

Table of violations, Shah Deniz II project

<b>Assessment of available project related information, Shah Deniz II</b>	
<b>Violations</b>	<b>EBRD language</b>
<p><i>*Italics denotes language from the Independent Environmental &amp; Social Review and Audit Report</i></p>	
<b>1. Project approval disclosure process</b>	
<p>The independent Audit is dated <b>after</b> Board date for project approval. The independent Audit which became available on the project ESIA website is dated September 2015. The Project Board approval date was July 22, 2015. Thus, it appears that the Board approved the project before the Audit was finalized.</p>	<p>2014 PIP. 3.4.1 For “Category A” projects, in addition to the disclosure required of the clients under the Environmental and Social Policy, the Bank will make available Environmental and Social Impact Assessments on “Category A” on the EBRD website in its Headquarters in London and in the relevant EBRD Resident Office a minimum of 60 calendar days prior to consideration of the project by the Board of Directors for private sector projects and 120 calendar days prior to Board consideration for public sector projects. For projects located in countries where EBRD does not have a Resident Office, alternative means of disclosure will be identified on the ESIA webpage for the project. ESIA’s are made available in local language and may be available in whole or in part in other languages, where appropriate.</p> <p>2008 PS1: 5. Through appraisal activities such as risk assessment, <b>auditing</b>, or environmental and social impact assessment, the client will consider in an integrated manner the potential environmental and social issues and impacts associated with the proposed project. [Bold inserted]</p>
<p>IESC, the independent consultant, held meeting with SD2 Operator ( British Petroleum) on critical project diligence less than 30 days before Board date:</p>	<p>2008 PR1. 11. In cases where clients with multi-site operations are seeking from the EBRD general corporate finance, working capital or equity financing, the appraisal outlined in paragraphs 4 to 10 may not be appropriate. In such cases, which will be confirmed by the EBRD on a project-by-project basis, the client</p>

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<p><i>“...additional specific information regarding initial IESC findings was supplemented from meetings with the SD2 Operator on 25 June 2015. This additional information assisted in demonstrating compliance with Lender standards and policies for specific issues that were not fully documented in the disclosed ESIA. Specifically, this information pertained to the stakeholder engagement process with affected communities; the disclosure of environmental and social management plans; evidence of implementation of the grievance mechanism, and; the implementation of compensation measures for fishermen whose livelihood are potentially impacted by the nearshore and onshore pipeline construction activities in Sangachal Bay.”</i></p>	<p>will commission a qualified and experienced, external specialist to conduct a corporate audit of their current environmental and social management system (ESMS) and the company’s past and current performance against EBRD’s PRs. The audit will:</p> <ul style="list-style-type: none"> <li>● assess the client’s ability to manage and address all relevant social and environmental risks and impacts of its business and operations, in particular the issues identified in the PRs (including this PR)</li> </ul>
<p>IESC concluded that LOSD, the project operator, has limited position to influence Social and Environmental project outcomes: <i>“The ESR and audit findings also recognised that LOSD, as the party seeking finance from the Lender Group, is not the Operator of the SD Project and has limited ability to influence the Project’s environmental and social performance. LOSD is also limited in its ability to facilitate the Project’s demonstration of environmental and social performance in compliance with Lender Group policies and standards. To that end, the IESC findings recognize that compliance with Lender Group obligations is assessed on the basis of information that may be incomplete and with limited access to the Operator or its contractors.”</i></p>	<p>2008 ESP. A. 2. Purpose of Policy: The Policy outlines how the Bank will put into practice its commitment to promote environmental and social sustainability by:</p> <ul style="list-style-type: none"> <li>● establishing for clients the environmental and social performance requirements that they will be expected to meet in a time frame acceptable to the Bank</li> <li>● defining the respective roles and responsibilities of both the EBRD and its clients in achieving sustainable outcomes in line with the Policy and the performance requirements</li> <li>● setting a strategic goal to promote projects with high environmental and social benefits.</li> </ul> <p>B. The Bank’s role is: <b>(i) to review the clients’ assessment; (ii) to assist clients in developing appropriate and efficient measures to avoid or, where this is not possible, minimise, mitigate or offset, or compensate for adverse social and environmental impacts consistent with the PRs; (iii) to help identify opportunities for additional environmental or social benefits; and (iv) to monitor the projects’ compliance with its environmental</b></p>

