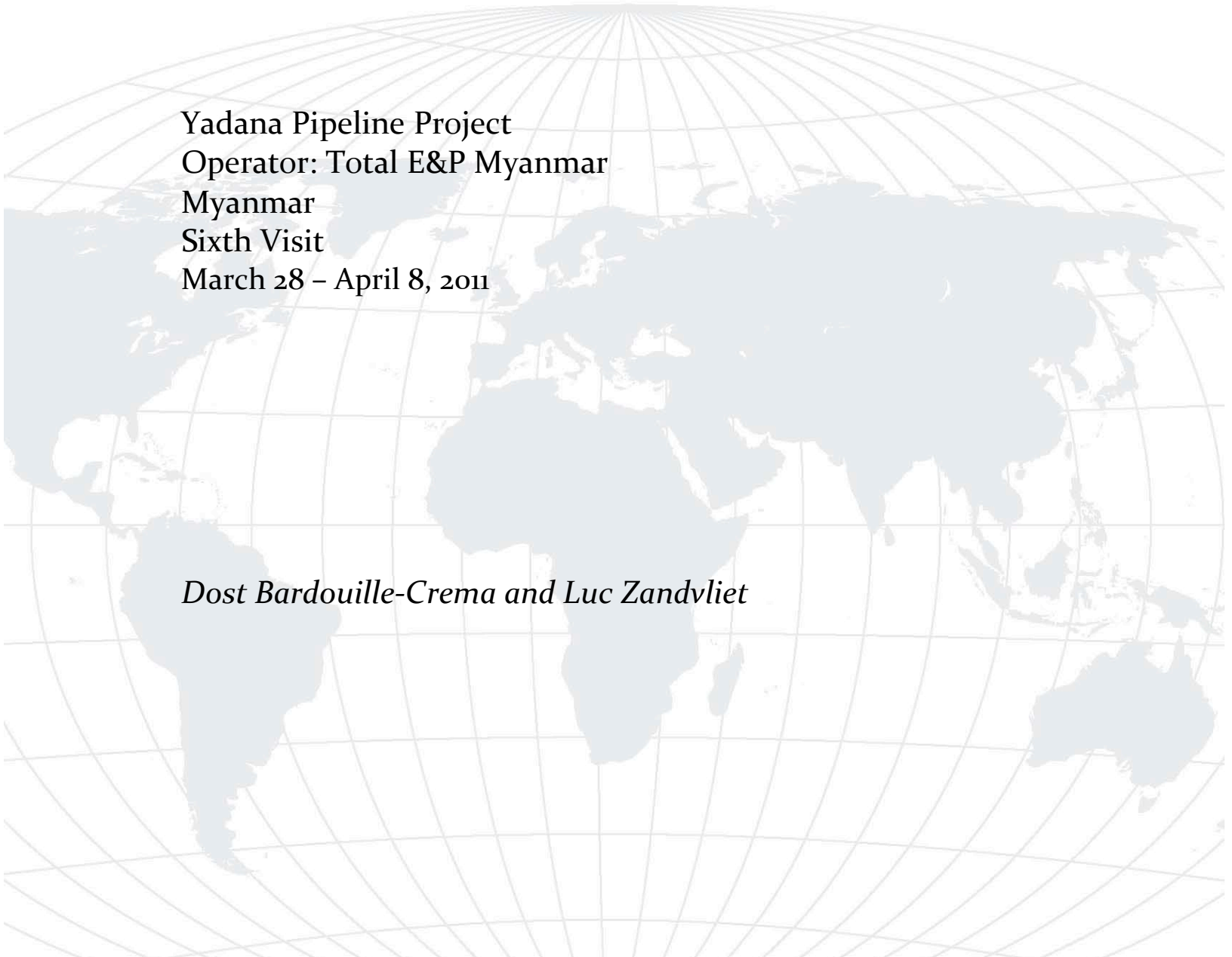


CORPORATE ENGAGEMENT PROJECT

Report of Sixth CEP Visit to the Yadana Pipeline



Yadana Pipeline Project
Operator: Total E&P Myanmar
Myanmar
Sixth Visit
March 28 – April 8, 2011

Dost Bardouille-Crema and Luc Zandvliet

This document was developed as part of a collaborative learning project directed by CDA. It is part of a collection of documents that should be considered initial and partial findings of the project. These documents are written to allow for the identification of cross-cutting issues and themes across a range of situations. Each case represents the views and perspectives of a variety of people at the time when it was written.

These documents do not represent a final product of the project. While these documents may be cited, they remain working documents of a collaborative learning effort. Broad generalizations about the project's findings cannot be made from a single case.

CDA would like to acknowledge the generosity of the individuals and agencies involved in donating their time, experience and insights for these reports, and for their willingness to share their experiences.

Not all the documents written for any project have been made public. When people in the area where a report has been done have asked us to protect their anonymity and security, in deference to them and communities involved, we keep those documents private.

