

Management Action Plan
Lukoil Shah Deniz Stage II
Request Number 2017/07

The compliance review report assessed 28 allegations of non-compliance under three categories including Project Approval, Disclosure of Information, and Due Diligence and Monitoring. The Compliance Review Report found the Bank to be fully compliant on 14 items, partially compliant on 7 items and non-compliant on a further 7 items. The Compliance Report sets forth 19 total recommendations, with 9 of these recommendations being “General” (G) and 10 of these being “Project-Specific” (PS). Management comments and management actions for each recommendation are presented below. The recommendations presented below maintain the original numbering system of the compliance review report, and are also assigned a numbering system of General 1 through 9 (G 1 through G9) and Project Specific 1 through 10 (PS 1 through 10).

1 Project Approval Process

General Recommendation (G1)

1. The EBRD should consider issuing guidance with regard to the types of assurances that need to be in place to ensure policy compliance when providing financing to non-operating joint venture partners that have a minority stake in a project (and thus have limited influence over the operator to comply with EBRD policies).

Management Comment (G1)

It should be noted that this is a rare case, when our client does not have full control over operations due to being a minority shareholder in a joint venture developing a project. This is why this situation was clearly communicated to the Board and presented in various documents, including the PSD. Nonetheless, the appraisal of the project proceeded as with any other project, looking at 1) how the project was structured to comply with EBRD PRs, and 2) how the project was being implemented in regards to EBRD policy. This was accomplished through the use of internal resources, as well as through the use of an independent consultant. It is recognized that the Independent Environmental and Social Consultant (IESC) report noted partial compliance, or made observations where things could have been done better. Management were aware of these areas and in consultation with the IESC both (Management and the IESC) came to the conclusion that the project was generally compliant with the objectives of the Performance Requirements (PRs) and was structured to achieve overall compliance during implementation with the exception of disclosure of the Environmental and Social Management Plans (ESMPs), which required a derogation.

In terms of the recommendation for guidance related to assurances for our clients when they are not the Operator of a project, there are existing procedures already in place that will address such an instance if encountered in the future. Following implementation of the 2014 Environmental and Social Policy (ESP) the Environmental and Sustainability Department (ESD) developed an Assurance Framework that outlines how individual projects are managed and controlled. This Assurance Framework includes the process for review of the project and the results of the appraisal by the assigned Assurance Manager, and review of the environmental section of the Final Review and Board Document by the ESD pre-Operations Committee (Pre-Ops) group within ESD. This process provides assurance that senior members of ESD review all projects before going to final review with a focus on those that are complex or have a unique aspect (such as this one), to assure compliance with the ESP.

Management Action (G1)

Based on the above, there is no further management action proposed for this recommendation as this has already been implemented as part of the ESD Assurance Framework.

General Recommendation (G2)

2. The EBRD should consider providing guidance on the minimum criteria that need to be fulfilled to be able to request a derogation. Client access to project information, (or lack thereof), IESC access to project information, independent IESC access to community stakeholders, as well as public availability of key management plans would be important criteria to assess if minimal thresholds are met.

Management Comment (G2)

Subsequent to implementation of the 2014 ESP, ESD implemented the Assurance Framework (as mentioned above) that provided controls for assessing when a project can be submitted for consideration with a derogation to the ESP. These controls include: 1) Lead Specialist must inform Assurance Manager of the conditions around the need for a derogation; 2) the Lead Specialist and Assurance Manager must include a written description outlining why a derogation is requested, and how this issue is being managed into the FRM and the PSD, 3) members of the Pre-Ops committee review the document containing the discussion of the derogation prior to the meeting, and 4) on a project in a high risk sector, such as the extractives sector the team will need to present and discuss the project at Pre-Ops to outline the need for the derogation for consideration, discussion and approval by the committee. The ESD requirements for requesting a derogation on a project are that the reason for the derogation must be presented in terms of overall context of the project and risk posed. In this case it was mentioned that while not all information was disclosed, the management procedures were presented by the operator during local community meetings with affected people and therefore it was considered that overall management of the issue was consistent with the policy requirement. The Pre-Ops committee provided an internal departmental approval to bring this project forward for Management consideration based on this discussion at Pre-Ops. Following this approval within ESD, the request for derogation was also presented to the Operations Committee for their consideration and approval as part of Final Review, prior to presentation for Board consideration.

