

**A Case Study of the West East Natural Gas
Pipeline,
People's Republic of China**

Eleanor Gill

M.A. Candidate, Asia Pacific Policy Studies

Institute of Asian Research

University of British Columbia

Ellie_San@hotmail.com

Private participation in infrastructure projects in China largely consists of joint ventures between foreign corporations and government or quasi-government entities¹. The legal contracts therefore represent a negotiated balance between government and private needs. However, recent negotiations over potential foreign participation in the West-East Natural Gas Pipeline from Xinjiang to Shanghai reveal that attention is also being paid to another set of public interests, those of local project-affected people. Interestingly, as the leader of the foreign consortium, Royal/Dutch Shell has voluntarily taken substantial measures to take these non-governmental public interests into account. It is possible these are only attempts to raise its own profile as a socially responsible corporation and are inconsequential to Shell's ultimate negotiation demands. However, given the recent history of violent and costly local opposition to public-private energy infrastructure projects in countries like Nigeria and Columbia, not adequately assessing and addressing local interests increasingly poses a risk both to project stability and company reputation. And especially given the long-term and costly nature of this pipeline project, it therefore seems likely that such measures are also extensive political risk analyses and mitigation measures. It is less clear, however, how Shell can go beyond merely documenting local needs and interests and actually address them.

Three sets of interests

This West-East Natural Gas Pipeline (WEP) is of great strategic importance to both the Chinese government and to the foreign companies. PetroChina Company Ltd., who began building this pipeline in July 2002, can be understood to largely reflect the interests of the central government.² The WEP project will help achieve the Chinese government's 10th Five-Year Plan (2001-2005) goal of increasing natural gas use from 2% of the nation's demand in 2001 to 6% by 2005.³ The use of natural gas, one of the most "efficient and

¹ Bellier and Zhou, Private Participation in Infrastructure in China: Issues and Recommendations for the Road, Water, and Power Sectors (Washington, D.C.: The World Bank, World Bank Working Paper No. 2, 2003), Executive Summary, pp. XV.

² PetroChina Company Ltd. is a 90% state-owned subsidiary of China National Petroleum Corporation, China's giant, state-owned oil and gas conglomerate. See Dr. Steven W. Lewis, 'Privatizing China's State-Owned Oil Companies' (1999).

³ Williamson and Weisert, 'Natural Gas: Fuel for the New Economy,' China Business Review, Vol. 28, Issue 5 (Sept/Oct. 2001).

cleanest fuels for primary energy production”⁴ is desirable due to chronic energy imbalances and shortages, the cost of rising petroleum imports, improved gas-based power-generation technologies, and widespread environmental damage due to coal combustion⁵. Coal is still used to meet two thirds of China’s energy demand and is the main contributor to China’s sulphur dioxide emissions, the highest in the world.⁶ The energy provided by the natural gas to the Eastern coastal region will help these regions maintain spectacular economic growth. This WEP project is also a “significant component of the strategy of developing West China,”⁷ a national priority of developing China’s poorest hinterlands to “develop China’s economy, stabilize local society, and contribute to China’s unity.”⁸ Moreover, it is hoped that the West-East Pipeline will join with the already constructed Sebei-Lanzhou pipeline from Tibet and “may eventually allow China to tap into the vast gas fields of Russia or Turkmenistan.”⁹ The WEP, however, is expensive and requires sophisticated technology, which is why the government is keen to involve foreign corporations.¹⁰ The pipeline construction alone requires investment of RMB 43.5 billion, and the development and production of the natural gas fields to supply gas for the project for 45 years will cost RMB 27.3 billion.¹¹

Negotiations for foreign participation began in 2001, and resulted in a Joint Venture Framework Agreement between PetroChina and three International Oil Companies (IOCs), signed on July 4, 2002.¹² In considering the importance of this

⁴ Williamson and Weisert, ‘Natural Gas: Fuel for the New Economy,’ China Business Review, Vol. 28, Issue5 (Sept/Oct 2001), pp. 38-40.

⁵ Logan and Chandler, ‘Natural Gas Gains Momentum,’ China Business Review, Vol. 25, Issue 4 (July/Aug 1998), pp. 40-46.

