

Damning Indictment

How the Yusufeli Dam Violates International Standards and People's Rights



**The Final Report of an International Fact Finding Mission to the Region,
April 2002 (Published September 2002)**

International Fact Finding Mission

Final Report

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How the Yusufeli Dam Violates International Standards and People's Rights

Les Amis de la Terre (Friends of the Earth – France)

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Ilisu Dam Campaign

Kurdish Human Rights Project

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This report, published September 2002, is based on the findings of an international Fact-Finding Mission to the region of the planned Yusufeli Dam in Northeast Turkey 23 - 29 April 2002.

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Preface

By the Kurdish Human Rights Project

This report details the findings of an international Fact-Finding Mission, which visited the site of the proposed Yusufeli dam and hydro-electric project, on the Çoruh river in northeast Turkey, in April 2002. When construction, resettlement and road reconstruction costs are added together, the estimated costs of the 540MW Yusufeli project could well exceed \$3 billion. It would directly displace 15,000 people and significantly impact the lives of up to 15,000 more, as well as exerting a profoundly deleterious effect on the Çoruh river and the local ecosystem, a largely pristine area rich in wildlife. The Mission visited the region to investigate various concerns raised about the project, and to determine the extent to which it meets international standards, particularly those set out in the World Bank Safeguard policies and in the recommendations of the World Commission on Dams.

In the wake of the Ilisu Dam project and the highly successful campaign to prevent its construction, the Kurdish Human Rights Project views the Yusufeli proposal as significant for a number of reasons. Many of the concerns that motivated protests against Ilisu have been raised about Yusufeli: inadequate consultation with affected people; failure to consider appropriate alternatives; flawed or undisclosed environmental and social assessments and resettlement plans; corporate governance failures and insufficient standards in export credit agencies and other funding institutions; lack of consideration of the project's impact on cultural history and social practices.

The real significance of Ilisu was that it brought into the public eye the lack of democratic accountability in the process of planning, funding and constructing major infrastructural projects, not only in the countries where such projects are sited, but also in the Western nations which fund them. That lack of accountability has allowed alliances of central governments, private companies and government funding agencies, fuelled largely by public money, to produce projects which ride roughshod over the wishes and interests of local people. But the accomplishments of the Ilisu Dam Campaign, a coalition of numerous NGOs and public interest groups (of which KHRP was one), also demonstrate that such projects can be successfully challenged, and that given sufficient public diligence, there are ways and mechanisms of enforcing the accountability that such projects, and indeed such bodies, badly need.

That is the lesson we have taken from the Ilisu experience, and would also wish to apply to the Yusufeli project, and indeed to all such projects in the region and beyond. In that regard, KHRP would like to emphasise the need to establish further broad-based democratic platforms in regard to major infrastructural projects, both now and in the future. Such platforms should be as inclusive as possible, incorporating not just local communities and concerned NGOs but also other stakeholders, to facilitate decision-making that has widespread popular support.

Kerim Yildiz
Executive Director
Kurdish Human Rights Project

Executive Summary

The Yusufeli dam and hydro-electric project is planned to be built on the Çoruh river in North East Turkey. It would have a generating capacity of 540 MW. Estimated construction costs of the dam vary between \$700 million and \$838 million. Resettlement costs are estimated at a further \$750 million. In addition, a minimum of \$1.5 billion is estimated to be required for rebuilding the roads that will be flooded by the dam.

Serious concerns have been raised over the dam's environmental, human rights and cultural heritage impacts. Eighteen towns and villages, including the town of Yusufeli, would be completely or partially submerged by the dam, displacing 15,000 people from their homes and indirectly affecting up to a further 15,000 people. No resettlement plan has yet been made public and consultation has been minimal. Much cultural heritage would also be affected. The Yusufeli dam would also have negative impacts on the Çoruh river and its surrounding environment which currently remains largely undisturbed and is rich in wildlife.

In order to investigate the concerns raised about the project, and to determine whether the project meets international standards, an international fact finding mission visited the region in April 2002. The Mission interviewed a range of local politicians, business people, elected representatives and state officials. Unfortunately, it was not possible to conduct the full planned programme of investigation due to intimidation of prospective interviewees by the Turkish state security police. The Mission notes that such intimidation severely undermines the prospects of a fair and just outcome for the project.

Players in the Project

The contracts for the Yusufeli and Artvin dams were awarded by the Turkish Ministry of Energy and Natural resources authorised its General Directorate of State Hydroelectric Works (DSI) to a consortium led by Spie Batignolles, the French electrical engineering, IT services and construction company. At that time, the Spie Batignolles consortium consisted of Spie Batignolles TP (France - leader); Abay TS (Belgium); Alstom Acec Energie (Belgium); ABB Generacion SA (Spain); Alstom Hydro SA (Spain); AMEC (UK). AMEC has subsequently withdrawn but still has a considerable interest, however, through its 46 per cent ownership of SPIE with the option to purchase the remainder in July 2002.

The total cost of constructing the two dams is to be financed through buyer and financial credits. This financing is being arranged by two banks, Paribas and Barclays, in liaison with COFACE, the French export credit agency; the export credit agencies of other countries whose companies are involved in the project; and the Turkish Treasury.

The Mission's Findings

The Mission assessed the Yusufeli project for compliance with the World Bank's Safeguard policies (compliance with which represent SPIE, ALSTOM and COFACE's precondition for involvement in the project) and the World Commission on Dams (WCD). The Mission also reviewed some of the applicable law in relation to the project.

The World Bank Safeguard Policies

There are seven potentially relevant World Bank Safeguard policies: Environmental Assessment, Natural Habitats, Involuntary Resettlement, Indigenous Peoples, Management of Cultural Property, Safety of Dams, Projects in International Waterways.

As a project which involves resettlement and major environmental impacts, under World Bank guidelines Yusufeli requires an **environmental impact assessment** (EIA) to be completed. Interviews and research conducted by the Mission suggest that the Yusufeli project violates this guideline on three major counts:

- Inadequate consultation - no consultation has taken place on environmental impacts, only on

attitudes to resettlement; women have not been consulted.

- Failure to adequately assess alternative projects – no environmental or social assessment of alternative dam sites has been undertaken; supply and demand side alternatives have not been considered.
- Failure to disclose the EIA to the public prior to appraisal– despite repeated requests from NGOs in Europe and individuals in Yusufeli, the EIA has not been made publicly available.

The Mission recommends that the EIAR be released as soon as possible in order that an assessment of compliance or otherwise with the Bank's environmental standards can be made.

The Mission's research also suggests that the Yusufeli project violates the guideline on **natural habitats** on four counts:

- Failure to assess impacts on natural habitats – the Mission was told that the EIA does not assess impacts on natural habitats, that no one had actually been to study the region and that although a report had made mention of the need to assess impacts, this had been ignored.
- Failure to adequately assess alternative projects – the Yusufeli project's impacts on natural habitats have not been compared with impacts of potential alternative projects.
- Failure to consult - no consultation has taken place on impacts on the environment or on natural habitats.
- Failure to identify measures for conservation and mitigation if the dam should go ahead.

The Mission's research also suggests that the Yusufeli project violates the guidelines on **involuntary resettlement** on three counts:

- Inadequate consultation - no consultation has taken place on environmental impacts, only on attitudes to resettlement. Some people feel that, even on the limited things they were consulted about, their views have been ignored.
- Failure to consult with women.
- Failure to disclose a resettlement action plan (RAP) prior to appraisal – the resettlement site is yet to be decided and a RAP has not been produced. There are specific concerns about people's compensation and whether adequate budget exists.

There is a World Bank safeguard policy on **indigenous peoples** (including ethnic minorities) but the Mission was unable to assess whether this is applicable in the case of the Yusufeli Dam. There is much Georgian heritage and ancestry in the region, but the Mission was unable to investigate whether the groups of people who still speak Georgian would identify themselves as a distinct cultural group, as required by the World Bank. The Mission was also unable to investigate the extent to which the long-standing ideological preoccupation of the Turkish state with civic unity, and its repression of any form of autonomous cultural identity since the founding of the modern Turkish polity, might be influencing ethnic self-identification in the region.

The Mission's research and the professional assessment by Maggie Ronayne, a member of the Executive of the World Archaeological Congress (WAC), suggests that the World Bank's guidelines on **management of cultural property** have been violated on three major counts:

- Failure to consult on the cultural heritage impacts of the project.
- Failure to produce a credible budget for salvage efforts and plans or to incorporate cultural heritage assessment costs into project costs
- Failure to assess the impact of the project on tourism.

The Mission also notes that there is no national cultural heritage inventory, itself a contravention of the Valetta Convention and a number of other agreements to which Turkey is a party.

Without access to the EIA, the Mission has been unable to adequately assess the compliance of the Yusufeli project with the World Bank's guidelines on **safety of dams**. However, the following issues are of concern:

- The Mission found no evidence that an independent panel has been appointed to review and advise on matters relative to dam safety.
- The Mission found no evidence of provisions for ensuring safety over the lifetime of the dam.
- The Mission found a general lack of evidence about other safety provisions and with no management plan having been released.

The Mission found that the project violates the World Bank's guideline on **projects in international waterways**:

- Consent has not been received from Georgia, Turkey's downstream riparian on the river Çoruh.

The Mission therefore concludes that the Yusufeli project violates the World Bank Safeguard policies. The Mission strongly recommends that, in order to meet its own pre-conditions, SPIE should withdraw from the project. The Mission likewise recommends that COFACE abides by its pre-conditions for support and refuses to consider providing export credits for the project.

The World Commission on Dams Strategic Priorities

There are seven WCD strategic priorities, all of which are relevant to Yusufeli: Gaining Public Acceptance, Comprehensive Options Assessment, Addressing Existing Dams, Sustaining Rivers and Livelihoods, Recognising Entitlements and Sharing Benefits, Ensuring Compliance, Sharing Rivers for Peace, Development and Security.

The Mission identified two key decisions for which **gaining public acceptance** is crucial: the initial decision to build the dam and a subsequent decision about where to resettle Yusufeli's inhabitants. The Mission found that this strategic priority has not been complied with:

- There is not public acceptance of the decision to build the dam and the Turkish government has not made any attempts to secure acceptance. Instead, key decisions have been taken without the informed participation of stakeholders.
- Public acceptance of the final resettlement site cannot be achieved until there is public acceptance of the decision to build the dam. In addition, without access to information, further consultation (including transparent publication of results) and the establishment of an open negotiating forum, there is unlikely to be public acceptance of decisions about resettlement.
- The needs of women and other vulnerable groups have not been taken into account and women have not been involved in the decision making process even to the limited degree that men have been.

The Mission concludes that WCD strategic priority on **comprehensive options assessment** has not been complied with:

- The non-project alternative of energy efficiency and demand side management are not being utilised by turkey and have not been assessed.

- The Mission heard evidence that alternative, renewable energy sources have not been considered adequately, if at all.
- Alternative dam projects have been dismissed on an economic basis without any clear justification being put forward to stakeholders and without considering social and environmental factors.

The Mission finds that the Yusufeli dam does not comply with the WCD strategic priority on **addressing existing dams**:

- Turkey has no national programme for post-project monitoring of the performance of its existing dams.
- Although, at a national level, the Turkish authorities have programmes in place to improve the productivity of irrigation from existing dams and to address some of the health and other impacts caused by dam projects, no systematic programme exists.
- The Mission was unable to look at whether reparations plans have been negotiated with communities affected by existing dams on the Çoruh, but is, however, aware of Turkey's poor reputation with resettlement and of ongoing social problems at numerous other dams in Turkey.

The Mission found that WCD strategic priority on **sustaining rivers and livelihoods** has not been complied with:

- Impacts on natural habitats, resources and species in the region have not been adequately considered. The Mission has not found evidence of plans to mitigate these impacts.
- The impacts on communities of changing the “natural” features of the region might include impacts on tourism, on agriculture and on quality of life. These have not been adequately considered or discussed with those affected.
- Neither a basin-wide study nor a strategic impact assessment have been carried out.

The Mission found that the Yusufeli project does not comply with WCD strategic priority on **recognising entitlements and sharing benefits**:

- Affected stakeholders have been incompletely identified – only those directly impacted have been included in limited consultation, leaving 15,000 indirectly affected people without a voice.
- Risks to and impacts on affected stakeholders have not been adequately identified nor assessed. These include resettlement, impacts on surrounding villages, changed status and size of Yusufeli, loss of land, loss of livelihoods and income, loss of community spirit and compensation.
- Affected stakeholders have not been given the opportunity to participate in discussions or decisions on sharing benefits and do not stand to share in the benefits of the project.

The Mission was unable to fully assess whether the Yusufeli project complies with WCD strategic priority on **ensuring compliance**. However, the Mission found no evidence that a compliance plan has been drawn up or considered and notes that, if one has been drawn up, it has been done without the input of many project participants. This mean that the project does not comply with this WCD strategic priority.

The Mission was not able to fully assess whether the Yusufeli project complies with WCD strategic priority on **sharing rivers for peace, development and security**, but notes that organisations in Georgia have asserted that Turkey has not informed Georgia about the planned construction of the Yusufeli dam nor about its downstream impacts. The Mission notes that, if true, this would mean that the dam does not comply with this WCD strategic priority.

The Mission therefore concludes that the Yusufeli Dam does not comply with the guidelines and recommendations of the World Commission on Dams. The Mission recommends that the project is put on hold until the WCD guidelines can be complied with to ensure the final project or solution is just and equitable as well as negotiated with and acceptable to all stakeholders.

International, European and Turkish Law

It was not the Mission's remit to assess the Yusufeli Project in relation to the law. The Mission has, however, surveyed some of the applicable international, European and Turkish law about issues previously discussed in the report. The Mission strongly recommends that legal issues are fully assessed before the project goes ahead.

A major development in **international law** was the UN Convention on the Law of the Non-Navigational Uses of International Watercourses in 1997. This Convention makes absolutely clear the basis on which shared rivers should be shared. Turkey was one of three states to vote against its adoption, however, a legal opinion prepared for Friends of the Earth finds that the Convention reflects a general obligation of all states to notify downstream states of projects which will have a significant impact on shared rivers, to consult with downstream states if those states consider that the project will cause significant harm and to negotiate an equitable solution. The Mission was unable to assess whether Turkey has met this general obligation in relation to the Yusufeli Dam. The Mission notes, however, that downstream state Georgia claims that consultation has not taken place and that this would put Turkey in contravention of international law.

European law is relevant to Turkey as a candidate for entry to the European Union (EU), Turkey must progressively harmonise its domestic law so that it conforms with European Community (EC) requirements. EC law requires an assessment of environmental impacts for projects likely to have significant effects on the environment. The Mission is concerned that the environmental impact assessment for the Yusufeli Dam is inadequate. If so, this would put Turkey in breach of European law.

Despite becoming a member of the European Environmental Agency in 2001, Turkey has not made it obligatory to undertake an impact study of projects such as the Yusufeli dam. The Mission believes that such a disparity between actions and promises is cause for concern, and should give rise to scrutiny by EU member states.

France bears part of the responsibility for the Yusufeli project through the actions of its ECA, COFACE. Requirements under EC law on the evaluation of impacts and access to information have not been met. The Mission recommends that COFACE releases the Environmental Impact Assessment Report and Resettlement Plan to the public as soon as possible.

It is beyond the remit of this Mission to assess the Yusufeli project in relation to **Turkish law**, or to assess the adequacies or otherwise of national laws to ensure a fair and just outcome in Yusufeli. However, the Mission is concerned that the project is still going ahead, despite a possible court case - and that a local association has launched an appeal against the Turkish government in relation to the absence of an impact study, problems with resettlement and infrastructure rebuilding and agricultural problems. The Mission is concerned that the dam is going ahead despite possible action in the courts and recommends that the legal implications are investigated further and that the banks which are considering backing the project take account of possible legal challenges in their due diligence for the project.

In terms of land rights, Turkish law has two main requirements: that full registration of land rights must have taken place before the expropriation procedure began, and that there must be a reasonable balance between public and private interests. Registration of land rights is still incomplete. The Mission also has several concerns about just, speedy and equitable payment of compensation. The Mission recommends that the dam does not go ahead until land registration is complete and all compensation has been fairly negotiated and agreed with affected stakeholders.

Section 1

Introduction and General Concerns

Section 1 Introduction and General Concerns

1.1 The Yusufeli Dam – Background and Impacts

The Yusufeli dam and hydro-electric project is planned to be built on the Çoruh river in North East Turkey. It would form part of a wider scheme which includes the associated Artvin dam - to be built later in a second phase - and two other dams at Borcka and Muratli which form separate projects. The Yusufeli dam would take 7 to 8 years to construct and would have a generating capacity of 540MW. The estimated construction costs of the dam vary between \$700 million¹ and \$838 million.² Resettlement costs are estimated at a further \$750 million³. In addition, a minimum of \$1.5 billion is estimated to be required for rebuilding the roads that will be flooded by the dam.

Assessments and proposals for the construction of the four dams and hydro-electric power plants were based primarily on technical and economic criteria. There are concerns that the environmental and social impacts were not sufficiently assessed - if indeed they were assessed at all. In addition, the technical studies that were undertaken were carried out in 1985 and have not been updated to reflect changed conditions in the region or new technologies that have emerged in the subsequent two decades.