Management Action (G2)

Given the discussion above regarding the internal oversight of all projects with a focus on any that may require a derogation, and the fact that derogations are not common (only 19 since adoption of the 2014 ESP, or approximately 1% of all projects) management consider that the need for further guidance on derogations is not required as this is covered by our control systems implemented following implementation of the 2014 ESP.

General Recommendation (G3)

3. In the event that the Bank positions itself between the Client and the Operator because of prior relationships, effectively reducing the Client's level of accountability to meet policy and performance requirements, the Bank should document (e.g. on its website) how it will make sure that compliance with policy and performance requirements are maintained for the duration of the project.

Management Comment (G3)

When faced with the possible derogation on this project, management reached out to BP in attempt to get the ESMPs released and therefore avoid the need for the derogation. Management do not believe that this interaction reduced the Client's level of accountability nor do we believe that this action adversely impacted ability of the project to comply with the PRs.

Management Action (G3)

The Bank does have mechanisms to ensure compliance on all projects, including in this case. The primary mechanism for this is the requirement in the loan agreement for the client to covenant compliance with the PR's. In this unique situation where our client does not have full influence over this, they are required to use all efforts, including their voting rights within the joint venture, to ensure the operator complies with EBRD PRs. Furthermore, our client has a commitment from the Operator to construct and implement the project in accordance with commitments made in the Environmental and Social Impact Assessment (ESIA), which include compliance with National requirements and International Good Practice.

2 Disclosure of Project-Related Information
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General Recommendation (G4)

1. The EBRD should consider issuing guidance with regard to the types of assurances that need to be in place to ensure that project information is disclosed in an accessible and culturally appropriate manner.

Management Comment (G4)

Management note that the recent report from the IESC has confirmed that the project conducts regular community engagement and that project information is accessible and disclosure is culturally appropriate.

Management Action (G4)

ESD is currently in the process of updating the 2014 ESP, with public consultation on such beginning in first quarter 2019. As part of this process, once the new ESP is finalized, ESD will then begin a process of evaluating each PR for the need to develop any additional guidance notes. Management can confirm that a new guidance note will be developed for PR 10 that will consider the concept of meaningful consultation.

Timing: The new ESP will be finalized in Q2 2019. The new PR 10 guidance note will be developed in 2020 as this will be part of a larger process of reviewing the entire ESP and all guidance notes.

Project Specific (PS 1)

1. The Bank should amend the PSD to include additional disclosure on: i) why the derogation is required, ii) based on what evidence it was approved, and iii) how the Client will demonstrate that the intent of the policy will be met.

Management Comment (PS 1)

Agreed, the PSD will be updated to contain this information.

Timing: Q1 2019

Project Specific (PS 2)

2. The EBRD should ensure full disclosure of Environmental and Social Management Plans for the Operations phase and in a manner that is easily accessible to local communities. If the EBRD is not able to ensure full disclosure it should require the Client to explain how such plans will be disseminated amongst local communities and how the Client will verify,

and demonstrate that implications are understood by local communities, for example by sharing presentations, minutes or video recordings of public meetings where such implications are explicitly presented, discussed and agreed upon. This information should be added as supplementary links to the PSD.

Management Comment (PS 2)

The recent IESC report makes a specific recommendation/request to the Operator to release such operational management plans. This will be followed up on the next monitoring report in 2019. Further, in case these plans are not released, in accordance with the second part of this recommendation, the recent IESC report confirms that the Operator has an effective program of informing local community of site activities, potential impacts and protection measures to be implemented. The recent report included the following statement

“The IESC is able to conclude that in relation to community level stakeholder engagement, there is generally good access to the Operator and its contractors and that regular community consultation and communication is conducted. It can further be confirmed that communities have access to timely, relevant, understandable and accessible information that is presented in a culturally appropriate manner, free of manipulation, interference, coercion and intimidation.”

Management Action (PS 2)

As presented in the latest IESC report, it has been suggested that the Operator disclose the Operational phase ESMPs. This will be pursued with Lukoil Shah Deniz (LOSD) and the operator during the next monitoring visit.