⁶ ‘West-East Gas Pipeline Project to Benefit Xinjiang, Deputy Says,’ China Internet Information Center (29 March 2002).

⁷ ‘West-east Pipeline Project to Benefit Xinjiang,’ China Internet Information Center.

⁸ Jiang Zemin, cited in ‘Western Development Vital,’ China Internet Information Center (18 September 2002).

⁹ Shi Xingquan, Vice-President of PetroChina, December 2001, cited in ‘Shell Comes Under Fire at AGM over \$18 billion gas pipeline project in occupied territory,’ Free Tibet Campaign, Press Release (16 May 2002).

¹⁰ Deyell Q.C. and Kong, ‘Foreign Investment in China: Oil and Gas,’ Blake, Cassels, and Graydon LLP.

¹¹ ‘West-East Pipeline Project, FAQ,’ Shell in China.

¹² Among the key terms and conditions decided upon in the Framework Agreement was that the three IOCs, Royal/Dutch Shell, ExxonMobil, and Gazprom, are to each have a 15% shareholding in the project, PetroChina Company Ltd., 50%, and China Petroleum and Chemical Corporation (Sinopec), 5%. Other international partners in this project are OAO Hong Kong China Gas and Stroytansgaz. The Framework Agreement also guarantees a 45-year term of the project, petroleum sharing contracts for gas field development, 65% of the pipeline construction cost to be covered by RMB loans, and an agreement to adopt health, safety, environmental and social standards consistent with international expectations.

pipeline project to the International Oil Companies (IOCs) involved, it is most useful to use Royal/Dutch Shell as a case study as their needs and interest have been made the most public. Participating in an infrastructure where the returns on investment are dependent on such long-term profitability also shows the extent to which Shell in the “investment stage of the business cycle” and “in for the long haul.”¹³ It is projected that the pipeline will not reach its full capacity of 12 billion cubic meters of gas a year until 2007,¹⁴ and that it will take over 10 years to break even financially on the project.¹⁵ Shell’s current priority is clearly to increase market share in China. As Evert Henkes, chief executive officer of Shell Chemicals, stated, “China’s energy...needs, already large, are still in their infancies compared to developed countries. The stakes are high. The prize is to be part of the largest potential market in the world.”¹⁶ The importance of investing in natural gas pipelines was also made clear by Sir Philip Watt’s statement in March, 2003, that “the relative growth of gas to oil leads to the clear possibility that gas will overtake oil” as an energy source.”¹⁷ By 2002, Shell had invested over \$1.6 billion in China’s energy sector and expects to have invested \$5 billion by 2005.”¹⁸

Negotiations over the final Joint Venture Contract (JVC) have largely been concerned with the rate of return on investment and China’s natural gas pricing regime. As in all infrastructure projects in China, the greatest risk investors perceive is China’s “complex but incomplete and ineffective legal and regulatory framework and approval process.”¹⁹ This leads companies to demand guaranteed rates of return on investment, which places most of the risk on their domestic counterparts.²⁰ In this pipeline project, the IOCs are demanding a 15% guaranteed return on investment, but PetroChina claims this

Negotiations over the final Joint Venture Contract, associated transportation and sales contracts, and upstream petroleum contracts are still ongoing and have proved more complicated and lengthy than expected.

¹³ ‘Sustainable Development Annual Report 2002’ Shell in China, pp. 7.

¹⁴ ‘West-East Pipeline Project,’ Shell in China.

¹⁵ ‘China’s huge west-east gas pipeline mired in bureaucracy: Royal/Dutch Shell,’ Agence-France Press (via Clari-Net) (1 September 2003).

¹⁶ China-Britain Business Council, Company Profile.

¹⁷ ‘Shell to expand its Natural Gas operations,’ Alexander’s Gas and Oil Connections, Vol. 8, Issue 13 (June 26, 2003).

¹⁸ ‘Shell’s Investment in China to Reach 5 Billion U.S. Dollars,’ People Daily (May 27, 2002).

¹⁹ Bellier and Zhou, Private Participation in Infrastructure in China: Issues and Recommendations for the Road, Water, and Power Sectors, pp. 9.