Serious concerns have been raised over the dams' environmental, human rights and cultural heritage impacts. Thousands of people will be forced to move, threatening their livelihoods and ways of life, but no resettlement plan has yet been made public and consultation has been minimal. The Yusufeli project would directly affect 15,000 people, forcing them from their homes. Up to 15,000 more people could also be indirectly affected. Eighteen towns and villages, including the town of Yusufeli, would be completely or partially submerged by the dam. Much cultural heritage would also be affected. The Yusufeli dam would also have negative impacts on the Çoruh river and its surrounding environment which currently remains largely undisturbed. The area surrounding the river is rich in wildlife, including the threatened brown bear, wild boar, wolf, jackal and pine marten.

In order to investigate the concerns raised about the project and to determine whether the project meets international standards, an international fact finding mission visited the region in April 2002. The Mission interviewed a range of local politicians, business people, elected representatives and state officials. **Unfortunately, it was not possible to conduct the full planned programme of investigation due to intimidation of prospective interviewees by the Turkish state security police. The Mission notes that such intimidation severely undermines the prospects of a fair and just outcome for the project.**

1.2 Who's Behind the Dam?

In 1997 the Turkish Ministry of Energy and Natural resources authorised its General Directorate of State Hydroelectric Works (DSI) to carry out negotiations and agree contracts for the construction of four dams - Yusufeli, Artvin, Borcka and Muratli - on the Çoruh River.⁴ The negotiations followed the agreement of a "co-operation convention" between France and Turkey in September 1996, whereby France agreed to

¹ Interview with Yusuf Saglam, Mayor of Yusufeli, 27 April 2002.

² House of Commons Select Committee on Trade and Industry, Industrial and Trade Relations with Turkey, Appendices to Report, Ninth Report, Session 2000-2001, available from:

<http://www.parliament.the-stationery-office.co.uk/pa/cm200001/cmselect/cmtdind/360/360ap14.htm>

³ Interview with Turgut Kocoglu, Yusufeli Chamber of Commerce, 27 April 2002.

⁴ The negotiations were mandated under a governmental decree dated 23 July 1997. See: House of Commons Select Committee on Trade and Industry, Industrial and Trade Relations with Turkey, Appendices to Report, Ninth Report, Session 2000-2001, available from:

<http://www.parliament.the-stationery-office.co.uk/pa/cm200001/cmselect/cmtdind/360/360ap14.htm>

provide export credits for the scheme.⁵ The contracts for Yusufeli (540 MW) and Artvin (332 MW) were awarded to a consortium led by Spie Batignolles, the French electrical engineering, IT services and construction company.

The total cost of constructing the two dams is to be financed through buyer and financial credits.⁶ According to AMEC, at April 2001 project financing was being arranged by two banks, Paribas and Barclays⁷ in liaison with COFACE, the French export credit agency; the export credit agencies of other countries whose companies are involved in the project; and the Turkish Treasury.

At the time that the contract for Yusufeli and Artvin was awarded, the Spie Batignolles consortium consisted of:

- **The Civil Works Group**

Spie Batignolles TP (France - leader); Abay TS (Belgium); Alstom Acec Energie (Belgium); ABB Generacion SA (Spain); Alstom Hydro SA (Spain); AMEC (UK).⁸

AMEC was involved in the consortium until March 2002, when it withdrew from the project citing concerns over its financial profitability for the company. "AMEC has concluded that its resources would be better deployed in other areas including the furtherance of its strategy to develop an international base of service-related activity. Accordingly AMEC has decided not to participate further in the project."⁹

AMEC still has a considerable interest, however, through its 46 per cent ownership of SPIE with the option to purchase the remainder from July 2002. AMEC has explained its own position as follows: "AMEC, today, does not 'control' SPIE, and their activities are managed by their senior managers in the best interests of all their shareholders. However, if we exercise our option to acquire the balance of the shares, then AMEC will control SPIE from early 2003 and will then be in a position to form a view on SPIE's continued participation in Yusufeli."¹⁰

In May 2002, the High Court in Lesotho found the former chief executive of the Lesotho Highlands Water Project (LHWP) guilty of taking bribes from a number of multinationals, including Spie Batignolles. The Court ruled that during the period 24th May to 27th May, 1988 Spie Batignolles paid USD 5,617.11 and GBP 3,020.81 to the accused. In his judgment, Mr Acting Justice Cullinan noted, "I am satisfied beyond reasonable doubt, as the only reasonable inference, that in the eleven counts of bribery involved, the accused and the relevant Consultant/Contractor in each count, unlawfully, intentionally and corruptly entered into a corrupt agreement, whereby the accused agreed to further the private interests of that Consultant/Contractor in its involvement with the LHWP, pursuant to which agreement the Consultant/Contractor paid the accused the particular sum of money which I have previously specified under each count."¹¹ The company has now itself been charged with corruption. The case will come to court in 2002.

⁵ France and Turkey agreed in a co-operation convention of September 1996 to provide their support, and in particular, for France, to provide credits (in accordance with OECD rules) within a scheme involving the construction of four dams and hydro-electric power plants that are part of the development of the Çoruh river, located in north-eastern Turkey: Yusufeli, Artvin, Borcka and Muratlı."

⁶ According to AMEC: "The financing is planned by means of buyer's credits to the extent of US\$454 million and of US\$384 million in financial credits; the Turkish Treasury will be the borrower." See: House of Commons Select Committee on Trade and Industry, Industrial and Trade Relations with Turkey, Appendices to Report, Ninth Report, Session 2000-2001, available from:

<http://www.parliament.the-stationery-office.co.uk/pa/cm200001/cmselect/cmtrdind/360/360ap14.htm>

⁷ House of Commons Select Committee on Trade and Industry, Industrial and Trade Relations with Turkey, Appendices to Report, Ninth Report, Session 2000-2001, available from:

<http://www.parliament.the-stationery-office.co.uk/pa/cm200001/cmselect/cmtrdind/360/360ap14.htm>

⁸ In response to inquiries by Friends of the Earth about the Yusufeli/Artvin projects, AMEC initially denied any knowledge of the Artvin dam. It later conceded its involvement. Shareholders, particularly institutional investors, may wish to inquire further into what this incident reveals about the company's corporate governance.

⁹ AMEC media release, AMEC ceases participation in proposed Turkish Dam project, 13 March 2002

¹⁰ Letter from AMEC to Friends of the Earth, 11 April 2002

¹¹ High Court of Lesotho, Rex vs Masupha Ephraim Sole, Judgment of Hon. Mr. Acting Justice Cullinam, 20 May

- **The Electrical and Mechanical Group (Çoruh Civil Contractors)**

ABB Alstom Power¹² Hydraulique (France - Leader); ABB Alstom Power Hydro (France); Spie Enertrans (France); Abay TS (Belgium); Alstom Acec Energi (Belgium); ABB Generacion SA (Spain); Alstom Hydro SA (Spain).

- **The Engineering and Consultancy Services Group**

Coyne & Bellier (France - Leader); Dolsar Engineering (Turkey).

1.3 Export Credit Agency (ECA) Involvement

Export credits are being sought for the project from a number of countries. In France, Spie Batignolles has applied for credits from COFACE, France's official export credit and investment guarantee agency.¹³ COFACE, which is acting as lead ECA for the project, is currently considering the application. Other credits are being sought from Spain and Belgium. In Britain, AMEC's application for a £68 million credit from the UK Export Credits Guarantee Department (ECGD) was withdrawn when the company backed out of the project.

1.4 Applicable Standards

2002.

¹² In 2000 ABB and Alstom announced that Alstom would acquire ABB's stock in their 50-50 joint company ABB Alstom Power for a cash payment of 1.2 billion euro. The power company was then integrated into Alstom's sector reporting structure.

¹³ Export Credit Agencies can be both public and private bodies. The public agencies are governmental or semi-governmental entities that use taxpayers' money to promote a country's foreign trade through insuring against the main commercial and political risks of operating abroad, in particular the risk of not being paid by creditors. Almost all countries – North and South – have such agencies, which provide companies with a base in that country with financial guarantees in the event of their investments abroad running into problems. In some cases, such guarantees take the form of political risk insurance – the ECA paying out in the event, for example, of a private sector project being nationalised. In others – export credit insurance – the insurance covers non-payment of goods or services. The official ECAs generally cover risks that the private sector is unwilling to bear.

Broadly, export credit guarantees work as follows. Where a company deems there is a risk of not being paid for the goods it supplies to an importer abroad, it contacts its national ECA and takes out an insurance policy, for which it pays a premium. The ECA then undertakes to pay the exporter for the exported goods should the importer default on payment. The ECA in turn almost always insists on the government of the importing country giving a counter-guarantee whereby it takes over the debt from the ECA. In the event of a default, the ECA's loss therefore gets added to the stock of bilateral debt owed to the ECA's home government. Ultimately, therefore, it is the poor of the South who end up paying the bulk of the bill for failed ECA-backed development projects. Because ECA debt is charged at commercial rates, it is particularly onerous for poorer countries. In the case of the UK, 95 per cent of the debt owed by developing countries to the UK government is in the form of export credit debt.

Export credit agencies are the largest source of public finance for private sector projects in the world. In 2000, export credit agencies supported \$500 billion in guarantees and insurance to developing countries and \$58.8 billion in export credits. By contrast, the combined total of all the loans made by Multilateral Development Banks, such as the World Bank, was \$41 billion. See: The Jakarta Declaration for Reform of Official Export Credit and Investment Insurance Agencies, Jakarta, 13 June 2000. The Jakarta Declaration was drawn up by over 50 representatives of Indonesian and international non-governments (NGOs) and social movements convened in Jakarta and South Sumatra 1-7 May 2000 for a strategy meeting on official export credit and investment insurance agencies (ECAs). The declaration has been endorsed by 347 NGOs from 45 countries.

The standards applicable to the Yusufeli project are set out briefly below. This report assesses the project firstly in relation to the World Bank Safeguard policies (see section 2), compliance with which represent SPIE, ALSTOM and COFACE's precondition for involvement in the project. Secondly, this report assesses the project in relation to the guidelines of the World Commission on Dams (WCD), widely acknowledged as international best practice. Finally, the project is assessed against relevant international law.

Because the World Bank and World Commission as Dams standards refer to similar issues, there is overlap between sections 2 and 3 of this report. Readers are, where practical, referred to other relevant sections and are advised to read these sections in conjunction with each other.

1.4.1 Preconditions set by SPIE, ALSTOM and COFACE - World Bank Safeguard Policies

None of the ECAs from which support is currently being sought have legally binding human rights, environment or development standards which must be met before credits are granted. Instead, they have adopted a "benchmarking" approach in which the standards applied - or not applied - are decided on a case-by-case basis.

In the case of Yusufeli, COFACE has made no public statement as to the standards it will use as benchmarks. However, in April 2002, following public pressure, SPIE Batignolles announced that a precondition for its involvement in the project would be the project's compliance with the so-called "safeguard policies" of the World Bank.¹⁴ Then, again following public pressure, ALSTOM made the same announcement in June 2002¹⁵.

SPIE also states that COFACE would condition its involvement on the project meeting the same standards.¹⁶ **If true, this is to be welcomed. However the Mission notes with concern the abrogation of governmental responsibility implied in COFACE's apparent adoption of preconditions set by a company which is seeking support from the agency. In the Mission's view, it should be the French government, not SPIE, that sets COFACE's standards. The Mission regards this as an issue of grave concern and urges parliamentarians in France to investigate the process by which COFACE agreed to the World Bank's safeguard standards.**

1.4.2 Other Preconditions set by COFACE

In addition to the benchmarks laid down by SPIE, the project is subject to a number of commitments made by COFACE and the other ECAs that are involved. In December 2001, for example, all the major ECAs of the Organisation for Co-Operation and Development (OECD) agreed that "projects should comply with standards of the host country".¹⁷

¹⁴ Letter from Jean Monville, CEO of SPIE, to Gerard Botella, President of Les Amis de la Terre, 16 April 2002.

¹⁵ Declaration from Pierre Bilger, CEO of ALSTOM, in answer to questions from NGOs, Annual General Meeting, Paris, 3 July 2002.

¹⁶ It is not known whether other ECAs are also preconditioning their support on the World Bank's standards. However, given SPIEs position as lead contractor and COFACEs role as lead ECA, it would seem likely that this would be a default position for the whole project.

¹⁷ Since the late 1990s, the Export Credit Group (ECG) of the OECD, a grouping of major industrialised or industrialising countries, has been negotiating an agreement on "Common Approaches to the Environment". Although environment ministers of the G-8 countries have called on "... the international community to quickly develop and implement common binding environmental guidelines for ECAs for encouraging strengthened integration of environmental consideration in investment decisions", the ECG itself has steadfastly resisted adopting any legally-binding environmental standards. Negotiations within the ECG are currently at a stalemate, the US having rejected the latest proposals as too weak. The US, whose export credit agency is uniquely subject to mandatory environmental standards, is insisting that, at a minimum, OECD export credit agencies should commit themselves to World Bank standards on environment and transparency - a position that has been rejected by other governments. Nonetheless, in December 2001, the other members of the ECG, with the exception of Turkey,

1.4.3 International Best Practice - World Commission on Dams' Guidelines

Although SPIE's announcement that it will abide by the World Bank's "safeguard standards" is to be welcomed, such standards are less stringent than international best practice would demand. Since 2000, the benchmark for best practice in hydro projects is widely regarded as having been set by the World Commission on Dams (WCD),¹⁸ an international body charged with drawing up new guidelines for the hydro industry. The guidelines have been termed "a major milestone" in the dams debate.

The WCD published its report, *Dams and Development*, in November 2000. The report sets out a new framework for decision-making on water and energy development which "reflects a comprehensive approach to integrating [the] social, environmental and economic dimensions of development", in addition to "creating greater levels of transparency and certainty for all involved".¹⁹

The new framework embodies five core values – equity, sustainability, efficiency, participation and accountability. In order to ensure that future dam projects comply with these principles, the Commission proposes a set of guidelines for water and energy resources development, based on seven strategic priorities and corresponding policy principles.

1.4.4 International Law

UN Convention on the Law of the Non-Navigational Uses of International Watercourses

The Çoruh River rises in Turkey but reaches the sea in Georgia. As such, it constitutes "an international river or watercourse" and its use is subject to international law.²⁰ Most relevant in this regard is the UN Convention on the Law of the Non-Navigational Uses of International Watercourses, which was adopted in 1997.²¹

In the context of the Çoruh, one of the riparian states - Georgia - has signed the Convention. Turkey, however, is not a signatory. It might therefore be held that the Convention has no legal relevance for the disputes between the two riparian states. However, an authoritative legal opinion prepared for Friends of the Earth in April 2000 (enclosed in Appendix 1) finds that the approach set out in Part 3 of the Convention reflects a *general obligation* on *all* states under customary international law. This is also the view of the World Commission on Dams.²²

committed themselves to implementing the latest text of the proposed agreement. The agreement commits the ECAs to little: even the commitment to complying with host country standards is discretionary ("should" rather than "shall"). See: Working Party on Export Credits and Credit Guarantees, "Draft recommendation on Common Approaches on Environment and officially supported export Credits: Revision 6", Unclassified TD/ECG(2000)11/REV6, Organisation for Economic Co-operation and Development, December 2001. Available from: www.oecd.org/pdf/M00023000/M00023467.pdf

¹⁸ Set up in 1997 by the World Bank and the International Union for the Conservation of Nature "to review the performance of large dams and make recommendations for future planning of water and energy projects", the WCD's independence - reflected in its composition - is widely acknowledged. The Commission consisted of government representatives, industry leaders, academics with expertise in the energy and water sector, respected civil servants, and members of the NGO community. A number of international companies also assisted the WCD in developing guidelines for the future of water and energy development. The WCD's report and conclusions are based on consensus reached by the Commission. Further information on the WCD, including the report and guidelines, is available at www.dams.org

¹⁹ UN Document A/51/869. The Convention took 27 years to develop adopted by 103 votes in favour to 3 against (Turkey, China and Burundi), with 27 abstentions.

²⁰ Article 2 (a) of the UN Convention on the Law of the Non-Navigational Uses of International Watercourses defines a watercourse as a "system of surface waters and groundwaters constituting by virtue of their physical relationship a unitary whole and normally flowing into a common terminus". Article 2 (b) defines international watercourse as "a watercourse, parts of which are situated in different States".

²¹ UN Document A/51/869. The Convention took 27 years to develop adopted by 103 votes in favour to 3 against (Turkey, China and Burundi), with 27 abstentions.

²² World Commission on Dams, *Dams and Development: A new framework for decision making*, Earthscan, London, 2000, p.252: "The Commission views the principles of the UN Convention as an emerging body of customary law and considers that States will reduce the possibility of conflict if they are prepared to endorse and

Surveying the applicable law, the opinion concludes that general international law places obligations on riparian states of shared rivers to notify, consult and negotiate. In summary, the main state obligations are the duty to notify downstream states, a subsequent duty to consult with downstream states, and if consultations do not resolve the issue to the satisfaction of all parties, to enter into negotiations (see Section 4.1 for further details).

1.5 The Mission's Remit

In April 2002, an international Fact Finding Mission of non-governmental organisations from Britain and France (representing Amis de la Terre, The Corner House, France Libertés, Friends of the Earth England, Wales and Northern Ireland, the Kurdish Human Rights Project, the Ilisu Dam Campaign) was established under the aegis of the Ilisu Dam Campaign. The Mission was charged with:

- Assessing the extent to which the Yusufeli project meets the benchmark standards adopted by SPIE, ALSTOM and COFACE;
- Assessing whether or not the benchmark standards, *even if met*, are sufficient to bring the project into line with evolving international best practice. The Mission was explicitly charged with reviewing Yusufeli in relation to guidelines developed by the World Commission on Dams;
- Reviewing the project in relation to France and Turkey's obligations under international and national law, particularly with regard to environmental impact assessment, human rights, cultural heritage and the use of shared rivers.