PREFACE

The Corporate Engagement Project (CEP) is a collaborative effort involving multinational corporations that operate in areas of socio-political tensions, instability or conflict. Its purpose is to help corporate managers better understand the impacts of corporate operations on local people and societies. From this understanding and analysis, CEP works with companies, governments, and civil society to develop practical management approaches to address local challenges and to ensure that companies establish productive and positive relations with local communities.

In the spirit of collaborative learning, CEP has engaged with Total over a period of nine years, visiting (among others) the Yadana pipeline joint venture project in Myanmar in October 2002, May 2003, November-December 2003, April-May 2005, and February 2008. The Reports of these site visits are available on CDA's web site. CEP refers to "Myanmar" in the sixth field visit report, following the recognition by the United Nations of the official name of the Union of Myanmar.

Building on these visits and pursuing the issues raised in the previous reports, Dost Bardouille-Crema, CEP Director, and Luc Zandvliet, CEP Senior Advisor, made a sixth visit to Bangkok and the Yadana Project between March 28 – April 8, 2011. Although we engaged primarily with the operational partner, Total E&P Myanmar (TEPM), our observations and analyses of the Yadana Project concern all joint venture partners: Total, Unocal/Chevron, MOGE and PTTEP¹.

The purpose of this trip, as with all CEP field visits, was to examine and report on the interaction between corporate operations and the lives of people in the Yadana pipeline area, to assess the impacts of the corporate presence and operations on the wider context of Myanmar, and to follow up on findings from previous CEP visits. Regarding the broader society, this visit took into consideration how the changing environment following the November 2010 election has shaped the working environment of the Yadana Project.

This Report begins with an Introduction in which we outline the approach and process of the field visit. Section I reviews changes in the context, both at the national level in Myanmar and within the Yadana pipeline area. Section II presents observations and findings with regards to the impacts of the Yadana project on the local and national context, as well as options and insights gained during the visit. Section III brings the report to a conclusion in light of the observations and findings detailed throughout the report.

As always, CDA/CEP invites comments and feedback on the observations laid out in this Report. In all of CEP's work, we seek to establish partnerships among groups with different approaches, with the ultimate objective of improving the lives of people who live in the regions where companies operate. The purpose of this Report is to contribute additional and up-to-date information to support broader

¹ Unocal remains the operational name of the JVP in Myanmar, although it is a wholly owned subsidiary of Chevron; MOGE refers to the Myanmar Oil and Gas Enterprise; PTTEP is the Thai governmental company.

discussions within the company, and between the company and other stakeholders, that will enable progress and improvement in the impact of corporate activities on the lives of people in Myanmar.

INTRODUCTION

During the sixth visit to Myanmar and Thailand, the CEP team focused its efforts on meeting with a broad range of groups in Bangkok, Yangon, Nay Pyi Taw (Capital of Myanmar), and the Pipeline area. The visit included two days in Bangkok, five days in Yangon, five days in the pipeline area and one day in Nay Pyi Taw.

Prior to the visit, CEP reached out to several advocacy groups and research organizations and institutes to discuss the political climate following the election, as well as past calls by international advocacy groups for divestment and current calls for revenue transparency. CEP finds it important to speak with these organizations to get a sense of external perspectives prior to the visit, but does not allow their views to pre-determine the Team's perspectives.

In Bangkok, the CEP team spoke with Yadana's joint-venture partners, multi-lateral organizations, international researchers, and regional and advocacy NGOs. The visit in Yangon started with a briefing during which Total presented the strides it has made in response to options discussed in previous CEP visit reports. In Yangon, the CEP Team also met with various oil companies, Total staff, Yadana contractors, Embassies, UN Agencies, political and economic analysts, social impact research organizations, international NGOs, and local civil society and advocacy groups.

In Nay Pyi Taw, CEP met with authorities from MOGE, and from the Ministries of Energy, Health, and Social Welfare. In the pipeline area, the CEP team met with Yadana staff, Yadana contractors, Socio-Eco Program doctors, army and navy commanders, representatives of religious groups, business people, educators, community leaders and local community members inside the pipeline corridor.

The CEP team visited 9 of the 25 villages that participate in Yadana's Socio-Economic Program. Over the course of six visits, the CEP team has visited all communities in the pipeline area various times. As a follow-up, we returned to some of these same communities to verify previous allegations of forced labor, to further check on other issues discussed during earlier visits, and to gauge changes in the socio-economic status of the communities.

Visits to communities and meetings in Yangon were carried out under the following conditions:

- CEP hired two independent interpreters skilled at interviewing villagers. The interpreters were hired without Total's input.
- Total did not interfere with the proposed schedule or the type of people CEP consulted during the visits to the Pipeline area, Yangon and Bangkok.

