

PROGRESS REPORT

November 2000

FUTURE DIRECTIONS FOR THE EIA IMPROVEMENT PROJECT: INITIAL STAKEHOLDER WORKSHOP

BPD Engagement

with

SPDC, Nigeria



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1. BACKGROUND

SPDC Nigeria has embarked on a process of improvement for Environmental Impact Assessment (EIA). The overall objective of the project is to enhance the contribution of EIA studies to the way in which SPDC manages environmental, social and health issues in relation to their operations in the Niger Delta.

Through its membership of the Natural Resources Cluster of Business Partners for Development (BPD), Shell International, SPDC Nigeria and BPD have agreed to work together to explore ways in which a 'tri-sector partnership' model of management might improve the way in which SPDC executes the EIA process. The model involves private corporations working in voluntary collaboration with government agencies and civil society organisations. Whether, and how best, to adapt the model to the EIA process is the focus of BPD's engagement with SPDC.

BPD inputs into the EIA Improvement Project are intended to complement both the wider review of the how SPDC and others implement EIA studies.

1.1 Wider EIA improvement project

Upon request, BPD has agreed to provide assistance to improve the overall 'system' of EIA in SPDC's operating areas. BPD inputs may take the form of both:

- *awareness raising and training* - for example, initial awareness raising workshops were conducted in July 2000 with the Steering Committee of the EIA review process and SPDC's environmental management and community liaison staff; and
- *third-party facilitation* - for example, workshops with key stakeholders from the Niger Delta or in relation to the proposed Pilot EIA.

1.2 Pilot EIA

In the context of the proposed Pilot (project-level) EIA, and upon request, BPD is to work with the SPDC EIA team, consultants and consultees to identify how tri-sector partnership models might improve performance at different stages of the EIA study. Inputs from BPD may include indirect awareness raising and training, and/or third-party facilitation.

2. WORKSHOP OBJECTIVE

As part of SPDC's wider EIA Improvement Project, BPD was invited to design and facilitate a workshop with 30 participants drawn from SPDC, government regulators and civil society. The workshop was held over a two-day period from 6th to 7th November. The stated objective for the workshop was as follows:

“Improving the contribution of the EIA system to SPDC's management of environmental and social issues in the Niger Delta: an exploration of future directions”

A full list of the participants is available from SPDC. The principal stakeholder groups were as follows:

- HSX-ENVE, SPDC
- RCX-CDPD, SPDC
- MDX-OH, SPDC
- Department of Environmental Assessment, Ministry of Environment
- Ministry of Health
- Local Environmental NGOs
- Local Community Development NGOs
- Research Institutes
- International Development Assistance Agencies

3. PARTICIPANTS' ISSUES

A range of issues was raised by the participants with respect to the way in which SPDC and the wider EIA system succeeds in managing environmental and social issues in the Niger Delta. These issues are summarised in *Table 1*, categorised in relation to the key building-blocks identified by the participants as characteristic of the wider EIA system (see *Section 4*). Note that some of the issues are relevant to more than one category.

4. EIA SYSTEM MAP

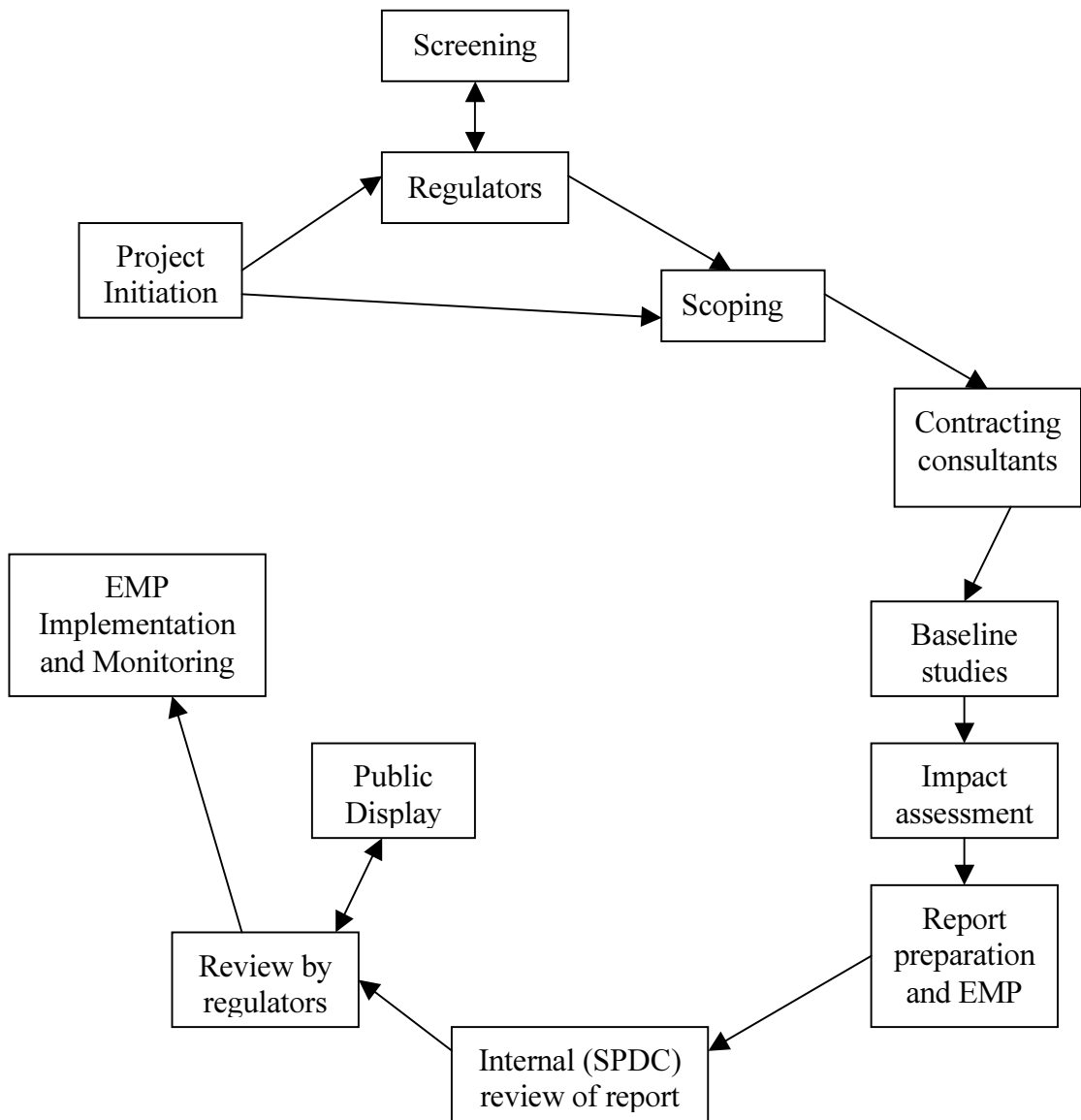
Participants were invited to collectively develop a 'map' of the *existing* system of Environmental Impact Assessment as it relates to SPDC operations in the Niger Delta. The result is summarised in *Figure 1*. Areas of particular interest include:

- early interaction between the Department of Environment (Ministry of Environment) and SPDC in establishing the Terms of Reference for the EIA study;
- the process of selecting and contracting the EIA consultants;
- whether public consultation is integrated into the various stages of the EIA process, scoping, baseline studies, impact prediction, review of the EIA report and Environmental Management Plan (EMP);
- the quality of the internal (SPDC) and external (Department of Environment and DPR) review of the EIA report and EMP; and
- implementation and monitoring of the EMP.

Table 1. Participants' Issues Regarding the Practice of EIA

<p style="text-align: center;"><u>1. SCREENING/SCOPING</u></p> <ul style="list-style-type: none"> • EIA is not initiated early enough in the project cycle • It takes too long to prepare the EIA and it is not business focussed • Social impact aspects are rather superficial • Lack of acknowledgement by companies of issues raised during process • Law is inadequately written; too complicated • Volatility of region makes doing an effective EIA challenging • Poor information sharing; lack of an effective sharing mechanism • Determining what an optimal data set for the EIA should constitute • Composition of the EIA team within SPDC • Uncertainty about the minimum scope of HIA and SIA • Impact of the external environment on the EIA process, e.g. poverty • Inadequacy of EIA process to produce a community development plan • Overcoming large number of conflicts of interests: e.g. internal to SPDC, business vs. environmental priorities 	<p style="text-align: center;"><u>2. CONTRACTING CONSULTANTS</u></p> <ul style="list-style-type: none"> • EIA consultants/contractors are not meeting required standards • Quality of consultants is questioned • Selection process is questioned/flawed • EIA team composition is inadequate • The need for more effective incorporation of health/social issues into the EIA process • The need for dispute resolution within the EIA process – e.g. between consultant and SPDC, and communities and SPDC • Lack of community input into choice of contractor
<p style="text-align: center;"><u>3. CONSULTATION</u></p> <ul style="list-style-type: none"> • Overall process of EIA is not fully understood by the affected communities • Consultation with affected communities and other stakeholders is not continuous throughout the EIA • The need for better management of community involvement • Difficulty in assuring legitimate representation of community during EIA, eg at data collection and during review of the draft EIA report • Lack of acknowledgement by companies of issues raised by the affected communities during the EIA process • Volatility of region makes effective consultation challenging • The need for more effective incorporation of health/social issues in consultation 	<p style="text-align: center;"><u>4. BASELINE STUDIES AND IMPACT ASSESSMENT</u></p> <ul style="list-style-type: none"> • Quality and quantity of data need improvement • Existence of/relevance of indicators • Need for improved community involvement in EIA process • Poor quality of EIA reports: eg outdated, recycled • Lack of acknowledgement by companies of communities' issues raised during EIA process • Absence of mechanism to share and codify existing data • Volatility of region makes doing an effective EIA challenging • Poor information sharing, lack of an effective system • EIA process is potentially corrupt – bias in data collection, reporting, etc. • Overcoming large number of conflicts of interests: e.g. sharing data • Need for more effective incorporation of health/social issues in EIA • Constraints of undertaking EIA in an environment characterised by poverty and conflict
<p style="text-align: center;"><u>5. EIA APPROVAL PROCESS</u></p> <ul style="list-style-type: none"> • Approval process is not well timed with business interests • Poor quality of EIA reports, outdated, recycled data • EIA process is potentially corrupt – bias in data collection, reporting, etc. • Effectiveness of the internal review process for EIA reports is challenged 	<p style="text-align: center;"><u>6. EMP AND MONITORING</u></p> <ul style="list-style-type: none"> • Environmental Management Plans (EMPs) are poorly followed • The need for relevant indicators to measure EMP performance • The need for better management of community involvement in EMP implementation • Volatility of region makes implementing the EMP problematic • Conflicts of interest - e.g. internal to SPDC, or between business and environmental priorities – is a constraint to effective implementation of the EMP • The need to incorporate the mitigation of health/social impacts more effectively into the EMP • Inadequacy of EIA process to produce a community development plan

Figure 1. Participant's Perspective of the Existing EIA System



5. EIA IMPROVEMENT PROCESS, MAY 1999 - NOVEMBER 2000

Following elaboration of the EIA System Map, SPDC¹ highlighted the current programme of work, milestones achieved, and progress to date.

5.1 EIA Improvement Process within SPDC

It was noted that the EIA Improvement Project is stewarded by a Steering Committee, and that the committee is mandated to oversee the following deliverables:

- capacity building within SPDC and within local consultancies and communities
- development of a pilot EIA;
- revision of the EIA Manual;
- implementation a process of improved data collection;
- developing a means to ensure social mitigation is included within Social Management Plan;
- exploration of the possibility of linking the EMP and community development planning and programmes; and
- management of the input of all stakeholders in the EIA process.

5.2 Milestones

An overview of milestones in the Project and progress-to-date were highlighted (see below).

- workshop held in Lagos – May 1999
- various internal meetings to means to improve the EIA process, including:
 - quality of EIA report;
 - quality of EIA consultants;
 - availability of Baseline Data; and
 - length of the EIA process.
- stakeholder workshop held in Port Harcourt – October 1999 – to further revise EIA Manual.
- Steering Committee for EIA Improvement process created April 2000
- EIA Manual re-drafted – July– November 2000 with input from Steering Committee
- stakeholder workshop in Port Harcourt Nov. 2000 to identify issues and future directions for EIA in the Niger Delta

5.3 Progress to-date within SPDC

Progress is being made in the following areas:

- development of a team approach;
- involvement of project sponsors in mitigation decisions;
- more effective entrenchment of SIA and HIA within the EIA;

¹ Presentations by Dr Teinbo Inko-Tariah and Mr. Abdul Yammama

- provision for the engagement of NGOs and CBOs throughout the EIA process;
- provision for more effective community participation;
- more effective use of all available data in the system and elsewhere;
- delineation of responsibilities;
- inclusion of a checklist in the consultation guidelines;
- detailed explanation of sub-processes;
- provision of EIA report writing guidelines;
- inclusion of review of criteria for EIA report; and
- provision of checklist of an effective EIA.