This report, therefore, assesses whether the Yusufeli Project complies with the standards of the World Bank (Section 2), whether the project complies with the standards of the World Commission on Dams (Section 3) and reviews applicable national and international law (Section 4).

adhere to them."

Section 2

The World Bank's Safeguard Policies

Section 2 The World Bank's "Safeguard Policies"

As noted above, SPIE (the lead contractor for the Yusufeli project) and ALSTOM have preconditioned their involvement on the project meeting the World Bank's safeguard policies, a position also reportedly adopted by COFACE. This section reviews the extent to which the project currently complies with the policies.

The World Bank's safeguard policies are intended to ensure that Bank operations "do no harm" to people and the environment.²³ The policies,²⁴ which are mandatory, have been in place since the early to late 1980s. They consist of ten policy guidelines covering environmental assessment; natural habitats; cultural property; involuntary resettlement; indigenous peoples; forestry; pesticides; safety of dams; projects in international waterways; and projects in disputed areas.²⁵

When first formulated, the safeguards took the form of Operational Directives (ODs) which combined mandatory policy, Bank procedures and "good practice" advice. In order to distinguish "policies" from "procedures", however, the Bank is in the process of converting the old ODs into Operational Policies (OPs) and Bank Procedures (BP). The Bank has stated that the conversions will not result in any dilution of the safeguards.²⁶ Most of the ODs have now been converted.

Of the ten safeguard policies, the Mission deems that seven are potentially applicable to Yusufeli:

- *Environmental Assessment*, OP/BP 4.01, January 1999.²⁷
- *Natural Habitats*, OP/BP 4.04, June 2001.²⁸
- *Involuntary Resettlement*, Operational Policy OP/BP 4.12, December 2001.²⁹
- *Indigenous Peoples*, OD 4.20, September 1991.³⁰
- *Management of Cultural Property*, OP/BP 4.11, August 1999.³¹
- *Safety of Dams*, OP/BP 4.37, October 2001.³²
- *Projects in International Waterways*, OP/BP 7.50, June 2001.³³

²³ http://www.worldbank.org/whatwedo/policies_p.2

²⁴ <http://wbln0018.worldbank.org/essd/essd.nsf/All/>

²⁵ The safeguard policies can be accessed from the World Bank's website at http://wbln0018.worldbank.org/Institutional_Manuals/OpManual.nsf/TextTOC1?OpenNavigator&Start=1&Count=30&Collapse=2.1.9

²⁶ wbln0018.worldbank.org/essd/essd.nsf/All/ p.2: "Management has instructed that there should be no dilution of the existing standards."

²⁷ Hereafter OP/BP 4.01 available from: <http://wbln0018.worldbank.org/institutional/manuals/opmanual.nff/texttoc1?OpenNavigator&Start=1&Count=30&expand=2.1.1>

²⁸ Hereafter OP/BP 4.04 available from: <http://wbln0018.worldbank.org/institutional/manuals/opmanual.nff/texttoc1?OpenNavigator&Start=1&Count=30&expand=2.1.1>

²⁹ Hereafter OP/BP 4.12 available from: <http://wbln0018.worldbank.org/institutional/manuals/opmanual.nff/texttoc1?OpenNavigator&Start=1&Count=30&expand=2.1.1>

³⁰ Hereafter OD 4.20 available from: <http://wbln0018.worldbank.org/institutional/manuals/opmanual.nff/texttoc1?OpenNavigator&Start=1&Count=30&expand=2.1.1>

³¹ Hereafter Draft OP 4.11. The policy is under preparation. Until it is issued Bank staff are guided by the provisions of Operation Policy Note 11.03 available from:

<http://wbln0018.worldbank.org/institutional/manuals/opmanual.nff/texttoc1?OpenNavigator&Start=1&Count=30&expand=2.1.1>

³² Hereafter OP/BP 4.37 available from: <http://wbln0018.worldbank.org/institutional/manuals/opmanual.nff/texttoc1?OpenNavigator&Start=1&Count=30&expand=2.1.1>

³³ Hereafter OP/BP 7.50 available from: <http://wbln0018.worldbank.org/institutional/manuals/opmanual.nff>

Collectively, the standards require that:

- An environmental impact assessment for the project be undertaken and made public;³⁴
- A resettlement action plan, including a credible budget, be agreed prior to any financing being committed;³⁵
- The affected population be consulted³⁶ and involved in the planning of resettlement;³⁷
- A full socio-economic survey be undertaken;³⁸
- The views of women and vulnerable groups be taken into account and special provisions be made to address their needs;³⁹
- A development plan be drawn up for any vulnerable ethnic minorities which might be affected;⁴⁰
- The experience of past expropriation practices be evaluated and an adequate institutional framework be demonstrated;⁴¹
- The resettlement programme be conceived and implemented as a development programme in order to ensure those resettled are no worse off than before they were moved;⁴²
- A full analysis of alternatives to the project be undertaken, including consideration of the “no project” option;⁴³
- Downstream riparian states on any transboundary river of the project are notified and there is an “offer to negotiate in good faith with the other riparians to reach appropriate agreements or arrangements”.⁴⁴

In order to assess whether the Yusufeli project meets World Bank standards, the Mission evaluated the current known state of planning for Yusufeli under seven headings, one relating to each of the above guidelines.

[texttoc1?OpenNavigator&Start=1&Count=30&expand=2.1.1](#)

³⁴ OP 4.01 para 1

³⁵ OP 4.12 Annex para 20, BP 4.12 para 10

³⁶ OP 4.12 para 2b, para 19

³⁷ OP 4.12 para 8

³⁸ OP 4.12 para 13, Annex paras 6a and b

³⁹ OP 4.01 para 8

⁴⁰ OD 4.20 para 14a

⁴¹ BP 4.12 para 2d

⁴² OP 4.12 para 2b, 13b

⁴³ OP 4.01 paras 2, 8a, Annex B para 4

⁴⁴ OP 7.50 para 3

2.1 World Bank Safeguard Policy on Environmental Assessment

As a project which involves resettlement and major environmental impacts, Yusufeli would be classed as a “category A” project under World Bank guidelines. As such, it requires an environmental impact assessment (EIA) to be completed. The EIA should evaluate “a project's potential environmental risks and impacts in its area of influence”; examine project alternatives; identify “ways of improving project selection, siting, planning, design, and implementation by preventing, minimizing, mitigating, or compensating for adverse environmental impacts and enhancing positive impacts”; and include “the process of mitigating and managing adverse environmental impacts throughout project implementation.”⁴⁵

From evidence provided to the Mission, it would appear that the EIA fails to meet the World Bank’s guidelines on a number of counts:

2.1.1 Failure to Consult

The World Bank standards require the project developer to consult with project-affected people and local non-governmental organisations (NGOs) on the project’s environmental impacts and to take account of their views. A minimum of two rounds of consultation is required: first, prior to finalising the EIA’s terms of reference; and, second, once a draft of the EIA is prepared.⁴⁶ The borrower should initiate such consultations as early as possible.

The Mission learned that no consultation had taken place at all on the project’s *environmental* impacts with either NGOs or affected communities, either prior to setting the EIA’s terms of reference or on completion of the draft EIA. The Mission was informed by the Mayor and by other leading members of Yusufeli’s community that only one set of “consultations” had taken place: a survey undertaken by Sahara Engineering on *attitudes to resettlement*.⁴⁷

The survey was restricted to male heads of households: no women were consulted. The Mission views the lack of consultation with women as a matter of grave concern. Not only does this omission deny women their right to be heard but, given the central role of women in the household economy of the region and the very different uses that men and women make of the environment, any assessment that has been made of the project’s environmental impacts will inevitably be one-sided and incomplete. Although the Mission accepts that women have means of making their views known to male heads of households, it rejects the view that interviews with household heads are sufficient to assess the needs and views of women, particularly given the patriarchal nature of society in the region.⁴⁸

The Mission recommends that no export credits be approved for the project unless and until women in the region have been consulted as to their views of the project’s environmental impacts and the effects of those impacts on their lives and livelihoods.

The Mission was also disturbed by allegations that ENCON - the Turkish company which undertook the EIA - had not visited the Yusufeli area to make detailed field studies of the environmental impacts of the proposed dam. According to one interviewee, the EIA was a desk study that had been undertaken entirely in Ankara. This allegation should be investigated by the ECAs considering support for the project. If true, the EIA should be rejected as inadequate.

⁴⁵ OP 4.01, para 2.

⁴⁶ OP 4.01, para 15.

⁴⁷ DSI / Sahara Engineering Ltd, “Conclusion Report on the Yusufeli Dam Resettlement Plan” [“Yusufeli Barajı Yeniden Yerlesim Plani Sonuç Raporu”] February 2001

⁴⁸ The Mission accepts that all societies are currently sexist but notes that the nature of patriarchy in the region ensures that women have little space to make their voices heard in public. This point reflects the input of Maggie Ronayne, Wages for Household Campaign. For more information on the Campaign, see: <http://womenstrike8m.server101.com>.

2.1.2 Failure to Assess Alternatives

The World Bank's Environmental Assessment (EA) guidelines require both "systematic environmental comparison of alternative investments, sites, technologies and designs" and consideration of "demand management as well as supply options" (including "efficiency improvements"). An Annex to the guidelines, specifically devoted to assessing the impacts of dams, amplifies: "EA examines demand management opportunities. In appraising the project, they ensure that the project design adequately takes into account demand management as well as supply options (e.g., conservation of water and energy, efficiency improvements, system integration, cogeneration, and fuel substitution)."

The Mission was told by the Governor of Yusufeli that an assessment had been made of other dam sites but that no assessment had been made of other supply side alternatives, such as the use of solar energy, or of demand side management options, such as energy conservation.⁴⁹ (For more information on non-dam alternatives see Box 1.) **As such, the project violates the Environmental Assessment guidelines on two counts. The Mission notes that there is considerable scope for employing both supply side and demand side alternatives to Yusufeli and recommends that these be explored in full, as required under the World Bank's safeguard policies.**

For local people, the consideration of alternatives to the Yusufeli Project is of critical importance. The majority of those interviewed by the Mission stressed that if a dam had to be built, they would support the development of three smaller dams which would leave the town of Yusufeli intact. "We don't want to move," one villager told the Mission. "Life may be difficult here – and at times it is very dull, particularly for younger people. But whenever I go away, I soon want to return. Yusufeli is everything I know. If I had to move, it would be like having to start life again: it would be like being a baby. But we need investment in the region. And for thirty years, investment has been denied. People are uncertain: will the dam go ahead or won't it? So now we want an end to the uncertainty. We do not want the Yusufeli dam but we would support the 3 dams."

This position was supported by Turkey's 9th President Suleyman Demirel who visited Yusufeli while he was still Prime Minister (that is, before 1993) and promised the people there that the dam would not cause harm to their life in any way. In April 2000, after he had been elected President, a delegation from a Yusufeli-based association - the Yusufeli Ilcesini Guzellestirme Yasatma ve Kultur Varliklarini Koruma Dernegi⁵⁰ - visited him in Ankara. The Association claims that in this meeting, after learning about the delegation's concerns about the Yusufeli Project, the President himself suggested that there must be some potential alternative projects, since there are alternatives for all infrastructure projects. They say that the President then immediately ordered his aides to bring him information about alternative projects and that this was how they discovered that there is a three dam alternative project. However, a letter stating that the three dam option was \$350 million more expensive than a single dam at Yusufeli was subsequently received from the President's Office.

The Mission heard evidence, however, that the assessment made of alternative dam sites was inadequate. It was pointed out, for example, that the Yusufeli project, if built, would flood all the roads in the reservoir area, effectively cutting off villages from each other and causing major disruption to the economy and society of the region. The cost of building new roads – some 400 kilometres in all - is unknown, but, given the mountainous terrain, is likely to be high. The Mayor of Yusufeli points out that a recent road project in similar terrain, covering 18 kilometres, cost \$100 million - or \$5.5 million per kilometre.⁵¹ On this basis, the cost of re-establishing the road system flooded by the Yusufeli project could reach \$2.2 billion - more than two and a half times the cost of the dam. Others put the cost at \$1.5 billion. Much of this cost would be avoided, according to villagers, if Yusufeli was abandoned in favour of the three dam project, since the area flooded would be reduced and there would be no need to reconnect all the villages to a new centre.

⁴⁹ Interview with Arslan Yurt, Kaymakam of Yusufeli, 26 April 2002. The Governor stressed that he was not in possession of all the information on the dam, which was the responsibility of the Governor of Artvin. The Mission finds this division of gubernatorial responsibilities unhelpful: it considers it essential that the Governor of the province most directly impacted by the Yusufeli dam should be in possession of the full details of the project and its bureaucratic progress.

⁵⁰ The Association to protect Yusufeli, to enhance its beauties, to make it live and to save the cultural heritage.

⁵¹ Interview with Yusuf Saglam, Mayor of Yusufeli, 27 April 2002.

The Mayor also argued that the “Three Dam” project was a misnomer. In reality, only two dams would now need to be built, since one - at Artvin - was already built. Again, this would reduce the cost.

Without access to the Environmental Impact Assessment (EIA), which has still to be disclosed, it is impossible to make an independent assessment of the choice of Yusufeli over other sites or the economic case made against the three dam alternative by the Turkish government. **The Mission recommends that no export credits be approved until this issue has been subjected to a full and independent assessment.**

BOX 1 Alternative Energy Sources - Supply-side and Demand Side

Power production in Turkey amounted to 120,000 GWh in 2000. Electricity production increased by 68% between 1985 and 1990, even though demand only increased by 58%.⁵² Power demand is projected by the Government to increase rapidly over the next 20 years. However, these demand projections are exaggerated as Turkey is very energy inefficient, with up to 30% of energy generated wasted. This affects demand projections and locks the country into a cycle of using exaggerated demand figures to set unnecessary and unachievable production targets. No plans for demand side management or energy efficiency measures have been undertaken by the Government.

Solar Energy

Given Turkey’s abundance of sunshine, it has the potential to use solar power to meet its energy needs. Whilst electricity generated from Photo Voltaic (PV) cells is currently one of the most expensive options, a report by KPMG⁵³ shows with a solar factory producing PV cells at the rate of 500MW/year, prices can go down by 75%. In other parts of the world, PV cells are being installed as competitive alternatives to electricity generation. For example, the Million Solar Roofs Initiative of the US aims to bring up to 4kW systems to a million public and private rooftops by 2010. It has an objective of 3,025 MW capacity installed by 2010, with an expected cost of \$2/W (= \$2,000/kW = \$0.077/kWh)⁵⁴. In addition to solar becoming a competitive method of energy generation, it has the advantage over large-scale hydro projects of having minimal social and environmental impacts. As with hydro projects, solar projects have the potential to generate regional economic spin-offs and other regional advantages. If Turkey used its need to increase electricity generation to generate PV expertise through investment and technology transfer, solar would also have additional development benefits for the country as a whole.

Wind Power

Many experts also see wind power as having great potential in Turkey. The Organisation for Economic Cooperation and Development (OECD) has estimated that Turkey has 166 TWh a year of wind potential⁵⁵- more than Turkey’s current total electricity production. Aegean Tech in Turkey, in a recent study, *Wind Energy Opportunities of Turkey*⁵⁶, has concluded:

“It is estimated that in the year of 2023 (100. Year of the Republic of Turkey) Turkey will need 600 billions of kWh/year. That means if we pursue an intelligent policy, then in the year of 2023 about one third of the energy need of the country could theoretically be harvested from the wind.”

⁵² “Turkey at an energy crossroads” Greenpeace, June 1997

⁵³ “Solar Energy: from perennial promise to competitive alternative”, KPMG Bureau voor Economische Argumentatie, August 1999

⁵⁴ <http://www.eren.doe.gov/millionroofs/benchmark.html>

⁵⁵ Wijk, A.J.M. van, J.P. Coelingh - Wind Power Potential in the OECD Countries- NW&S, Utrecht, in opdracht van ECN, (1993)

⁵⁶ <http://www.egetek.org/pages/links/energy/wind.html>

Another study⁵⁷ concluded that the existing technical wind energy potential of Turkey is good enough to supply twice as much the existing total consumption of electricity. Wind energy is already in use in many parts of the world at a price competitive with conventional technologies. The latest technologies can produce electricity at 4.4 US cents per kWh, comparable to many conventional sources.⁵⁸ The cost of generating electricity from wind turbines is currently only marginally more than that of hydro and is expected to decline over the next few years.

According to a thorough technical report published by the European Wind Association, the Forum for Energy and Development and Greenpeace International⁵⁹ it is evident that wind technology is experiencing a dramatic growth which will continue over the next few years. To date, about 4,000 MW are being installed in the world every year, with a potential of increasing tenfold by 2010. In 1998, the investment cost for wind technology was US\$1,000 per KW installed. The unit price for wind electricity was 4.7 US cents per kWh - a value which is already reasonably competitive with hydro electricity costs. The range of wind power costs today is 4 to 7 US cents per kWh. Under an actual potential scenario with a strong element of Research & Development backing, as considered in the study, investment costs might decrease to around US\$700 per KW installed by 2010 and wind electricity costs might realistically drop to 3 US cents per kWh by 2013. Similar results were produced by a United States Department of Energy study in 1993, with figures of 3.6 US cents per kWh in 2010 and 3.1 US cents per kWh in 2020.

Turkey has enough wind to generate a significant proportion of its energy requirements. The cost of wind power is at least competitive as that of hydropower and can be lower.