Timing: This issue will be pursued with the Operator during the first monitoring visit of 2019, and an update of this item can be provided by end Q4 2019.

General Recommendations (G5)

1. The Bank should consider issuing guidance on how clients can demonstrate that the intent of ‘meaningful engagement’ is achieved. For example, the Bank could issue a series of indicators (KPIs) related to meaningful engagement.

Management Action (G5)

Management will consider this as part of the overall review of guidance notes for each PR to be completed in 2019 following publication of the new ESP. As mentioned above this review will be completed in 2019 and any new guidance notes required will be published in 2020.

Timing: Needs assessment for any additional guidance to be completed in 2019 with any new Guidance Notes published in 2020.

General Recommendation (G6)

2. The Bank should consider issuing guidance to clients with regard to the minimum requirements of a Public Consultation and Disclosure Plan, especially in contexts where public consultation is challenging due to logistical, political or other constraints. In particular, the guidance needs to include minimal reporting requirements for public consultation and disclosure with impacted communities.

Management Action (G6)

Management will consider this as part of the overall review of guidance notes for each PR to be completed in 2019 following publication of the new ESP. As mentioned above this review will be completed in 2019 and any new guidance notes required will be published in 2020.

Timing: Needs assessment for any additional guidance to be completed in 2019 with any new Guidance Notes published in 2020.

Project-Specific (PS 3)

3. As a matter of priority, the EBRD should ensure the Client continues to provide the IESC monitoring visits independent access to directly impacted communities and beyond Sangachal (organized in such a manner that no retribution occurs) to verify:
 - a. Local awareness, and degree of acceptance, of Social and Environmental Management Plans;
 - b. The degree by which local community members perceive engagement as meaningful (e.g. based on two-way engagement working towards a trust relationship or, alternatively, simple based on the provision of information);
 - c. Perceptions of women and youth;
 - d. The degree to which project impacts are identified, discussed and addressed; and
 - e. Awareness, access and effectiveness of the grievance mechanism.

Management Action (PS 3)

Management have contractual arrangements with the client to continue IESC monitoring through the life of the loan. This monitoring will cover all PRs, including PR 10. This monitoring will continue to assess effectiveness of communication with nearby communities. Further, the results of this monitoring will continue to be released into the public domain.

Timing: This action is ongoing and will continue through the life of the loan. Management believe that no further action is required to address this recommendation.

3 Due Diligence and Monitoring Connected with Affected Communities

Project Specific (PS 4)

1. For all monitoring activities by the IESC, the EBRD should provide the IESC with a clear mandate, and a formal commitment from the operator, to assess how community concerns and preferences are incorporated into the Project decision-making process and disclosed to communities. This information would be captured and documented in the IESC monitoring reports.

Management Action (PS 4)

Management has contractual arrangements with the client to continue IESC monitoring. The mandate of the IESC is captured in their contract for this monitoring, and includes assessment of compliance with all EBRD PRs. This monitoring will continue to assess effectiveness of communication with nearby communities. Further, the results of this monitoring will continue to be released into the public domain.

Timing: This action is ongoing and will continue through the life of the loan. Management believe that no further action is required to address this recommendation.

General (G7)

1. The Bank should consider providing guidance to clients with regard to the evidence it requires to be assured that impacts do not fall disproportionately on the vulnerable groups identified in the ESIA. This guidance could include the key elements of a Vulnerability Management Plan.

Management Action (G7)

Management will consider providing this guidance as part of the overall review of guidance notes for each PR to be completed in 2019 following publication of the new ESP. As mentioned above this review will be completed in 2019 and any new guidance notes required will be published in 2020.

Timing: Needs assessment for any additional guidance to be completed in 2019 with any new Guidance Notes published in 2020.

General (G8)

2. The Bank should consider developing guidance for its clients on the development and implementation of stakeholder engagement plans based on Good International Industry Practice (GIIP) principles. An important element of this guidance would be to demonstrate effectiveness of engagement activities, for example by providing an overview of effectiveness indicators.

Management Action (G8)

Management will consider providing this guidance as part of the overall review of guidance notes for each PR to be completed in 2019 following publication of the new ESP. As mentioned above this review will be completed in 2019 and any new guidance notes required will be published in 2020.

Timing: Needs assessment for any additional guidance to be completed in 2019 with any new Guidance Notes published in 2020.