²⁰ Bellier and Zhou, Private Participation in Infrastructure in China: Issues and Recommendations for the Road, Water, and Power Sectors, Ch 2.

is impossible.²¹ A prominent financial risk to the foreign companies is that an overly high final selling price of the natural gas to domestic and industrial users will scare away potential buyers. Because PetroChina has indeed had a hard time securing contracts for the gas, in September 2003, that National Development and Reform Commission lowered gas prices by 24 US cents per cubic meter to 15.3 US cents per cubic meter. Prices are now set differently for residential users, who are willing to pay the most, industrial users, and power plants, who will pay less. As a result, PetroChina has signed initial sales contracts with 19 customers, though these are non-binding. PetroChina shares lost 2.86% in the Hong Kong Stock Market, but PetroChina remained confident that lower gas prices would not be affected as more customers would move in.²² In light of these problems with the WEP, the Chinese government is drafting new legislation for natural gas pricing.²³

In addition to greatly benefiting the Chinese government and the foreign companies involved, the WEP project will benefit Chinese people due to increased use of natural gas over coal. Only 2,000 people will need to be relocated,²⁴ compared with the 200,000 that will be relocated during China's Water Diversion Project²⁵ or the 1.3 million in the Three Gorges Dam project.²⁶ However, the pipeline will largely benefit its target markets in the east, which are mainly Shanghai but also Jiangsu, Zhejiang, Henan, and Anhui provinces.²⁷ One analyst claims it is a historic fact that "suppliers of raw material rarely benefit significantly from having their wealth removed."²⁸ Moreover, as the construction of this pipeline will result in relocations, the demolition of buildings and

²¹ 'China ponders dumping foreign consortium in West-East Pipeline project,' Agence France-Press (via Clari-Net) (13 August 2003).

²² Cheaper Gas Set for Residents, China Daily, (18 September 2003)

²³ China Energy, Power, Oil, and Gas Overview, China Business and Professional Information, FriedlNet.

²⁴ Rimmer, 'Failing the Challenge; The Other Shell Report 2002,' Friends of the Earth, 2002, pp. 14.

²⁵ '200,000 People to be Relocated in Water Diversion Project,' China Internet Information Center (13 February 2003).

²⁶ Khoo, 'China's Three Gorges: Power to the people or environmental catastrophe?' CBC News Online, (16 June 2003).

²⁷ McNair Paper, "Oil for the Lamps of China-Beijing's 21st Century Search for Energy," Institute for National Strategic Studies, National Defense University.

²⁸ Ibid.

land, and will require digging, placement, and maintenance of the pipe, the pipeline will indeed impact the people who will live where the pipeline will run through.²⁹

Shell taking the lead

Interestingly, it is Shell that has been taking the lead role in assessing the needs and interests of these local people. Most notably, Shell contracted the United Nations Development Program (UNDP) to conduct an extensive Social Impact Assessment (SIA) Survey to ascertain the general concerns of the 27 million people who live in communities that will be affected by the pipeline.³⁰ This survey was building on PetroChina's Environmental Impact Assessment (EIA) that was completed to Chinese national standards in 2001.³¹ Although Shell routinely conducts both SIA and EIA surveys for all major projects,³² this SIA Survey was the most comprehensive and extensive ever done in China, and the first of its scale for a major government infrastructure project.³³ 10,750 stakeholders and households along the pipeline were interviewed.³⁴ And even in areas where SIAs had been conducted before, none had been as in advance of the project as this one. One farmer respondent in Henan Province said, "We have experienced several major development projects like this one, but this is the first time we have experienced the social impact assessment before the project starts."³⁵ The major findings from this SIA were that there was "a reservoir of good will" and a general presumption that the project is important and good for China. However, there were concerns over lack of information and lagging notification of plans for compensation, loss of land, lower crop yield, the environment, damage to local roads and irrigation systems, and inadequate compensation. General hopes were for benefits to the local economy, employment opportunities, and access to natural gas as a fuel.³⁶

In addition to simply identifying local needs and interests through social and environmental impact assessments, Shell claims it is committed to addressing them. Shell

²⁹ Social Impact Assessment Survey of the China West-East Gas Pipeline Project, UNDP China, July 2002.

