

EXECUTIVE SUMMARY

Assessment of compliance of the Baku-Tbilisi-Ceyhan oil pipeline project (Turkey section) against International Finance Corporation (IFC) safeguard policies and other IFI standards, domestic and international law

1 Overview and recommendations

The BTC Consortium (BTC Co.), an eleven-member coalition of oil companies led by BP, has applied for public funding (what BP itself has called “free public money”¹) from the World Bank’s private lending arm, the International Finance Corporation (IFC), the European Bank for Reconstruction and Development (EBRD) and a number of Export Credit Agencies to finance a major new pipeline – known as the Baku-Tbilisi-Ceyhan (BTC) pipeline – from the Caspian Sea to the Mediterranean.

There are significant questions over the public utility of this pipeline for the people of the three host countries, Azerbaijan, Georgia and Turkey, as well as the extent to which the BTC project will facilitate rather than impede many of the objectives that are part of the IFC’s and EBRD’s mandates, such as poverty alleviation, regional development and transition to democracy, in the three states. For example, the framework legal document for the BTC project, the Inter-Governmental Agreement (IGA), specifically notes that the “Project is not intended or required to operate in the service of the public benefit or interest in its Territory.”²

However, in June 2003, the IFC and the EBRD approved the project’s Environmental Impact Assessment (EIA) and Resettlement Action Plan (RAP) and released them for a 120-day period of public consultation. The IFC’s board is due to consider the application for funding on 30th October 2003.

This review examines the EIA and RAP for the Turkey section of the pipeline, against the World Bank’s operational policies and safeguards and other standards to which the project is committed under the legal framework that it has established. The review fall into seven parts covering the following aspects of the project:

- Chapter 2: Project legal framework
- Chapter 3: Consultation
- Chapter 4: Resettlement
- Chapter 5: Cultural heritage
- Chapter 6: Environmental assessment
- Chapter 7: Assessment of project alternatives

¹ Corzine, R., “Wisdom of Baku pipeline queried”, *Financial Times*, 4 November 1998, p.4.

² BTC IGA, Article II (8)

Chapter 8: Ethnic minorities

The review finds that the project continues to breach all relevant World Bank safeguard policies on multiple counts, in addition to violating other project standards. In all, the review has identified at least 153 partial or total violations of IFC and EBRD Operational Policies (48 on Consultation, 28 on Resettlement, 29 on Cultural Heritage, 10 on Environmental Assessment, 8 on Assessment of Alternatives and 30 on Ethnic Minorities), plus a further 18 partial or total violations of the European Commission's Directive on EIA, and at least two direct violations of other Turkish law (specifically the Expropriation Law³), giving a total of at least 173 violations of mandatory applicable standards. These are summarised briefly below, tabulated in Table 1 and defined in full in the relevant sections of the report.

Because compliance with these standards is required under the legal regime for the project, such violations of the standards put the project potentially in conflict with host country law.

If so, that would place the project in fundamental breach of IFI requirements that projects they finance comply with domestic law – and IFIs would be duty bound not to support the project while these remain unresolved.

This review also highlights continuing concerns over the legal regime for the project, particularly with regard the continuing inadequacy of third party and other rights, even after the introduction of BTC Co.'s Human Rights Undertaking⁴; possible breaches of Turkey's accession agreements with the EC; and conflicts between the undertakings of BTC Co. and the OECD Guidelines on Multinational Enterprises.

The review concludes that the *project cannot be deemed fit for purpose* and recommends that the Boards of the IFC and EBRD delay any decision on financing the project until:

- **The project clearly meets IFI policies and guidelines, and has satisfactorily rectified the many serious violations outlined below;**
- **The project complies with host country law, in terms both of direct, existing law, and of international standards (such as IFI policies and EC Directives) which are part of the legal regime of the project, as defined through the project agreements;**
- **The rights of and benefits due to affected people (such as the requirement of the World Bank Resettlement policy to ensure that affected land users receive *negotiated* compensation payments *prior* to construction) are observed in full, retroactively as well as in future operations;**
- **The project agreements have been amended to;**
 - **clarify both the standards that apply to the project and the order of precedence in which they apply;**
 - **ensure third party rights;**

³ Turkish Expropriation Law, No.2942, Official Gazette No 18215, Article 27

⁴ 26th September 2003

- ensure compliance with Turkey's obligations under international human rights, land rights and environmental law;
- comply with Turkey's accession agreements with the European Commission (EC), in particular by ensuring that Turkey moves towards the *acquis communitaires*, rather than away from them; and
- comply with the Memorandum of Understanding between the World Bank, the EBRD and the EC on assistance to accession countries;
- Ongoing investigations and inquiries by independent authoritative bodies have been satisfactorily concluded. These include:
 1. The EC completing its ongoing assessment of the project as part of its November review of Turkey's progress in complying with the Copenhagen criteria;
 2. The OECD National Contact Points for the OECD Guidelines on Multinational Enterprises ruling on a complaint now being considered against BP over the BTC project;
 3. Imminent inquiries by the European Parliament.

2 Legal regime – potential conflicts with Turkey’s international undertakings, and continuing conflicts between project implementation and project agreements

The BTC project is subject to a specially negotiated legal regime, set out in an international agreement between Turkey, Azerbaijan and Georgia (the Intergovernmental Agreement) and a private contract between the BTC Consortium and the Government of Turkey (the Host Government Agreement).

A number of concerns have been raised with respect to:

- Conflicts between the IGA/ HGA and Turkey’s international obligations on environment and human rights;
- Conflicts between the HGA and Turkey’s Accession Agreements with the European Commission (EC);
- Incompatibilities between undertakings in the Joint Statement on adherence to the OECD Guidelines on Multinational Enterprises and BP’s record in respect of the project.

This review finds that:

- **Although BTC Co. has moved to resolve some of the issues raised through the publication of a ‘Deed Poll’ (the BTC Human Rights Undertaking, 26 September 2003), legal opinion continues to cast serious doubts on its efficacy.** In particular, the fact that it is not binding upon host governments; the continuing uncertainty over third party rights and the failure to waive the ‘stabilisation clause’ with regard to third party claims; and continuing concerns over virtually unlimited security powers suggest that the Deed Poll still does not do enough to protect the rights of affected people.
- **The conflicts between the HGA and Turkey’s accession agreements remain unresolved.** In addition, NGOs have drawn attention to conflicts between the BTC project agreements and a Memorandum of Understanding reached between the EC and IFIs on financing for EU accession countries.
- **BP has failed to comply with the OECD guidelines, as required by the project agreements.** A complaint by NGOs is in the process of being adjudicated upon by the relevant authorities.