Project-Specific (PS 5)

3. As a matter of priority, the IESC should be provided the mandate during subsequent monitoring visits to monitor project-induced impacts on vulnerable groups in the project area and publicly report on its findings.

Management Action (PS 5)

The IESC has a mandate that includes review of project against all EBRD PRs, including the provisions relating to vulnerable groups, and in fact existing reports from the IESC discuss this item. The IESC will be instructed to specifically include review any ongoing assessment and monitoring of impacts to vulnerable groups performed by the project and will report on such as part of all future monitoring events.

Timing: Currently ongoing and further covered in the 2019 IESC report.

Project Specific (PS 6)

4. The Bank should request LOSD to work with the Operator to demonstrate how impacts on vulnerable groups are measured, mitigated and assessed on their effectiveness.

Management Comment (PS 6)

As presented in previous Management responses, the assessment of possible vulnerable people was covered in the ESIA, and it was determined that the only impacts that could be directed to these groups would be the original land take for the terminal conducted prior to this project, which was covered by the compensation to the locals herders as part of the Resettlement Action Plan (RAP) and the subsequent report looking at livelihood of these herders. The other group was the fishermen which were covered by the Fisherman Livelihood Management Plan (FLMP) released as part of this project. Nonetheless, the IESC has requested additional information in this regard. This will be pursued as part of the 2019 monitoring event.

Management Action (PS 6)

Management will work with the IESC to request additional information on this subject be released either by the operator itself, or to the IESC for inclusion in the publically disclosed IESC report for 2019.

Timing: To be addressed in 2019

General (G9)

1. The effectiveness criteria of the UN Guiding Principles on Business and Human Rights (UNGPs) constitute Good International Industry Practice (GIIP) with regard to grievance mechanisms. The Bank should consider issuing guidance for clients how project grievance mechanisms can demonstrate alignment with these effectiveness criteria.

Management Response (G9)

The grievance procedure implemented by the terminal which covers the Shad Deniz II project was originally reviewed by the Bank in 2003 through 2005 as part of our review of BTC and ACG projects, which represented the original development of the terminal and many of the processes, procedures and resources form the basis of those in place at the terminal today. Our (including EBRD working closely with the IFC and the IESC) appraisal for the original project (including several years of IESC monitoring) included numerous meetings with Potentially Affected People (PAPs) and one EBRD held public meeting in and around the terminal. All of our findings at that time were that the Grievance Mechanism used for the terminal were compliant with EBRD and IFC requirements in place at the time, and were consistent with GIIP, and lastly, that the mechanism was an effective tool for locals to raise and resolve issues without fear of retribution. These historical findings were considered as part of our review for this new project, using the same facility with expansion.

The effectiveness of the grievance mechanism has also been reviewed as part of this new SD II project. This review has been captured in the IESC reports which are in the public domain.

Management Action (G9)

While Management believe the project has an effective grievance mechanism, and this has been verified by the recent IESC report, ESD will review the need for further guidance on Grievance mechanisms as part of the review of the new ESP.

Timing: This review will be completed in 2019, and if it is determined that additional guidance is required this will be produced in 2020.

Project Specific (PS 7)

1. The Bank should request for a more frequent (quarterly) update on Shah Deniz II specific summary of complaints and what measures were taken to resolve these.

Management Comment (PS 7)

Management believes that quarterly reporting on grievances is not typical for such a project, nor is such a frequency of monitoring required by the ESP. The issue of monitoring of complaints has been pursued by our IESC monitoring since 2015, and will continue to be pursued by the IESC and covered in the publically disclosed reports. Management do not agree to this action as it is not supported by the 2008 ESP, although the issue will continue to be monitored and reported in the publically disclosed IESC reports which are issued regularly.

Project Specific (PS 8)

2. Especially in the context of concerns about civil liberties and human rights risks, the Bank should request from the Client that an independent appeal mechanism is developed, preferably by the operator. To ensure the independent nature of such a mechanism, it should include independent and credible third parties or respected individuals (e.g. university professors, former judges, etc.).