³⁰ Social Impact Assessment Survey of the China West-East Gas Pipeline Project, UNDP China, 2002

³¹ 'Sustainable Development Annual Report 2002' Shell in China.

³² 'Sustainable Development Annual Report 2002' Shell in China, pp. 7.

³³ Ibid, pp. 10.

³⁴ Social Impact Assessment Survey of the China West-East Gas Pipeline Project, UNDP China, 2002

³⁵ 'Sustainable Development Annual Report 2002' Shell in China, pp. 10.

has declared commitment in all its projects to “ensuring that benefits are fed back to project-affected communities as part of its commitment to sustainable development.”³⁷ In 1995, Shell became officially committed to human rights and ‘sustainable development’ as defined by the Brundtland Commission (1987).³⁸ Indeed, from the beginning of the WEP negotiations, Shell has been requiring the final agreement to include at least some guarantees of social and environmental standards. Shell Chairman Sir Philip Watts met personally with former President Jiang Zemin and said Shell would only participate in projects in China “if the environmental and social dimensions are properly addressed.”³⁹ Shell and PetroChina together have used the results of PetroChina’s EIA and Shell’s SIA to produce Environmental and Social Management Plans (ESMPs).⁴⁰ Moreover, Shell has gone to significant lengths to support and finance other local social development projects in China that are unrelated to specific projects. For example, Shell has developed its own initiatives such as the Better Environment Scheme which encourages school children to design environmental projects, and the Shell Foundation which in China has sponsored projects on Shanghai transport, sustainable farming, and improved stoves. Shell also supports non-government initiatives such as UNICEF and the Wild Camel Protection Foundation. By the end of 2002, Shell had contributed \$2.2 million to promoting sustainable development.⁴¹

It is easy, however, to disregard these measures as attempts largely to raise its own profile and reputation as a socially responsible corporation. For example, it is unclear how the UNDP SIA Survey had an impact on Shell’s negotiating terms for the Joint Venture Framework Agreement. Although the UNDP’s SIA officially ended July 30, Shell claims it had access to the results of the UNDP SIA Survey before signing the July 4 Joint Venture Framework Agreement. It could not have been more than several days, however, and was certainly before the results of the Survey were available for public

³⁶ Social Impact Assessment Survey of the China West-East Gas Pipeline Project, UNDP China, 2002

³⁷ ‘West-East Pipeline Project,’ Shell in China.

³⁸ The Brundtland Commission defines sustainable development as “meeting the needs of the present without compromising the ability of future generations to meet their own needs.” Cited in ‘Shell in China (2003),’ Shell in China.

³⁹ Rimmer, ‘Failing the Challenge; The Other Shell Report 2002.’

⁴⁰ ‘Sustainable Development Annual Report 2002,’ Shell in China.

⁴¹ ‘Shell in China (2003),’ Shell in China.

scrutiny.⁴² Despite the extensive publicity Shell has given the UNDP's SIA Survey,⁴³ the Environmental and Social Management Plans, which represent how Shell actually plans to address the identified interests and needs, have not been made public. The only reference Shell makes to them is a statement that they will help protect nature reserves and biodiversity, suggesting they have a more environmental than social agenda.⁴⁴ Recent news coverage of the JVC negotiations only mentions financial and regulatory concerns, not concerns over social and environmental standards and practices.⁴⁵

Especially given the notable financial risk Shell is assuming in infrastructure projects like the West-East Pipeline, a more pragmatic reason for conducting such an extensive SIA survey and contributing to various local development initiatives in China could be both political risk analysis and mitigation. First, local conflicts and opposition pose an increasing social and political risk to energy companies around the world. Such social risks can result in project delays, due to domestic and international opposition when projects adversely affect local populations or the environment, and security related problems such as sabotage and terrorism.⁴⁶ According to Columbia's National Planning Department estimates, rebel attacks and pipeline bombings between 1990 and 1994 have cost the petroleum industry in Columbia at least \$12 billion.⁴⁷ Shell Nigeria was recently forced to evacuate non-essential staff and close down two flow stations in Nigeria due to violent clashes between the Nigerian navy and fishing communities who have "long-standing grievances over lack of compensation from the oil giants."⁴⁸