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	<p>and social covenants as long as the Bank maintains a financial interest in the project. [Bold inserted]</p> <p><b>ESP 2008</b></p> <p>C.14 It is the responsibility of the client to ensure that the required due diligence studies, information disclosure and stakeholder engagement are carried out in accordance with PRs 1 through 10, and submitted to the EBRD for review as part of its own appraisal. The EBRD will review the information provided, and provide guidance to the client on how the project can meet the Bank’s requirements.</p> <p>2008 PR 1. 19. The PRs, including any specific requirements set out in the ESAP, will apply to the project regardless of whether it is carried out directly by the client or through contractors or subcontractors. It is the client’s responsibility to ensure that contractors working on project sites meet these requirements.</p>
<p>IESC had limited access to project information because the project Operator is not the party seeking finance. If this is the case, how has EBRD ensured monitoring of project compliance?</p> <p><i>“The IESC notes that some deficiencies identified through the ESR and audit may have resulted from limited access provided to the IESC to Project information. It is recognised that LOSD, as the party seeking finance from the Lender Group, is not the operator of the SD Project and has both limited ability to influence the environmental and social performance and limited ability to demonstrate the Project’s environmental and social compliance with Lender Group policies and standards”</i></p>	<p>ESP 2008 C.14</p> <p>The EBRD’s social and environmental appraisal is integrated into the EBRD’s overall project appraisal, including the assessment of financial and reputational risks and identification of potential environmental or social opportunities. This appraisal will be appropriate to the nature and scale of the project, and commensurate with the level of environmental and social risks and impacts. <b>The appraisal will ascertain whether activities to be supported by EBRD finance are capable of being implemented in accordance with this Policy and its Performance Requirements (PRs).</b> [bold added]</p> <p>ESP 2008. C15</p>

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	<p>EBRD’s environmental and social appraisal includes consideration of three key elements:</p> <ul style="list-style-type: none"><li>(i) the environmental and social impacts and issues associated with the proposed project;</li><li>(ii) the capacity and commitment of the client to address these impacts and issues in accordance with this Policy; and (iii) the role of third parties in achieving compliance with this Policy.</li></ul>
<b>2. Project Affected Communities—additional information provided in the Community Assessment Analysis Document</b>	

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<p>ESMPs, including the Stakeholder Engagement Plan and environmental management plans are not disclosed except the FLMP. <i>The IESC notes that the <b>environmental and social management plans documented for the SD2 construction phase have not been publicly disclosed</b> during the SD2 ESIA process and are not currently available to the general public which indicates a deficiency in conformance to Lender Group requirements. [bold added]</i></p> <p>a. <i>It is recommended that the SD2 Operator publicly disclose documented environmental and social management plans where these plans contain the details and commitments to manage or mitigate potentially significant environmental and social impacts of the Project.</i></p> <p><i>Lender requirements in regards to disclosure of environmental and social management programmes, including EBRD's PR1 (paragraphs 14 and 15) and PR10 (paragraph 17): The publicly available ESIA and supporting documents do not include an Environmental and Social Action Plan and did not include all of the proposed mitigation measures and implementation issues, specifically, the Environmental and Social Management Plans.</i></p>	<p>EBRD maintains this as a derogation but this is not listed in the 2015 Derogations list.</p>
<p><i>Lack of definition of the Area of Influence definition, an analysis of the risks and impacts may not be fully addressed, which results in a potential gap in social management programmes.</i></p>	