- Total took the lead in arranging meetings with its joint venture partners and Yadana contractors, and Ministry authorities in Nay Pyi Taw, based on their existing relationships, to ensure that CEP would gain access to these groups.
- The CEP team traveled in a Yadana car driven by a local-hire Yadana contractor. Upon arrival at the villages, the CEP team divided up in two groups. Each group consisted of one CEP Team member and one Myanmar interpreter. The two teams moved separately through the villages and held conversations at random.
- Several times the CEP team stopped the vehicle at tea shops and houses in between two villages in order to ensure we also heard perspectives from a broad range of people that are less frequently visited by foreign guests and that could not have anticipated the visit.
- As in previous visits, the CEP team introduced itself to members of communities as independent from Yadana and made clear that it was in the pipeline area at the invitation of Yadana to observe the impacts of project operations on local communities. In the villages, the team had discussions with local people about their perspectives and expectations concerning the Yadana project and the Socio-Economic Program, as well as the perceived impacts of other oil company operations in the area.

SECTION I

This section provides brief observations on changes in the context, both at the national level and within the pipeline area of Myanmar, that have taken place since the fifth CEP visit.

1.1. THE CHANGING CONTEXT OF MYANMAR

The events of the Nargis cyclone in 2008 and the November 2010 elections have caused significant changes in Myanmar since CEP's last visit. Although perspectives among stakeholder groups within Myanmar tend to differ from those of stakeholder groups outside the country, many have adopted a "wait-and-see attitude" with respect to the long term significance of the recent elections. Although many citizens say the system still needs to prove itself, national and international observers inside Myanmar with access to newly elected MPs are cautiously optimistic as they see evidence of emerging political capacity. Current press reports and political commentary increasingly cite a progressive shift in the government towards more "openness" and willingness to address governance issues. CEP spoke with many people across stakeholder groups who echoed those reports, noting small indications of change including the creation of conditions in parliament for more accountability and budget transparency. During several conversations, respondents indicated that there are now more individuals within higher levels of government who are more willing to listen, and there are greater opportunities to influence decision-makers and to present new ideas.

Representatives of civil society and of multi-lateral organizations also cited more opportunities for expression and organized activity outside of the government than has been seen in recent years. Post-Nargis, there has been an ever-increasing space for local civil society within the country. The influx of external NGOs, who were allowed in to provide humanitarian aid in the wake of the cyclone and have since stayed, has spurred the growth of local NGOs and civil society as well. Although these observers see a significant positive change, they also unanimously agree that the change process in Myanmar will be a gradual one and will necessitate an increase in capacity and support.

1.2. THE CHANGING CONTEXT IN THE PIPELINE AREA

INCREASED WEALTH

As was the case during previous CEP site visits, the CEP team noted a continued economic improvement in the pipeline area. The trend was visible throughout the area in the form of an increase in the numbers of motorcycles, television sets and brick houses under construction. Shops in Kanbauk now sell items such as high quality Japanese cameras and external hard drives. People attributed economic improvement mainly to three factors: remittances from family working in Thailand, increased rubber prices on the international market, and Yadana's economic programs.

INCREASE IN RUBBER PLANTATIONS

The pipeline area has experienced an economic boom over the past few years largely driven by high rubber prices. Large tracts of bushland and cashew plantations have been turned into rubber and oil palm plantations. Outsiders have become interested in the land. At the same time, the transformation

from bush and forest into plantations has also meant that timber for building houses is becoming scarce and, thus, expensive.

Dawei Deep Sea Port and Industrial Zone

Plans are underway to build a multi-billion dollar deep sea port in Dawei, some 100 kilometers south of the pipeline area. The port would include a very large industrial zone, mainly for petrochemical purposes. Observers in Thailand and Myanmar both state that they understand that the industrial zone is being developed to attract Thai investors who find it difficult to meet the environmental standards of the Thai Government.

NEW PTTEP PIPELINE

The Zawtika project (operated by PTTEP) includes plans to construct a pipeline from the Andaman Sea to Thailand, more or less following the same on-land pipeline route as the Yadana and Yetagun pipelines. Construction is scheduled to start in 2011 and it is expected that the workforce needed during the construction phase will be over one thousand people, of whom many could be unskilled laborers.

SECTION II – OBSERVATIONS

This section explores opportunities that Yadana has to capitalize on the relationships it has built in order to ensure that its socio-eco programs and engagement efforts, both at the national level and within the pipeline area, are aligned with strategies that are focused on long-term, sustainable impacts. The observations and options presented are organized in to four related areas: the current Socio-Eco Program, human rights, government engagement, and engagement with the larger business community in Myanmar.