Conservation

Official figures show that there in 1995 there were 17% grid losses throughout the network in Turkey, compared to an international average of 6.5.⁶⁰ Less than 3% of these were losses in transmission and over 14% losses in distribution. Indeed, Turkey is the “most energy wasteful” country in Europe, spending twice the energy as some other countries per unit of GDP produced. The energy wasted also skews demand projections thus creating an exaggerated estimate of future energy demand.

The International Energy Agency (IEA), in its 2000 Energy Efficiency Update for Turkey⁶¹ states (emphasis added):

“Energy efficiency is considered to be the cheapest energy source. Potential gains to be achieved by increased energy efficiency are substantial; various studies carried out in 1995 by the General Directorate of Electrical Power Resources Survey and Development Administration (EIEI) and the National Energy Conservation Center (NECC) with the participation of the European Union, estimate the total energy saving potential for the three consumption sectors to be approximately 13.2 Mtoe [million tonnes of oil equivalent] per year, corresponding to slightly more than the current final energy consumption in the transport sector.”⁶²

The IEA’s recent report⁶³ details many additional (often simple) measures the Turkish authorities could be taking to promote energy efficiency. For example, in the industrial sector “about 40% of the energy conservation potential is usually basic good housekeeping and low investment measures”.

⁵⁷ Uyar,Tanay Sidki et.al, Turkish Wind Atlas Statistics, Project Reports No: 1-6, 1989, TÜBÝTAK Marmara Scientific and Industrial Research Institute, Gebze, Kocaeli

⁵⁸ Elsam Power Pool Report, Denmark, Jan 1997, on <http://www.greenpeace.org/>

⁵⁹ Wind Force 10, A Blueprint to Achieve 10% of the World Electricity from Wind Power by 2020, The Beacon Press, October 1999

⁶⁰ “Turkey at an energy crossroads” Greenpeace, June 1997

⁶¹ <http://www.iea.org/pubs/newslett/eneeff/TK.PDF>

⁶² Mtoe is “Tonnes of Oil Equivalent”, a unit adopted by the OECD to present energy balances. See: <http://www.iea.org/stats/files/mtoe.htm>

⁶³ <http://www.iea.org/pubs/newslett/eneeff/TK.PDF>

2.1.3 Failure to Disclose EIA

The World Bank's safety policies require that EIAs be released for consultation both at the draft stage and when officially submitted to the Bank.⁶⁴ To date, however, no EIA for the Yusufeli Project has been made public and requests by both Amis de la Terre and Friends of the Earth to COFACE and the ECGD respectively for the document have been refused.

In fact, the EIA's current status is partially unknown. The Mission was told, for example, that ENCON submitted its final report to Turkey's Department of Hydraulic Works (DSI) in 1999, but that DSI had refused to accept it. ENCON was, however, paid for its work.

The Mission was also told by AMEC in January 2002 that the environmental impact assessment was not complete and that further work had been requested.⁶⁵

The Mission notes that, under the World Bank's OP 4.01, non-disclosure of an EIA which has been officially submitted to an agency is a breach of the Bank's safeguard policies.

2.1.4 Independent Panel to Assess the EIA?

The Mission was not able to investigate whether or not an advisory panel of independent, internationally recognized environmental specialists had been appointed to assess the EIA, as recommended by the World Bank.

⁶⁴ BP4.01, para 11, "When the borrower officially submits a Category A or Category B EA report to the Bank, the Region places a copy of the full report in the project file"; and OP 4.01, para 17, "... for a Category A project, the borrower makes the draft EA report available at a public place accessible to project-affected groups and local NGOs."

⁶⁵ AMEC letter to Friends of the Earth, 18 January 2002

Table 2.1 Environmental Assessment – summary of requirements and extent of compliance

Key Requirement	Relevant Para	Specific Obligations on Environmental Assessment	Extent of Compliance
EIA	OP Para 1	“The Bank requires environmental assessment (EA) of projects proposed for Bank financing to help ensure that they are environmentally sound and sustainable, and thus to improve decision making.”	Partial Compliance
Consultation	OP Paras 1,5	“ . . . during the EA process, the borrower consults project-affected groups and local nongovernmental organizations (NGOs) about the project's environmental aspects and takes their views into account. The borrower initiates such consultations as early as possible. “For Category A projects, the borrower 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 prepared. In addition, the borrower consults with such groups throughout project implementation as necessary to address EA-related issues that affect them”	Non-compliance
Disclosure	OP Para 17 BP para 11	“For meaningful consultations between the borrower and project-affected groups and local NGOs . . . the borrower provides relevant material in a timely manner prior to consultation and in a form and language that are understandable and accessible to the groups being consulted. “ . . . the borrower provides for the initial consultation a summary of the proposed project's objectives, description, and potential impacts; for consultation after the draft EA report is prepared, the borrower provides a summary of the EA's conclusions. In addition, for a Category A project, the borrower makes the draft EA report available at a public place accessible to project-affected groups and local NGOs.”	Non-compliance
Alternatives	OP Paras 2, 8a (Annex B, para 4).	“EA for a Category A project examines the project's potential negative and positive environmental impacts, compares them with those of feasible alternatives (including the “without project” situation)” “EA examines demand management opportunities. In appraising the project, they ensure that the project design adequately takes into account demand management as well as supply options (e.g., conservation of water and energy, efficiency improvements, system integration, cogeneration, and fuel substitution).”	Unknown Suspected non-compliance Suspected non-compliance
Independent assessment	OP Para 4	“the borrower should normally also engage an advisory panel of independent, internationally recognized environmental specialists to advise on all aspects of the project relevant to the EA.”	Unknown

2.2 World Bank Safeguard Policy on Natural Habitats

The World Bank “encourages borrowers to incorporate into their development and environmental strategies analyses of any major natural habitat issues, including identification of important natural habitat sites, the ecological functions they perform, the degree of threat to the sites, priorities for conservation, and associated recurrent-funding and capacity-building needs.”⁶⁶ It also requires the “identification of ... natural habitat issues and special needs for natural habitat conservation, including the degree of threat to identified natural habitats”.⁶⁷

From evidence provided to the Mission, it would appear that the project fails to meet the World Banks guidelines on a number of counts:

2.2.1 Failure to Assess Impacts

Any Environmental Impact Assessment (EIA) would be expected to include all of the above - analysis of the EIA will therefore be crucial. Without access to the EIA, which has still to be disclosed, it is difficult to make an independent assessment of the extent that the impacts on natural habitats have been considered by the Turkish government. **The Mission recommends that no export credits be approved until the EIA has been disclosed and has been subjected to a full and independent assessment.**

Instead, the Mission has made its own preliminary assessment of the project’s impacts on natural habitats. These fall into four broad categories as follows.

(i) Direct Impacts Downstream (in Georgia)

The dam will have considerable impacts on the River Çoruh’s flood plain in Georgia, dependent on sediment from the river.

(ii) Flooded Land Lost

The Yusufeli dam would cause a lake to be created. A canyon will be flooded, with all its flora and fauna lost. This represents a significant loss of natural habitat.

(iii) Resettlement Areas – creation of new town/s and infrastructure including roads

A significant area of land would be needed to re-house the 15,000 people who will be directly affected. This would either be agricultural land or natural habitat. As the location for the new town is yet to be decided, its impact on the surrounding environment is unknown. New roads to connect the new town with other major towns and cities in Artvin and to connect the new town to its surrounding villages would be needed, causing destruction and fragmentation of natural habitats.

(iv) Indirect impacts on the surrounding environment

The area surrounding Yusufeli consists largely of small villages, agricultural land and mountains. Some of this land is protected, with hunting forbidden. The area is home to many interesting and some endangered species. The Mission was told by Yusufeli residents that these include: Golden Eagles (an estimated four or five birds), Brown Bears; Wolves, Wild Boar, Mountain Goat, Lynx, Otter, Leopard. It should be noted that this is not an official list.

A lawyer who says he has seen ENCON’s EIAR told the Mission that its results are vague. He said that, on species impacted by the dam, it contains one sentence saying that there are no endemic species in the region.⁶⁸ Residents of Yusufeli also told the Mission that no one has been to the region to study the wildlife or natural habitat. The Mission was not told of any initiatives to identify, study, protect or conserve natural habitat lost or affected by the project.

⁶⁶ OP 4.04, para 9

⁶⁷ OP 4.04, para 2

⁶⁸ Interview with Murat Cano, 30 April 2002

As far as the Mission is aware, the DSİ has not commissioned other studies on the impacts on natural habitats. However, the Mission was told that two members⁶⁹ of The Council to Protect Natural Resources and Cultural Heritage, Trabzon Branch, researched and wrote a report on the impacts of the Yusufeli dam on Natural Resources. The report warned that the dam should not be built without further research into its impacts. The professors were fired from the Council subsequent to writing the report, but a court ruled that they should be reinstated to their positions. DSİ has not acted on the report's recommendations or taken it into consideration.⁷⁰ The Mission has not yet been able to obtain a copy of the report.

The Mission was told by people in Yusufeli that no one from ENCON has been to the region to look at the wildlife. Yusufeli residents expressed frustration that the area's wildlife has not been officially studied or documented. Some felt that "Ankara" has not realised the wildlife value of the area and that, if it was properly studied, a protected area would be created.

From the evidence of others' experience and views of the EIA, **the Yusufeli project does not appear to comply with the World Bank policy on assessing impacts on natural habitats.**

2.2.2 Failure to Assess Alternatives

Indications are that the Yusufeli project would significantly and directly convert natural habitats as well as having a broader indirect impact on the wider environment. The World Bank does not support such projects unless there are no feasible alternatives for the project and its siting.⁷¹ A proper analysis of alternatives would include alternative dam projects, alternative non-dam projects and the non-project option.

The Mission was told that two alternative supply side projects have been assessed – an option of building three smaller dams (the "Three dam project") and an option of pumping water through pipes to generate electricity. The Mission was told that alternative methods of generating electricity, including the non-project option, demand side management and energy efficiency, have not been considered. **The Mission notes that there is considerable scope for employing both supply side and demand side alternatives to Yusufeli (see Box 1) and recommends that these be explored in full.**

The World Bank requires that overall benefits from the project substantially outweigh the environmental costs.⁷² The alternatives which have been considered have only been analysed according to their economic cost and their electricity generating capacity, and have been dismissed on this basis. Environmental advantages and disadvantages have not been analysed. The relative costs and benefits have not been analysed.

The Yusufeli project therefore violates the WCD's guidelines on Natural Habitats. The Mission recommends that no export credits be approved until this has been resolved.

2.2.3 Failure to Consult

The World Bank standards require the project developer to take into account the views, roles and rights of groups (including local non-governmental organisations and local communities) affected by projects involving natural habitats. They require that these people are involved in planning, designing, implementing, monitoring and evaluating the project. Involvement may include identifying appropriate conservation measures, managing protected areas and other natural habitats, and monitoring and evaluating specific projects. The World Bank also encourages governments to provide such people with appropriate information and incentives to protect natural habitats.⁷³

The Mission learned that no consultation has taken place on the impacts of the project. The local community and NGOs in Yusufeli have not been involved at all in the planning and designing of the

⁶⁹ Professor Cengiz Erzum and Assistant Professor Sevil Gülgür

⁷⁰ Interview with Murat Cano, 30 April 2002

⁷¹ OP 4.04, para 5

⁷² OP 4.04, para 5

⁷³ OP 4.04, para 10

project and they felt it unlikely that they would be involved in implementation, monitoring, and evaluation. Information on the project's impacts, including impacts on natural habitats, has not been given to or discussed with the local community or with NGOs. **The project therefore violates the guidelines on consultation about impacts on Natural Habitats.**

2.2.4 Failure to Identify Measures for Conservation and Mitigation

The World Bank guidelines require conservation of natural habitats and the maintenance of ecological functions⁷⁴ and identification of measures for protecting natural habitats.⁷⁵ If the project will significantly convert or degrade natural habitats, the World Bank requires that mitigation measures such as minimising habitat loss and establishing and maintaining an ecologically similar protected area are included in the project.⁷⁶ Project preparation, appraisal and supervision arrangements should include appropriate environmental expertise to ensure adequate design and implementation of mitigation measures.⁷⁷

The Mission learnt of no conservation or mitigation measures associated with the project. (See also failure to assess impacts above.)

Again, without access to the EIA, which has still to be disclosed, it is difficult to make an independent assessment of the extent that the impacts on natural habitats have been considered by the Turkish government and whatever plans for mitigation and conservation have been drawn up. Evidence presented to the mission, however, suggests that this has not been adequately (if at all) considered. **The Mission recommends that no export credits be approved until this issue has been subjected to a full and independent assessment.**

Table 2.2 Natural Habitats – summary of requirements and extent of compliance

Key Requirement	Relevant Para	Specific Obligations in relation to Natural Habitats	Extent of Compliance
	OP4.04 Para 1	“apply a precautionary approach to natural resource management to ensure opportunities for environmentally sustainable development.”	Unknown without access to EIAR. Suspected non-compliance.
Impact Assessment	OP4.04 Para 2 OP4.04 Para 9	“identification of (a) natural habitat issues and special needs for natural habitat conservation, including the degree of threat to identified natural habitats (particularly critical natural habitats)” “encourages borrowers to incorporate into their development and environmental strategies analyses of any major natural habitat issues, including identification of important natural habitat sites, the ecological functions they perform, the degree of threat to the sites, priorities for conservation, and associated recurrent-funding and capacity-building needs.”	Unknown without access to EIAR. Suspected non-compliance. Unknown without access to EIAR. Suspected non-compliance.

⁷⁴ OP 4.04, para 2

⁷⁵ OP 4.04, para 3

⁷⁶ OP 4.04, para 5

⁷⁷ OP 4.04, para 7

Key Requirement	Relevant Para	Specific Obligations in relation to Natural Habitats	Extent of Compliance
Conservation	OP4.04 Para 3 OP4.04 Para 2	<p>“conservation of natural habitats and the maintenance of ecological functions.”</p> <p>“identification of (a) natural habitat issues and special needs for natural habitat conservation, including the degree of threat to identified natural habitats (particularly critical natural habitats), and (b) measures for protecting such areas”</p>	Unknown without access to EIAR. Non-compliance in relation to downstream impacts in Georgia. Suspected non-compliance elsewhere
Alternatives	OP4.04 Para 5	<p>“The Bank does not support projects involving the significant conversion of natural habitats unless there are no feasible alternatives for the project and its siting, and comprehensive analysis demonstrates that overall benefits from the project substantially outweigh the environmental costs.”</p>	Non-compliance
Mitigation	OP4.04 Para 5 OP4.04 Para 7	<p>“If the environmental assessment indicates that a project would significantly convert or degrade natural habitats, the project includes mitigation measures acceptable to the Bank. Such mitigation measures include, as appropriate, minimizing habitat loss (e.g., strategic habitat retention and post-development restoration) and establishing and maintaining an ecologically similar protected area.”</p> <p>“In projects with natural habitat components, project preparation, appraisal, and supervision arrangements include appropriate environmental expertise to ensure adequate design and implementation of mitigation measures.”</p>	<p>Unknown without access to EIAR. Suspected non-compliance</p> <p>Unknown without access to EIAR. Suspected non-compliance</p>
Implementation capacity	OP4.04 Para 6	<p>“takes into account the borrower's ability to implement the appropriate conservation and mitigation measures. If there are potential institutional capacity problems, the project includes components that develop the capacity of national and local institutions for effective environmental planning and management.”</p>	Unknown
Consultation	OP4.04 Para 10	<p>“the borrower to take into account the views, roles, and rights of groups, including local nongovernmental organizations and local communities, affected by Bank-financed projects involving natural habitats, and to involve such people in planning, designing, implementing, monitoring, and evaluating such projects. Involvement may include identifying appropriate conservation measures, managing protected areas and other natural habitats, and monitoring and evaluating specific projects. The Bank encourages governments to provide such people with appropriate information and incentives to protect natural habitats.”</p>	Non-compliance

2.3 World Bank Safeguard Policy on Involuntary Resettlement

The World Bank recognises that “involuntary resettlement may cause severe long-term hardship, impoverishment, and environmental damage unless appropriate measures are carefully planned and carried out.”⁷⁸ For these reasons, the Bank’s safeguard policy (OP 4.12) requires that involuntary resettlement “should be avoided where feasible, or minimized, exploring all viable alternative project designs”.⁷⁹ Where resettlement cannot be avoided, resettlement activities should “be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits.” Displaced persons “should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.”

2.3.1 Inadequate Consultation

Eighteen settlements, including the town of Yusufeli, will be flooded by the Yusufeli project, affecting 15,000 people directly and a further 15,000 indirectly. A key requirement of World Bank guidelines is that project-affected people, including host communities, are involved from the outset of the project. Indeed, consultation - and the active participation⁸⁰ of those to be resettled in resettlement planning - is considered fundamental to successful resettlement.

From the interviews conducted, it is clear to the Mission that this condition has not been met: few of those to whom the Mission spoke had received any official information about the project and even fewer had been consulted. As one villager put it, “We are struggling for information.” Another complained; “We have not been informed about anything.”

