Boundaries to business action at the public policy interface
Issues and implications for BP-Azerbaijan

Foreword
This note is based on discussions at a one-day workshop for members of BP-Azerbaijan's Communications and External Affairs Team, and facilitated by staff of the International Institute for Environment and Development on 4th December 2006. The note is not intended to provide a complete record of discussions at that workshop, but rather to draw together some of the key overall themes and insights from the day.

The overall aim is to provide a 'back-pocket' guide to the 'boundaries' issues that affect the work of the C&EA team in BP-Azerbaijan. Ideally, the effect would be to aid effective decision-making, and to build a stronger shared sense of how colleagues across the team's functions address common (but differentiated) challenges in this area. It may also help to clarify some of the 'bigger picture' issues that cut across the team's work and point to challenges and gaps that the BP-Az Leadership Team could usefully address.

1. Why are 'boundaries' issues important?

Defining appropriate 'boundaries' for business action that intersects with public policy is one of the most challenging issues of corporate responsibility internationally.

The challenge is much more than just theoretical. People who work in business often need to make strategic choices about the boundaries of what is appropriate for the business *as* a business. Sometimes these decisions about 'boundaries' are implicit, and do not require a special process of deliberation. But some judgments about 'boundaries' are more difficult. They are difficult because they require action (or inaction) in circumstances where making a choice could **a)** lead to conflict with public authorities, or **b)** lead to action that is not supported by clear 'business case'-based arguments, or **c)** generate uncomfortable expectations from other stakeholders.

The greatest decision-making challenges arise in those business operations, and countries, where the balance of public policy influence between civil society, business and government is skewed heavily in favour of one or more at the expense of others. In countries with authoritarian governments, the dilemmas can be particularly acute, with government dominating decision-making in every sphere of public life.

Since modern companies do not generally wish to operate as governments or usurp the proper role of governments, and since foreign investors are generally guests on defined terms (for oil companies operating under Production Sharing Agreements, those implicit in the term definition of 'oil operations') companies operating in such conditions are understandably reticent to challenge the *status quo*. To do so could court investment instability. And whilst companies committed to making the best possible contribution to sustainable development have a commitment to working with

stakeholders outside the business – including NGOs – this is difficult when it is not based on a social consensus that gives all key stakeholders a clear role in public policy-making.

A further dilemma is that international (and some local) stakeholder expectations of business are at odds with caution. Corporate responsibility analysts and some ordinary citizens too, in both home and host countries, expect the economic impact of companies on domestic economies to be matched by positive public policy engagement and influence on a range of issues that do not connect to core business with a bright line; from environmental protection, corruption, and human rights through to democracy itself.

The external interest in these issues is reflected in wider discussions on 'responsible lobbying', on how best to get corporate responsibility to deliver step changes in overarching governance frameworks (for example on revenue management or HIV/AIDS), and on 'private investment in public capacities'. When civil society or citizens have limited public policy influence, assumptions can grow that economic actors *do* have influence – and that they should use it.

It was striking that at our workshop, participants' top priority 'sustainable development' concerns in Azerbaijan were precisely those – such as democracy itself - where the roles and responsibilities of companies are least easy to define.

Examples of 'boundaries' dilemmas can readily be found at each of the three levels at which action is generally considered to be needed to maximise positive business contributions to sustainable development.

- **Core business impacts:** for example when businesses take decisions on which impacts are 'their' responsibility to report to the public on, and which properly lie outside their operations. The death of a contracted worker would be one example; public reporting decisions about the 'materiality' of a particular issue would be another.
- **Social investment:** when community investment teams face decisions on how to engage with local or regional governments in the delivery of social services such as healthcare or education;
- **Public policy engagement:** when businesses consider how to engage with government on public policy issues such as revenue management, democratisation or human rights; or how best to support processes of strengthening effective public governance. What are appropriate *types* of activity (e.g. from support for independent research to direct lobbying for policy change)? And what are the appropriate *issues* on which to engage?

2. **Examples of Boundaries issues for the C&EA team in Azerbaijan**

The C&EA team in the BP-Azerbaijan SPU faces many of these dilemmas.

External Affairs and Policy Forum
Public policy engagement: For BP-Azerbaijan thinking how best to act on public policy issues associated with the revenue management challenge in Azerbaijan, the question of 'boundaries' is pressing and immediate. BP may be clear on the rationale for engagement in revenue management issues (since it is in BP's interests as Azerbaijan's biggest foreign investor and operator of assets that give rise to much of the revenue for the economy to be well-run). But what can be more challenging in practice is the *government's* perception of what is appropriate for BP as a foreign

investor (e.g. in relation to the government's lack of interest in supporting competition in the marketplace, which can hamper BP's enterprise development activities). The dilemma then is how to realise the full scope of public policy action indicated by BP's sense of its role when the government does not agree.