6. OPTIONS FOR FURTHER IMPROVEMENT

Many of the issues raised by participants in the November workshop relate to particular aspects of the EIA system. To simplify the process of resolving these issues, participants were invited to disaggregate the EIA System Map into distinct categories. The issues were thus divided according to six EIA categories as follows:

1. *Screening/Scoping* – including project initiation, screening, input by regulators, preparation of the ToR for the EIA studies, public consultation on scope, and preparation of the scoping report.
2. *Contracting Consultants* – including ‘fresh’ or ‘call-off’ contracting, composition of the EIA team, and competitive bidding.
3. *Consultation* – including public consultation at the time of scoping, baseline studies, impact assessment, preparation of the EMP, Public Display, EMP implementation and monitoring.
4. *Baseline Studies and Impact Assessment* - including information sharing, quality of information, scope of baseline surveys, impact prediction and mitigation identification.
5. *EIA Approval* – timing of start for EIA, internal SPDC review of draft reports, external review of report, public display.
6. *EMP Implementation and Monitoring* – including effectiveness of mitigation, impact performance indicators, alignment of impact mitigation with community development.

For each category participants brainstormed an inventory of options designed to resolve the issues. What the participant’s considered to be ‘priority’ options were taken forward for further development. All ‘inventories of options’ and ‘priority options’ identified at the workshop are described below.

6.1 Screening/Scoping

6.1.1 Inventory of Options

Issue: The EIA process is not initiated early enough in the project development cycle

Options:

- Establish a legally required minimum time between the submission of project information and the start of the EIA.
- Secure management commitment to initiating the EIA earlier in project development.
- Establish a regulatory framework requiring a minimum time after project initiation that the EIA must be completed.
- Discuss the design of the EIA with the line and project managers to ensure their personal ‘buy-in’.

Issue: EIA reports take too long to prepare and are not business focussed

Options:

- Shorten the EIA process and make it more focussed on business interests.
- Ensure that an EIA representative is part of overall project team.
- Set more precise timeframes for targets that are set in the EIA.

Issue: Social impact aspects are rather superficial

Options:

- Ensure the TOR for the EIA includes relevant social and health aspects.
- Involve HIA and SIA experts in the EIA process.
- Broaden the range of indicators for assessing social and health concerns.
- Integrate participatory approaches into the scoping exercise.
- Ensure relevance of scoping to both the proposed oil development project and community development.

Issue: Lack of acknowledgement by companies of community issues raised during the EIA process

Options:

- Encourage an objective evaluation of all community views
- Ensure community consultation at the scoping stage

Issue: Law is inadequately written; too complicated

Options:

- Local environmental regulation laws should reflect, at a minimum, international standards for EIA
- Train a corps of environmental lawyers to participate on EIA teams

Issue: Volatility of region renders field-based scoping exercises challenging

Options:

- Participatory approach will help to alleviate volatility by giving communities information about, and a say in, the overall EIA process

Issue: Poor information sharing and lack of an effective information sharing mechanism

Options:

- Provide meaningful and culturally appropriate information to communities, for example:
 - what is the project all about?
 - how will it benefit or impact upon communities?
 - what will happen after the project?
- Integrate information from various stakeholders. This is critical to avoid possible duplication of data gathering

Issue: Overcoming large number of conflicts of interest, both internal to SPDC, and more generally between business and environmental priorities)

Options:

- Engender a more holistic approach to the EIA process
- Build Alternative Dispute Resolution (ADR) systems into all aspects of the EIA process
- Undertake a stakeholder analysis at the time of the scoping exercise to ensure that all relevant community groups and vulnerable peoples are consulted early and involved in overall EIA process (thus reducing the possibility of conflict)

6.1.2 Priority Options

The option to improve the composition of the internal (SPDC) EIA Team was prioritised and an outline proposal developed.

Priority Option (1.1)– Improved Composition of Internal (SPDC) EIA Team

Issue to be Addressed
The current structure of the EIA team within SPDC is not reflective of the goals of the revised EIA process. The team appears to lack adequate representation from social and health experts as well as input from the community.
Description of Priority Option
The new model for the SPDC EIA team should be multidisciplinary, including capacity in HIA, SIA, and environmental law. Only a multidisciplinary team can produce a meaningful scope for an EIA and effectively steward the EIA process. Further, <ul style="list-style-type: none">• top level management commitment is needed to ensure expansion of the SPDC EIA team to meet the above aims; and• continuous training and empowerment should be provided as necessary.

6.2 Contracting Consultants

6.2.1 Inventory of Options

Issue: Need for more effective incorporation of health and social issues into EIA process

- Ensure participation in and a review of all EIA reports by key disciplines: health, social, hydrologists, etc

Issue: Incorporate dispute resolution mechanisms into the EIA process (e.g. between SPDC and their consultants)

- Use independent evaluation to resolve disputes
- Provide capacity building in Alternative Dispute Resolution (ADR) to SPDC staff

Issue: Lack of community input early in the EIA process, e.g. during the choice of contractor

- The EIA Team to consult with Community Liaison Officers and Community Development Officers in choosing a community member to join the EIA team
- Conduct an annual audit of a random sample of EIA reports as quality control measure to ensure input from affected communities
- Involve community representatives in the selection of the contractor/consultants
- Ensure that community members are involved in the scoping and baseline studies phases of the EIA process
- Give community representatives the right to evaluate the draft EIA report to ensure that their comments are considered

6.2.2 Priority Options

The option to improve the quality and composition of external EIA team was prioritised and an outline proposal developed.