Social risks can also result in lower than anticipated financial revenue from higher than expected social mitigation costs, and potential law suits over human rights abuses.⁴⁹ For example, Shell was taken to U.S. courts for human rights violations in oil and gas exploration and production operations in Nigeria, and Texaco has faced a similar lawsuit

⁴² 'Shell, Gazprom and ExxonMobil sign framework agreement for China's West-East gas development project,' Shell in China (www.shell.com.cn/)

⁴³ See in general: Shell in China website.

⁴⁴ 'Sustainable Development Annual Report 2002' Shell in China.

⁴⁵ See, for example, 'China ponders dumping foreign consortium in West-East Pipeline project,' Agence France-Presse (via Clari-Net), 13 August 2003 or 'West East pipeline to sell gas at lower prices,' People's Daily, (18 September 2003).

⁴⁶ Amazon Financial Information Service.

⁴⁷ Amazon Financial Information Service.

⁴⁸ 'Shell Nigeria Evacuates Staff,' BBC, UK (March 17, 2003).

⁴⁹ Amazon Financial Information Service.

in Ecuador.⁵⁰ It is clear that in today's world EIAs alone are not enough. As writers to the International Association for Impact Assessment state, if potentially negative social impacts are "not adequately identified, evaluated and mitigated while formulating the project, [it] could lead to significant...public opposition in the project area putting the entire project investment at risk."⁵¹

Although China does not have a recent history of extensive and violent opposition to infrastructure projects, there are reasons why Shell would perceive it necessary to conduct an extensive political risk analysis before investing in the West-East Pipeline. The WEP extracts natural gas from the Tarim Basin and then runs 952 kilometers in the Xinjiang Autonomous Uighur Region.⁵² Uprisings of Xinjiang's Muslim ethnic minorities, who resent Chinese Communist Party governance and exploitation of the region, have escalated in the last few decades.⁵³ This has resulted in bombings, street fighting, assassinations, mass arrests of suspected separatists, and thus a "significant loss of life and reliably documented human rights violations."⁵⁴ In addition, there have recently been significant protests by workers of subsidiary corporations of China National Petroleum Corporation (CNPC) across China. In 2002, nearly 50,000 workers protested CNPC's unilateral breach of their retrenchment contracts in what was "the most sustained and biggest self-organized workers' mobilization in post-1949" China.⁵⁵ This spurred solidarity demonstrations from Xinjiang to Gansu to Liaoning provinces.⁵⁶ In April 2002, hundreds of retrenched Lanzhou Chemical Corporation workers protested in Lanzhou, Gansu, over unsatisfactory severance packages.⁵⁷

Moreover, since the early 1990s, there has been a well-documented emergence of provincial and local autonomy and spreading of corruption which both undermine the

⁵⁰ Amazon Financial Information Service.

⁵¹ Joshi, Vijay, Modak, Prasad and Illnagovan, 'Mainstreaming Environmental and Social Safeguards in Infrastructure Projects based on Public Private Partnership: Experience of a Financial Institution,' Paper for International Association for Impact Association Annual Meeting 2000.

⁵² Social Impact Assessment Survey of the China West-East Gas Pipeline Project, UNDP China, 2002.

⁵³ Becquelin, 'Xinjiang in the Nineties,' *China Journal*, No 44 (July 2000), pp. 66.

⁵⁴ George, 'Islamic Unrest in the Xinjiang Uighur Autonomous Region,' A Canadian Security Intelligence Service publication, Commentary No. 73, Spring 1998.

⁵⁵ '50,000 Daqing Oilfield Workers Organize Independent Trade Union,' *China Labor Bulletin* (6 March 2002).

⁵⁶ '50,000 Daqing Oilfield Workers Organize Independent Trade Union,' *China Labor Bulletin*.