2.1 SOCIO-ECONOMIC PROGRAM

FEEDBACK/OBSERVATIONS WITH REGARD TO IMPACTS

- Community members in the pipeline area expressed a **genuine appreciation** for Yadana’s Socio-Eco Programs (SEP). They indicate that they see Yadana as genuinely committed to working to achieve positive impacts. People demonstrated gratitude, rather than a sense of entitlement, for Yadana’s support, and did not want to impose on Yadana by asking for more. Some community members noted that training health and agri-vet auxiliaries is likely to ensure long lasting sustainability of programs through the development of increased capacity in the village. However, in so much as people see Yadana as a “provider of things”, they also understand that at some point the project will have to end; there is no expectation that those benefits will continue indefinitely.
- Regarding the **reach of the Socio-Eco Program**, CEP traveled to several of the communities that lay at the farthest reaches of the pipeline. Within every community that CEP visited, people demonstrated a similar level of awareness of Yadana and its SEP activities. Across villages, community members regardless of their location indicated an equivalent level of access to SEP benefits. This demonstrates that Yadana’s SEP staff has been effective in reaching out to all communities to ensure broad distribution of SEP benefits.
- People who travel in and outside of the pipeline area (moto-taxi drivers, doctors, business owners, community members who own land inside and outside the pipeline area) note the **relative difference of quality of life inside versus outside the pipeline area**. They state that people inside the pipeline area have better access to health services, educational benefits, and economic opportunities than those outside the pipeline area. The CEP team was not able to visit any communities that lay directly outside of the pipeline area to confirm this observation.
- Some **communities** on the peninsula to the North of the pipeline area have requested to **be included in the pipeline area**, which is an indication that outsiders view the pipeline area and the Socio-Eco Programs as desirable. Yadana is in the process of developing criteria for deciding whether to bring in new communities.

- Yadana's Socio-Eco program has had projects in seven areas: public health, communication, agriculture, veterinary, education, infrastructure and micro-credit. Over the past three years, Yadana's economic livelihoods projects have focused on **diversifying beneficiaries** in order to reach more of the poorest of the poor. Some beneficiaries have graduated from the loan program for the very poor to the regular loan program, but say that the support they receive is too limited to substantively lift them out of poverty. The Socio-Eco Program has also **diversified its approach** within the individual projects. For example, it has accompanied farmers in their transition from cashew to rubber plantations (which is now paying off) and has changed the type of livestock it provides to the poorer participants in the program.

The company is presently considering how to measure longer-term impacts, such as whether those who advance in the loan program are able to go into business for themselves, and whether focusing loans towards wealthier stakeholders enables them to start small business and become local employers.

FEEDBACK/OBSERVATIONS WITH REGARD TO SUSTAINABILITY OF THE SOCIO-ECO PROGRAM

- Yadana has made substantial efforts to make its projects more sustainable, for example by increasing community-based animal husbandry projects. The new approach places the **onus of responsibility** for taking the initiative and designing and implementing new infrastructure projects (water, roads, bridges) **on the community**. This is a notable departure from the previous approach when a community simply could request Yadana to take responsibility for all these steps. The Yadana focus is on building the capacity of communities and funding projects initiated by local communities.
- Some SEP staff feel that that the medical and health projects will face the biggest challenge in becoming more sustainable. At present, the Yadana clinics are operating in parallel to the Ministry of Health system. Yadana is currently considering how to better integrate the health projects within the public system.
- In its efforts to strengthen organizational capacity within the community and encourage villagers to take increasing initiative for their own progress, Yadana faces the challenge of **ascertaining that no coercion or forced taxation is applied** by local authorities when implementing Yadana-supported projects. As an example, Yadana has had to deal with the community water project in Eindayaza, where the community and Yadana worked together to install a water system. Yadana provided much of the materials and technical support, and the community organized teams of community members to work in rotations on a daily basis. Yadana monitored the workers according to a guideline developed with ILO in an effort to ensure that the work had been conducted on a voluntary basis and was free from any kind of coercion. However, upon further consideration, Yadana decided to compensate the community members for their labor because the guideline for use of volunteer labor had not yet been

approved by the company. When the CEP team spoke with local villagers, they said they were pleasantly surprised to receive payment for what they assumed was a voluntary service but said they would volunteer again for community projects.

Analysis

- While Yadana has heeded the call for making its projects more sustainable, there is an opportunity to **move from a focus on sustainable projects to a focus on sustainable impacts**. After all, having sustainable projects does not by definition ensure the achievement of sustainable impacts. Currently Yadana has many socio-eco programs, each with its own project objective. Although efforts are being made to increase the effectiveness of each project, there is an opportunity to clarify long term objectives of the entire Socio-Eco program, as well as the strategic alignment of all of the different projects (and their links to the business case) as a way of creating a cumulative impact that reaches the stated long-term objectives.

Sustainable Projects vs. Sustainable Impact

Several community members and SEP staff suggested the best way to achieve more sustainable impacts with regard to health project outcomes is by focusing more on projects that include economic and educational development.

Considerations for developing strategic options for improving the health project:

- In Myanmar, those who are able to obtain advanced degrees regularly return to their home areas to serve and treat members of their communities. Yadana supports education by providing “head start” programs and helping to improve some infrastructure for schools. However, there are currently no students within the pipeline area who qualify for advanced studies such as medical school.
- Yadana’s medical staff confirms that raising economic standards of a community will raise their health standard, because people will have the financial wherewithal to pay for and prioritize health in their family budgets.
- Therefore, access to higher education and raising economic standards within a community are directly related to improved health standards of a community.
- Given that Yadana already is contributing to an improved economic status, achieving sustainable health in the pipeline area can be furthered by making sure that the quality of education is improved to the extent that a few students from the pipeline area would be able to qualify for seeking advanced degrees.