The “consultations”, such as they are, that have taken place have been limited, top-down and controversial in their outcomes. As noted above, a survey of people’s attitude to resettlement was carried out by Sahara Engineering. This encompassed 2,550 people – less than 10 per cent of the number who would be affected. No women were interviewed - in itself a violation of the Bank’s guidelines and, according the Mayor, the responses recorded in Sahara’s final report did not correspond to the answers given by many people.⁸¹ “We openly gave our views”, says the Mayor. “However, none of our opinions are reported. The survey only reflects the DSI’s views.” For example, “Sahara concludes that the most favoured resettlement site would be the village of İşhan, whereas the responses tabulated in the report place İşhan as one of the least favoured sites.”⁸² Such alleged discrepancies have fuelled suspicions within the community that Sahara Engineering is not independent of the DSI. These allegations remain unsubstantiated and the Mission was not able to investigate them. Nonetheless, in the interests of informing the deliberations of the Export Credit Agencies considering support for the project, the Mission felt that it was in the public interest that the allegations be reported. It therefore does so without prejudice to any of the parties involved. **It notes that, if a conflict of interest were established, the survey would be in breach of the World Bank’s guidelines.**

According to the Governor of Yusufeli, the Sahara report is now a public document which can be viewed at the DSI offices in Artvin. However, when the Mission contacted the DSI in Artvin, it was told that the

⁷⁸ World Bank, Involuntary Resettlement, OP 4.12, December 2001, para 2.

⁷⁹ World Bank, Involuntary Resettlement, OP 4.12, December 2001, para 2 a

⁸⁰ The Bank defines participation as follows: “Participation is a voluntary process in which people including marginal groups (poor women, indigenous, ethnic minorities) come together with project authorities to share, negotiate and control the decision-making process in project design and management.” See: World Bank, Environmental Assessment Sourcebook Update, Public Involvement in Environmental Assessment: Requirements, Opportunities and Issues, October 1993, p.1.

⁸¹ The questions were asked orally and the Sahara Engineering representative filled in the questionnaire on behalf of the respondent.

⁸² The Mission learned that four sites have now been short-listed as potential resettlement sites for Yusufeli town: Sarigol, Ogdem, Kilickaya and İşhan.

Artvin DSI did not have a copy and that it would be necessary to contact the DSI in Ankara. The Mission met no-one in Yusufeli who had been given a copy of the report officially. However, it was able to have sight of a leaked copy (in Turkish) of the full report and to obtain a summary of its data.⁸³ **The Mission deplores the failure to make the document available to the people of Yusufeli.**

Commenting on the lack of information and consultation, the Mayor told the Mission: “We have not been asked whether we want a dam. We have only been asked where we want to move to. The people of Yusufeli are not against development. However, we are now in the 21st century: human rights, the environment and social and cultural rights must be respected and put above the need for energy. Our position is that everyone in the region should be consulted – not just those who would be flooded out of their homes. Yusufeli is the commercial and social centre of the region – if it is destroyed, everyone will be affected, so everyone should have their say on the project. Flooding the town and moving it miles away would destroy a whole network of relationships. The issue will only be resolved by consulting everyone – women, children, old people, *everyone*.⁸⁴”

The problems that have characterised the Sahara survey have also dogged the only other consultation exercises to have been carried out. The Governor of Yusufeli told the Mission that three meetings have been held in Yusufeli: one in May 2000, another in October 2000 and the third in March or April 2001. These meetings were organised by the Governor of Artvin and the DSI. The meetings were announced over the public tannoy system and, according to the Governor, were open to everyone, including women, a few of whom were reported to have attended.

Villagers interviewed by the Mission, however, reported that the meeting was closed to all but those who had been officially invited, and that known opponents of the dam were excluded from the invitation list. In all, only 2,000 out of the 30,000 people directly or indirectly affected by the project attended. Villagers also reported that the meetings did not constitute a “consultation”, in the sense of people being asked for their views on the dam: rather, they consisted of a presentation by the DSI of the Sahara findings. As such, they were viewed as elitist and “top down”. **The Mission shares this view and finds that consultation to date has failed to provide affected communities and individuals the “opportunities to participate in planning, implementing and monitoring resettlement”, as required under the World Bank’s guidelines.** The Mission also notes that photographs it saw of the meeting revealed no women in the audience.

The Mission considers full and open-ended consultation to be a pre-requisite for successful resettlement. To date, this has not occurred. Moreover, the Mission is concerned that the evident lack of freedom of expression in the region makes such a consultative process impossible to achieve at present. The Mission records with regret that security police visited those whom it had interviewed and warned them against any further contact. Prospective interviewees were similarly visited. One senior member of the local community later told the Mission, “I am afraid I cannot talk to you.”

The Mission also learned of the difficulties facing those opposed to the dam. Although some villagers had protested against the project at the time of the public meeting held to announce Sahara Engineering's findings (including attending the meeting, although in their view they had not been invited, and booing the Governor), the Mission was told that any attempts at organising sustained protests would result in a clampdown by the police. “We are not allowed to protest”, one villager said bluntly. State officials, such as teachers, were particularly vulnerable, since any involvement in opposition to the dam would constitute grounds for sacking them. Local business people also faced the threat of the police charging them for minor infringements of company or tax laws. In addition, most of the people the Mission interviewed believed that since they had booed the Governor, Yusufeli has been punished by the State, with even the simplest State investments having been suspended since then.

The Mission concludes that, in this climate of intimidation by the State, the prospects for a fair and just resettlement are at best slim. The Mission recommends that a human rights assessment be undertaken for the project and published. It further recommends that no credits be approved unless ECAs are able to provide credible and independently verified evidence that the citizens of Yusufeli enjoy their full civil and political rights as recognised under international law.

⁸³ Enclosed in Turkish with an English translation in Appendix 3

⁸⁴ Interview with Usuf Saglam, Mayor of Yusufeli, 27 April 2002.

2.3.2 Failure to Consult with Women

The World Bank has long recognised that resettlement affects women in ways that are different from its effects upon men. In many cases, women do not own the land they use, since it is often (as is the case in Yusufeli) held by male members of their family. They are therefore frequently excluded from compensation packages, with the money that would otherwise be due to them being paid instead to their husbands, fathers or brothers. In such cases, women lose out twice over. Not only are they deprived of their land and thus what is often their main source of independent income, but the payment of compensation to the male "head" of the household may further concentrate economic power within the household to the disadvantage of women, particularly where women are denied access to the money received in compensation.

A woman of Yusufeli told us that women are never landowners and that therefore compensation is never given to them but to the "heads" of household, the men. She explained that there is a strong solidarity between men and women in Yusufeli, more developed than in other parts of Turkey, and that she was therefore hopeful that the compensation would be shared between them. But in the case that the male "head" of household kept the money for himself, women would be much worse affected than excluded men. "I trust the men in my family. I don't think they would keep the money for themselves. But if they did, we women would be affected badly."

In addition, much of the work that women undertake is unrecognised by society - though vital to the maintenance of both the household economy and the wider economy of the local community.⁸⁵ As such, it does not qualify for compensation - again disadvantaging women. Nor is any account taken of the additional workloads that women frequently face once resettled, due to the rupturing of the social networks upon which they rely for fulfilling household tasks. "Family ties are really important for us", said one woman. "In a village of 600, perhaps 60 people will be related to us. If these bonds are broken, they will be difficult to re-establish. And that will make life very hard for us."

The Mission was disturbed to learn that the women of Yusufeli have not been informed of the many social problems that have accompanied construction work on other dams, in particular prostitution and sexual violence. A woman told the Mission that, were any women to be molested or harassed by construction workers, the local people would react very strongly, perhaps even leading to murders.

Given the special and differential problems that women face as a result of resettlement, it is of deep concern that the socio-economic survey undertaken by Sahara Engineering interviewed only "household heads". Although the Governor of Yusufeli told the Mission that some household "heads" are women, this was denied by the Mayor: "There are no women heads of households. They are all men."⁸⁶ The Mission was also unpersuaded by the Governor's opinion that the views of women would have been adequately reflected in the survey because "the men would have consulted with their wives."

In the Mission's view, the failure to consult with women directly renders the Sahara survey worthless as the basis for resettlement planning. It also views the failure to consult with women as a de facto violation of the Bank's requirement that special attention be paid to the needs of vulnerable groups. The Mission recommends that no export credits are approved until a full socio-economic survey of both women and men has been completed and its results and recommendations have been both discussed with participants and approved by them.

2.3.3 Failure to Disclose Resettlement Action Plan

Under the World Bank's safeguard policies, a draft resettlement action plan (RAP) is a precondition for project assessment. Without such a plan, a project involving forced displacement will not even be

⁸⁵ This point reflects the input of Maggie Ronayne, Wages for Household Campaign. For more information on the Campaign, see: <http://womenstrike8m.server101.com>.

⁸⁶ The Mayor also said that the position of "head of household" is no longer even recognised in Turkish law.

considered by the Bank. The Bank also requires that the draft resettlement plan be made publicly available to those affected by the project.

In the case of Yusufeli, no resettlement plan to international standards has yet been drawn up. Although a survey of people's attitudes to resettlement, undertaken by Sahara Engineering, has been completed, it falls far short of a resettlement plan (despite being touted as such) and is not available to stakeholders or to the public.⁸⁷ Indeed, as the Governor of Yusufeli told the Mission, "The final resettlement site has still to be decided. People must decide where they want to move. Until this issue has been resolved, no RAP will be drawn up." In the Mission's view, the absence of a RAP constitutes such a fundamental breach of the World Bank's safeguard policies that ECAs should cease appraisal of the project forthwith. Indeed, the Mission views the willingness of participating companies and ECAs even to consider an involvement in the project in the absence of a resettlement policy to be a major corporate governance failure. The Mission also considers that a resettlement plan drawn up at this late stage in the project - when contracts have already been awarded, generating strong pressure to implement the project - is unlikely to carry the political commitment that a successful resettlement programme requires. As the UK Parliament's Select Committee for International Development has commented in respect of the Ilisu dam, where export credits were similarly sought despite the absence of a resettlement plan:

*"There is good reason for the expectation that relevant international criteria should be met before a proposal is agreed and cover sought - it is a sign of political will, institutional capacity, development commitment and good faith. The shotgun wedding approach to export credit that we find in the case of the Ilisu Dam does not in our view bode well for the implementation of commitments, but is rather the worst form of export credit practice."*⁸⁸

The lack of a RAP makes it impossible to assess the extent to which current resettlement planning meets with the World Bank's specific requirements under its Involuntary Resettlement safeguard policy. Nonetheless, the Mission received evidence suggesting that a number of major problems are still outstanding relating to compensation and budgets:

(a) Compensation

A number of major institutional problems have recently been identified in the implementation of Turkey's resettlement and expropriation policies.⁸⁹ As Ayse Kudat, a World Bank resettlement specialist hired by the participating ECAs to review the draft resettlement action plan for the Ilisu Dam in Turkey, noted in August 2000:

*"In the Turkish context, past failures have been particularly severe with respect to inadequate and inappropriate delivery of resettlement housing, lack of concern with the well-being of self-settlers, transparent participation of affected populations in resettlement decisions, and monitoring of social impacts during and after dam construction."*⁹⁰

A 1999 report commissioned by the UK Export Credit Guarantees Department (ECGD) also noted that past resettlement projects in Turkey have (with one exception) failed to meet international standards.⁹¹ There is no public funding available to people who wish to appeal against the sums awarded in compensation for the value of land appropriated by DSI.⁹² Consequently, only those who can afford to do so will make an application to the domestic court for the sums awarded in compensation to be varied upwards. This appears to be a small proportion of the many who feel that they have not been given

⁸⁷ Interview with Arslan Yurt, Kaymakam of Yusufeli, 26 April 2002.

⁸⁸ International Development Committee, Sixth Report, ECGD, Developmental Issues and the Ilisu Dam, House of Commons, The Stationery Office, 6 July 2000, p.vii.

⁸⁹ Consortia for Ilisu, Ilisu Dam and HEPP: Environmental Impact Assessment Report, April 2001, released July 2001, p4-90.

⁹⁰ Kudat, A., "Ilisu Dam's Resettlement Plan – achieving International Best Practice", working document distributed to ECAs, 16 August 2000, p.6

⁹¹ Ibid, p.19.

⁹² The Ilisu Dam Campaign et al., If the River were a Pen - The Ilisu Dam, the World Commission on Dams and Export Credit Reform, London, 2001.

adequate compensation in the first place. (Of those who do go to court, 90% win higher compensation, according to a recent report).⁹³

Even where the domestic court finds in favour of the application, and re-calculates the sum to be awarded, the Government frequently takes a very considerable time to pay the sum.⁹⁴ This is in contravention of Article 46 of the Constitution, which states *inter alia* that “*Indemnity for expropriation will be paid immediately and in cash....a part of an indemnity not paid thus will be subject to indemnity costs and the maximum level of interest payable on debts of the State.*” High inflation rates render many compensation payments worth a fraction of their original value by the time the money arrives.

People in Yusufeli are well aware of the problems that have been encountered over resettlement in other dam projects. In 1999, when the project was announced, one association opposed to the Yusufeli dam (but supportive of the “three dam project”) sent a small delegation (including a journalist) to meet with those who faced resettlement under the Birecik project in the Kurdish region of South-East Turkey. On the basis of the Birecik experience, where many villagers were forced to wait for considerable periods before receiving compensation, if they were compensated at all, the association wrote to the DSI conditioning its support for resettlement on adequate compensation being paid in advance. As discussed below, the Mission is dubious whether the authorities have the money or the inclination to satisfy this condition.

The Mayor of Yusufeli also raised concerns over the lack of compensation for properties that will be blighted but not flooded by the reservoir. In particular, he rejected the assumption made by the Governor of Yusufeli that villagers in one partially flooded village - Tekkale - would be able to move into houses that are traditionally used during the summer months and which will be above the water line. “It is out of the question that these houses could be used during winter months”, he told the Mission. **The Mission recommends that this issue is investigated in depth before any export credits are approved.**

(b) Budget

The Mission learned of considerable fears that the proposed budget for resettlement would be insufficient to ensure that “infrastructure and public services are provided as necessary to improve, restore or maintain accessibility and levels of services for the displaced persons and host communities”, as required under the World Bank safeguard policies.

Of particular concern is the replacement of the roads that will be flooded by the reservoir. The Mission was given conflicting information as to whether or not the costs of roads replacement would be considered as part of the resettlement budget. Under World Bank guidelines, inclusion of the costs in the resettlement budget would require the money to be committed in advance, posing major difficulties for the Turkish exchequer. According to the Governor, the DSI is seeking to contract out the road building programme to foreign companies, with export credits being sought to finance the rebuilding. The Governor acknowledged, however, that if the money had to be found from the Turkish government's own budget, “it would be a long time before the roads are built.” Although the Governor expressed confidence that the money would be forthcoming, he conceded that “citizens are concerned . . . They will not be reassured until they see the roads with their own eyes.”

Should the road system not be replaced, the region will suffer considerably. Many villages will be cut off or isolated from the new resettlement sites and will lose access to such essential services as hospitals. Indeed, the Mission notes with considerable concern the Governor's acknowledgment that the new resettlement sites “will not be as developed as Yusufeli town in terms of economic opportunities and social services”,⁹⁵ in contravention of World Bank guidelines on resettlement.

The Mission considers it essential that a realistic budget for replacing the roads lost to the dam be included in the project's overall resettlement budget and that the money be secured in advance of

⁹³ Consortia for Ilisu, Ilisu Dam and HEPP: Environmental Impact Assessment Report, April 2001, released July 2001, p4-89.

⁹⁴ The Ilisu Dam Campaign et al., If the River were a Pen - The Ilisu Dam, the World Commission on Dams and Export Credit Reform, London, 2001.

⁹⁵ Interview with Arslan Yurt, Kaymakam of Yusufeli, 26th April 2002.

any export credit support being agreed. It also recommends that any contracts for rebuilding the roads be treated as part of the Yusufeli project and that any export credit support be conditioned on Yusufeli meeting the World Bank standards, Turkey's obligations under international law and international best practice for dams.