⁵⁷ 'Lanzhou Protests,' *China Labor Bulletin* (23 April 2002).

central government's authority and power.⁵⁸ There have been increasing anti-corruption protests, especially in rural areas.⁵⁹ In fact, Shell has first-hand experience with corruption in China. In its Nanhai Petrochemicals Project, Shell uncovered a fraud while conducting a corruption investigation into the government resettlement process,⁶⁰ and ensured that misappropriated funds were recovered and villagers were not affected.⁶¹

Second, in addition to identifying the potential political risk, conducting extensive SIA surveys and financing local development initiatives could be a means to mitigate project risk both in China and internationally by gaining the trust of the local community and enhancing its own corporate image. Those questioned by the UNDP were clearly impressed. One interviewed farmer reportedly said, "I have heard about putting people's interests first and now I see this happening...with PetroChina and Shell putting thousands of people's interests first."⁶² In addition, although the UNDP's SIA has not escaped criticism and accusations that the UN is "being used as a cover for corporate involvement in China's exploitation of colonized areas,"⁶³ this SIA could help increase international support for the project. There is some international criticism of Shell's involvement in the WEP project because it is seen to be "part of China's western development strategy, designed to consolidate control of troubled regions like Tibet and Xinjiang...whose natural resources are exploited."⁶⁴ However, because of its use of extensive EIAs and SIAs, Shell is increasingly seen as a leading example of how a corporation can assess local needs. For example, Shell was one of the six companies directly contacted by the International Association for Impact Assessment to produce a publication called 'Impact Assessment in the Corporate Context.'⁶⁵

⁵⁸ Stanley Lubman (ed.), *China's Legal Reforms*, (U.S.A.: Oxford University Press, 1996), pp. 180-181.

⁵⁹ 'More Unrest in Rural China,' BBC News (16 January 1999).

⁶⁰ 'Sustainable Development Annual Report 2002' Shell in China, pp. 11.

⁶¹ 'Sustainable Development Annual Report 2002,' Shell in China, pp. 11.

⁶² 'Sustainable Development Annual Report 2002,' Shell in China, pp. 10.

⁶³ Rimmer, 'Failing the Challenge; The Other Shell Report 2002,' Friends of the Earth (2002).

⁶⁴ Rimmer, 'Failing the Challenge; The Other Shell Report 2002,' Friends of the Earth, (2002), pp. 15.

⁶⁵ 'Impact Assessment in the Corporate Context,' International Association for Impact Assessment, Business and Industry Series, No. 1 (May 2002).

Beyond Documentation

Understanding these possible motivations is important in assessing whether the private sector both can and will “go beyond the ex-ante prediction of adverse impacts”⁶⁶ and truly address local needs and interests. First, despite claims that any such SIA surveys in China are “deeply problematic” because “people cannot be expected to express opposition to projects that are clearly Government priorities,”⁶⁷ and despite other more logistical imperfections, the UNDP’s SIA was comprehensive and thorough, did identify specific needs and interests of project-affected communities, and therefore sets a useful precedent. The fact that such an extensive SIA was conducted in only 11-15 weeks⁶⁸ shows that “it is possible to conduct a high quality survey... in a short period of time.”⁶⁹ Second, the UNDP’s SIA Survey outlines many ways foreign corporations can indeed play a useful role in addressing local interests. With regards to the WEP project, the UNDP suggests Shell provide timely and substantial information about the project to local people and ensure that compensation payments to the people being relocated are made in accordance with Chinese legislation.⁷⁰ An inventory of heritage sites, natural parks and reserves, and temples and tombs should be taken, so the pipeline can avoid them. And as tax revenues increase, a development fund could be established to fund development priorities of each province or area. Local labor could be used to increase employment opportunities, especially in Xinjiang where there is acute resentment of Han Chinese taking away local jobs.⁷¹ Contracts signed with the construction teams could include clauses, incentives, and penalties to encourage environmental protection, reparation of damaged local roads or irrigation systems, and further identifying sensitive

⁶⁶ ‘Social Impact Assessment International Principles,’ International Association for Impact Assessment, Special Publication Series No. 2 (May 2003).

⁶⁷ These critics point to the World Bank’s Independent Panel’s findings in Tibet in 2000 that there existed a “climate of fear” that prevented many from expressing opposition to nationally sponsored projects. See ‘Tibet Campaigners Question Shell and UN Development Programme over Controversial West-East Pipeline,’ Free Tibet Campaign, Press Release (July 2, 2002).