- In the case of the Eindayaza community water project, although Yadana fully appreciates that payment to Eindayaza community workers is not consistent with its objective of community ownership, Yadana felt it could not take the risk of supporting a community project involving volunteer labor, because the guideline for involvement of volunteer labor had not yet been approved by the company. In order to ensure that Yadana knows that local people are not forced to contribute to a community project, Yadana staff acknowledged there is an opportunity to increase engagement with local people in order to increase their awareness of what happens in the community. Although the Socio-Eco Program has broad reach across communities, most engagement activities focus on projects without offering staff the opportunity to engage with people informally and without a pre-determined agenda. This signals that the company has an opportunity to increase its awareness of local community dynamics through more proactive, non-project based engagement.

Options:

Strengthen the overall vision and strategy of the Socio-Eco Program

There is an opportunity to develop, together with communities, a clear vision for an SEP roadmap that brings all socio-eco programs under a single, cohesive strategy. Based on a sharply defined vision of, and long-term objectives for the SEP, program staff can determine the best steps for reaching those objectives. Carrying out this activity alongside management will help to ensure that the SEP strategy is aligned with the core business objectives, has key performance indicators against a timeline, and identifies roles and responsibilities. A comprehensive and cohesive strategy will help to move from current challenges towards developing programs that focus on capacity building at the community, regional and national level. Based on CEP's experiences elsewhere, key components that would inform the strategy are:

- A Social Risk Assessment
- Stakeholder analysis
- Alignment with community preferences
- Articulation with government plans and initiatives
- Building off of Yadana's comparative advantage as a business

Example: Being strategic with HIV and Health Programming

Yadana supports a national-level HIV project run by Union, an international NGO. The project, which delivers HIV/AIDS treatment and education, has been highly acclaimed for its focus on working within the existing public health structure. The project has been successful at moving away from sole funding provided by Yadana to securing Global Fund money to continue its programming. While Yadana has achieved a sustainable model for HIV programming in other regions of the country, an opportunity remains for the pipeline-area HIV project to develop a close partnership with the public hospitals so that programming does not depend on Yadana presence over time.

Options:

With their recently submitted proposed pipeline area HIV project, Yadana has the opportunity to work hand in hand with the Ministry, starting now, to integrate the HIV project into the Ministry's programmatic infrastructure. The first step will be to integrate testing facilities, Prevention of Mother to Child Transmission (PMCT), Voluntary Confidential Counseling and Testing (VCCT) and access to Anti-Retroviral Treatment (ART) into existing Ministry of Health (MoH) hospitals. This can also happen through capacity building and addressing education and stigma reduction needs within the Ministry. A first step could be to develop a "contract" with the MoH that would include a shared vision for how the programming will align with the existing MoH plan for development of HIV programming, and also detail the inputs and activities of each party.

There is also the opportunity to engage more proactively with the MoH at the National Level. Yadana currently collects detailed health data for the pipeline area and uses the information in its annual sustainability report. However, there is an opportunity for Yadana to work with the MoH to help establish a data information collection and management system at the national level, thus building the capacity of the central government to maintain not only its HIV program but all of its programming.

Other opportunities to aid in capacity building involve participating in efforts coordinated by other organizations. The office of UNAIDS serves as the secretariat and is meant to coordinate all resources of programs linked to 3Diseases. Coordinating more closely with UNAIDS would ensure that the pipeline area programming is aligned with the national strategy, and that Total's experiences and learnings are shared across a broader group.

Another opportunity would be to co-sponsor scholarship programs for doctors to study abroad. There are currently 10 national-level HIV doctors studying in France. Yadana could consider further supporting this program, as well as finding ways to connect the returning doctors to Yadana's pipeline area HIV project as a first step to integrating the Yadana program into the Ministry's program. These efforts would increase reach of Yadana's HIV projects beyond the pipeline area and decrease the dependence of the HIV program on Yadana's presence.

Increase the Awareness of on-the-ground Issues through Increased Engagement

Increased ongoing engagement with a broader group of villagers will allow Yadana to assure the legitimacy of requests presented by communities with respect to established procedures for Yadana support of community-based projects. Yadana has helped to organize a community-based organizational structure, inclusive of Village Communication Committees (VCCs), that can aid in staying in touch with each community and simplify the process of determining which projects to invest in. Several community members suggested that a process of community meetings would also be necessary in developing and planning community-based projects such as bridges and water systems and in ensuring that community participation is voluntary.

Yadana staff also suggested they could better use their own local staff to enhance communication with local communities. This can be arranged through weekly or bi-weekly meetings that can be used as an information-sharing time. The time can be used as short “seminars” on aspects of the code of conduct and ethics, safety issues, or “soft” topics such as alcoholism, domestic violence, etc., while simultaneously giving staff time to share any potential issues they hear about in their communities.

Increasing the transparency of governance procedures at the community level will also help Yadana to communicate more effectively with the community. Transparency measures might include community bulletin boards that would enable information about projects – including amounts of money spent, material contributions, investments of time and labor, and some type of indication or “sign off” that labor was provided voluntarily – to be entered into the public domain. Appropriate transparency measures can be decided in initial community-based meetings.