Priority Option (2.1) – Improved quality and composition of External EIA team

Issue to be Addressed
<p>Under the present EIA process it is perceived that EIA Consultants are not meeting required standards. There is a perception that SPDC is not ensuring a high quality of consultants, thus reducing the potential quality of the EIA process and outcome.</p>
Description of Priority Option
<p>Three options were developed to address this issue, as follows: higher quality consultants should be recruited to perform the EIA; the selection process for consultants should be improved; and the composition of the EIA team should be expanded to ensure that all relevant issues are addressed. Attention to all three options will ensure better performance of the team and a more effective EIA.</p> <p><i>Improve quality of consultants.</i> The first recommended step is to develop and implement clear criteria for the selection of EIA consultants. Criteria should include technical and local knowledge; track record of consultants; and consultant’s access to facilities, equipment, and other materials necessary to implement the EIA.</p> <p><i>Improve selection process.</i> Several suggestions were made to improve the selection process itself:</p> <ul style="list-style-type: none">• Recognition that the lowest bidder is not necessarily the most competent• Mix competitive and selective bidding to maximize quality• Judicious use of single source contracting, where warranted• Annual audit of a random selection of EIA reports as a quality control measure• Involving the community in the selection of the consultants may increase local accountability and credibility <p><i>Broaden composition of the EIA team.</i> The composition of the overall (internal plus external) SPDC EIA team itself must be improved. There are two aspects to this option. First, the overall EIA team should include a community representative from the outset and as an equal member. This should help to ensure more effective community consultation strategies and promote continuous interface between the EIA Team and community. Second, the consultant hired to conduct the EIA should be required to put together a team that includes experts on health and social issues.</p>

6.3 Consultation

6.3.1 Inventory of Options

Issue: Purpose of EIA is not fully understood by affected parties

- Replace the concept of “consultation” with “participation” to convey true aim of Public Consultation
- Raise awareness both internally and externally about purpose of public Consultation within EIA
- Highlight the assumption that the EIA process is not just a formality but can actually decide project viability

Issue: Assuring legitimate representation of community

- Inform community of potential project in advance of initiation of EIA
- Involve all interested parties within the community, not just those who claim to be leaders
- Let the people choose their representatives
- Upon entry into a community to undertake EIA work recognize not only the chiefs, elites and power groups (e.g. youth) but ensure attendance of marginalized groups (e.g. elders, women, poor, disabled, widowed etc.) and incorporate them into the decision-making process

Issue: The volatility of the region makes effective consultation challenging

- Ensure that EIA consultants have appropriate skills for adopting a participatory approach to scoping the EIA, undertaking baseline studies and identifying impact mitigation
- Ensure participation of all segments of the community
- Feedback findings from the EIA into the community so that they understand what data has been collected and how it has been used
- Provide full and honest information to communities about findings

6.3.2 Priority Options

The option to promote meaningful and continuous consultation with community stakeholders was prioritised and an outline proposal developed.

Priority Option (3.1) – Meaningful and Continuous Consultation with Community Stakeholders

Issue to be Addressed
At the current time community involvement in the EIA process is limited. Affected communities are not included in all parts of the process, and communication is sporadic. The result of this discontinuity is a lack of meaningful input by affected communities into the EIA process and a less effective EIA.
Description of Priority Option
Community input should be improved at all key points in the EIA process. The basic assumption underlying should be that the EIA is not only a technical assessment, but a part of a wider and on-going community development process and that the EIA and its accompanying Environmental Management Plan (EMP) can significantly contribute to this development.
The following suggestions were made to improve consultation with, and the meaningful participation of, community stakeholders in the EIA process:
<ul style="list-style-type: none">• Begin consultation soon after project initiation and “long” before the scoping stage;• Initiate a sensitisation and mobilisation program with affected communities through the use of CDOs and local NGOs as to the purpose and possible outcomes of EIA• Ensure continuous interface with affected communities and other external parties (e.g. national government, local government, local NGOs, other development agencies);• The EIA team should include the project sponsor, HSX-ENVE, CDO/RCX-DEV, MDX-OH to ensure adequate representation of all stakeholder interests• Design a mechanism to involve the affected communities in reviewing the EIA report.
Consultation with the community should occur at all stages of the EIA, as represented in the following table.

Stages of EIA Process	Primary Stakeholders: Community	Secondary Stakeholders: SPDC, Regulators, NAPIMS, NGOs, government
1. Project Initiation		✓
2. Scoping	✓	✓
3. Contracting		✓
4. Baseline Survey and Impact Assessment	✓	✓
5. Reporting	✓	✓
6. Preparation of EMP	✓	✓
7. Implementation of EMP	✓	✓

6.4 Baseline-Studies and Impact Assessment

6.4.1 Inventory of Options

Issue: Poor Quality and quantity of data

- Adequate time should be allowed in the EIA process for the right data to be accessed or collected
- Opportunity should be provided to challenge the need for two seasons of data
- Period of data-sets should be ‘relevant’ to the project and the task of EIA

Issue: Poor information sharing and codification

- A single inventory of data-sets should be developed
- Access to data could be improved through use of web-sites and CD ROMs
- Validity of different data sets should be assessed
- Maximise the use of existing data if broadly supported as reliable – e.g. NDES

Issue: Falsification, recycling and repetition of data in EIA reports

- Baseline surveys and impact prediction should be properly costed
- EIA team and external consultants should be retrained to ensure quality of assessment
- The scope of baseline studies should be clearly understood
- The quality of data needed to successfully undertake different aspects of the scope of work should be indicated in the scoping report
- ‘Lowest bidder’ syndrome should be eliminated
- Mechanisms for improved ‘internal’ quality controls should be introduced to ensure quality of EIA reports
- Consultants should be qualified and supply proof of credibility
- All sources of data used should be fully cited/referenced

Issue: Weak management of community involvement

- Community perspective should be included in determining the scope of the EIA and in selecting indicators
- Involving communities in baseline studies and impact prediction requires knowledge of the affected community

Issue: The volatility of region makes baseline studies and assessment of impact challenging

- Early consultation, eg around the time of scoping, will prepare communities for the baseline studies and ameliorate suspicions
- EIA team should avoid working with unrepresentative elements of the affected community

Issue: Weak incorporation of health/social issues within EIA process

- Most significant environmental impacts are likely to carry consequences for human health
- The views of health experts outside EIA team should be solicited
- Effective prediction of health impacts requires seasonal data
- Assessment of health and social impacts should be given equal weight to assessment of environmental impacts
- Develop a generic indicative checklist of potential health impacts to aid impact prediction
- Relocate social and health experts from SPDC within the HSX-ENVE unit
- Health, safety and environment teams within SPDC should commence work on the proposed project at the same time
- Health specialists should be involved in monitoring health impacts and their mitigation during implementation of the project and beyond

6.4.2 Priority Options

Two options were prioritised and outline proposals developed:

- Improving health assessment
- Inventory of generic and specific environmental and social data sets