⁶⁸ Although the SIA officially ran from April 15 to July 30 (15 weeks), Shell claims to have seen the results before signing the Framework Agreement on July 4. Neither Shell nor the UNDP has specified when the SIA was actually completed, nor when it was made public.

⁶⁹ Social Impact Assessment Survey of the China West-East Gas Pipeline Project, UNDP China, 2002, pp. 31.

⁷⁰ Rimmer, ‘Failing the Challenge; The Other Shell Report 2002,’ Friends of the Earth, pp. 14.

⁷¹ Nicolas Becquelin, ‘Xinjiang in the Nineties,’ China Journal, No. 44 (July 2000).

sites to avoid.⁷² Construction teams could also be encouraged to buy food and supplies in the local economy.⁷³

It is less clear, however, that foreign corporations alone can and should be relied on to voluntarily play a leading role in addressing local interests and needs in all infrastructure projects. A recent World Bank survey given to a number of the most well-known multinational oil, gas, and mining corporations showed that twelve out of seventeen respondents comprehensively assess environmental implications of their projects in developing countries, and only seven of the seventeen comprehensively assess social implications.⁷⁴ Therefore even these higher-profile companies pay uneven attention to environmental and social impact assessments concerns. Lower-profile and less-scrutinized companies are even less likely to perform these assessments.⁷⁵ Naturally, the lower the perceived risk to project stability or company reputation, the less inclined companies will be to assess and address local needs. SIAs are important but “always likely to be done within the schedules and imperatives of the projects themselves.”⁷⁶ Perhaps the Environmental and Social Management Plans are not currently enjoying higher media profile because the perceived social, environmental, and reputational risks are low. Moreover, smaller companies do not always have the capital necessary to conduct extensive surveys and address local concerns. This is especially relevant in China as the government is encouraging smaller domestic Chinese companies to become more active in investing in infrastructure projects.⁷⁷ And lastly, although there has been much formalization and modeling of political risk in the last few decades, most political risk analysis and mitigation methodology is imperfect due to problems of incomplete

⁷² Social Impact Assessment Survey of the China West-East Gas Pipeline Project, UNDP China, 2002, pp. 37.

⁷³ Social Impact Assessment Survey of the China West-East Gas Pipeline Project, UNDP China, 2002, pp. 37.

⁷⁴ Amazon Financial Information Service. (World Bank survey data now inaccessible via <http://www.worldbank.org>)

⁷⁵ Amazon Financial Information Service. (World Bank survey data now inaccessible via <http://www.worldbank.org>)

⁷⁶ Social Impact Assessment Survey of the China West-East Gas Pipeline Project, UNDP China, 2002, pp. 31.

⁷⁷ Bellier and Zhou, Private Participation in Infrastructure in China: Issues and Recommendations for the Road, Water, and Power Sectors, pp. 9.

empirical data and subjective and impressionistic approaches.⁷⁸ Relying only on the private sector to voluntarily play a leading role in addressing local public needs will clearly not guarantee that these needs be met.

There are, however, other ways local needs and interests could be addressed in China. The most commonly cited measure to increase the positive benefits of the WEP project in the UNDP SIA Survey was to improve monitoring of project engineering and government coordination of relations between the pipeline companies and the local people.⁷⁹ The UNDP discovered that “much of the highly detailed information needed for a more conventional SIA – a precise and detailed footprint of the project – was still not available at the time of the survey in five of the seven provinces.”⁸⁰ The local, regional, and national governments are therefore being called upon to increase their involvement in monitoring and coordinating public-private infrastructure projects. PetroChina can increasingly work with regional and local governments to disseminate project-related information. Second, China’s legal system must be continuously strengthened by the Chinese government, lawmakers, and academics, as well as by development organization and agencies. CIDA, for example, sponsors that Canada-China Judge Training Project, Legal Aid and Community-Level Legal Services in China Project, and the All-China Lawyers Association. Ensuring local officials abide by domestic legislation in administering compensation payments can dispel the documented concern over compensation payments. Under WTO law, the central government must ensure implementation and enforcement of WTO-consistent regulations throughout all provinces and regions of China.⁸¹ This could help increase norms of transparency, accountability, and legalism throughout China, which in turn could help citizens demand and obtain the legally prescribed compensation payments. Proper compensation could also be ensured through cooperation with domestic or foreign non-governmental organizations, which could play an increased role in overseeing compensation processes.