Public Reporting

The reporting team face the challenge of ensuring clear external communication on the boundaries to BP's public engagement, building on the work of other teams. For example, when NGOs invite BP to get involved in efforts that move beyond the EITI focus on 'publishing what you pay' to 'publish what you spend', clear public reporting, given BP's commitment to being an open and transparent company, has to play a significant role in communicating on boundaries. Without that clear communication, misunderstandings and false expectations can arise.

Regional Development Initiative

The Effective Governance pillar of the RDI's work presents the most difficult set of 'boundaries' issues, so deciding on the content of work in this area is particularly complex. But there are other areas too where issues arise, not about the boundaries of what it is appropriate for BP to do *in principle*, but about the effectiveness of action that can be scuppered as a result of wider governance problems. For example, supporting enterprise development might be identified as an appropriate activity, but once enterprises reach a certain level of development, they might be considered ripe for interference or take-over by powerful actors linked to the government. Similarly, in the enterprise development sphere, BP's initiatives may only have limited impact in the face of underlying problems such as the role played by customs officials in control of trade across borders. Yet the 'boundaries' issues become more acute, and it becomes more difficult for BP to justify action, to tackle these kinds of more fundamental governance issues.

Communities and NGOs team

The most acute boundaries issues arise out of community-level investment options that bring the potential, in some way, to change or challenge the public governance 'status quo' – for example when NGOs ask for support for establishing policy institutes, or new citizens' advisory councils, or for opposition groups. Investment in initiatives that use media or communications to 'scale up' impacts also poses dilemmas – for example, TV programmes that demonstrate communities' capacity to address their own problems. Similarly, a number of development agencies have worked to build links between local communities and local and regional government (including ExComms and municipalities). The community investment programme's work has in practice involved making such links – but they cannot be presented as a primary objective of a programme designed to protect the company's assets and mitigate non-technical risk.

Two examples given by the team illustrate the types of choices faced. They developed a programme to work with municipalities in ways that might have increased the municipalities' capacity to challenge central government - but the team decided this could be counter-productive if it was seen as too overtly confrontational. Secondly, some thought was given to creating or supporting an independent think tank. However, this could be seen by the government as building criticism and opposition, and seen by NGOs as creating expectations but with no BP capacity to see these through to a strong conclusion.

A further challenge is to go beyond the immediate impacts of BP engagement and draw attention to more deep-rooted issues. For example, there has been some success in pointing to the tangible benefits of the Future Communities Programme

but not to the underlying factors of empowerment, strengthening capacity and so on which make these successes both possible and durable. The key here is to interest the government in the outcomes that can be achieved and then work with them to increase projects which use the kinds of approaches BP has employed.

3. What do C&EA staff consider in defining what constitute the boundaries of an 'appropriate' role for BP?

Staff of BP-Azerbaijan's C&EA team identified a range of criteria that underpin decisions about 'boundaries'. At a very general level, the definition of 'petroleum operations' in the Production Sharing Agreements that govern the company's relationships with its host government provides the most basic boundary for action. Activities that stray beyond the scope of that definition are less likely to be welcomed by the government

Non-technical risk mitigation or reputation management are important criteria for each of the C&EA teams. However, individual teams prioritise criteria that are closely related to their view of their team function in the overall business, or the business drivers that apply particularly to them. For the Regional Development Initiative, the ability to apply oil and gas companies' core competencies' in all initiatives is a key criterion which would constrain activities that could not in some way be matched to a 'core competence'. What that might mean in practice can be difficult to define (what is it, exactly, that an energy company *does* or is good at?).

For the EA&PF team, reputational concerns (and other 'non-technical risk mitigation' issues) are tempered by constraining considerations of investment stability: this is also a factor, but played out in local government relations, for the Communities and NGOs team. 'Risk to sustainable business' (in effect closely related to 'investment stability') has the potential to be a constraining criterion. For the public reporting team, a relevant consideration is whether disclosure could hinder sustainable business (in the sense of long-term stability and profitability of the enterprise). "Sustainable business" can also be a call to action – since some risks to 'sustainability' understood in this sense may call for action at the public policy interface. Consistent with good practice thinking on public corporate reporting, the notion of 'materiality' to the business as a whole is a key criterion for the public reporting team. Boundaries for public reporting also arise out of the overall governance framework in which BP operates: the production sharing agreements and codes of conduct, for example, define in part what it is appropriate to report on.

Individual judgments on activities that, in the context of individual C&EA teams, just don't 'feel right', based on the skill and judgment of individual team members, are also important as is action that may usurp the government's proper role' – e.g. humanitarian assistance is considered by stakeholders of the Communities and NGOs team to be the domain of government, not business, in the particular setting of Azerbaijan. (Though in other settings – e.g. post Tsunami disaster relief – different positions on the part of business have emerged, with oil companies providing fuel for humanitarian relief flights, and businesses globally contributing significant funding for the effort).

4. What are the barriers to action given the boundaries of what is considered appropriate for BP-Azerbaijan at the public policy interface?