FEEDBACK/OBSERVATIONS WITH REGARD TO ECONOMIC OPPORTUNITIES

This visit was the first time that the CEP team heard community complaints about the lack of jobs provided by the oil companies in the area and about perceived unfair distribution of employment across the various communities. True or not, several youngsters stated that those who get jobs within Yadana camp do so because they know someone already working there. Recognizing that there are limited jobs, and very little turnover among those who are employed by Yadana, people felt that only a limited few benefitted. They also spoke of concern that the PTTEP-operated Zawtika project would hire Thai workers rather than local people. Young people viewed jobs with the oil companies as more significant to improving their socio-economic status than the micro-loan programs.

Options:

Yadana’s current procedure for hiring new employees is based on the VCC’s recommendation of individuals in the community who are most needy and deserving. While no community member suggested that choosing the neediest of a community for potential jobs was unfair, there are indications that the process is not perceived as transparent. Yadana could consider ways of ensuring that job

opportunities and job distribution among communities are communicated more transparently. While it still may fall to the VCC to suggest names from the community for employment, Yadana could work with the VCCs to agree on a procedure that is seen as fair and transparent for the selection of employees. It may also be worthwhile to consider ways to ensure that the process the VCC takes in making hiring recommendations is better communicated or more public within each community.

At the same time, Yadana does not have many job opportunities at this stage of its operation; certainly not enough for all those interested within 25 villages. This creates an opportunity for Yadana to work with their new neighbor, PTTEP, to share business practices of Yadana that are of interest and of use to PTTEP. Rather than bring in Thai workers, Yadana can help make to PTTEP the business case for hiring locally and sourcing local content from producers that Yadana supports. As Zawtika is beginning operations, Yadana could offer to work with PTTEP to develop a hiring policy for the pipeline project to make sure that as many local people as possible get jobs. As PTTEP is considering using the VCCs for local hiring of unskilled labor, this could present an opportunity for Yadana and PTTEP to re-test the local definition of “fair and transparent job distribution” among the communities.

Kanbauk Camp

The Socio-Eco team currently resides in a separate camp, but will shortly move to the Pipeline Center with the rest of the Yadana staff. This move will help to foster internal team dynamics and communicate across the company, as well as to communities, that SEP is part of core operations, rather than an add-on to the technical process. With the vacating of Kanbauk camp, Yadana is considering alternative purposes for the camp.

The camp presents an opportunity to strategically think about how to prepare people to work with a range of companies, through capacity building, training, seed-funding and infrastructure to support small business development. For example, the camp could be used to help create cottage industries where community members can learn skills and develop businesses that can support all of the oil projects in the area. Welders, car maintenance mechanics, production of uniforms, raising chicken and eggs, rubber or oil palm processing are all feasible community-driven projects. And Yadana’s existing micro-loan program could be incorporated into the process of getting these businesses off the ground.

2.2. HUMAN RIGHTS IN THE PIPELINE AREA

The CEP team did not hear about any allegations of forced labor during community visits, despite routinely asking questions about this issue of a range of community members. “Yadana’s presence is seen as a shield against human rights abuses”. This observation is a consistent with earlier visits.

At the local level, several local community members stated an appreciation of Yadana’s willingness and capability to intervene on human rights issues when needed. Locals expressed concern about the possibility that forced labor might return when Yadana leaves. At the national level, representatives of

UN agencies expressed that, in the case that forced labor complaints may arise in the pipeline area, dealing with them a case by case basis means that resolution of any issues is dependent on Total's presence. It is suggested that, now that Total has established a zone where cases of forced labor are not tolerated, it could think about the potential leverage it has to foster a broader application of what it has been able to achieve in the pipeline area.

Between 2009-2010, Yadana requested ILO-led trainings on good labor practices within the pipeline area, comprised of various training components targeting staff (training of trainers module), local authorities, and local communities. As explained in the chapter on the sustainability of the Socio-Eco program, Yadana wanted to be sure that villagers would not be coerced by village leaders into providing labor or providing money. Yadana's senior leadership was directly involved in explaining the program to senior Government officials of both the Labor and the Energy departments who, despite initial hesitation, approved the training.

One staff member told CEP that he had heard that a village leader had mentioned that he would refrain from asking villagers to clean a local forest, explaining that the training made him realize it was the "wrong thing to do."

Possible land ownership issues

Given the high market price for rubber, most of the cashew plantations and brush that existed during the previous visit have been converted into rubber or oil palm plantations. Small nurseries in most homesteads are indications that many local farmers have their own rubber plantations. Intense land pressure is visible in the almost complete absence of fallow land.

- One person complained that her land –planted with rubber trees three years ago - had been marked for confiscation by local authorities. The story was confirmed by by-standers from the same village.
- Total's own staff received a complaint from a farmer who stated that local authorities had planted trees on the farmer's land without his permission, on the assumption that the land would be used for the PTTEP pipeline project.
- The CEP team also checked with some of the "outside" owners who had recently acquired land from a local farmer to establish a rubber plantation, attracted by low land prices in the pipeline area. This has been a recent development.