3 Consultation

The BTC Consortium has undertaken that the project will comply with World Bank Group standards, European Bank for Reconstruction and Development (EBRD) standards and the European Union (EU) Directive on Environmental Impact Assessment (EIA), all of which contain requirements with regard to consultation. In the case of the EU Directive, compliance is a legal obligation under the Host Government Agreement signed between the BTC Co. and Turkey. Breaches would thus constitute breaches of host country law.

For the Turkish section of the pipeline, this review finds:

- **At least 42 violations or partial violations of International Finance Corporation (IFC) operational policies OP 4.01 (Environmental Assessment) and OP 4.04 (Natural Habitats), on consultation on the EIA (a further 41 breaches of 4 other World Bank guidelines relate to consultation on resettlement, on cultural property and on ethnic minorities, and are covered in those respected sections below);**
- **6 breaches of the EBRD's Environmental Policy with regard to consultation;**
- **4 breaches of the EU Directive on Environmental Impact Assessment, with which the EIA is bound to comply under the Host Government Agreements: these breaches thereby constitute potential violations of host country law.**

Specifically:

- **Lack of freedom of speech and human rights abuses along the route fundamentally invalidates consultation procedures;**
- **Less than 2% of affected people have been consulted face-to-face;**
- **Consultation of affected people began more than a year after the consultation process started, and lasted only two months in total;**
- **Analysis of consultation responses is consistently rushed, imprecise and often cursory, frequently amounting to little more than basic demographic information;**
- **The consultation process was heavily focused on people not directly affected by the project, such as government departments;**
- **The project failed to apply basic protections to vulnerable minorities;**
- **There were insurmountable barriers to affected people participating in planning and designing the project;**
- **Affected people and stakeholder groups did not have access to basic project information;**
- **Affected people were misinformed about the potential benefits and negative impacts of the project;**
- **Affected people were misinformed about their rights;**

- **The project failed to properly consult with listed key stakeholders including NGOs, political parties and women;**
- **The project failed to implement recommendations of affected people;**
- **Those unhappy with the project and what it has brought them often found their opinions ignored and their dissent a source of danger.**

4 Resettlement

BTC Co. has undertaken that the project will comply with **Operational Directive OD 4.30, Involuntary Resettlement, June 1990**, which sets out requirements with regard to resettlement and compensation for land acquisition. BTC Co. is also obliged to comply with Turkish law on land expropriation, according to the Host Government Agreement.

This review finds:

- **Emergency powers have been invoked by the Government of Turkey to override key provisions of OD 4.30, flouting commitments under the Host Government Agreements and the Resettlement Action Plan (RAP);**
- **The RAP is in potential breach of provisions under Turkey’s Expropriation Law, on at least 2 counts;**
- **The RAP fails to comply with the World Bank Group’s policy on Involuntary Resettlement (OD 4.30) on 28 counts;**
- **Since the Lump Sum Turnkey Agreement legally requires compliance with OD 4.30, these 28 counts of non-compliance are further potential breaches of Turkish law.**

Specifically:

- **Displacement took place before compensation was completed;**
- **In many instances, compensation levels are too low to ensure that livelihoods are restored or improved;**
- **The project fails to properly restore affected people’s livelihoods;**
- **Consultation with affected communities of land expropriation and compensation was inadequate;**
- **Affected communities have not been informed of their rights with respect to land expropriation;**
- **There has been no consultation on resettlement alternatives;**
- **The project has not adequately considered specific impacts of land expropriation on vulnerable groups and ethnic minorities;**
- **Land compensation has not been paid at full replacement cost;**
- **The RAP has used unreliable information on numbers of people economically displaced and settlements affected;**
- **The project fails to treat customary land users equally or fairly;**
- **The RAP was approved by IFC staff as “fit for purpose” prior to its completion – for example, the resettlement plan for fishing communities was not finalised.**

5 Cultural heritage

The two main relevant safeguard policies relating to cultural heritage, the World Bank's Policy on Cultural Property (OPN 11.03) and the World Bank's Draft Policy on Physical Cultural Resources (Draft OP 4.11), emphasise the necessity for careful and detailed preparation for major projects, in order to prevent disastrous and irreversible cultural damage.

Crucially, the relevant directives show that preservation of cultural heritage is not just to do with keeping intact the physical remnants of past civilisations, but of maintaining the crucial living dynamic link between local people and the heritage that surrounds them.

This review finds:

- **At least 29 full or partial violations of IFC guidelines (OPN 11.03 and Draft OP 4.11) on cultural heritage;**
- **The project contradicts a range of other standards and laws, including the Valetta Convention, which Turkey has ratified and the Charter of the International Council on Monuments and Sites (ICOMOS).**

Specifically:

- **The EIA fails to acknowledge dynamic link between local people and cultural heritage;**
- **The project has failed to obtain comprehensive inventory of cultural heritage resources before construction;**
- **The EIA fails to predict or adequately prevent likely impacts of construction on cultural resources;**
- **The project has failed to consult local people with regard to cultural heritage and route planning;**
- **The project has failed to engage local people as stakeholders in preservation of cultural resources;**
- **Mitigation measures are inadequate;**
- **The project over-relies on salvage archaeology;**
- **Survey methods have been cursory and superficial;**
- **Commercial imperative takes precedence over cultural preservation;**
- **There is evidence of ongoing destruction of cultural resources.**

6 Environmental assessment

The Environmental Impact Assessment (EIA) for the BTC project was reviewed against the standards required under the legal regime laid down in the Host Government Agreement and the BOTAS/BTC Co. Turnkey Agreement, namely the EC Directive on EIA and the IFIs' safeguard policies on environmental assessment (in particular IFC OP 4.01 Environmental Assessment).

This review found:

- **The HGA has already been used to short-circuit best practice on site investigation and consultation procedures during the scoping phase of the EIA in order not to compromise the construction schedule, contrary to BTC Co.'s assurances that the agreement would not be used to undermine environmental best practice;**
- **The EIA partially or fully breaches the EC Directive on Environmental Impact Assessment on 14 counts (on top of the 4 related to consultation – making 18 in total), in potential violation of host country law as defined by the HGA;**
- **The EIA partially or fully breaches the World Bank's environmental assessment policy (OP 4.01) on 10 further counts, again in potential violation of host country law as defined by the HGA – on top of the breaches relating to consultation (above) and assessment of alternatives (below);**
- **The EIA is unclear as to which IFI standards are applicable and thus as to the specifics of the legal regime that prevails for the project;**
- **There is controversy over the order of precedence of the relevant standards in the event of any conflict between them;**
- **The EIA fails to specify which EC Directives, apart from the Directive on EIA, are applicable to the project.**

Specifically:

- **Construction of the BTC pipeline began before an EIA was approved;**
- **The HGA has been used to override normal procedures for scoping study;**
- **Assessment of impacts on flora and fauna is inadequate;**
- **The project has failed to complete an adequate baseline study;**
- **The EIA fails to assess the sustainability of the project;**
- **The EIA's treatment of seismic risks is inadequate and flawed;**
- **The project has failed to reduce or remedy risk of oil spills at Ceyhan and of decommissioning;**
- **There has been insufficient analysis of species;**
- **The EIA fails to present original data;**

- **Accuracy, reliability, methodology and gaps are not indicated in the EIA;**
- **Consultation with affected villagers has been inadequate and flawed;**
- **The independence of EA experts is questioned;**
- **There has been inadequate assessment of alternatives;**
- **The project has failed to address trans-boundary impacts of tanker traffic and to inform affected Member States;**
- **The project has failed to consult with authorities and public in affected Member States;**
- **The project has failed to consult on trans-boundary impacts;**
- **The project has failed to address indirect impacts on climate.**

7 Assessment of project alternatives

Both the IFC and EBRD require that the EIA assess alternatives to the project, including the “without project” option.