Priority Option (4.1) – Improved Health Assessment

Issue to be Addressed
Health concerns need to be given greater weight in the overall EIA process.
Description of Preferred Option
<p>The proposal divides into three parts: strengthening the capacity of personnel; improving the composition of the EIA Team; and developing guidelines.</p> <p><i>Capacity strengthening</i> – Build the capacity of personnel who might be involved in assessing the impact of projects on health. This could include the following: Development Assistance Agencies, e.g. World Health Organisation, UNDP, USAID; various Ministries, e.g. Health, Industry, Environment, Youth and Sports, Social Development and Women; Universities; and NGOs. Options for skills development include:</p> <ul style="list-style-type: none">• exchanges between health development programmes in oil operating regions; and• on-the-job training, i.e. training integrated within an EIA study <p><i>Choice of EIA Team</i> – Ensure that the SPDC team includes personnel from MDX-OH, in particular those with expertise in the immediate effect of oil operations on human health. The wider EIA Team (i.e. SPDC team, consultants and consultees/advisors) should include personnel with experience in infectious diseases, STDs, TB etc.</p> <p><i>Guidelines</i> – Create a set of generic guidelines (e.g. a checklist) of potential health impacts relevant to the oil sector and the local environment. Solicit input to these guidelines from experts, both international and community-based.</p>

Priority Option (4.2) – Single Inventory of Environmental and Social Data Sets

Issue to be Addressed

It is acknowledged that though high quality social and environmental data sets exist (both internal and external to SPDC), this data is not always used to its full effect in the baseline studies and impact assessment. In addition, concern has been raised that data used in previous EIA reports is being recycled and therefore may be out of date.

Description of Preferred Option

The proposal is to initiate a single inventory of accepted environmental and social data sets on the Niger Delta. This generic and specific inventory would include data-sets drawn from the following types of organisations: government ministries; private companies; universities; research institutes (e.g. the NDES); local government and (where appropriate) local communities.

Options to access the data in the inventory include web-site, CD ROMs, and user-friendly abstracts. Facilitation of this access could be managed through a single agency – i.e. a ‘gate-keeper’ – or a conglomerate of agencies.

With the inventory compiled, gaps in key data sets would be identified and filled.

6.5 EIA Approval

6.5.1 Inventory of Options

Issue: Approval process is not timed well

- Ensure the maximum amount of time possible is allowed for each aspect of the approval process, both internal to SPDC, and external (eg regulators, expert panel and public display)
- Start EIA early, ie at the project initiation stage.

Issue: Poor quality of reports: outdated, recycled data

- Ensure transparency of all data sources
- Establish a peer review panel to evaluate all draft reports whilst the process is still internal to SPDC. “Peers” might include SPDC EIA staff, SPDC project staff, internal experts, or consultants retained for the purpose of an independent review
- Organize community input into report review process to ensure that predictions are accurate and relevant to community needs
- Establish, maintain, and utilize a central data base to ensure access up-to-date data
- Develop standard review criteria for all EIA reports
- Develop a standard report writing format
- Develop a more effective supervision mechanism for report validation in the field

Issue: EIA process is potentially corrupt (e.g. bias in data collection or reporting)

- Ensure that local experts are deployed to verify data
- Institute a peer review process internal to SPDC
- Develop a mechanism to ensure that community agrees to the initial scope of project
- Develop a mechanism to strengthen the role of the regulators in approving scope of project
- Ensure more transparency throughout the EIA process

6.5.2 Priority Options

Three options were prioritised and outline proposals developed:

- Utilise Existing PRA and Socio-economic data;
- Improving the Internal Review Process for EIA Reports; and
- Limiting the response time of regulators.

Priority Option (5.1) Utilise Existing PRA and Socio-economic data

Issue to be Addressed

The EIA process is often started late in the project cycle, forcing consultants to rush their work and compromising the quality of the EIA. Blame for this late start is often laid at the feet of those advocates of a more community-development centred approach to EIA, due to the time taken to collect PRA and other socio-economic data. However, the current EIA process does not take full advantage of past PRAs or other community assessments performed in the target project area, thus delaying the EIA unnecessarily.

Description of Priority Option

Undertaking 'PRA' and collecting other socio-economic data for EIA should be carried out in line with the project's /CAPEX rolling plan, preferably commencing before the EIA process starts, shortening the time necessary to complete the EIA process. Linking the EIA to this on-going process would also ensure a higher quality of data and a more accurate reflection of community impacts. In addition, establishing environmental committees in each community would provide a continuous flow of information about the environmental status of each community, also contributing to shortening the time needed for the EIA.

Priority Option (5.2): Improving the Internal Review Process

Issue to be Addressed
The current internal review process is potentially ineffective and contributes to the poor quality of EIA reports.
Description of Priority Option
Improve the internal review process by implementing the following measures: <ul style="list-style-type: none">• Establish a review panel led by the area manager, and which includes: the project manager, senior representatives of HSE, RCX and MDX, plus a ‘mentor’ consultant. This panel would be responsible for reviewing and approving both the scope and the draft of the EIA report• SPDC to commit to supplying the FMENV with EIAs that meet the highest international standards• Establish a community panel that has the opportunity to review and evaluate both the scoping report and EIA/EMP report

Priority Option (5.3): Limiting the Response Time of Regulators

Issue to be Addressed
The approval process for EIA is not timed well and there are bottlenecks in the process, which cause unnecessary delays. Some of these delays can be attributed to delays at the regulatory approval phase of the process.
Description of Priority Option
<p>A time limit should be placed on the FMENV approval process. The FMENV and SPDC should sign a memorandum of understanding that clearly outlines the timelines and the action to be taken if the timelines are not respected. A four-week limit is proposed for the provisional approval following the panel review and a two-week limit is proposed for submission of the final report. If approval is not received within the time limit, then the EIA is automatically approved.</p> <p>Additional measures that could be undertaken include:</p> <ul style="list-style-type: none">• Establish a legal limit for the response time.• Use the same standard as established by NAPIMS, such as “the 15 day rule”• Use the EIA procedural guidelines established by the FMENV to govern both the establishment of the timelines, as well as the decision about the action to be taken if the timelines are not respected. If SPDC feels that these timelines have not been met then SPDC should document these and discuss the issue with the regulators. In the process of discussion, some concessions could be obtained from FMENV without antagonizing the regulators.• FMENV should devolve powers to approve “lower order” EIAs to regional offices and leave the head office to deal with larger projects. This would greatly speed up the approval process.• Delegate some aspects of the approval process to the zonal offices.• Institute regular monthly meetings between the FMENV and SPDC to review outstanding issues on which both parties were to have taken action and to ensure that potential roadblocks in the EIA process are eliminated or dealt with.