Comment:

- In that Total's commitment to ensuring no forced labor takes place in the pipeline area has been consistent and successful, this visit also identified the need to **keep a close eye on other forms of human rights infringements** that may take place in the pipeline area. In some cases, it might not be possible or appropriate to intervene. For example, the person whose land was marked for confiscation had planted on an environmentally protected area, which is technically illegal. Still, a better understanding of the local dynamics will enable the company to make more informed decisions on a case by case basis.

- The ILO trainings have raised awareness in the pipeline area as well as introduced the idea to the Ministry in such a way that it is more open to this type of initiatives. Although it is unlikely that trainings will become a requirement for companies, it is likely that MOGE would respond equally supportively to similar requests from other companies.

Options:

Moving forward with regards to good labor practices

While Yadana may choose to publicize the ILO training only minimally, there may be other opportunities to raise the visibility of the trainings among a broader group without the company being viewed as “tooting its own horn”. One opportunity would be to invite ILO officers to the Socio-Eco Forum to present what was accomplished at the training, the process taken to arrange it, and how it was received. Corporate members of the Socio-Eco Forum also stated that they would like to hear more about it. Yadana could consider approaching other companies, specifically members of the Socio-Eco forum, and offer the support of Yadana Human Resources in replicating the ILO training in other areas.

Yadana could also invite ILO to present on the outputs of the training and what ILO found in the pipeline area to broader audiences, including local civil society, journalists, and even, as a “report back”, to MOGE. As Yadana maintains engagement with civil society groups considered to be the project’s traditional critics, it might consider sitting down with thought leaders of the country to consider how their system for reducing incidence of forced labor in the pipeline area can be replicated in other regions. Yadana and the ILO office could also work together to develop ILO pamphlets to follow up on training already done in the pipeline area, as a way to keep the concepts to the fore and to provide easy reference for authorities and community members.

Consider supporting a land ownership and registration process

Such a process would support the government in fulfilling one of its tasks but would also ensure that the ownership rights of local farmers are better guaranteed. If possible, Yadana could discuss such efforts with Petronas and PTTEP.

Launching a Grievance Mechanism

Disseminate the new Grievance Mechanism broadly. A formal grievance mechanism has been designed and is in the process of being implemented. During the visit, some complaints were used to test the mechanism. Once formally approved, broad dissemination of the mechanism, including an explanation of the type of grievances that can be accepted, will provide one additional feed-back system for Yadana to learn about local dynamics within communities.

2.3. GOVERNMENT ENGAGEMENT

Most people CEP spoke with are reticent to claim enduring changes within the government, citing that true indicators of change will be evident in the following five to ten years, as the current regime prepares its exit and current mid-level officials move into executive positions. However, the

overwhelming feeling, as captured in conversation with representatives from multi-lateral agencies and advocacy groups in Myanmar, is that present opportunity lies in building capacity and increasing exposure through continued engagement with current mid-level officials. Civil servants, meanwhile, are interested in opportunities to learn key concepts – including finance, taxation, how to encourage investment, etc. One researcher in Yangon said that even though MPs are more and more interested in CSR, they do not know how to go about doing it, and they do not understand what the added value is. At the same time, she pointed out that the more the government is knowledgeable about international standards and policies, the better equipped they are to talk about these issues in parliament.

FEEDBACK/OBSERVATIONS WITH REGARD TO GOVERNMENT ENGAGEMENT

- In discussions with senior government officials, the latter noted that Total is generally seen as a trusted partner within various arms of the government. Total has leveraged this relationship to inform the Ministry of Energy of upcoming events, such as the Extractives Industry Transparency Initiative (EITI) Asian Regional Seminar in March 2010. Total took the opportunity to extend an invitation to the Ministry, and to explain the benefits of EITI for participating countries and companies.
- TEPM (rather than Yadana) has been supporting training on humanitarian and environmental law for civil servants and mid-level government officials by bringing in the United Nations Institute for Training and Research (UNITAR) - developing the capacities of mid-level technocrats on issues such as environmental, trade, and labor laws, and exposing them to topics such as investment, public-private partnerships, and the UN Global Compact. Local newspapers have reported on the occurrence of the UNITAR training, openly discussing issues of human rights training and international law in papers that were once censored for “sensitive” topics.
- Several Government officials cited Yadana’s work as the model for socio-eco standards by which they expect and require other companies to operate. They recognize the importance of social and economic community issues, while at the same time citing a lack of capacity and experience in managing these issues with oil companies. A senior MOGE official states that “Yadana and Yetagun projects have helped me realize the importance of socio-eco. Before that I wasn’t aware of its importance. We are now telling other companies that they need to do at least as much as Yadana.” Already, the government applies to new projects the same local content requirements that Yadana has instituted. And Yadana’s socio-eco program is being used by the government as an exemplar for the Dawei deep sea port.

Based on MOGE’s use of the Yadana project as a model, the new CNPC project has committed to spending \$6million USD for the first year of socio-eco programs along their pipeline. With this commitment, the government will expect MOGE to be able to account for the funds and assess the outcomes of the expenditure. Ministry of Energy officials feel that learning and experience

sharing from the Yadana project can help them in knowing how to demonstrate success to those to whom they are accountable.