This review finds:

- **At least 8 partial or total violations of IFC Operational Policy OP 4.01 (Environmental Assessment) on assessment of alternatives.**

Specifically:

- **The “Without project’ option was not seriously considered, with many alternatives not considered at all, and those that were, only in an unbalanced way and with very limited scope;**
- **Alternative strategic routes were not seriously considered;**
- **There was a clear failure to properly consult on project alternatives;**
- **A systematic approach to assessment of alternatives was lacking.**

8 Ethnic minorities and vulnerable groups

The BTC pipeline passes through a number of areas with significant ethnic and religious minorities. In Turkey, these minorities include Alevi, Çerkez and Kurds. The BTC Consortium has committed itself to ensuring that the BTC project conforms to some relevant World Bank group/IFC standards, yet it has **declined to apply the World Bank's Operational Directive 4.20, Indigenous Peoples, the only directive specifically aimed at safeguarding the interests of minority groups**. In this, BTC Co. has been supported by staff of the International Finance Corporation.⁵

Closer investigation, however, reveals that **the Kurds in particular meet every one of the criteria for applying OD 4.20, and that the rationale for not doing so is fatally flawed. BTC Co. and IFC staff's decision not to apply the policy leaves ethnic minority groups unnecessarily and unjustifiably vulnerable to socio-political difficulties connected to the BTC project.**

A complaint challenging the IFC's decision is now being prepared by NGOs for submission to the IFC's Complaints Advisor Ombudsman.

As a result of the decision not to apply OD 4.20, this review finds widespread failures in the project's treatment of indigenous peoples, including:

- **At least 30 partial or total violations of IFC project requirements under OD 4.20**

Specifically:

- **BTC Co. has failed to ensure ethnic minorities benefit from the project;**
- **The project fails to mitigate adverse impacts on ethnic minorities;**
- **The project has failed to foster respect for ethnic minority rights;**
- **The project has failed to ensure ethnic minorities do not suffer adverse effects;**
- **The project has failed to ensure informed participation of ethnic minorities;**
- **The project has failed to draw up an ethnic minorities' development plan;**
- **There has been no participatory assessment of development plan options;**
- **The project has failed to take account of local social organisation in drawing up development plans;**
- **The project has failed to assess the relationship of ethnic minorities to mainstream society;**
- **The project has failed to ensure minority group participation throughout the project cycle;**

⁵ The IFC argues that OD 4.20 is not applicable, and that a "vulnerable groups" approach (currently being developed by the World Bank) is more appropriate. In line with this position, the Resettlement Action Plan (RAP) sets out the project's approach to ethnic minority issues in an Appendix entitled "Vulnerable Groups in the Context of BTC Project".

- **There has been no independent appraisal of the extent of participation by ethnic minorities.**

9 Table 1 – Summary of breaches of project standards

Explanatory notes to table

The table below considers specific requirements of:

- IFC and World Bank Safeguard Policies;
- EBRD policies;
- EC Directive on Environmental Impact Assessment;
- Turkish Expropriation Law.

It should be noted that more general legal questions, inconsistencies and potential breaches are more complex, and do not lend themselves to tabulation, so are just summarised above, and explained in full in chapter 2.

For ease of reference, evaluation of compliance is examined here in the same order as it appears in the main text of this review, under the following six chapter headings:

Chapter 3: Consultation

Chapter 4: Resettlement

Chapter 5: Cultural heritage

Chapter 6: Environmental assessment

Chapter 7: Assessment of project alternatives

Chapter 8: Ethnic minorities

It should be noted that some policies and requirements relate to more than one of these chapters.

The greatest number of project breaches is of IFC's OP 4.01 (Environmental Assessment); consideration of that in this review is therefore divided between chapters 3 (consultation aspects of OP 4.01), 7 (assessment of alternatives aspects) and 6 (other aspects).

Breaches of consultation requirements specifically relating to resettlement, cultural heritage and ethnic minorities are tabulated below in those respective sections, rather than under consultation.

Consultation

In line with the chapter structure of the main text of this review, this section tabulates only breaches on consultation aspects of IFC policies OP 4.01 (Environmental Assessment) and OP 4.04 (Natural Habitats), and of EBRD Environment Policy.

Breaches of consultation requirements of other policies are tabulated in other sections, specifically:

- World Bank OD 4.30 (Involuntary Resettlement) – resettlement section, below;

- World Bank OPN 11.03 (Cultural Property) and Draft OP 4.11 (Physical Cultural Resources) – cultural heritage section, below;
- World Bank OD 4.20 (Indigenous Peoples) – ethnic minorities section, below.

Breaches of non-consultation aspects of IFC policy OP 4.01 (Environmental Assessment) are tabulated under Environmental Assessment and Assessment of Alternatives.

IFC POLICY OP 4.01 ENVIRONMENTAL ASSESSMENT

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OP 4.01 Para 12 Consultation with affected people and NGOs	<i>“For all category A projects . . . the sponsors consult project-affected groups and local non-governmental organisations (NGOs) about the project’s environmental aspects and takes their views into account”</i>	<ol style="list-style-type: none"> 1. Only a tiny fraction (less than 2%) of locally affected people consulted in person. 2. Evidence of villages being listed as consulted when no such consultation had taken place. 3. Failure to provide people with clear balanced information on the pros and cons of the project made it impossible for locally affected people to take informed decisions. 4. “Meaningful” levels of consultation precluded by teleconsulting procedures. 5. Many NGOs listed as consulted were in practice not consulted or were unable to significantly contribute to the EIA due to timing of consultation. 6. Inadequate methodology of consultation 7. Lack of freedom of expression and atmosphere of repression along route invalidates consultation process in those regions. 8. Consultation not meaningful to local people; project questionnaires and use of responses skewed in favour of state and project sponsors. 9. Consultation period too short to allow for comprehensive or extensive research: only two months in total. 10. Inadequate consultation of women 	Partial compliance
		<ol style="list-style-type: none"> 11. No evidence that affected people were consulted about the project’s environmental aspects. 12. No evidence that affected people were given necessary information on project’s environmental aspects to allow them to reach informed decisions. 13. No evidence that views of project affected people, especially complaints or reservations about the project, were taken into account. Specific requests have been ignored. 	Non-Compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OP 4.01 Para 12 Early as possible	<i>“the project sponsor initiates . . . consultation as early</i>	1. Consultation with affected people began several years after commencement of project planning and design.	Non compliance