Table 2.3 Involuntary Resettlement – summary of requirements and extent of compliance

Key Requirement	Relevant Para	Specific Obligations on Involuntary Resettlement	Extent of Compliance
Consultation with affected communities	OP 4.12 para 2b, 19.	<p>“Displaced persons should be meaningfully consulted and have opportunities to participate in planning and implementing resettlement programmes.”</p> <p>“The borrower informs potentially displaced persons at an early stage about the resettlement aspects of the project and takes their views into account in the project design”</p>	Non-compliance
Consultation with affected communities	OP 4.12 para 13a	“Displaced persons and their communities and any ‘host’ communities receiving them are provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing and monitoring resettlement.”	Incomplete compliance
Carry out full census and socio-economic survey	OP 4.12 para 13; Annex A paras 6a, b	<p>“Upon identification of the need for involuntary resettlement in a project, the borrower carries out a census to identify the persons who will be affected by the project [and] to determine who will be eligible for assistance.”</p> <p>“Land tenure systems should be described, including an inventory of common property resources.”</p> <p>A description of formal and informal institutions in the affected communities, including the identification of non-governmental organisations that “may be relevant to the consultation strategy and to designing and implementing the resettlement activities.”</p>	Incomplete compliance
Attention to needs of vulnerable groups	OP 4.10, para 8	“Particular attention is paid to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, indigenous peoples, ethnic minorities, or other displaced persons who may not be protected through national land compensation legislation.”	Non-compliance
Participation in planning resettlement	OP 4.12 para 13	“Displaced persons and their communities are offered opportunities to participate in planning, implementing and monitoring resettlement.”	Non-compliance
Disclose RAP as condition of appraisal	OP 4.12, para 22 BP 4.12, para 8	<p>“As a condition of appraisal of projects involving resettlement, the borrower provides the Bank with the relevant draft resettlement instrument . . . and makes it available at a place accessible to displaced persons and local NGOs, in a form, manner and language that are understandable to them.”</p> <p>“The borrower submits to the Bank a resettlement, a resettlement policy framework, or a process framework that conform with the requirements of OP 4.12 as a condition of appraisal for projects involving involuntary resettlement.”</p>	Non-compliance
Assess previous record on entitlement	BP 4.12, para 2(d).	“Review past borrower and likely implementing agencies’ experience with similar operations”	Unknown – RAP not released

Key Requirement	Relevant Para	Specific Obligations on Involuntary Resettlement	Extent of Compliance
Compensation	OP 4.12 , para 6a (iii), 10	<p>“The resettlement plan or resettlement policy framework includes measures to ensure that the displaced persons are . . . iii) provided prompt and effective compensation at full replacement cost.”</p> <p>“The implementation of resettlement activities is linked to the implementation of the investment component of the project to ensure that displacement . . . does not occur before necessary measures for resettlement are in place . . . These measures include provision of compensation and of other assistance required for relocation prior to displacement . . .”</p>	Unknown – RAP not released
Analyse resettlement alternatives	OP 4.12 para 2a	“Involuntary resettlement should be avoided or minimized where feasible, exploring all viable alternative project designs.”	Unknown – RAP not released
Demonstrate adequate institutional framework	OP 4.12 paras 16, 17.	“Borrower commitment to, and capacity for, undertaking successful resettlement is key determinant of Bank involvement in a project.”	Unknown – RAP not released
Resettlement as development	OP 4.12, para 2b, 13b	<p>“Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programmes, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits.”</p> <p>“In new resettlement sites or host communities, infrastructure and public services are provided as necessary to improve, restore or maintain accessibility and levels of services for the displaced persons and host communities.”</p>	Unknown – RAP not released
Produce credible budget and demonstrable availability of funds	OP 4.12 , para 20, Annex para 20, BP 4.12 para 10.	<p>“The full costs of resettlement activities necessary to achieve the objectives of the project are included in the total costs of the project.”</p> <p>Details required by the Bank include: “itemized cost estimates for all resettlement activities, including allowances for inflation, population growth, and other contingencies; timetables for expenditures; sources of funds; and arrangements for timely flow of funds, and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies.”</p> <p>“During project appraisal, the [Bank] assesses . . . the availability of adequate counterpart funds for resettlement activities.”</p>	Unknown – RAP not released

2.4 World Bank Safeguard Policy on Indigenous Peoples

The World Bank's Operational Directive 4.20 on Indigenous Peoples covers "indigenous peoples," "indigenous ethnic minorities," "tribal groups," and "scheduled tribes". The policy notes: "Because of the varied and changing contexts in which indigenous peoples are found, no single definition can capture their diversity... Indigenous peoples can be identified in particular geographical areas by the presence in varying degrees of the following characteristics: (a) a close attachment to ancestral territories and to the natural resources in these areas; (b) self-identification and identification by others as members of a distinct cultural group; (c) an indigenous language, often different from the national language; (d) presence of customary social and political institutions; and (e) primarily subsistence-oriented production."⁹⁶

The Mission attempted to investigate whether the Bank's directive was applicable in the case of Yusufeli but encountered considerable difficulties in doing so. As mentioned below, the region has been influenced by many different cultures and the people have diverse and complicated ancestries which, we were told, are difficult to trace. The issue is clearly of immense political sensitivity and enquiries by the Mission elicited an immediate response from the authorities: within hours of arriving in Yusufeli, the Mission was followed by members of the anti-terrorist police, who informed local inhabitants that the Mission was attempting to whip up Georgian nationalism.

Such surveillance raises serious questions over the relative freedom of local people to express their preferred ethnic identity. The Mission was unable, however, to investigate the extent to which the long-standing ideological preoccupation of the Turkish state with civic unity,⁹⁷ and its repression of any form of autonomous cultural identity since the founding of the modern Turkish polity, might be influencing ethnic self-identification in the region.

The attentions of the police made it impossible for the Mission to evaluate whether the Georgian presence in the area is limited to history or whether there is currently a Georgian ethnic minority in the region. According to the local authorities (Governor and Mayor of Yusufeli), there is no ethnic minority in the region. The Governor stressed that were such a minority to exist, it would be respected. The Governor acknowledged that in one village, outside of the reservoir area, Georgian was spoken in the home and that the way of life in the village was different. He stressed that Turkish was also spoken and stated: "There is no demand from the people to be treated differently".

Others interviewed by the Mission confirmed this view although they gave a higher number of villages in which Georgian is spoken – the villages of Barh, Yuksekoba, Ilyashev, Kucukhevek and Oeflisa. The Mission was told that one of the villages has a "Georgian" part which is both separate and different from the "Turkish" part of the village. The Mission had hoped to visit these villages but held back from doing so for fear of causing problems for the villagers. As detailed above, the Mission was followed by local policemen, gendarmerie and special antiterrorist services of the army. People interviewed by the Mission and other people with whom we spoke were subsequently questioned by the police. Given the sensitivity of the issue of ethnicity, the Mission therefore felt that there was a considerable risk that a visit to the Georgian villages could create problems for the people living there.

Amongst inhabitants of Yusufeli, reaction to questions about Georgian heritage and ethnicity varied from pride in the region's diverse heritage to embarrassment and a preference not to discuss the subject. Some interviewees described themselves as "Georgians" but stressed that they were also "Turkish". Some expressed frustration that they knew so little about the history of the region and its past culture or that they could not speak the Georgian language. Others saw little merit in discussing their ancestry or further understanding their Georgian heritage since "everyone is now Turkish".

In the World Bank guidelines, self-definition is key to whether a group should be classed as an ethnic minority. The majority of inhabitants of Yusufeli would appear to define themselves as "Turkish",

⁹⁶ OD 4.20, para.5.

⁹⁷ The Mission notes, for example, that in the first 35 Articles of the Constitution, explicit reference to the "indivisible integrity" of the state is made in Articles 2, 5, 13, 14, 28, 30, 33 and 34.

although a smaller group define themselves as Turkish first, then as Georgian. The Mission was unable to investigate the question of self-definition in other locations, in particular the “Georgian villages”.

This Mission has therefore been unable to evaluate whether this World Bank guideline is applicable in the case of the Yusufeli Dam. **The Mission recommends that this question be resolved as soon as possible in order that the project can be fully assessed against World Bank standards.**

Table 2.4 Indigenous Peoples – summary of requirements and extent of compliance

Key Requirement	Relevant para	Specific Obligation on Indigenous Peoples	Extent of Compliance
Assess legal rights of affected ethnic minority	OD 4.20, para 15a	An assessment should be made “of (i) the legal status of the groups covered by this OD, as reflected in the country's constitution, legislation, and subsidiary legislation (regulations, administrative orders, etc.); and (ii) the ability of such groups to obtain access to and effectively use the legal system to defend their rights.”	Unknown. State denies presence of ethnic minorities.
Incorporate “Indigenous People’s development plan”	OD 4.20, para 14a	“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.”	Unknown. State denies presence of ethnic minorities.

2.5 World Bank Safeguard Policy on Management of Cultural Property

The World Bank's safeguard policy on "Physical Cultural Property" (OP 4.11) is currently under preparation. Until it is issued, Bank staff are guided by the provisions of Operational Policy Note (OPN) 11.03, Management of Cultural Property in Bank-Financed Projects, September 1986. Both the note and the draft policy were used by the Mission as the basis for assessing compliance (though clearly general requirements to consult with affected communities about the destruction of socio-cultural networks as a result of displacement by the dam are also relevant to cultural and social impacts of the project).

Apart from emergency projects, where special provisions may have to be made for rapid implementation, there are no exceptions to the Bank's policy.⁹⁸ It should be stressed that the Bank's definition of cultural heritage is not restricted to major historical monuments. The Bank's policy covers "movable and immovable objects, sites, structures, groups of structures, natural features and landscapes that have archaeological, paleontological, historical, architectural, religious, aesthetic or other cultural significance." As such, it embraces not only ancient heritage and monumental sites, but also heritage of recent origin, the significance of natural places to people and, indeed, history that is in the making.

It should also be noted that the Bank's standards fall short of 'best practice' as promoted by professional archaeological associations such as the World Archaeological Congress. WAC stresses that cultural heritage covers not only physical objects but, importantly, what women, children and men find significant about places and artefacts from the past, as well as past and present cultural practices and forms and the communities' current relationship to those practices.⁹⁹

2.5.1 Cultural Heritage in the Yusufeli Area

The region around Yusufeli is an area rich in history. Over the centuries, its cultural landscape has been formed and re-formed by many different societies - Roman, Arab, Georgian and Ottoman - of which many physical traces still remain, in the form of churches, fortresses, a castle and watchtowers, as detailed below.

Villagers and a local guide identified several monuments to the Mission which could be impacted (directly or indirectly) by the dam:

- İşhan Church: a Georgian church, built between the 8th and the 11th centuries;
- Tekkale church: a Georgian church (and ruins of a monastery) of Dörtkilise from the 10th century;
- Traces of tombs in the mountains, carved into the rock. There are no visible cemeteries around the churches as they have been destroyed, making a study of the tombs even more significant for understanding the area's cultural heritage;
- A Byzantine castle, close to Tekkale village (not visited by the Mission).
- Many small watchtowers – possibly from the same period as the churches at İşhan and Tekkale. Their exact function is unknown and needs further investigation, but it is thought they were used as a communication and danger alerting system. At least one of these watchtowers will be flooded.
- Armenian Church of Ösk Vank, from the 10 century.

The Mission visited some of the major monuments in the area, including the Georgian church (and ruins of a monastery) of Dörtkilise. The churches and the castle will not be flooded. However, large stretches of

⁹⁸ World Bank, Draft Safeguard Policy on Physical Cultural Resources - Key Concepts, available from: <http://lnweb18.worldbank.org/essd/essd.nsf/PhysicalCulturalResources/Key%20Concepts>

⁹⁹ For a general overview, see <http://www.wac.uct.ac.za/> See also Hall, M. Letter to Prime Minister Tony Blair, UK on the Ilisu Dam in SE Turkey, 16 January 2001.

the roads to them will be under the water and many of the watchtowers, used historically to alert the community to invaders, will be lost to the reservoir, including one at Yusufeli.

The Mission noted with regret the general state of disrepair in which the monuments it visited were to be found, noting that this appeared to arise from a lack of funds to protect them rather than a lack of local pride or interest in cultural heritage. On the contrary, a number of those interviewed expressed great interest in the past history of the region, regretting that they knew so little about it. "It is our history. But I have been taught nothing about my past. I feel cut off from my roots. It is sad." The Muktar (head villager) in one village visited by the Mission similarly expressed regret about the state of a local church which he felt to be of major cultural and historical importance, requesting that the Mission relay the concern of villagers to the international community. "We need money to protect it. Please can you help." Like others, he stressed that the monuments were part of humanity's heritage, not just the heritage of the local people.

The Governor of Yusufeli told the Mission that no archaeological sites would be affected by the dam.¹⁰⁰ The Governor stressed, however, that he was not in charge of the project and that he could not give an official response (see above). He was unaware of any archaeological survey of the area that would be flooded, although he noted that archaeological teams from various universities had visited the Yusufeli region, mainly working on well-established sites.

In order to clarify this issue of what, in reality, would have to constitute the framework for assessment of cultural impacts of the project, the Mission sought independent expert advice from Maggie Ronayne of the National University of Ireland at Galway. Ms. Ronayne, who is a member of the Executive of the World Archaeological Congress (WAC), subsequently provided the Mission a preliminary statement, which is reproduced in Box 2 below. Ronayne concludes: "In sum, there is not enough knowledge for communities themselves and others to even begin to assess what would be lost and importantly its significance - to whom it is significant and why. The Mission has found that the necessary consultations have not taken place and, in view of the lack of democracy in Turkey, it is unlikely that these will occur or that they would be productive even if they did. It is not surprising, then, that the Monitoring Council for Dams and Cultural Heritage in Turkey have suggested that the Çoruh projects should be abandoned altogether."¹⁰¹

2.5.2 Failure to Consult

The World Bank's safeguard policies place a general duty on the project developer to consult with affected people, NGOs, appropriate authorities and university departments as to the cultural heritage impacts of a project,¹⁰² their significance¹⁰³ and how they might best be mitigated. (Many guidelines, including those of the Bank itself stress avoidance of impacts altogether and preservation in situ of cultural remains as the priority in such situations.)¹⁰⁴

The Mission found no evidence that such consultations had taken place. As noted above, the only survey that appears to have been carried out to date in connection with the project has been a limited survey of selected villagers (male "heads" of household) to ascertain their attitudes to resettlement and their families' socio-economic status. The Mission has seen the survey questions

¹⁰⁰ Whether archaeological sites are affected or not is very much a question of the definition of what a site is and to whom it is significant, see discussion above on the perspective adopted by the World Archaeological Congress and the Box below. Increasingly archaeologists understand heritage in terms of wider cultural landscapes rather than individual 'sites'.

¹⁰¹ History Foundation. 2000. Zeugma Yalnız Değil! Türkiye'de Barajlar ve Kültürel Miras. İstanbul: Türkiye Ekonomik ve Toplumsal Tarih Vakfı. (Zeugma is Not Alone! Dams and Cultural Heritage in Turkey), p.146.

¹⁰² Draft OPN 11.03, para 3

¹⁰³ Draft OP 4.11, para 14. The Bank's Environmental Assessment Sourcebook also states: "Consultation with affected groups and local NGOs during preparation [of environmental assessment] will help clarify values..." The Sourcebook also states: "Where cultural heritage has religious or sacred meaning, community participation is particularly important in decisions affecting the site." See: Environmental Assessment Sourcebook, Update on Cultural Heritage in Environmental Assessment No 8. September 1994. Reissued with minor revisions: December 1996,

¹⁰⁴ Draft OP 4.11, para 11.

and confirms that no questions were asked on possible cultural impacts, the significance of cultural heritage or means of mitigating losses.

The Mission notes that, even if such questions had been included, the failure to consult women would represent a major violation of ‘best practice’. Women’s cultural work is a key force in both moulding what the heritage of communities is, in reproducing and in transforming it. Moreover, women’s assessment of what cultural heritage is “significant” for them is certain to be different from that of men.

The Mission also notes that without access to the resettlement action plan for Yusufeli, any evaluation of cultural heritage losses and their significance is likely to be deficient. The RAP “provides the context in which the forced removal of people from the economic, cultural, historical and social networks in their villages would proceed.”¹⁰⁵ Without it, villagers can only surmise the extent of the damage to their ways of life - and thus to their cultural heritage.

2.5.3 Budget for “Salvage” Efforts and Plans or Incorporate Cultural Heritage Assessment Costs into Project Costs

The World Bank standards require that a cultural heritage site management plan be produced. The plan should establish “a monitoring and evaluation system and include...a detailed budget”.¹⁰⁶

Without access to the EIA, it is not possible to say whether this condition has been met or not and, if so, whether this has been with the consent of affected communities. The Mission recommends that the EIA be published and that any budget be subject to independent assessment.

2.5.4 Impact on Tourism

Where cultural heritage currently or potentially contributes to the local or national economy, the World Bank recommends that an analysis be prepared to estimate the economic costs of the project on tourism. Without access to the EIA, it is difficult to evaluate compliance with this condition. However, the Mission notes that, according to residents in Yusufeli, between 1500 and 3000 tourists come to the town each year, many of them to visit the churches and other monuments in the region.

¹⁰⁵ See Kitchen, W.H. and Ronayne, M. 2001. The Ilisu Dam Environmental Impact Assessment Report: Review and Critique, <http://www.wac.uct.ac.za/whd/eiarfinal.htm> Citation from page 4, para 4. Summary Reproduced in Public Archaeology 2 (2), pp. 101-116.

¹⁰⁶ Environmental Assessment Sourcebook, Update on Cultural Heritage in Environmental Assessment. Reissued with minor revisions: December 1996, p.7.

Cultural Impacts: Preliminary Suggestions for an Assessment Framework¹⁰⁷

Maggie Ronayne, Member of Executive, World Archaeological Congress

Lack of a National Cultural Inventory

There is no national survey or even part of a national survey for the area.¹⁰⁸ The lack of existence of a national inventory is itself a contravention of the Valetta Convention and a number of other agreements to which Turkey is a party.¹⁰⁹ It is also indicative of the situation with regard to environmental/cultural heritage planning practice in Turkey. Regional archaeological surveys aside, essentially there is a huge gap in information without a national inventory. It makes it impossible for archaeologists, working with communities, to assess the significance of cultural impacts because there is no comparative data. Many regional surveys are still at the level of finding out what there is rather than being able to say what sites are important, to whom and why.

Sub-Surface Evidence

We do not and cannot know what is beneath the ground that would be lost – other regional surveys might give an indication of the likely types of sites and evidence found in this region but again, there's no national inventory covering this area. The gorges are very steep, but there are valleys and places where the river widens out. This is particularly the case at the confluence of the Barhal Çay and Çoruh Nehri itself, where Yusufeli is located. Such places may well have been places where communities settled in the past also. The same applies to the reclaiming of land and terracing that is evident in the area.