Suggested Next Steps

In order to initiate the three proposals described above, the following ‘next steps’ were recommended by the workshop participants:

- HSX-ENVE to develop a proposal to incorporate means to integrate data from the CAPEX rolling plan into the EIA process. This proposal should highlight the benefits to the EIA process (such as higher quality data and a reduction in the time line for the conduct of the EIA process);
- HSX-ENVE to develop a proposal to improve the internal review process. Present this proposal to the EIA Improvement Project Steering Committee prior to the commencement of the Pilot EIA.
- SPDC to discuss the possibility of time limits for regulator response at the next OPTS meeting.
- SPDC to design a process with government for improving the external approval and response process and sign a MoU with them that promotes this objective.

6.6 EMP Implementation and Monitoring

6.6.1 Inventory of Options

Issue: The Environmental Management Plan (EMP) is poorly followed

- Integrate the EMP within the requirements for ISO140001-certification
- Effective implementation of the EMP should be a ‘key performance indicator’ (KPI) for project managers
- Effective implementation of EMP should become an item on the ‘score-card’ of line (area) managers
- Existing legal framework for EIA needs to be amended to take account of EMP implementation

Issue: Indicators for Implementing EMPS are either absent or not relevant

- Indicators for EMP implementation need to be defined
- Indicators of EMP implementation need to be simple and measurable

Issue: Better management of community involvement in EMP implementation

- Need for partnering with NGOs etc. to ensure participation in EMP implementation
- HSX-ENVE, CDO/RCX-DEV and MDX-OH to prepare regular reports on the effectiveness of EMP implementation, presented in a form ‘meaningful’ to the affected/participating communities
- Don’t ‘manage’ communities, let them ‘participate’ in EMP implementation

Issue: The volatility of the region means that implementing an EMP is challenging

- Consultation with affected communities should be intensified to avoid fuelling local jealousies
- The EIA process should allow more time for the EIA consultants and EIA Team to build trust with the affected communities
- Awareness raising is needed to sensitise affected communities that the EIA process is in their best interests

Issue: Conflicts of interest within SPDC, and between business and environmental priorities in general, are obstacles to effective implementation of the EMP

- A clear and visible line (area) management commitment is needed within SPDC regarding implementation of the EMP
- Clear roles and responsibilities between the various parts of SPDC (HSX-ENVE, CDO/RCX-DEV, MDX-OH) is needed to implement the EMP
- Discourage the emergence of ‘fronts’ between HSX-ENVE, CDO/RCX-DEV and MDX-OH

Issue: The need for more effective mitigation of social and health impacts

- Effort to mitigate social and health impacts should have equity with the mitigation of environmental impacts (pollution prevention/control, ecology etc.)
- HSX-ENVE should involve other SPDC departments (eg CDO/RCX-DEV, MDX-OH) in implementation of the EMP
- Checklists of indicators to measure effective EMP performance should include health and social issues

Issue: The EMP is rarely linked to community development planning

- Where community development planning is currently absent, the EIA process (and EMP in particular) should:
 - be a ‘trigger’ for more detailed participatory social and health studies and planning;
 - be a trigger for seeking partners (NGOs, Donors, government departments) to begin a process of community development planning
- Where community development planning is on-going, the EIA/EMP consultants should work closely with community workers (from RCX-DEV, NGOs, donors, government etc.)
- The EIA process and EMP should be imbedded as an early part of a community development process, and not considered the planning process ‘itself’. Supplementary socio-economic baseline studies will be needed to provide the basis for community development planning

6.6.2 Priority Options

Two options were prioritised and outline proposals developed:

- Alignment of EMP with Community Development
- Development of Appropriate Indicators for Monitoring the EMP

Priority Option 1 – Alignment of EMP with Community Development

Issue to be Addressed

The manner in which the current EIA process and EMP is aligned with the needs of communities to prepare their own community development plan is inadequate.

Description of Preferred Option

The objective of the EIA Improvement Project is to strengthen the way in which the EIA process is used by SPDC to manage social and environmental in the Niger Delta. The proposal is to use the EIA process as a ‘trigger’ for more detailed social and health studies linked to community development planning.

The proposal does not intend that the EIA report, the mitigation measures, or community projects contained in the EMP, become the sole basis for community development plans. Instead, the proposal is that the information generated and measures adopted as a result of the EIA should contribute to a wider community development planning process. Two scenarios are envisaged:

Existing Community Development Plans - for projects that take place in communities with existing community development plans and programmes, the EIA study and EMP identification process should be used to:

- identify post-EIA studies that would support the on-going process of community development;
- contribute to capacity building within the affected communities, e.g. through exposure to PRA tools during baseline studies and impact identification; and
- identify impact mitigation measures that not only mitigate the impact but also are so ‘aligned’ to community priorities. For example, instead of mitigating a temporary loss of community drinking water supply with the temporary import of water by tanker, provide a permanent tubewell located and designed in accordance with the community’s preferred water resource management strategy.

No Community Development Plans – For projects impacting on areas with no existing community development planning process, the EIA study and EMP identification process should be used to galvanise potential partners interested in wider community development, e.g. RCX-DEV, local NGOs, donors, government departments etc.. This ‘partnering’ approach offers a ‘safety net’ should the decision to proceed with the project be delayed, or approval of the project be declined, i.e. these partners would continue with various community development activities regardless.

Priority Option 2 – Development of Appropriate Indicators for Monitoring the EMP

Issue to be Addressed

There is generally a failure to establish appropriate indicators for monitoring the effectiveness of the EMP.

Description of Preferred Option

The proposal is to develop sets of generic indicators from which EMP indicators could be derived for particular projects. Generic indicators would need to be developed for the following four sectors:

- Physical impacts mitigation
- Health impacts and mitigation
- Biological impacts and mitigation
- Social impacts and mitigation

It is proposed to constitute multi-stakeholder groups – possibly in a workshop environment – to generate the list of indicators. Different grouping would be constituted for the four different sectors. Identification of the indicators should look towards national and international standards and initiatives. The relevance and utility of the indicators should be tested against real data and managed within the ISO14001 process.

7. FUTURE DIRECTIONS

7.1 Comparison with the SPDC EIA Manual

A recent review of SPDC's EIA Manual by SPDC staff and the Steering Committee of the EIA Improvement Project has led to significant improvements. The changes are currently being incorporated into a revised Manual.