consultation	<i>as possible</i> "	2. Consultation with affected people began over a year after consultation with national and state bodies.	
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Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OP 4.01 Para 12 Two consultation periods required	<i>"For Category A projects, the project sponsor consults these groups at least twice (a) shortly after environmental screening and before the terms of reference are finalised, and (b) once a draft EA report is prepared."</i>	<p>1. First consultation process met with less than 2% of people; second consisted of meetings in just one in ten affected communities</p> <p>2. Format of disclosure meetings inappropriate, presentational not consultative</p> <p>3. Lack of availability of EIA meant affected people unsure of project impacts</p>	Partial compliance
		4. The majority of affected people interviewed by FFMs to the region do not feel they have been properly consulted	Non-compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OP 4.01 Para 12 Ongoing consultation required	<i>"In addition, the project sponsor consults with such groups throughout project implementation"</i>	1. No systematic consultation of affected communities since disclosure roadshow	Non compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OP 4.01 Para 14 Timely disclosure of project documents	<i>"For meaningful consultations between the project sponsor and project-affected groups and local NGOs on all Category A projects, the sponsor provides relevant material in a timely manner prior to consultation"</i>	<p>1. Material provided, particularly project leaflet, contained imbalanced, uninformative and sometimes misleading information.</p> <p>2. Many local NGOs not included in consultation process.</p> <p>3. Significant omissions in distributed material led to failure to inform affected people of project's potential negative impacts.</p> <p>4. Methods of distribution of information, especially Muhtars, unreliable.</p>	Partial compliance
		<p>5. Little or no useful information distributed before beginning of consultation process.</p> <p>6. Unbiased information about project not widely available to local people before or during consultation process.</p> <p>7. No evidence of <i>meaningful</i> consultation of affected people i.e. consultation which has led to major changes in the project or left affected people feeling as though their concerns have been fully addressed.</p>	Non-compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OP 4.01 Para 14 Form and language of materials	<i>“For meaningful consultations between the project sponsor and project-affected groups and local NGOs on all Category A projects, the sponsor provides relevant material . . . in a form and language that are understandable and accessible to the groups being consulted”</i>	<p>1. EIA, even Non-Technical Summary, too technical and convoluted to be useful or comprehensible to ordinary people. Many basic questions not satisfactorily answered.</p> <p>2. EIA hard to access; ordinary people unable to get online and often unwilling to travel to State offices, which in any case are usually many miles away.</p>	Partial Compliance
		<p>3. Failure to provide written or oral material in minority languages, especially Kurdish, discriminates against minority groups.</p> <p>4. Over-emphasis on written materials discriminates against illiterate affected people, especially women and the elderly. Underestimate of illiteracy rates in region.</p>	Non-Compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OP 4.01 Para 15 Consultation on initial summary of impacts	<i>“the project sponsor provides for the initial consultation a summary of the proposed project’s objectives, description and potential impacts.”</i>	<p>1. No evidence that locally affected people provided with adequate project summaries sufficiently far in advance of initial consultation phase to allow them to reach informed decisions.</p>	Unknown – no details of when project documents were distributed. But villagers complain of not having received documentation.
		<p>2. None of project materials, especially leaflet, adequately address potential negative impacts of project.</p>	Non-compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OP 4.01 Para 15 Making project documents accessible	<i>“the project sponsor makes the draft EA report available at a public place accessible to project-affected groups and local NGOs.”</i>	<p>1. EIA available only from state institutions, not independent bodies with unregulated public access</p> <p>2. EIA hard to access for rural people, as placed in distant urban areas with unreliable transport links, or online in areas with no computers and unreliable electricity.</p>	Partial compliance

IFC OP 4.04 NATURAL HABITATS

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
IFC OP 4.04 Para 8 Take account of views of affected people and NGOs	<i>“IFC expects the project sponsor to take into account the views, roles and rights of groups, including non-governmental organisations and local communities, affected by IFC-financed projects involving natural habitats, and to involve such people in planning, designing, implementing and monitoring such projects.”</i>	<ol style="list-style-type: none"> 1. No evidence that views of local communities or NGOs were taken into account regarding impact of project on natural habitats. 2. No evidence that project sponsors conducted sufficient research into local ecosystems to understand or accommodate local communities’ roles in relation to natural habitats. 3. No evidence that local communities were made aware of their rights regarding impacts of project on natural habitats. 4. No evidence that local communities have or will play significant role in planning, designing, implementing or monitoring project in relation to natural habitats. 5. Consultation process begun too late and construction of pipeline begun too early to permit project sponsors to tap into knowledge of local communities with regard to natural habitats. 	Non compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
IFC OP 4.04 Para 8 Identify appropriate mitigation measures through consultation with local communities	<i>“Involvement may include identifying appropriate consultation measures, managing protected areas and other natural habitats and monitoring projects.”</i>	<ol style="list-style-type: none"> 1. No evidence that local communities were asked to participate significantly in any of these activities at the project formulation stage, nor that they will be given significant future roles. 	Non compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OD 4.04, para 8 Provide people with appropriate information on habitat protection	<i>“IFC encourages the project sponsor to provide such people with appropriate information on the protection of natural habitats.”</i>	<ol style="list-style-type: none"> 1. No evidence that project sponsors passed on any information to affected people with regard to protection of natural habitats. Evidence suggests rather that project sponsors consistently underreported likely negative impacts of project. 	Non compliance

EBRD ENVIRONMENT POLICY

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
EBRD Environment Policy, p.26 Meaningful public consultation	<i>“The EBRD believes meaningful public consultation is a way of improving the quality of projects.”</i>	1. No evidence that meaningful consultation with affected communities i.e. consultation which has led to major changes in the project or left affected people feeling as though their concerns have been fully addressed has taken place during the project.	Non compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
EBRD Environment Policy, para 26 Meaningful public consultation	<i>“those people potentially affected will have the opportunity to express their concerns and views about issues such as project design, including location, technological choice and timing.”</i>	1. Vast majority of affected people have not had the opportunity to express concerns in person. 2. Lack of clear and unbiased information about project made it difficult for affected people to come to informed opinions. 3. Social context and lack of freedom of speech made it impossible for people to voice their full opinions. 4. Project sponsors’ failure to inform affected people of their rights and of potential impacts of project has limited the utility of consultation.	Partial compliance
		5. No evidence that people have been able to exert influence on location, technological choice or timing of project.	Non compliance

EC DIRECTIVE ON EIA

Note that breaches of the EC Directive not relating to consultation are tabulated below, in the environmental assessment section.

Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
Article 6 (2) Disclosure and consultation	<i>“Members shall ensure that any request for development consent and any information gathered pursuant to Article 5 are made available to the public within a reasonable time in order to give</i>	1. Majority of people not adequately informed or meaningfully consulted. 2. Information provided was biased and uninformative. 3. Materials not provided in appropriate language and form.	Partial compliance

	<i>the public concerned the opportunity to express an opinion before the development consent is granted.”</i>	4. Lack of freedom of speech preclude frank comment on the project	
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Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
Article 7 (1) Trans-boundary impacts	<p>“Where a Member State is aware that a project is likely to have significant effects on the environment in another Member State or where a Member State likely to be significantly affected so requests, the member in whose territory the project is intended to be carried out shall send to the affected Member State as soon as possible and no later than when informing its own public, <i>inter alia</i>:</p> <ul style="list-style-type: none"> • a description of the project, together with any available information on its possible trans-boundary impact; • information on the nature of the decision which may be taken, <p>and shall give the other Member State a reasonable time in which to indicate whether it wishes to participate in the Environmental Impact Assessment procedure, and may include the information referred to in paragraph 2.”</p>	1. Member States affected by risk of tanker spill not informed or consulted	Non compliance

Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
Article 7 (3) Consult with affected Member States	<p>“The Member States concerned, each insofar as it is concerned, shall also:</p> <p><i>arrange for the information referred to in paragraphs 1 and 2 to be made available, within a reasonable time, to the authorities referred to in Article 6 (1) and the public concerned in the territory of the Member State likely to be significantly affected; and (b) ensure that those authorities and the public concerned are given an opportunity, before development consent for the project is granted, to forward their opinion within a reasonable time on the information supplied to the competent authority in the Member State in whose territory the project is intended to be carried out.”</i></p>	1. Affected Member States not consulted	Non compliance

Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
Article 7 (4) Trans-boundary impacts	<p>“The Member States concerned shall enter in consultation regarding, <i>inter alia</i>, the potential trans-boundary effects of the project and the measures envisaged to reduce or eliminate such effects and shall agree on a reasonable time frame</p>	1. No consultation on trans-boundary impacts	Non compliance

	<i>for the duration of the consultation period.”</i>		
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Resettlement

TURKISH EXPROPRIATION LAW

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
Expropriation Law, article 8 Compensation rates must be negotiated	<i>“The administration [in this case, BOTAS] shall assign one or more than one reconciliation commission ... for the purpose of executing and completing the purchasing works through bargaining over the estimated cost and through barter... the bargaining negotiations shall be held on a date designated by the commission.”</i>	1. Compensation rates imposed, not negotiated	Non compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
Expropriation Law, article 8 Maximum acceptable payment not to be disclosed	<i>“The administration shall notify the owner in writing through an official registered letter, without mentioning the estimated cost determined by the value appraisal commission...”</i>	1. Payment rate told to landowners, precluding negotiation	Non compliance

IFC OD 4.30 INVOLUNTARY RESETTLEMENT

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OD 4.30, para 3 (b) (i) Compensation must precede resettlement	<i>“Displaced persons should be compensated for their losses at full replacement cost prior to the actual move.”</i>	1. Mutually agreed compensation will not be paid to many groups affected by the project prior to displacement. Exemption has been obtained under emergency powers	Non compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OD 4.30, para 2b (iii) Restore livelihoods	<i>“Displaced persons should be . . . assisted in their efforts to improve their former living standards, income earning capacity and production levels, or at least restore them.”</i>	1. Concern over levels of compensation inaccurately reflected in RAP 2. Compensation levels do not adequately reflect local prices 3. No compensation for loss of ongoing productivity 4. Loss of income earning capacity not compensated 5. Failure to compensate for “orphan land” 6. Compensation levels in many cases are not satisfactory to restore livelihoods. 7. Failure to ensure that communal land is properly compensated and to make the existence of the RAP Fund widely known	Non compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OD 4.30, para 8 Requirement to consult	<i>“To obtain cooperation, participation and feedback, the affected . . . resettlers need to be systematically informed and consulted during preparation of the resettlement ”</i>	1. Less than 2% of those affected have been consulted face-to-face 2. Fishing communities not consulted on resettlement until after RAP approved by Turkish government. 3. Information provided on resettlement too technical and in a form that many were unable to understand.	Partial compliance
		4. No evidence that people likely to be economically displaced by the project have had any opportunity to participate in planning or resettlement programmes e.g. helping to decide on compensation rates. 5. Compensation mechanisms only explained when compensation paid - evidence that affected people have been excluded from planning, implementing resettlement. 6. Failure to make special efforts to inform women	Non compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OD 4.30, para 8 and 14 (b) Inform about rights Publicise laws and regulations on valuation	<i>“To obtain cooperation, participation and feedback, the affected . . . resettlers need to be systematically informed and consulted . . . about their options and rights.”</i> <i>“ . . . publicis(e) among people to be displaced the laws and regulations on valuation and compensation”</i>	1. Evidence suggests rather that project affected people have been systematically under-informed or misinformed about their rights e.g. the right to bargain over land prices, the right to go to court if not satisfied with land valuations.	Non compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OD 4.30, para 8 Choice of resettlement alternatives	<i>“They [resettlers] should be also able to choose from a number of acceptable resettlement alternatives.”</i>	1. No evidence that people likely to be economically displaced by the project have been provided with any resettlement alternatives.	Non compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OD 4.30, para 8 and para 16 Special attention to be paid to needs of ethnic minorities and vulnerable groups	<i>“Particular attention must be given to ensure that vulnerable groups such as indigenous people, ethnic minorities, the landless and women are represented adequately in [participatory arrangements for consultation and information sharing].”</i> <i>“Vulnerable groups at particular risk are indigenous people, the landless and semi-landless, and households headed by females . . . The resettlement plan must include . . . strategies to</i>	1. Ethnic minorities not adequately identified 2. Inadequate attention to the problems faced by women 3. RAP fund virtually unknown by majority who would be eligible	Partial compliance