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<p>Public consultation and disclosure plans were unable to be verified by IESC.</p> <p><i>A Public Consultation and Disclosure Plan was prepared for the SD2 Project but is unverified by the IESC. The outcomes of the disclosure have been reviewed from records of meetings contained in the ESIA Appendices (8B) and the SD Engagement Log (2010 – 2015). The engagement process includes disclosure through public meetings in addition to the ESIA being made publicly available. Limitations in the disclosure process appear in regards to the lack of disclosure of documented environmental and social management plans, including the SEP and the lack of any targeted engagement with communities nearby to the third party operated shipping yards (where residential areas are located approximately 1 km from these yards).</i></p> <p>MPs (including the SEP) do not appear to have been disclosed with the ESIA, which is a non-compliance with the performance requirements and the intent for disclosure to communities of the activities to be undertaken to mitigate and manage those potential impacts that will affect them.</p>	<p>2008 PR10. 14. If an Environmental and Social Action Plan (“ESAP”) has been agreed, the client will disclose the ESAP for a Category A project to the affected parties. In all other cases, the client will disclose a non-technical summary. The ESAP/summary will be disclosed in accordance with paragraph 13, and also on the client’s web site,</p>
<p><i>A SEP has been provided to IESC, but does not present engagement tailored to each of the affected communities including any vulnerable people within those communities. The SEP presents a strong focus of engagement with and reporting to Government rather than community and community representatives;</i></p>	<p>PR5.12</p> <p>12. Following disclosure of all relevant information, the client will consult with affected persons and communities, including host communities, and facilitate their early and informed participation in decision-making processes related to resettlement, in accordance with PR 10:</p> <ul style="list-style-type: none"> <li>● Special provisions shall apply to consultations which involve Indigenous Peoples (See PR 7) as well as individuals belonging to vulnerable groups.</li> </ul>

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<p><i>The ESIA notes the four different villages in the immediate vicinity of the ST, each with differing socio-economic circumstances and demographics, echoed by interviews with the Operator during the audit (for example, the growth and so, potential for more employment at Azim Kend/Massiv 3; Umid’s history of an Internally Displaced Persons (IDP) settlement and targeted for Sustainable Development Initiatives; Sahel village does not appear to be mentioned in the SIA, however is a site for Government projects and other employment opportunities). The impacts to villages – and other areas of social influence – are not differentiated to reflect these circumstances in the impact assessment. Further, while vulnerable groups have been identified at the wider level in the ESIA, the SEP does not confirm the mitigation and management activities to be undertaken to ensure these groups are not disproportionately affected by the Project. Vulnerable fishing households have been identified through the fishing livelihoods baseline studies undertaken for fishing communities within Sangachal Bay who are potentially impacted by near shore and onshore pipeline construction activities. The FLMP includes specific compensation and mitigation measures to address disproportionate incomes from those families identified as vulnerable.</i></p>	<p><i>PR1.14 Where stakeholder groups were identified as disadvantaged or vulnerable during the appraisal process, the ESAP will include differentiated measures so that adverse impacts do not fall disproportionately on them and they are not disadvantaged in sharing any development benefits and opportunities resulting from the project</i></p> <p><i>PR10. 8. The first step in successful stakeholder engagement is for the client to identify the various individuals or groups who (i) are affected or likely to be affected (directly or indirectly) by the project (“affected parties”), or (ii) may have an interest in the project (“other interested parties”). Resources for public information and consultation should focus on affected parties, in the first instance. 9. As part of the stakeholder identification process, the client will identify individuals and groups that may be differentially or disproportionately affected by the project because of their disadvantaged or vulnerable status. The client will also identify how stakeholders may be affected and the extent of the potential (actual or perceived) impacts. Where impacts are perceived, additional communication may be required to provide information and reassurance of the assessed level of impacts. An adequate level of detail must be included in the stakeholder identification and analysis so as to enable the Bank to determine the level of communication that is appropriate for the project under consideration. Employees are always considered stakeholders.</i></p>
<p><i>The 2011 Social and Socio-Economic Survey undertaken by the SD Operator is targeted at the communities potentially surrounding the Sangachal Terminal but a similar level of assessment was not provided for the third party operated facilities which are accessed by the SD2 Project for fabrication. The nearest residential premises were located more than 1km from the ATA yard</i></p>	<p><i>PR.10. 8. The first step in successful stakeholder engagement is for the client to identify the various individuals or groups who (i) are affected or likely to be affected (directly or indirectly) by the project (“affected parties”), or (ii) may have an interest in the project (“other interested</i></p>