It is noted that many of the options for improvement suggested in the Nov 6th and 7th workshop have already been accommodated into revised Manual. However, others have not. *Table 7.1* summarises the extent to which the options prioritised by the workshop participants have been incorporated within the latest revisions to the SPDC EIA Manual. **Where it is indicated that certain options or parts of options are currently omitted from the Manual, this is not a recommendation that they should necessarily be included.** There may be very practical reasons why their incorporation is not possible at this point in time.

For example, some of the options may not be technically or financially feasible. Furthermore, the latest revisions to the EIA Manual are in the process of being finalised, and time is now needed for SPDC to build these improvements into their day-to-day work. There are plans to visit the Manual again in late 2001. It may therefore be more appropriate for SPDC to consider the omitted options during implementation of the Pilot EIA.

7.2 Future Stakeholder Dialogue and Partnering

SPDC is committed to a stakeholder participatory approach to the improvement of their EIA process. In the light of this, during the closing stages of the Nov 6th and 7th workshop SPDC undertook to execute the following:

- distribute the revised EIA Manual to the participants of the workshop (and other interested parties) at a point in time when the current revisions have been finalised.
- share with the workshop participants an organisational chart of SPDC summarising the roles and responsibilities of SPDC personnel in the management of social and environmental issues. This chart would be incorporated into the revised Manual.
- SPDC to attend future stakeholder workshops convened by donors or government agencies to discuss options for improving community development in the Niger Delta.
- SPDC to convene an event at some future time to share with stakeholders progress in the EIA Improvement Project, including progress with the proposed pilot EIA.
- SPDC to include participants from the November session in the March 2001 Stakeholder workshop.

Table 7.1 Extent to which Options Generated in Stakeholder Workshop are Currently Incorporated in the Revised EIA Manual

Option Category	Priority Options	5= fully incorporated	Comments
1. Screening/ Scoping	Option 1.1 Improved Composition of the internal (SPDC) Team	4	Broadly, the proposals in <i>Section 3</i> of the Revised Manual already satisfy Option 1.1 . However, the Option includes a recommendation for continuous training for SPDC staff engaged in EIA.
2. Contracting Consultants	Option 2.1 Improved quality and composition of external EIA Team	3	<p>Although the Revised Manual describes the preferred contracting process (<i>Appendix 3</i>), no criteria are given for selecting between consultants. Option 2.1 begins to identify possible selection criteria. Option 2.1 also recommends involving the community in the selection of the consultants in an effort to increase accountability and quality. A range of measures are included in Option 2.1 to improve the overall election process. <i>Appendix 3</i> of the Revised Manual gives consideration to some of these but not all.</p> <p>With regard to the inclusion of consultants experienced in Health and Social Impacts Assessment, this is included implicitly (though not explicitly) in the Revised Manual under <i>Section 3 – EIA Contractor</i>.</p> <p>Option 2.1 recommends that a member of the affected community be included in the EIA Team from the outset and as an equal member. This would ensure that community concerns were integrated into the scope and therefore within the ToR for the EIA.</p>
3. Consultation	Option 3.1 Meaningful and Continuous Consultation with Stakeholders	3	<p>Option 2.2 recommends that consultation with affected communities and secondary stakeholders (government and NGOs) take place at the following stages of the EIA process: Scoping; Baseline surveys and impact assessment; EIA Reporting; Preparation of EMP and implementation of EMP.</p> <p>The Manual is clear about consulting with government authorities during all phases of the EIA process</p> <p>Inclusion of community consultation at the scoping stage of EIA is identified only as “desirable”, and not an explicit requirement (<i>Section 8</i>). Further, although <i>Section 4.2.4 (Consultation Process)</i> of the Revised Manual makes a clear reference to communities being consulted prior to the “start of fieldwork”, the Manual is not explicit about whether this consultation is to be used to inform either the scope of the EIA, the EIA Terms of Reference (ToR) or the Preliminary Assessment of Impact Report (PAIR). (The one exception to this is the 7th bullet point in the checklist for ‘Scoping’ in <i>Appendix 10</i>). Indeed, <i>Section 4.2.4</i> of the Manual states that it is the EIA Proposal Form (which does not require prior consultation before completing) that is the “main input to the scoping report, which is used to develop the ToR and PAIR”. <i>Section 4.2.8</i> on ‘Scoping’ is also unclear about whether community consultation will take place as an input to preparing the EIA ToR. Option 2.2 proposes that consultation with affected communities should inform the scope and EIA ToR.</p> <p>With regard to consultation with communities during Baseline Studies, it is not clear whether the comment in <i>Section 4.2.11</i> that PRA work should come “after the baseline data for the SIA”, means that consultation with communities during baseline studies and impact assessment would not take place. (Note that it is common practice around the world to use PRA techniques to engage communities in an exploration of their baseline social environment, and to jointly assess impacts and look for mitigation). <i>Section 4.2.12</i> seems to indicate that the SIA and HIA components will allow for dialogue (ie consultation) during baseline studies, and <i>Section 4.2.13</i> indicates that the assessment of social impacts will be achieved through the use of participatory techniques. Some further clarity would help.</p> <p>Although the Manual identifies the need for consultation with affected communities at the stage of the draft EIA report (<i>Section 4.2.18</i> and <i>Appendix 9</i>), there is no explicit mechanism to involve the community in the review of the EIA report as proposed in Option 2.2.</p> <p>Finally, there is no discernable commitment in the Manual (neither in <i>Section 4.2</i> nor <i>Appendix 5</i>) to consult with affected communities during implementation of the EMP. There is however a general statement (8th bullet point in the checklist for ‘Consultation’ in <i>Appendix 10</i>) which requires that consultation be “be a continual process”. Again, further clarity would be useful.</p>