There are number of institutional and other factors that present barriers to full realisation of activities up to the boundaries of BP-Azerbaijan's appropriate role. These include:

- The use of political rhetoric about 'stability' within the country to challenge initiatives that may in some way change the status quo, particularly at election times.
- The institutional setting in which engagement at the public policy interface is implemented: for example government interlocutors frequently change jobs, which can make building and sustaining relationships difficult.
- Lack of appropriate partners or allies in those areas where BP has a role to play but cannot lead (e.g. building local accountability).
- Lack of knowledge within BP of the range of public policy initiatives intended to provide sustainable development outcomes – which makes it difficult to take strategic decisions on options for stronger engagement.
- Current models of social provision (effectively part of the current *government's* boundaries) which mean that a contribution by BP to tackling a social/public policy challenge may be difficult to align with public policy.
- In the particular setting of Azerbaijan, BP's capacity to influence public policy in areas that fall beyond core business operations (even where there may be a 'business case') may be limited.
- BP is isolated, since the business community as a whole has no capacity to act with one voice.
- On the one hand, being a foreign investor brings limitations since it lends less legitimacy to interventions on matters of public policy unsupported by a clear commercial interest. On the other hand, being subject to international drivers of engagement such as the Extractive Industries Transparency Initiative can add legitimacy (or at least an accessible rationale) to engagement.
- Government suspicion of BP-Azerbaijan's motivations in addressing public policy challenges.

5. What kinds of tactics can be useful in overcoming these barriers?

There are a range of practical approaches which could be effective in combating the difficulties highlighted above. The most important factor in considering the following list is that they are extremely context-specific: what works in one set of circumstances may be inappropriate in another; an approach which helps reduce barriers in one scenario may have the opposite effect somewhere else. It is therefore critical to assess the likely impacts of any of these types of intervention carefully. Tactics that could be useful in overcoming barriers could include the following:

- Partnerships, bringing together a mix of actors with complementary skills and areas of expertise (and maybe also a range of ways to influence government)
- Low-key activity which doesn't 'make waves'
- Getting others to highlight the effectiveness of BP's work (esp. at community level) can carry much more weight than the same message from BP employees
- Informal links with government officials can be more effective in resolving problems than formal channels
- Investment that is intended to benefit target communities means that success is not measured by specific outcomes but by the satisfaction expressed by the intended beneficiaries - which makes it harder to shut down if controversial.

Conclusions
Understanding the boundaries to business engagement at the public policy interface is a necessary but not sufficient condition for understanding the why, the how, the when and the what, of initiatives with a strong public policy interface.

The criteria that underline decisions about where appropriate boundaries lie are applied differently by different C&EA teams, unsurprisingly since the 'business case' for each of those teams' roles overall differs. For the Regional Development Initiative, the notion of 'core competencies' is particularly important. But this is less easily found (and indeed not appropriately applied) in the direct government relations function of BP-Azerbaijan's work. For the Communities and NGOs team, 'licence to operate' and 'licence to grow' (which themselves encompass social and political stability) are important, with 'protection of the company's assets' a primary consideration.

Consistent with the findings of a recent workshop series on *private investment in public capacities*, it seems that the two most consistently applied (or 'universal') criteria relate to **reputational risk and reward** (or 'non-technical risk mitigation'), and **investment stability** (viewed in its widest sense, to include the risk of disagreement or conflict with local, regional or national public sector actors resulting).

The different team functions within C&EA mean that it would not be desirable, nor feasible, to seek to agree on a comprehensive set of 'boundary criteria'. Neither could agreement on 'boundaries' function prescriptively to point directly to activities that *should* be undertaken by individual teams.

It might never, for a variety of reasons related to its role as a cross-joint-venture-partner initiative, be considered internally appropriate for the Regional Development Initiative to undertake activities outside the 'core competencies' of a global energy company. But regular sharing of information could allow other C&EA teams to make the most of *their* core skills within their *individual* boundaries, to take action at the public policy interface, developing a sophisticated capacity to switch between teams in response to changing external circumstances. Initially, structured quarterly discussions could be helpful.

There are times when it will be necessary for the Leadership Team to consider the sum of activities across C&EA, and the impacts of other related parts of the company in order to identify gaps in the spread of work undertaken, as well as potential conflicts, inconsistency or overlaps. This type of assessment will be significantly improved if there is a clear sense within the company of ongoing public policy processes, and of the overarching objectives which BP is aiming to further through engagement in such processes.

Twice or three-yearly exchanges between different C&EA teams on boundaries for business action at the public policy interface could be helpful, not only for their function in ideas exchange, but also in allowing **gear-changes on 'boundaries for business action at the public policy interface' so that each team plays an optimal role.** Building this capacity would allow C&EA to tackle challenges that become a call to action for the business overall when viewed generically as reputational issues, even as they are considered inappropriate for individual teams. And that in itself would represent a world-class communications and external affairs competence.

IIED, December 2006