	<i>protect the livelihood of these people.”</i>		
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Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OD 4.30, para 14	<i>“Valuation of lost assets should be made at their replacement cost”</i>	<ol style="list-style-type: none"> 1. Compensation paid below budgeted levels, and below replacement cost 2. Irrigated land not being compensated at higher levels than non-irrigated land 	Non compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OD 4.30, para 11 Accurate information on numbers affected, included their names, required.	<i>“Resettlement plans should be placed on recent information about the scale and impact of resettlement on the displaced population . . . ”</i>	<ol style="list-style-type: none"> 1. The numbers affected by the project are unknown. Figures quoted in the RAP vary from 29,112 to 35,000 – a discrepancy of over 5,000. 2. As of November 2002, 17 settlements lacked cadastral surveys, others were out of date 3. No census carried out in fishing communities at time RAP was approved fit for purpose 	Non compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OD 4.30, para 17 Equal treatment for all customary and formal rights	<i>“To objective is to treat customary and formal rights as equally as possible in devising compensation rules and procedures”</i>	<ol style="list-style-type: none"> 1. Customary landowners allege being charged for registering land title. 2. Discrimination against users of customarily owned land in prices paid 3. Discrimination against users of communally owned land in prices paid 	Partial compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OD 4.30, para 30 RAP must be complete before appraisal	<i>“Submission to the Bank of a time-bound resettlement plan and budget that conforms to Bank policy is a condition of appraisal for projects involving resettlement.”</i>	<ol style="list-style-type: none"> 1. RAP approved by IFC staff as “fit for purpose” despite resettlement plan for fishing communities still not being finalised. 	Non compliance

Cultural heritage

WORLD BANK DRAFT OPERATIONAL POLICY OP 4.11, PHYSICAL CULTURAL RESOURCES

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OP 4.11 Para 5 Early consideration of cultural resources	<i>“Given that cultural resources may not be known or visible, it is important that a project’s potential impacts on cultural resources are considered at the earliest possible stages of project processing.”</i>	<ol style="list-style-type: none"> 1. No evidence that the project sponsors have gathered sufficient information about potential cultural heritage resources, known or unknown, along the pipeline route. 2. No evidence that a comprehensive analysis of potential project impacts was undertaken before main decisions taken on route. 3. Analysis of impacts of project on cultural heritage was not begun at the earliest possible stage; too late to contribute to route definition. 	Non compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OP 4.11 Para 7 Preliminary investigation	<i>“As part of the initial scoping phase of the EA, the borrower, in consultation with the Bank and project-affected groups, identifies the likely major impacts, if any, of the project on cultural resources. This phase should normally include a preliminary on-site inspection of physical cultural resources.”</i>	<ol style="list-style-type: none"> 1. Project affected people were prevented from making any contribution to mitigating cultural heritage impacts of project during initial phase. 	Non compliance
		<ol style="list-style-type: none"> 2. Preliminary on-site inspection little more than a cursory glance over the surface of potential sites. 	Partial compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OP 4.11 Para 10 Identification of impacts	<i>“The borrower identifies physical cultural resources likely to be affected by the project, and assesses the project’s potential impacts on these resources as an integral component of the EA process, in accordance with the Bank’s EA requirements.”</i>	<ol style="list-style-type: none"> 1. Analysis of potential impacts is peripheral to EA process, not an integral component. 2. Project shows little awareness of state of resources in region. 	Non compliance
		<ol style="list-style-type: none"> 3. Identification of resources likely to be affected is incomplete and poorly researched. 	Partial compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OP 4.11 Para 11 Mitigation	<i>“Where the project is likely to have adverse impacts on physical cultural resources, the borrower consults with project-affected groups to identify appropriate measures for mitigating these impacts as part of the EA process.”</i>	<ol style="list-style-type: none"> 1. No evidence that project affected people have been properly consulted as to the impacts of the project on local cultural heritage. 2. No evidence that advice has been taken from project affected people on mitigation of impacts. 3. Many of the mitigation measures introduced are neither appropriate nor likely to be effective. 	Non compliance
		<ol style="list-style-type: none"> 4. Imperatives of construction and weakness of archaeological teams make it unlikely that cultural heritage preservation will be a priority for sponsors. 	Partial compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OP 4.11 Para 13 Management plan	<i>“The borrower develops a management plan which includes measures for mitigating any adverse impacts, provision for the management of chance finds, any necessary measures for strengthening institutional capacity and a monitoring system to track progress of these activities.”</i>	<ol style="list-style-type: none"> 1. Mitigation of adverse impacts inadequate. 2. Management of chance finds inadequate. 3. Institutional capacity not adequately strengthened. 4. Monitoring system inadequate. 	Partial compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OP 4.11 Para 14 Consultation with key groups	<i>“As part of the EA process, the borrower consults with competent authorities, project-affected groups and, where appropriate, relevant experts, in documenting the presence and significance of physical cultural resources, assessing potential impacts and exploring mitigation options.”</i>	<ol style="list-style-type: none"> 1. Project sponsors only consulted with project-affected groups after route had been determined, and even then only partially. 2. Failure of project sponsors to properly consult credible NGOs and sources of relevant information. 	Partial compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OP 4.11 Para 16 Disclosure	<i>“The findings of the cultural resources component of the EA are disclosed as part of, and in the same manner as, the EA report, except where the borrower, in consultation with the Bank, determines that such disclosure would jeopardise the safety or integrity of the cultural</i>	<ol style="list-style-type: none"> 1. Failure to disclose findings on vast majority of cultural resources. 	Non compliance

	<i>resources involved.</i>		
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Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OP 4.11 Para 16 Capacity building	<i>“When the borrower’s capacity is inadequate to manage physical cultural resources that are affected by a Bank-financed project, the project normally includes components to strengthen that capacity.”</i>	1. No evidence that the project has adequately strengthened Turkey’s capacity to manage cultural resources.	Non compliance

IFC POLICY ON CULTURAL PROPERTY (OPN 11.03)

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OPN 11.03 Para 2(a) Significant damage	<i>“The Bank normally declines to finance projects that will significantly damage non-replicable cultural property, and will assist only those projects that are sited or designed so as to prevent such damage.”</i>	1. Without a comprehensive prior knowledge of existing cultural resources along the pipeline route, it is impossible to ensure both the nature of the cultural property that is affected and that the project is sited to prevent such damage.	Non compliance
		2. Project not adequately designed to best prevent damage to cultural heritage.	Partial compliance

Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OPN 11.03 Para 2(b) Protection and enhancement of cultural property	<i>“The Bank will assist in the protection and enhancement of cultural properties encountered in Bank-financed projects, rather than leaving that protection to chance. In some cases, the project is best relocated in order that sites and structures can be preserved, studied and restored intact in situ...Often, scientific study, selective salvage and museum preservation before destruction is all that is necessary. Most such projects should include the training and strengthening of institutions entrusted with safeguarding a nation’s cultural patrimony.”</i>	1. No evidence that project has trained or strengthened Turkey’s capacity to preserve its cultural resources.	Non compliance
		2. “Protection” of cultural resources largely comprised of rapid extraction and ‘rescue’, not preservation in situ. 3. Relocation of project very limited, inadequate and	Partial compliance

		only undertaken after main route decided. 4. Not enough time allocated for “scientific” study of finds due to commercial pressures behind project.	
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Relevant paragraph and key requirement	Specific obligations	Evaluation of compliance	Extent of compliance
OPN 11.03, para 3 Consult appropriate NGOs	<i>“Before proceeding with a project...Bank staff must determine what is known about the cultural property aspects of the proposed project site. [A]ppropriate agencies, NGOs or university departments should be consulted.”</i>	1. Local, national and international NGOs with relevant archaeological experience were not consulted over likely cultural heritage impacts. 2. Local people and communities with the greatest level of in-depth knowledge were not fully consulted on likely cultural heritage impacts.	Partial compliance
		3. No evidence that the project sponsors have taken local knowledge of cultural heritage impacts into account.	Non compliance

Environmental Assessment

EC DIRECTIVE ON EIA

Note that breaches of the EC Directive relating to consultation are tabulated in the consultation section above.

Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
Article 2(1) No construction prior to approval of EIA	<i>“ Member States shall adopt all measures necessary to ensure that, before consent is given, projects likely to have significant effects on the environment by virtue, inter alia, of their nature, size or location are made subject to a requirement for development consent and an assessment with regard to their</i>	1. Construction began prior to approval of EIA by Turkish Government	Non Compliance

	<i>effects. These projects are defined in Article 4.</i>		
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Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
Article 3, bullet 1 Identify direct and indirect impacts on flora and fauna	<i>“The environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case and in accordance with Articles 4 to 11, the direct and indirect effects of the project on the following factors . . . human beings, flora and fauna . . .”</i>	<ol style="list-style-type: none"> 1. EIA was undertaken over less than a year and fieldwork was limited. 2. Major sites were not surveyed. 3. Time spent in individual sites was inadequate to obtain necessary baseline information 	Partial compliance

Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
Article 3, bullet 2 Direct and Indirect effects on climate to be assessed	<i>“The environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case and in accordance with Articles 4 to 11, the direct and indirect effects of the project on the following factors . . . soil, water, air, climate and the landscape . . .”</i>	<ol style="list-style-type: none"> 1. Direct impacts on climate of emissions from pipeline considered but no assessment of wider climatic impacts resulting for end-use of oil transported. 	Partial Compliance

Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
Article 5 (3), bullet 2 Mitigation of environmental impacts	<i>“The information to be provided by the developer in accordance with paragraph 1 shall include at least . . . a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant</i>	<ol style="list-style-type: none"> 1. Inadequate measures to mitigate oil spills 2. Inadequate measures to mitigate impacts of decommissioning 	Partial compliance

	adverse effects . . .”		
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Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
Article 5 (3), bullet 4 Assessment of project alternatives	<i>“The information to be provided by the developer in accordance with paragraph 1 shall include at least . . . an outline of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental effects.”</i>	<ol style="list-style-type: none"> 1. The “Without project’ option was not seriously considered, with many alternatives not considered at all, and those that were, only in an unbalanced way and with very limited scope. 2. Alternative strategic routes were not seriously considered. 3. There was a clear failure to properly consult on project alternatives. 4. A systematic approach to assessment of alternatives was lacking. 	Non Compliance

IFC OP 4.01 ENVIRONMENTAL ASSESSMENT

Note that breaches of OP 4.01 relating to consultation and to assessment of alternatives are tabulated in those sections (respectively above and below), rather than in this section.

Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
Article 4 Independence of EA experts	<i>“For Category A projects the project sponsor retains independent EA experts not affiliated with the project to carry out the EA.”</i>	<ol style="list-style-type: none"> 1. EA contractors not independent (by World Bank definition) 2. No independent advisers appointed 	Possible Non Compliance

Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
Para 12	<i>“For Category A projects, the project sponsor consults these groups at least twice: (a) shortly after environmental screening and before the terms of reference for the EA are finalized, and (b) once a draft EA report is</i>	<ol style="list-style-type: none"> 1. HGA invoked to curtail consultation period on scoping study from 60 days to 30 days. 	Partial Compliance

	<i>prepared. In addition, the project sponsor consults with such groups throughout project implementation, as necessary to address EA related issues that affect them.”</i>		
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Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
OP 4.01, Annex B	<i>“describe relevant physical, biological, and socioeconomic conditions”</i>	1. Data collection is incomplete 2. Insufficient data for accurate representation of species 3. Failure to examine species during different seasons	Non Compliance

Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
World Bank, Environmental Assessment Sourcebook, Update no. 20, October 1997, ‘Biodiversity and environmental assessment’, p.1	<i>“The functions and services of natural habitats and ecosystems should be systematically assessed and evaluated, and the ecological, social, and economic value of such functions quantified as part of the cost/benefit analysis of programs and projects.”</i>	1. No assessment beyond mere presence of species	Non Compliance

Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
World Bank Environmental Assessment Sourcebook REF	<i>“The functions and services of natural habitats and ecosystems should be systematically assessed and evaluated, and the ecological, social, and economic value of such functions quantified as part of the cost/benefit analysis of programs and projects.”</i>	1. No assessment beyond mere presence of species	Non Compliance

Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
OP 4.01, Annex B	<i>“indicate the accuracy, reliability,</i>	1. No assessment of accuracy and reliability of sources in data	Non

	<i>and sources of the data.”</i>		Compliance
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Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
OP 4.01, para 1	<i>IFC requires environmental assessment (EA) of projects proposed for IFC financing to help ensure that they are environmentally sound and sustainable”</i>	1. No assessment of sustainability of project or its contribution to sustainable development	Non Compliance

Assessment Of Alternatives

IFC OP 4.01 ENVIRONMENTAL ASSESSMENT

Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
OP 4.01, Annex B, clause f Compare with ‘without project’ situation	<i>“[requires that the project] systematically compares feasible alternatives to the proposed project site technology, design, and operation – including the ‘without project’ situation”</i>	1. Only considers ‘without ACG oilfields’ scenario, not ‘with ACG, without BTC’ 2. Considers only economic impacts of not developing ACG, not environmental or social, and considers only negative impacts of the no-development option, and no positive ones	Partial Compliance
		3. Does not consider the alternative of not building BTC and instead refining in Azerbaijan	Non Compliance

Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
OP 4.01, Annex B, clause f Compare with alternative feasible routes	<i>“[requires that the project] systematically compares feasible alternatives to the proposed project site”</i>	1. Fails to consider possible export routes to ports in Iran, Pakistan or China	Non Compliance