Option Category	Priority Options	5= fully incorporated	Comments
4. Baseline Studies and Impact Assessment	Option 4.1 Improved Health Assessment. Capacity Building Health experts in EIA Team Guidelines	1 4 0	<p>The Revised Manual makes no specific reference to strategies for building the capacity of those engaged to assess health impacts, neither within SPDC or external actors.</p> <p>Option 4.1 notes the need for particular specialists in infectious diseases</p> <p>The Revised Manual does not yet include guidance/checklists detailing known health impacts of oil projects/facilities</p>
	Option 4.2 Single Inventory of Environmental and Social data sets	3	Revised Manual identifies need to develop generic baseline studies for the four main ecosystems of the Niger Delta (Section 3). Option 2 calls for the creation of a single database, drawing together data from companies, universities, institutes etc. A single source would streamline data retrieval and avoid duplication of data gathering.
5. EIA Approval	Option 5.1 Utilise Existing PRA and Socio-economic data	1	Although the Manual identifies the role of the EIA process in contributing to PRA-type information, there is no discernable reference to using existing PRA, socio-economic or community development planning data explicitly to shorten the time it takes to complete an EIA.
	Option 5.2 Improving the Internal Review Process	3	Section 3 of the Revised Manual references some, but by no means all, of the suggestions listed in Option 5.2 for improving the internal review of the draft EIA report.
	Option 5.3 Limiting Response time of regulators	5	The four-week limit proposed in Option 5.3 for provisional government approval following the panel review, plus a two-week limit for submission of the final report, is commensurate with the schedules laid out in <i>Appendix 7b</i> and <i>7b</i> of the Revised Manual.
6. EMP and Monitoring	Option 6.1 Alignment of EMP with Community Development	3	<p>In more than one place the Revised Manual seems to suggest that the EIA process should be integral to Community Development (CD) Planning (<i>Sections 11 and 20 of Appendix 5; Chapter Eight, and Appendix 6, Section 5.0</i>). In particular, <i>Section 4.2.11</i> suggests that the EIA should include PRA work that would lead to the formulation of a Community Development plan. The same section suggests that to manage expectations the PRA work would come ‘after’ the baseline studies.</p> <p>Option 6.1 resulted from a detailed discussion of the role of EIA in CD. The participants concluded that though EIA should ‘trigger’ CD for green-field sites (and feed into existing CD planning for brown-field sites), the EIA process should not become the sole basis for CD in these areas. Furthermore, it was noted that PRA tools ‘are’ needed at the time of the baseline studies, and not ‘afterwards’, but that these PRA-based studies would be project-focused, ie limited to engaging communities in assessing the potential impact of the project.</p>
	Option 6.2 Indicators for Monitoring the EMP	1	Option 6.2 calls for the development of generic indicators from which EMP-specific monitoring indicators could be derived. The Revised Manual contains no indicators/checklists of potential impacts or mitigation measures for either environmental, social or health impacts. The proposal in the Manual to develop generic baseline indicators for the four main ecosystems of the Niger Delta (<i>Section 3</i>) may offer an opportunity to fill this gap.

8. COMMENTS

8.1 Role of Partnerships

In various ways the concept of ‘partnership’ is now integral to corporate policy with regard to the management of environmental and social issues. Some examples are given below.

8.1.1 *Shell Sustainability Principles*

Working in partnership is now a key tenant of the sustainability principles of Shell International (corporate). Of the ‘six’ principles², three advocate some form of partnership model:

- *Principle 2 - Engage and work with stakeholders*, includes “building trusting and mutually beneficial partnerships and relationships”.
- *Principle 3 – Minimise impact on the environment*, includes “working in partnership with environmental experts to conserve bio-diversity”
- *Principle 6 – Maximise benefits to the community*, includes “working in partnerships on social investment programmes to build skills and capabilities, transfer technologies and support infrastructure and service improvements”.

8.1.2 *Revised SPDC EIA Manual*

With regard to the role of partnerships in improving the SPDC EIA Improvement Project, the passage drafted by the Managing Director, Ron Van de Berg, for SPDC’s revised EIA Manual notes that “*partnership with others will remain the key as we move forward.*”

SPDC’s draft guidelines for Public Consultation (*Appendix 2* of the Revised EIA Manual) identifies five phases to stakeholder engagement: *identification – information – consultation – participation – partnership*. The same draft also recommends that those involved in EIA should “*allow time to build trust through continuous contact and consultation with the communities, encouraging consensus and empowering communities to recognise that they have a chance to build their own future in partnership with the project*”. And further, that when engaging with local and national stakeholders the EIA Team should aim for ‘win-win’ outcomes where the ‘government’ plays a role in delivery.

8.2 Facilitators Comments

The BPD facilitators of the Nov 6th and 7th workshop offer the following two recommendations to SPDC with regard to the role of partnerships in the EIA Improvement project:

8.2.1 *Recommendation 1 – Initial Training*

Prior to undertaking the scoping exercise for the pilot EIA, BPD offer to provide training in skills relevant to ‘partnering’ in the EIA process, including: relationship mapping, consultation with pro-

² Shell International Exploration and Production BV Department, EP, HSE (2000) Progressing Towards Sustainable Development, The Hague, Netherlands

spective partners, and multi-party consensus-building. The training could be designed to feed directly into the design of a Consultation and Partnering Plan as part of the initial scoping exercise for the Pilot EIA.

If the Pilot EIA is to begin some time in March/April 2000, then the above training would be best delivered in late February 2000. The training would be directed at:

- Relevant Corporate HSE, Project Sponsor (line manager), Project Supervisor/Field Co-ordinator and Corporate RC (partial participation),
- SPDC personnel from ENVE, RCX-CDPD, MDX-OH (full participation)
- the proposed consultants for the Pilot EIA (full participation); and
- parties drawn from civil society (NGOs, research institutes, universities etc) and government departments who might be involved in either consultation or partnering during the Pilot EIA (full participation).

8.2.2 Recommendation 2 – A Partnering Approach to EIA

With regard to the Pilot EIA, SPDC to give consideration to extending the Terms of Reference (ToR) for the EIA study to include partners from civil society and local government. The aim would be to use the ToR as the basis for a Memorandum of Understanding (MoU) outlining a 'partnering' approach to implementing the EIA and resulting EMP.

The experience of the BPD programme with the Sarshatali Coal Mining project in India (<http://www.bpd-naturalresources.org/sarshatali.htm>) demonstrates the added benefits for both business and communities that result from adopting a partnership approach to baseline studies and social impact mitigation. Benefits include:

- renewed trust between affected communities and company;
- reduced costs to the company of baseline surveys and EMP implementation;
- greater participation of communities in baseline studies and therefore more accurate impact prediction;
- more effective and livelihood relevant environmental and social impact mitigation; and
- reduced long-term dependency of communities on the company.

It is clear from the keen interest of participants in the November 6-7th workshop that there are many parties from civil society and government in the Niger Delta willing to share their data, skills and resources to improve the quality of baseline studies, ensure proper treatment of social and health impacts and implement the resulting EMP.