We do not know how far even the obvious monumental sites extend even if they themselves will remain above the water line. Particularly, monastic communities have often farmed the surrounding lands in order to sustain their way of life. The evidence of this and of lay communities living close to the monasteries or churches, for example, might just be scattered down slope of sites themselves – even on the surface – and may therefore be flooded. They could well also have been using the river for fishing and certainly for travel so wooden piers, fish traps and so on might all be in evidence there – and this could extend in time also up to current use of the river in that tradition. In other words, sites also extend out in all directions spatially, temporally and socially, which is one reason why the concept of 'landscape' has been applied by archaeologists in order not to delimit one or two isolated fragments of architecture as a site.¹¹⁰ The fact that because of the steep gorges and narrow passes, the path cut by the river would have provided a major routeway through the area through the millennia means that material history here has to be treated in terms of a wider landscape focus rather than focusing just on delimited 'sites'.

It can be asserted that the local communities' surroundings will be destroyed, together with a major routeway through which people must have journeyed through the area over millennia. This will certainly prevent

¹⁰⁷ It should also be noted that no framework could, in reality, be completed and agreed without the involvement and, indeed, under the direction of those communities actually affected by the project and with due regard to the different sectors within those communities.

¹⁰⁸ A project intended to provide such an inventory began work in 1996. Carried out by the Archaeological Settlements of Turkey or TAY, its work has been confined to compiling information from already published data although it does have a project called TAY-ex, begun in 2000, which is a four year Mission to do a survey of the current conditions of those archaeological sites, locating, measuring, mapping, photographing and filming them. It seems that some documentation of new sites occurs during this process. This first Mission is covering from the Palaeolithic to the Early Bronze Age with a second 4-year Mission due to begin in 2004 hoping to cover from the Middle Bronze Age onwards. Therefore, it will take archaeologists at least until 2008 to collect the data they need, let alone analyse it. The TAY project has not been to the Black Sea area yet. See <http://tayproject.org>

¹⁰⁹ Particularly, the UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage (Paris, 1972) (Articles 4 & 5), the ICOMOS Charter for the Protection and Management of the Archaeological Heritage (Lausanne, 1990) (Articles 2, 3 & 4), and the Council of Europe's European Convention on the Protection of the Archaeological Heritage (Valetta, 1992) (amongst others, Articles 2 & 5).

¹¹⁰ The World Bank has included this in its categories of sites – EA Sourcebook Update on Cultural Heritage. See p. 3 Table 1, 'Selected types of cultural heritage sites' includes 'historic landscapes – cultural landscapes' and 'historic landscapes – Trade routes, monuments and remains'.

understanding of the ancient religious and other aspects of ancient social landscapes and the relationship of people today to them. But again, we can't know about the extent of this at present.

Socio-cultural networks and relationships to Heritage

It can also be asserted that since 'cultural heritage' includes people's relationships to history and to place, the set of social relations which make up heritance at these places will also be destroyed by people moving away or the places becoming inaccessible (guidelines and standards demand that people's cultural places continue to be accessible to them). This is irrespective of whether people are a 'minority' community or not.

Other socio-cultural relations – but including historical places - are what people need for the survival of their communities. This is especially true for indigenous communities and 'minorities', but the point need not be made on the basis of ethnicity. Thus, the cultural heritage 'affected' and definitely destroyed in this case would also include people's knowledge of place or their lack of knowledge and what they want to know, as well as their habits, traditions, cultural forms and other relations.

Because of inadequate consultation and, from what the Mission reports, suspicion of the State, we do not know what it is that local people value and within that, what women value which is different from men and so on.

Economic Relations to Heritage - Tourism

These relations to heritage also include economic relations because people's livelihoods from tourism will be destroyed when either they move or again the places become inaccessible – or the network of links which have been established by a local tourist industry (minibuses from Yusufeli to sites of interest, for example) will be cut off. This can cause economic displacement because any 're-established' industry is likely to take economic, social and cultural control away from those who depended on this heritage to make a living.

Religious Heritage

This comes under various international conventions and human rights (Article 9 of the European Convention on Human Rights for example) but clearly, there are the surroundings of the Georgian monasteries and churches to consider here. The historical 'religious landscape' would be decimated – also considering that the river may well have been used as a major routeway in past times and a part of pilgrim routes. Whole landscapes can have sacred connotations and altering them means that we will never have the chance to understand how – in natural and cultural terms – this has been important for people in the past or continues to be today.

Sinclair¹¹¹ also notes that a number of the churches are now functioning mosques – and the photo of Yusufeli shows a mosque at its heart. There are centuries of Muslim heritage here too. Are there any plans in place for consultation about the religious buildings and landscape? Have people been consulted? What do they want to do regarding their religious buildings and graveyards - do we know and can we know what they want? It should be pointed out that increasingly with regard to their religious but also other history under threat from major infrastructure projects, consultation with, participation and consent of communities *for any action including assessment* is required.

Cultural Impacts on the River

The river itself is obviously a cultural place/route/crossing point. Often myths, legends and sacred stories are

¹¹¹ Sinclair, T.A. 1989. Eastern Turkey: An Architectural and Archaeological Survey. Volume II. London: Pindar Press.

¹¹² Ibid.

¹¹³ Professor Mehmet Özdogan, a senior official in TAÇDAM, records that: 'Only about 25 of the 298 dam projects have been surveyed at all for cultural heritage, and of these, only about 5 have had organised, systematic rescue work conducted'. See Özdogan, M. 2000. Cultural Heritage And Dam Projects In Turkey: an Overview. In Dams and Cultural Heritage Management: a Working Paper Submitted to the WCD (eds. S.A. Brandt and F. Hassan), p. 59.

<http://www.dams.org/docs/html/contrib/soc212.htm>

¹¹⁴ Ibid.

¹¹⁵ History Foundation. 2000. Zeugma Yalnız Değil! Türkiye'de Barajlar ve Kültürel Miras. İstanbul: Türkiye Ekonomik ve Toplumsal Tarih Vakfı. (Zeugma is Not Alone! Dams and Cultural Heritage in Turkey), p.146.

associated with rivers. Manuscript evidence for the Çoruh area needs to be reviewed and research undertaken to see if people's lore about the river is 'recorded'. I would point out, however, that there's bound to be a lot more knowledge that people have that will disappear once they are forced to leave - knowledge that cannot be captured by a survey undertaken in the circumstances of a threat of a dam and forced displacement. Nor could such a survey be useful or valuable to the people themselves in such a situation.

We do not know what material traces of cultural heritage might be found in the river Çoruh itself, or whether there is a plan in place to deal with that or recover it. Rivers should also be considered an archaeological site or a part of cultural landscapes – many underwater archaeologists work at examining material deposited in freshwater contexts, whether lakes or rivers. These can be votive offerings or ritual deposits (just in Europe: prehistoric stone or bronze axes, iron swords and scabbards, decorated 'ritual' objects, human bodies or parts thereof), boats from all periods, remains of battles (often using the river as dividing line), ancient fording points, landing settlements for raiders from downriver/upriver, ancient or recent fish traps and weirs - especially if there are monasteries in the area, these were often relating to monastic farming/fishing livelihoods - wooden bridges now collapsed, stone bridges (even their ruins) etc.

If the water level or river course has changed, wooden remains of settlements may now be preserved under river mud at the river's edge. Marshy areas near rivers – especially at a confluence like the position of Yusufeli - can contain evidence needed to reconstruct ancient environments. It might, for example, be possible to take a pollen core at that point and see how long there has been human alteration of the environment for at that place. Environmental impact assessments should generally take account of this sort of evidence/possible material in rivers. The Çoruh is one of the fastest flowing rivers in the world so some of this might not apply or material thrown in to the river here might quickly be rushed downriver. However, because it's probably easier to move along rather than across the narrow river valleys, certainly the use of the river for travel through the area would have to be explored.

Lack of downstream consultation on impacts?

All of the above applies to communities and heritage downstream too, but if the river is shared and there has been no consultation, then the full extent – even physically – of cultural impacts cannot have been assessed properly or perhaps at all.

Turkey's poor planning practice/institutional capacity

Sinclair mentions the bad condition of the frescoes in some of the churches in this area and this would tally with State neglect of heritage elsewhere in Turkey.¹¹² Turkey's legislation obliges the government to care for heritage in general, even if individual sites are not protected by specific legal provision. Turkey has also ratified the Valetta Convention and so is obliged to abide by all its provisions. Turkey's record on natural heritage (also covered by the world heritage convention) is of great concern and its record with regard to assessing or avoiding impacts of large dams on the culture and history – including ancient heritage – of communities is appalling.¹¹³ There are massive problems with the capacity in Turkey to mount any sort of adequate salvage operation, mainly due to the fact that it is well nigh impossible for people to express their opinion freely on whether they want such projects to go ahead. Even if people could do so, Turkish archaeologists refer to severe bureaucratic and financial constraints.¹¹⁴

Conclusion

In sum, there is not enough knowledge for communities themselves and others to even begin to assess what would be lost and importantly its significance - to whom it is significant and why. The Mission has found that the necessary consultations have not taken place and, in view of the lack of democracy in Turkey, it is unlikely that these will occur, or that they would be productive even if they did. It is not surprising, then, that the Monitoring Council for Dams and Cultural Heritage in Turkey have suggested that the Çoruh projects should be abandoned altogether.¹¹⁵

Table 2.5 Management of Cultural Property – summary of requirements and extent of compliance

Key Requirement	Relevant Para	Specific Obligation ON Management of Cultural Property	Extent of Compliance
General duty to consult	OPN 11.03, para 3 ¹¹⁶	“Bank staff must … determine what is known about the cultural property aspects of the proposed project site. The government's attention should be drawn specifically to that aspect and appropriate agencies, NGOs or university departments should be consulted.”	Non-compliance
Consultation on significance of cultural heritage	Draft OP 4.11, para 14 ¹¹⁷ Environmental Assessment Sourcebook. Update. Cultural Heritage in Environmental Assessment. No8. Sept 1994. Reissued with minor revisions: Dec 1996, Box 4, p.8	“As part of the [Environmental Assessment] process, the borrower consults with…project-affected groups…in documenting the presence and significance of physical cultural resources, assessing potential impacts, and exploring mitigation options.” “Social value: This concept embraces the qualities by which a place becomes a focus of spiritual, political, national, or other cultural significance to a majority or minority group…[t]he qualities causing this preference are very important and in many cases are the strongest argument for conserving the place...”	Non-compliance
Consultation on mitigating measures	Draft OP 4.11, para 11 ¹¹⁸	“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 [Environmental Assessment] process”.	Non-compliance
Significance assessment prior to impact assessment	Environmental Assessment Sourcebook. Update. Cultural Heritage in Environmental Assessment. No 8. Sept. 1994. Reissued with minor revisions: Dec. 1996, Box 4, p.8	“Significance assessment is the basis for determining any action to protect cultural sites and is part of a site management plan.”	Non-compliance
Inclusion of cultural heritage impacts in EIA	Environmental Assessment Sourcebook. Update. Cultural Heritage in Environmental Assessment. No 8. Sept. 1994. Reissued with minor revisions: Dec. 1996, p.6 World Bank, BP	“Once the significance of cultural heritage in a project area has been evaluated, the next step is to assess the potential impacts of the project, including the extent and economic costs of any damage. The [Environmental Assessment] should rank potential impacts on heritage according to a) the significance of the heritage; b) the level of irreversibility of the impact; and c) the extent of potential damage...the assessment should cover cultural heritage values of both major and minor significance as they may be subject to different types of impacts within the same project”. “The [Bank Staff] records in the Project Concept	Unknown – EIA not released

¹¹⁶ The Bank's safeguard policy on "Cultural Property" (OP 4.11) is currently under preparation. Until it is issued, Bank staff are guided by the provisions of Operational Policy Note (OPN) 11.03, Management of Cultural Property in Bank-Financed Projects, September 1986.

¹¹⁷ Draft OP 4.11, Physical Cultural Resources, available from:

<http://wbln0018.worldbank.org/essd/essd.nsf/PhysicalCulturalResources/Home>

¹¹⁸ Draft OP 4.11, Physical Cultural Resources, available from:

<http://wbln0018.worldbank.org/essd/essd.nsf/PhysicalCulturalResources/Home>

Key Requirement	Relevant Para	Specific Obligation ON Management of Cultural Property	Extent of Compliance
	4.01, para 3.	Document (PCD) and the initial Project Information Document (PID) (a) the key environmental issues (including any resettlement, indigenous peoples, and cultural property concerns)...”	
Economic assessment of impacts of potential cultural heritage losses	Environmental Assessment Sourcebook. Update. Cultural Heritage in Environmental Assessment. No 8. Sept. 1994. Reissued with minor revisions: Dec. 1996, p.6	“It is recommended that in situations where cultural heritage currently or potentially contributes to the local or national economy that an analysis be prepared to estimate the economic costs of the project impacts. Examples include heritage sites that provide a basis for tourism...”	Unknown – EIA not released
Avoid elimination of cultural heritage	OPN 11.03, para 2 Draft BP 4.11, para 1	“The World Bank’s general policy regarding cultural properties is to assist in their preservation, and to seek to avoid their elimination...(a) 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.” “At the earliest possible stages of project processing, the Task Team (TT) should consider possible adverse impacts on physical cultural resources and explore project siting and design options that would avoid, where feasible, or mitigate these impacts.”	Unknown – EIA not released
Identify adequacy of institutional capacity	OPN 11.03, para 2b Draft OP 4.11, para 18	“Most such [salvage] projects should include the training and strengthening of institutions... Such activities should be directly included in the scope of the project, rather than being postponed for some possible future action, and the costs are to be internalized in computing overall project costs.” “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.”	Unknown – EIA not released
Provide detailed budget	Environmental Assessment Sourcebook. Update. Cultural Heritage in Environmental Assessment. No 8. Sept. 1994. Reissued with minor revisions: Dec. 1996, p. 7: Draft BP 4.11, para 5: OPN 11.03, para 2b	“The [cultural heritage site(s)] management plan should also establish a monitoring and evaluation system and include...a detailed budget”. “The [Terms of Reference for Impact Assessment on ‘Physical Cultural Resources’] also specifies the types of expertise required and the cost and time frame for the work”. “Most such [salvage] projects should include the training and strengthening of institutions... Such activities should be directly included in the scope of the project, rather than being postponed for some possible future action, and the costs are to be internalized in computing overall project costs.”	Unknown – EIA not released

2.6 World Bank Safeguard Policy on Safety of Dams

The World Bank distinguishes between small dams and large dams as follows:

“Large dams are 15 meters or more in height. Dams that are between 10 and 15 meters in height are treated as large dams if they present special design complexities—for example, an unusually large flood-handling requirement, location in a zone of high seismicity, foundations that are complex and difficult to prepare, or retention of toxic materials. Dams under 10 meters in height are treated as large dams if they are expected to become large dams during the operation of the facility.”¹¹⁹

The Yusufeli Dam, being over 15 metres tall would therefore be classified as a large dam.

2.6.1 Appointment of a panel

The World Bank requires that an independent panel consisting of three or more experts is appointed to “review and advise the borrower on matters relative to dam safety and other critical aspects of the dam, its appurtenant structures, the catchment area, the area surrounding the reservoir, and downstream areas. However, the borrower normally extends the Panel’s composition and terms of reference beyond dam safety to cover such areas as project formulation; technical design; construction procedures; and, for water storage dams, associated works such as power facilities, river diversion during construction, shiplifts, and fish ladders.”¹²⁰

None of the organisations and people the Mission interviewed knew of the existence of such an independent panel. **Without access to the EIAR, it is not possible to determine whether such a panel has been appointed, and if so, its degree of objectivity. The Mission reiterates its recommendation that no further advancement of the project is made until the EIAR is made publicly available.**

2.6.2 Lack of provisions for safety over the lifetime of the dam

The World Bank requires that, for the life of the dam, the owner takes responsibility “for ensuring that appropriate measures are taken and sufficient resources provided for the safety of the dam, irrespective of its funding sources or construction status.”¹²¹ The Mission has been given no assurances that the Turkish State has set aside resources for this “aftercare”.

The Mission has found no documentation or learned of any provisions relating to the safety of the Yusufeli Dam. If these are not contained within the EIAR, this will represent a serious and very worrying breach of World Bank guidelines. **The Mission therefore recommends that this question be investigated in depth and as soon as possible before any export credits are approved.**

2.6.3 Lack of Information about other safety provisions

As a management plan for the dam has not been released, the Mission finds it impossible to evaluate safety issues in any comprehensive manner. The Mission would expect safety considerations to include - at a minimum - analysis of the dangers of overspilling and resulting evacuation, in addition to a consideration of the impacts of earthquakes (not uncommon in the region) on the dam and its ability to withstand them. **The Mission strongly recommends that no further advancement is made in the project until safety concerns can be shown to have been fully addressed.**

¹¹⁹ OP 4.37 paragraph 3

¹²⁰ OP 4.37 paragraph 5.

¹²¹ OP 4.37 paragraph 1.

Table 2.6 Safety of Dams – summary of requirements and extent of compliance

Key Requirement	Relevant para	Specific Obligation on the Safety of Dams	Extent of Compliance
Aftercare	OP 4.37 para 1	“For the life of any dam, the owner is responsible for ensuring that appropriate measures are taken and sufficient resources provided for the safety of the dam, irrespective of its funding sources or construction status.”	Unknown – EIAR not released
Independent review	OP 4.37 para 4	“For large dams, the Bank requires: a) reviews by an independent panel of experts (the Panel) of the investigation, design, and construction of the dam and the start of operations”	Unknown – EIAR not released
Planning	OP 4.37 para 4	“b) preparation and implementation of detailed plans: a plan for construction supervision and quality assurance, an instrumentation plan, an operation and maintenance plan, and an emergency preparedness plan;”	Unknown – EIAR not released
Bidding	OP 4.37 para 4	“c) prequalification of bidders during procurement and bid tendering;”	Unknown – EIAR not released
Safety	OP 4.37 para 4	“d) periodic safety inspections of the dam after completion.”	Unknown – EIAR not released

2.7 World Bank Safeguard Policy on Projects in International Waterways

The key requirement of the World Bank's guideline on Projects in International Waterways is that downstream riparians should not only be informed of projects on shared rivers, but they should also give “a positive response in the form of consent, no objection, support to the project, or confirmation that the project will not harm their interests”.

