projects

The Panel notes that an on-going regional or in-country presence of Bank Management was initially not considered necessary. However, **the Panel observed serious difficulties in policy oversight “from a distance.”** Field presence becomes even more important in large regional projects such as the WAGP.

The Panel observes that the regional character of the Project and the absence of a corresponding administrative structure may have contributed to a lack of clarity regarding lines of communication and authority among country staff, regional staff and headquarters. The Panel observes that Management has recently augmented its field presence in Abuja and Accra and that a new approach to regional projects has been developed for the Africa region.

(iv) Raising Expectations about Secondary Benefits

The Panel notes a final systemic issue related to the expected benefits of the Project in reducing gas flaring, as described in various Project documents. Where statements are made to make a project politically attractive, for example by repeated references to secondary benefits, levels of expectation are raised among stakeholders who are mainly interested in these secondary benefits. And, as is brought home by this Request, **when stakeholders do not see their justified expectations fulfilled, they believe that they have been wronged. This also creates a reputational risk for the Bank.**