		2. Rejects routes to Supsa (Georgia) or Novorossiysk (Russia), including combined with Bosphorus bypass, without giving justification	Partial Compliance
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Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
OP 4.01, clause 12 Consultation	<i>“For all Category A projects ... during the EA process, the project sponsor consults project-affected groups and local nongovernmental organizations (NGOs) about the project’s environmental aspects and takes their views into account. The project sponsor initiates such consultations as early as possible”</i>	1. Local community groups not involved in assessment of alternatives; NGOs and government agencies only involved when both the nature of the project and the ‘corridor of interest’ were already decided.	Partial Compliance

Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
OP 4.01, Annex B, clause f Systematically consider alternatives	<i>“[requires that the project] systematically compares feasible alternatives to the proposed project”</i>	1. Alternatives not considered at early enough stage 2. Failure to consider key impacts or compare systematically. Of 50 recommendations ⁶ in the World Bank Sourcebook, only 1 was fully carried out.	Partial Compliance

Ethnic Minorities

WORLD BANK OD 4.20 INDIGENOUS PEOPLES

Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
OD 4.20, para 2(a)	<i>“The directive provides policy</i>	1. OD 4.20 not applied. Evidence suggests indigenous people receive fewer benefits, such	Non

⁶ 10 recommendations are listed, each for 5 stages of project development, making a total of 50 – see table below

Ensure ethnic minorities benefit	<i>guidance to ensure that indigenous people benefit from development projects.”</i>	as lower than average compensation and a greater likelihood of economic displacement.	Compliance
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Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
OD 4.20, para 2(b) Mitigate adverse impacts on ethnic minorities	<i>“The directive provides policy guidance to avoid or mitigate potentially adverse effects on indigenous people caused by Bank assisted activities.”</i>	1. OD 4.20 not applied. Evidence suggests indigenous people bearing more than average burden of negative impacts of project.	Non Compliance

Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
OD 4.20, para 6 Foster respect for human rights of ethnic minorities	<i>“The Bank’s broad objective towards indigenous people...is to ensure that the development process fosters full respect for their dignity, human rights and cultural uniqueness.”</i>	1. OD 4.20 not applied. Process has resulted in an increase in state pressure and intrusion, and the increased likelihood of displacement and added vulnerability.	Non Compliance

Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
OD 4.20, para 6 Ensure ethnic minorities do not suffer adverse effects	<i>“More specifically, the objective at the centre of this directive is to ensure that indigenous peoples do not suffer adverse effects during the development process.”</i>	1. OD 4.20 not applied. Process has resulted in an increase in state pressure and intrusion, and the increased likelihood of displacement and added vulnerability.	Non Compliance

Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
OD 4.20, para 8 Ensure informed participation of ethnic minorities	<i>“The Bank’s policy is that the strategy for addressing the issues pertaining to indigenous peoples must be based on the informed participation of the indigenous people themselves. Thus, identifying local preferences through direct consultation,</i>	1. Failure to distribute sufficiently informative material on the project before the consultation process began meant that participation of indigenous people could not be properly described as ‘informed’. 2. Inadequate length and comprehensiveness of consultation process meant that process failed to identify or act on local preferences. 3. Less than 2% of population directly consulted; majority of consultation indirect, through local	Partial Compliance

	<i>incorporation of indigenous knowledge into project approaches and appropriate early use of experienced specialists are core activities for any project that affects indigenous peoples and their rights to natural and economic resources.”</i>	or national authorities.	
		<p>4. OD 4.20 not applied to project.</p> <p>5. Failure to take account of indigenous people’s social environment, including lack of freedom of expression and military/state surveillance.</p> <p>6. No evidence that participation in consultation process was voluntary.</p> <p>7. No evidence of incorporation of indigenous knowledge into project approaches or results.</p> <p>8. No evidence of early or appropriate use of independent experienced specialists.</p> <p>9. No evidence of respect for or acknowledgement of indigenous people’s rights to natural or economic resources.</p>	Non Compliance

Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
OD 4.20, para 13 Draw up ethnic minorities development plan	<i>“For an investment project that affects indigenous peoples, the investor should prepare an indigenous peoples development plan.”</i>	<p>1. OD 4.20 not applied to the project.</p> <p>2. No evidence of the preparation of an indigenous peoples development plan.</p>	Non Compliance

Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
OD 4.20, para 14a Participatory assessment of development plan options	<i>“The key step in project design is the preparation of a culturally appropriate development plan based on full consideration of the options preferred by the indigenous people affected by the project.”</i>	<p>1. OD 4.20 not applied to the project.</p> <p>2. No evidence of the preparation of a culturally appropriate development plan.</p> <p>3. No evidence of indigenous people being presented with different options with regard to the main elements of the project.</p> <p>4. No evidence of the project sponsors taking the wishes of indigenous people into full consideration.</p>	Non Compliance

Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
OD 4.20, para 14d Take account of local of local social organisation in development plan	<i>“Local patterns of social organisation, religious beliefs and resource use should be taken into account in the plan’s design.”</i>	<p>1. OD 4.20 not applied to the project.</p> <p>2. No evidence that project sponsors have undertaken consultation with ethnic minorities with enough sensitivity to have genuine or thorough knowledge of local patterns of social organisation, religious beliefs and resource use.</p> <p>3. No evidence that project sponsors have taken local patterns of social organisation, religious beliefs and resource use into account in project or plan design.</p>	Non Compliance

Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
OD 4.20, para 15(b) Assess relationship of ethnic minority to mainstream society	<i>“Baseline data should include... (iv) the relationship of indigenous peoples to other local and national groups.”</i>	<p>1. OD 4.20 not applied to the project.</p> <p>2. EIA strenuously avoids mentioning largest ethnic minority group, the Kurds, and their relationship to other social groups.</p>	Non Compliance

Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
OD 4.20, para 15(d) Ensure participation throughout planning, implementation and evaluation	<i>“Mechanisms should be devised and maintained for participation by indigenous people in decision making throughout project planning, implementation and evaluation.”</i>	<p>1. OD 4.20 not applied to project.</p> <p>2. No evidence that mechanisms for indigenous peoples’ participating in decision-making processes have been established.</p> <p>3. No evidence that project sponsors have taken account of political limitations on indigenous peoples’ capacity to be involved in decision-making, nor that they have created an environment where this is feasible.</p>	Non Compliance

Relevant Paragraph and Key requirement	Specific Obligations	Evaluation of Compliance	Extent of Compliance
OD 4.20, para 18 Independent appraisal of extent of participation by ethnic minorities	<i>“Appraisal teams should be satisfied that indigenous people have participated meaningfully in the development of the plan.”</i>	<p>1. OD 4.20 not applied to the project.</p> <p>2. No evidence that indigenous people have participated meaningfully in the project i.e. i.e. participation which has led to major changes in the project or left affected people feeling as though their concerns have been fully addressed.</p> <p>3. No evidence that appraisal teams have looked for this level of participation from indigenous</p>	Non Compliance

		people.	
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