Comment:

During several conversations, people suggested that there are many opportunities to work with the government, particularly mid-level officials, some of whom explicitly state that they want to learn about international best practice. Total is in a unique position to support officials in their increasing interest in international law and the creation of a more positive investment environment; it might consider inviting Government officials to attend international conferences and seminars for instance. And as Yadana starts to think about the next steps to making its own SEP investments more strategic, a similar approach may be taken up by other companies and disseminated to other regions of the country, possibly through formal experience-sharing workshops and sharing of company resources.

As other companies continue to increase the quantity and reach of social investment funds, the experience and skills of Yadana can influence future strategic investment. There are additional opportunities to support the Ministry in thinking through long-term objectives and the cumulative impacts of social investments across companies.

Options:

- Yadana can find ways to support other efforts to train and sensitize civil servants, by co-funding French or other embassy efforts to provide scholarships to civil servants to study abroad, as well as continuing in-country initiatives like the UNITAR training.
- The Ministry of Energy suggests that, beyond setting Yadana's Socio-Eco Program as the model for other companies, it may be beneficial to create a space in which companies can jointly learn from international experience and share their own experiences. It suggests that, if Yadana were to support other programs given by international experts on social issues, such as experience sharing workshops or trainings for Myanmar-operating companies, it would be open to holding events to make it happen. As even government officials say that the country is now looking to follow international standards, there is particular interest in how to develop community investment strategies and standards such as Environmental and Social Impact Assessment (ESIA) requirements for new investments.

2.4. THE ROLE OF YADANA IN THE BUSINESS COMMUNITY

FEEDBACK/OBSERVATIONS

Yadana has led the development of a monthly Socio-Economic Forum, intended as a best practice sharing forum among oil/gas companies. Currently TEPM, Petronas, PTTEP, and Daewoo are active

members, and they use this group to discuss and share experience on issues such as local communities, land acquisition, socio-economic programs, local hiring and local content.

Several companies confirm the leading position of Yadana with regard to Corporate Social Responsibility and have cited Yadana's sharing of its procedures and standards as relevant guides and key to developing their own. Daewoo says that, since it is their first time as an operator, they started with limited procedures and standards regarding social issues, and have relied on the forum and Yadana resources to develop social investment plans and address human rights issues.

Yadana's contractors also say that Yadana leads in setting rigorous standards for their contractors, and that they appreciated having to live up to the standards set by TEPM. "The way Yadana deals with its contractors is a much higher level than other companies...they have good due diligence practices and the rigor with which they do it is appreciated."

Comment:

Yadana has successfully helped to lead the development of a Socio-Eco Forum over the past two years, but the current question is how the Forum will now expand its reach and influence more hard-to-reach companies. It will also be desirable to ensure that the information sharing that the forum currently achieves is translating into more positive impacts in practice.

Options:

In so far as companies know that the Government is using Yadana as the model, they have a motivation to be involved in, and learn from, initiatives such as the Socio-Economic Forum. Yadana recently hired a research firm to conduct research on the pipeline area using UNDP's Human Development Indicators survey. Several groups expressed interest in having Yadana facilitate the sharing of the findings with civil society groups and forums and creating joint discussions of the indicators with UNDP.

Some company representatives also expressed interest in the idea of more formal workshops for a range of purposes: to share experiences among operating companies, to discuss lessons learned from other operating environments, to build expertise on technical issues such as environmental and social impact assessments, and to develop and synergize strategic social investment plans. Events such as these might prove more successful in attracting those companies which are not currently involved in the Socio-Eco Forum.

Many Myanmar businesses have also demonstrated interest in CSR, and it was suggested that Yadana could work to support the Chamber of Commerce with additional tools and resources and share experiences with other sectors beyond oil and gas. UN representatives have also suggested that, as a UN Global Compact LEAD member, Total might also consider the possibility of expanding the reach of the Socio-Eco Forum to a broader group of companies and civil society by helping to form a Global Compact Local Network.

SECTION III

CONCLUSION

Although the socio-political environment in Myanmar continues to change, the findings in this report continue to support options presented in the previous CEP reports on TEPM's operations. During the sixth visit, the CEP team has found that the company has heeded many of the options presented in previous reports regarding a) achieving more sustainable programming, and b) developing strategies for dealing with and influencing stakeholders and partners such as the government and other international companies. However, in as much as Total has focused efforts on making the Socio-Eco Program more sustainable, there is an opportunity to ensure that it also works towards sustainable impacts (rather than sustainable projects).

The development of a coherent strategy that would encompass all of its Socio-Eco Programs, humanitarian activities, and engagement efforts will require management to develop a clear vision of Total's role vis-à-vis its partnerships. As Total has made significant inroads in working with the government and with other international companies, the company is in a unique position to integrate such stakeholders into its larger CSR strategy.

As it develops a new strategy, Total will find that many opportunities exist to multiply the positive impact of the Yadana project and demonstrate positive and sustainable impacts at the project-level and broader national level.