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<p><i>expansion and none were located within the area of expansion. Records provided by the SD2 Operator indicate that the residences in the vicinity of the SD2 yard had been considered in the ESIA scoping that identified potential nuisance impacts associated with air quality and noise. Both air quality and noise aspects associated with the ATA yard are assessed in the Project ESIA</i></p>	<p>parties”). Resources for public information and consultation should focus on affected parties, in the first instance.</p>
<p><b>3. Disclosure of Project related information</b></p>	
<p>The Project Area of Influence is not defined or mapped fully in the ESIA:</p> <p><i>The ESIA focuses on the four villages adjacent to the ST as the area predominantly impacted by the Project, due to their close proximity to the major Project component (ST site expansion). However, the Project Area of Influence is not clearly defined within the received documentation, either described or mapped in detail. This includes 'associated facilities', and all construction camps, which are somewhat addressed (specifically, construction yard sites which are described as potential sites for use within the ESIA).</i></p> <p><i>While during the site visit it was clear that those yards have now been selected and are in operation (the ATA and BDJF yards), the IESC notes that risk and impacts identification is not based on sufficient baseline environmental and social data for those facilities in conducting the risk assessment.</i></p> <p><i>Further, the ATA yard in particular required additional land take beyond its original footprint, it is a site at which only BP work is being undertaken, and will also be used for waste management related activities. <b>Full compliance with performance requirements are not achieved in absence of baseline data</b></i></p>	<p>ESP 2008 32: The EBRD seeks to ensure that projects it finances achieve outcomes consistent with the PRs even if the outcomes are dependent upon the performance of third parties. When the third party risk is high and the client has control or influence over the actions and behaviour of the third party, the EBRD will require the client to collaborate with the third party to achieve outcomes consistent with the PRs. Specific requirements and actions will be determined on a case-by-case basis.</p> <p>2008 PS1 6. Environmental and social impacts and issues will be appraised in the context of the project’s area of influence. This area of influence may include one or more of the following, as appropriate: (ii) Supporting/enabling activities, assets and facilities owned or under the control of parties contracted for the operation of the clients business or for the completion of the project (such as contractors). (iii) Associated facilities or businesses that are not funded by the EBRD as part of the project and may be separate legal entities yet whose viability and existence depend exclusively on the project and whose goods and services are essential for the successful operation of the project.</p>

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<p><b><i>including details of those people who may be impacted by activities near the site and disclosure of information to these potentially affected groups</i></b> [bold added]</p>	<p>(v) Areas and communities potentially impacted by: cumulative impacts from further planned development of the project or other sources of similar impacts in the geographical area, any existing project or condition, and other project-related developments that can realistically be expected at the time due diligence is undertaken.</p> <p>(vi) Areas and communities potentially affected by impacts from unplanned but predictable developments caused by the project that may occur later or at a different location. The area of influence does not include potential impacts that would occur without the project or independently of the project.</p>
<p><a href="#">PSD</a> does not have links to the ESIA;</p> <p>The ESIA webpage has the link to the ESIA, which directs one to the BP <a href="#">webpage</a>, not Lukoil. Lukoil <a href="#">link</a> to ESIA is not working;</p> <p>PSD does not have Expected GHG emissions information.</p>	<p>PIP2014: 3.4.2 The Project Summary Document will summarise i) the rationale for categorisation of a project; ii) a description of the main environmental and social issues associated with the project; iii) key measures agreed to mitigate the risks and impacts; iv) <b>where greater than 25,000t CO2 equivalent/year, the expected GHG emissions of the project</b>; v) a summary of any disclosure or consultation activities, and <b>vi) a link to the ESIA page for Category A projects.</b> [bold added]</p>