Management Comment (PS 8)

Management note that while the IESC confirms there is a working grievance mechanism in place for the project (including through the use of Community Liaison Officers (CLOs)) who address many items prior to being elevated as a grievance in the grievance mechanism itself), a few items associated with the system still remain to be verified, including how closure of a grievance is communicated to the originating party. However, in terms of the need for an independent appeal mechanism for the grievance procedure, this is only required when PR5 or PR 7 are applied. PR 7 is not applicable on this project. PR5 is applicable, but on this project only for the pipe laying activity which was completed in 2015. There is no further requirement for PR5 on this project. Further, when PR5 was applicable, the use of the crew leader for resolving disagreements was proven to be effective. Based on the above, Management believe there is no action that can be taken. Management and the IESC will review this situation regularly and if PR 5 is triggered in the future, we will request LOSD to ensure that there is an independent appeal mechanism available for any compensation related grievances.

Management Action (PS 8)

No action at this time. If PR 5 is triggered in future, Management will request LOSD to make provisions for an independent appeal mechanism for any compensation related grievance.

Project Specific (PS 9)

3. As the grievance mechanism is likely the most important and accessible venue for impacted communities to have access to remedy, the Bank should require the IESC to assess the effectiveness of the grievance mechanism and report on this as a standard aspect of future IESC monitoring visits.

Management Comment (PS 9)

The IESC assessed and has reported on this item routinely since September 2015. This will continue.

Management Action (PS 9)

This recommendation is ongoing and will be continued. The IESC will continue to assess the effectiveness of the grievance mechanism during each monitoring event, and results of this will be placed in the public domain.

Project-Specific (PS 10)

1. The EBRD should find ways to encourage the Operator to increase community participation in environmental monitoring efforts. This is not only a PR 10.17 requirement but also mainstream practice in the extractive industries.

Management Comment (PS 10)

It is noted that the IESC confirmed the Bank's view that the Operator has an effective community engagement program as part of the recent monitoring report. Nonetheless, it is recognized that in spite of these efforts, some of the comments raised by the public at community meetings indicate that there is some reluctance to believe the results (as mentioned in the recent IESC report).

Management Action (PS 10)

Management proposes to use the most recent IESC report containing the comments made by local community about reluctance to believe results of this monitoring. Management propose to reference the most recent IESC report (summarizing this issue) and request LOSD to raise this issue with the operator and ask them to consider action to address this, that is to attempt to build trust with the local community.

Timing: Management will make this request to LOSD within the first quarter of 2019, and this item will be discussed during the IESC monitoring event of 2019.

Recommendation	Action	Timing
G1	Item addressed, no action proposed.	NA
G2	Item addressed, no action proposed.	NA
G3	Recommendation addressed through standard loan covenants.	NA
G4	A new guidance document for PR 10 will be released in 2020, following implementation of the new ESP.	2020
G5	Review the need for new guidance as part of the new ESP. If required, develop new guidance.	2019 for assessment. 2020 if new guidance document required.
G6	Review the need for new guidance as part of the new ESP. If required, develop new guidance.	2019 for assessment. 2020 if new guidance document required.
G7	Review the need for new guidance as part of the new ESP. If required, develop new guidance.	2019 for assessment. 2020 if new guidance document required.
G8	Review the need for new guidance as part of the new ESP. If required, develop new guidance.	2019 for assessment. 2020 if new guidance document required.
G9	Review the need for new guidance as part of the new ESP. If required, develop new guidance.	2019 for assessment. 2020 if new guidance document required.
PS1	The PSD will be updated.	Q1 2019
PS2	Management will work with the IESC and LOSD to push the operator to disclose Operational Management Plans.	2019
PS3	This item is already addressed so no specific action is proposed.	NA
PS4	This item is already addressed so no specific action is proposed.	NA
PS5	This item is already addressed so no specific action is proposed.	NA
PS6	Management will work with the IESC to push the operator to release additional information on this item.	As part of the 2019 IESC monitoring.
PS7	No action proposed. This item will continue to be monitored through the IESC monitoring.	NA
PS8	Action only proposed if future operations trigger PR5 activities, that is activities that require compensation.	NA at this time.
PS9	This recommendation is already addressed, and will continue on all future monitoring events for the IESC.	No additional action proposed.
PS10	Management will request that LOSD encourage the operator to involve local communities in analysis of environmental monitoring data.	As part of first IESC monitoring of 2019.