⁷⁸ see generally: Jose de la Torre, David H. Neckar, ‘Forecasting Political Risks for International Operations,’ *International Journal of Forecasting*, Vol. 4 (1988), pp. 221-241.

⁷⁹ Social Impact Assessment Survey of the China West-East Gas Pipeline Project, UNDP China, 2002.

⁸⁰ ‘About this survey,’ UNDP China.

⁸¹ GATT Art. 24:12 states that “Each contracting party shall take such measures as may be available to it to ensure observance of the provisions of the Agreement by the regional and local governments and authorities within its territories.” (<http://www.wto.org>)

Third, civil society could play a larger role in identifying and addressing particular local needs that both foreign corporations and the central Chinese government are unlikely to address. For example, largely due to intense lobbying by the Wild Camel Protection Foundation, the West-East Pipeline has been diverted from its original course to save and protect wild camels in Xinjiang.⁸² This Foundation found the Chinese government sensitive to international pressure when environmental issues are raised.⁸³ It is also noteworthy that a large financial supporter of this Foundation is Shell, a useful example of how private corporations themselves can help civil society play a larger role in addressing local needs. Fourth, increased use of the ISO 14000 standards on environmental management could help “the implementation of actions supportive to sustainable development.”⁸⁴ By making achieving ISO 14001 standards a term of investment, the foreign consortium could also encourage PetroChina to adopt these environmental management system standards. These voluntary standards are not “costs without benefits”⁸⁵ but would mitigate environmental risk as well as produce tangible economic benefits such reduced raw material use and energy consumption, increased process efficiency, reduced waste generation and disposal costs, and utilization of recoverable resources.⁸⁶

In conclusion, Shell’s involvement in the West-East Natural Gas Pipeline has proved an increasing example of how the private sector is playing a leading role in assessing the needs and interests of local project-affected people. In addition to negotiating a favorable joint venture agreement that ensures regulatory predictability and financial viability, Shell understands it must also develop both local support for the project and a clean international reputation. Although this is a positive development that perhaps sets a useful precedent, it is less clear how Shell actually plans to address these local needs. Moreover, it cannot be assumed that all companies have the capital or interest to do likewise. However, the more companies perceive risk in not both assessing and then addressing local needs and interests, the more likely they are to do so. The

⁸² Wild Camel Protection Foundation, Newsletter 8 (October 2002).

⁸³ ⁸³ Wild Camel Protection Foundation, Newsletter 8 (October 2002).

⁸⁴ ‘ISO and the Environment,’ International Organization for Standardization.

⁸⁵ ‘ISO: irrelevant or invaluable?’ International Organization for Standardization.

UNDP has warned Shell that “there is risk that [the peoples’] ‘benefit of the doubt’ could become doubt or even active opposition if hopes are unrealized and worried become confirmed by facts and happenings on the ground.”⁸⁷ Shell must now work hard to maintain both the local good will and its international reputation. In countries like China, where national or local governments are often incapable of or unwilling to satisfactorily meet local needs, international and domestic norms and expectations of the private sector taking on this new role must be developed, fostered, and vocalized. Only then can corporations be relied on to truly address local project-affected peoples’ needs and interests.

⁸⁶ ‘The Basics,’ International Organization for Standardization.

⁸⁷ Social Impact Assessment Survey of the China East-West Gas Pipeline Project, UNDP China, 2002, pp. 35.

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Nicolas Becquelin, 'Xinjiang in the Nineties,' *China Journal*, No 44 (July 2000), pp. 65-90.

'Cheaper Gas Set for Residents,' *China Daily* (Sept. 18, 2003) [Online, cited February 2004]. Available from <http://www1.chinadaily.com.cn/en/doc/2003-09/18/content_265104.htm>

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