The Mission notes that no such consent has been received from Georgia, Turkey's downstream riparian on the Çoruh which runs from the Mescit mountains, through north-eastern Turkey, into Georgia and down to the Black sea at Batumi. According to the Georgian Ministry of the Environment, Turkey has not consulted Georgia on the dam. In correspondence with the Greens Movement of Georgia, the Ministry stated: *“In spite of the agreement made within the frame of the environmental protection between Georgia and Turkey, dated 1997 July 14 (article III point 17), Turkey is obliged to inform Georgia about joint discussion of EIA. Unfortunately Turkey has not provide no information about the construction of Yusufeli dam on the river Çoruh.”*

The Mission therefore finds the Yusufeli project in violation of World Bank Operational Policy 7.50. It also shares the view of the legal opinion commissioned by Friends of the Earth (see Appendix 1) that any export credit granted for the project would potentially be in violation of international customary law and open to challenge in the courts.

Table 2.7 Projects in International Waterways – summary of requirements and extent of compliance

Key Requirement	Relevant para	Specific obligations on Projects in International Waterways	Extent of Compliance
Consultation	OP 7.50, para 3	“The Bank recognizes that the cooperation and goodwill of riparians is essential for the efficient utilization and protection of the waterway. Therefore, it attaches great importance to riparians' making appropriate agreements or arrangements for these purposes for the entire waterway or any part thereof. (...) In cases where differences remain unresolved between the state proposing the project (beneficiary state) and the other riparians, prior to financing the project the Bank normally urges the beneficiary state to offer to negotiate in good faith with the other riparians to reach appropriate agreements or arrangements.” And according to para 8, the Bank's Staff Appraisal Report must confirm that Bank staff “are satisfied that (...) the other riparians have given a positive response to the beneficiary state or Bank, in the form of consent, no objection, support to the project, or confirmation that the project will not harm their interests”.	Non-compliance

Section 3

The World Commission on Dams

Section 3 The World Commission on Dams

Since 2000, the benchmark for best practice in hydro projects is widely regarded as having been set by the World Commission on Dams (WCD),¹²² an international body charged with drawing up new guidelines for the hydro industry. The guidelines have been termed “a major milestone” in the dams debate.

The WCD published its report, *Dams and Development*, in November 2000. The report sets out a new framework for decision-making on water and energy development which “reflects a comprehensive approach to integrating [the] social, environmental and economic dimensions of development”, in addition to “creating greater levels of transparency and certainty for all involved”.

The new framework embodies five core values – equity, sustainability, efficiency, participation and accountability. In order to ensure that future dam projects comply with these principles, the Commission proposes a set of guidelines for water and energy resources development, based on the following seven strategic priorities and corresponding policy principles:

- Strategic Priority 1: Gaining Public Acceptance.
- Strategic Priority 2: Comprehensive Options Assessment.
- Strategic Priority 3: Addressing Existing Dams.
- Strategic Priority 4: Sustaining Rivers and Livelihoods.
- Strategic Priority 5: Recognising Entitlements and Sharing Benefits.
- Strategic Priority 6: Ensuring Compliance.
- Strategic Priority 7: Sharing Rivers for Peace, Development and Security.

In order to assess whether the Yusufeli Project meets World Commission on Dams guidelines, the Mission evaluated the current known state of planning for Yusufeli under seven headings, each relating to one of the above Strategic Priorities.

¹²² Set up in 1997 by the World Bank and the International Union for the Conservation of Nature “to review the performance of large dams and make recommendations for future planning of water and energy projects”, the WCD’s independence - reflected in its composition - is widely acknowledged. The Commission consisted of government representatives, industry leaders, academics with expertise in the energy and water sector, respected civil servants, and members of the NGO community. A number of international companies also assisted the WCD in developing guidelines for the future of water and energy development. The WCD’s report and conclusions are based on consensus reached by the Commission. Further information on the WCD, including the report and guidelines, is available at <http://www.dams.org>

3.1 Strategic Priority 1: Gaining Public Acceptance

See also sections 2.1.1, 2.2.3 and 2.3.1 for discussion and elaboration of these issues.

3.1.1 Key Message

“Public acceptance of key decisions is essential for equitable and sustainable water and energy resources development. Acceptance emerges from recognising rights, addressing risks, and safeguarding the entitlements of all groups of affected people, particularly indigenous and tribal peoples, women and other vulnerable groups. Decision-making processes and mechanisms are used that enable informed participation by all groups of people, and result in the demonstrable acceptance of key decisions. Where projects affect indigenous and tribal peoples, such processes are guided by their free, prior and informed consent.”¹²³

3.1.2 The WCD guidelines on Acceptance of Key Decisions

The WCD guidelines require demonstrable acceptance of key decisions and that stakeholders participate fully and actively in the decision making process. Several principles have been identified as forming the basis for gaining this public acceptance. The first of these is **recognising rights**, particularly of women, indigenous and tribal peoples and other vulnerable groups. Recognising rights of individuals and communities then makes it easier to **identify the risks to their rights**. This in turn enables **stakeholders in the project to be identified** and these stakeholders must then **participate in decision making** from options assessment through to operation and monitoring. In order for people to participate in decision making, **access to information** about the project is crucial, as is **access to legal and other support**. Decisions can then finally be made in an **open and transparent process**.

Without access to key documents such as the environmental and social impact assessment and resettlement action plan, it is difficult to identify the extent to which these principles and this process have been followed and carried out in the case of the Yusufeli project. However, the key decisions made about the project so far are compared below with local people’s attitudes to these decisions.

3.1.3 Communication and Consultation with the People of Yusufeli

First, the Mission attempted to establish the extent of communication between the people of Yusufeli and the project authorities and other authorities in Turkey. It also assessed the information which had been made available to local people in order to inform their decisions. The Mission identified and saw or heard evidence of the following informal and formal communication between the authorities (project proponents) and the people of Yusufeli:

- A survey of people’s attitudes to resettlement carried out by Sahara Engineering. 2,550 people were interviewed, all of them male. 13 surveyors worked in Yusufeli for a month. As noted above the report of this survey is being called the “Resettlement Plan”;¹²⁴
- Three meetings organised by the Governor of Artvin held in Yusufeli in May 2000, October 2000 and May or April 2001. Two thousand people attended these meetings. The Mission heard conflicting evidence about who was invited;

¹²³ World Commission on Dams: Dams and Development A New Framework for Decision Making. London. November 2000. p215

¹²⁴ Since a Resettlement Action Plan (RAP) has not been released for the project, the Mission cannot be sure if Sahara’s report is the “Resettlement Action Plan” referred to by companies and organisations involved in the project. The Mission notes that, on the basis of information contained in the document’s executive summary, it is not actually a plan for resettlement but simply a report of the findings of a survey. The summary is enclosed in Turkish and English in Appendix 3.

- Consultation (the Mission does not know what form this took) with the people of İşhan to ask them whether or not they want the town of Yusufeli to move to a site at İşhan;
- Communication between a Yusufeli-based association (Yusufeli İlçesini Güzelleştirme Yasatma ve Kultur Varlıklarını Koruma Derneği¹²⁵) and Turkey's 9th President Suleyman Demirel, including a visit by him to Yusufeli (sometime before 1993), a visit to Ankara by the association in April 2000, and a subsequent letter from the President's Office to the association;
- Informal communication between the Minister of Energy and a local businessman from the same political party;
- A letter from a group of people from Yusufeli to 22 different state agencies, outlining what they want to happen if the dam is built and what they want to happen if the dam is not built;
- The Gendarmerie's questioning and intimidation of people in Yusufeli following our interviews with them;
- A letter from the Yusufeli Chamber of Commerce to the DSI about alternative dam sites and a reply.

In addition, the conclusion of the study by Sahara Engineering states:

"The following works in the works scheme¹²⁶ were carried out:

- *An Enlightenment and Advice Centre was founded in Yusufeli,*
- *An enlightenment and acquaintance meeting was organised in the centre,*
- *Questionnaires for the households in villages and in the town, and for the heads of villages and districts were prepared and were approved by the government office,*
- *The approved questionnaires were carried out among 2522 families and 65 heads of villages and of districts,*
- *"Core Group Discussions" were held with 22 Core Groups,*
- *Working groups meetings were held."*¹²⁷

The existence of some of the above are directly contradicted by other evidence heard by the Mission. The Mission did not see or hear about an enlightenment and advice centre and was not told of any core group discussions. The Mayor of Yusufeli told the Mission that consultation had only taken place with the heads of the villages that will be flooded and not with all of the 60 (approximately) villages in the province of Yusufeli.¹²⁸ This seems to contradict the statement that 65 heads of villages and districts filled in the questionnaire.

The following key pieces of information are not available to the general public or to stakeholders¹²⁹:

- The Environmental Impact Assessment Report carried out by Turkish engineering company ENCON;
- The Sahara survey, which the Turkish government now refers to as "The Resettlement Plan";

¹²⁵ Translated as "The association to protect Yusufeli, to enhance its beauties, to make it live and save the cultural heritage"

¹²⁶ It is assumed the works scheme refers to the contract between the Turkish government and Sahara Engineering for the work relating to resettlement (enclosed in Appendix 4)

¹²⁷ DSI / Sahara Engineering Ltd, "Conclusion Report on the Yusufeli Dam Resettlement Plan" ["Yusufeli Barajı Yeniden Yerlesim Planı Sonuç Raporu"] February 2001

¹²⁸ Interview with Yusuf Saglam, Mayor of Yusufeli, 27 April 2002.

¹²⁹ The Mission interviewed people who claimed to have seen a copy of the EIA. However, it had not been obtained through official sources and they are not available to the public.

- In addition, information on the impacts of dams on different stakeholders has not been given to the people of Yusufeli.

Stakeholders do not have access to information about the dam and its impacts. The Mission was told, “we are struggling to get information on the dam”. The Mayor of Yusufeli told the Mission that even he, as the elected representative of the community, has not been allowed to see a copy of the Environmental Impact Assessment report or the Resettlement Plan. NGOs in the UK and France have also been unable to obtain copies of the EIAR or any other key documents from the companies (currently and previously) involved in the project, nor from the Export Credit Agencies considering supporting the Yusufeli project with public money. The Mission believes that, in the latter case, this is in contravention of European Community law.

The Mission concludes that, without access to information about the project and in a climate of intimidation by police, it is impossible for stakeholders in the Yusufeli dam to participate in the decision making process in an informed manner.

3.1.4 Key decisions taken so far – is there public acceptance?

The Mission looked at two of the key decisions – the initial crucial decision to build the dam and the subsequent decision (yet to be made) about where to resettle the inhabitants of Yusufeli.

The first set of key decisions - whether a dam should be built and, if so, where it should be built – were taken in the 1960s. At no time have the people of Yusufeli been asked whether they want a dam. Although local people “accept” that the dam will be built, such acceptance springs from resignation and a sense of powerlessness: “This is Turkey. We don’t get a say.” Given that the State has decided to build the dam, many express the view that the sooner it’s built the better, in order that compensation can be received and lives rebuilt. Some expressed the view that they will be “punished” if no dam is built by the area being starved of investment.

A greater majority of local people feel that alternatives to a dam which floods Yusufeli have been inadequately assessed and considered. Nonetheless, in their view, such alternatives are possible. Most of this group of people would accept an option involving a series of three smaller dams which would still flood some of the region, but which would save Yusufeli. These people are still very resistant to the Yusufeli dam; the Mission was asked “why should we lose our homes in order that the people of Ankara can have more electricity?” Despite this, many of these people also believe that the dam will undoubtedly go ahead, whatever their wishes.

This belief that there are no alternatives, that there is nothing else that can be done, does not indicate the informed participation in decision making and public acceptance of decisions advocated by the WCD. **The Mission concludes that there is not public acceptance of the decision to build the Yusufeli dam, and that the Turkish government has not made any attempts to secure acceptance of this crucial initial decision.**

Once the decision to build the dam and to flood Yusufeli was taken, a subsequent key decision concerns the resettlement site for the town of Yusufeli. This was the subject of the only official consultation – the “Sahara Survey” on attitudes to resettlement (now being called the “Resettlement Plan”).

The presence of the Sahara Survey proves that some consultation has taken place on the decision about where to resettle Yusufeli’s inhabitants. The final decision has not yet been made, but if it is to be made with public participation and acceptance, many more steps need to be taken.

Firstly, public acceptance cannot be gained until there is public acceptance of the decision to build the dam. As this decision was taken without any public consultation or involvement, the Mission notes that this will be difficult to rectify (see above).

Second, as previously discussed, the Mission has several concerns over - and notes several shortcomings in - the Sahara consultation on attitudes to resettlement (a copy of the summary of which was obtained by the Mission).

Thirdly, as discussed above, stakeholders do not have access to information about the project and its potential impacts, making it impossible for there to be informed participation in the decision making process.

Finally, there is no open and transparent forum or process for negotiating decisions. Given that public acceptance has not been gained, an independent third party or body should have been agreed upon, but this has not happened nor, to the Mission's knowledge, has it been discussed.

The Mission concludes that public acceptance of the final resettlement site cannot be gained until there is public acceptance of the dam. Even if public acceptance of the dam had been secured, the Mission notes that, without access to information, further consultation (including transparent publication of results) and the establishment of an open and transparent negotiating forum, there is unlikely to be public acceptance of decisions about resettlement.

3.1.5 Summary

The Mission therefore concludes that key decisions have not been taken with the informed participation of any stakeholders. The needs of women and other vulnerable groups have not been taken into account and women have not been involved in the decision making process even to the limited degree that men have been. The Mission strongly recommends that the project is put on hold whilst the WCD's process on gaining public acceptance is followed, in order that the Yusufeli dam can go ahead with the acceptance of the people of Yusufeli or replaced with another, more acceptable project.

The Mission therefore finds that WCD Strategic Priority 1 has not been complied with.

Table 3.1 Strategic Priority 1: Gaining Public Acceptance – summary of requirements and extent of compliance

Key Requirement	Relevant para	Specific Guidelines and Principles	Extent of Compliance
Participation	SP 1.1	<p>“Recognition of rights and assessment of risks are the basis for the identification and inclusion of stakeholders in decision-making on energy and water resources development.”</p> <p>“Stakeholders must participate fully and actively in the decision-making process and be party to all negotiated agreements throughout the process, from options assessment to final implementation, operation and monitoring.”</p> <p>“The involvement of women and other vulnerable groups in decision-making should be ensured at all stages of the planning and implementation process. There should be clear consideration for the vulnerabilities that expose women to project impacts (displacement, changes in the resource base and resulting disruptions of social and economic resources and networks) and for the specific obstacles that reduce their opportunities to share benefits generated by the project.”</p>	Non-compliance Non-compliance Non-compliance
Disclosure	SP 1.2	<p>“Access to information, legal and other support is available to all stakeholders, particularly indigenous and tribal peoples, women and other vulnerable groups, to enable their informed participation in decision-making processes.”</p> <p>“... In order for these groups to participate fully and actively in negotiations, they need access to adequate resources, including legal and other professional support.</p>	Non-compliance Non-compliance

Key Requirement	Relevant para	Specific Guidelines and Principles	Extent of Compliance
		<p>“Communities also need sufficient time to examine various proposals and to consult amongst themselves.”</p> <p>“Resources committed to achieving these ends must target a continuing process of capacity building.”</p>	Non-compliance Non-compliance
Consultation and participation	SP 1.3	<p>“Demonstrable public acceptance of all key decisions is achieved through agreements negotiated in an open and transparent process conducted in good faith and with the informed participation of all stakeholders.”</p> <p>“...To achieve mutually agreed outcomes, stakeholders should negotiate through recognised stakeholder bodies. Public acceptance decision reached by stakeholders through this process should guide progress at stages in the assessment, selection, planning and implementation of the project.”</p> <p>“Negotiations should result in demonstrable public acceptance of binding formal agreements among the interested parties with clear, implementable institutional arrangements for monitoring compliance and redressing grievances.”</p> <p>“Reaching a negotiated agreement may need assistance from an agreed independent third party from time to time...This body should agree on a negotiating process with all stakeholders at the outset.”</p> <p>“Stakeholders should refer disagreements on any aspects of the negotiations to this body to examine them and provide assistance to the parties.”</p> <p>“Demonstrating public acceptance, and upholding negotiated decisions, is best achieved through binding and formal agreements. They must include mechanisms for hearing and settling subsequent grievances.”</p> <p>“The Commission recognises that coercion and violence have been used against communities affected by dams. All project proponents – public and private – need to commit to the strict prohibition of such acts of intimidation against any stakeholders.”</p>	Non-compliance Non-compliance Non-compliance Non-compliance Non-compliance Non-compliance Non-compliance Non-compliance
Indigenous peoples	SP 1.4	“Decisions on projects affecting indigenous and tribal peoples are guided by their free, prior and informed consent achieved through formal and informal representative bodies.”	Unknown

3.2 Strategic Priority 2: Comprehensive Options Assessment

See also sections 2.1.2 and 2.2.2 for discussion and elaboration of these issues.

3.2.1 Key Message

“Alternatives to dams do often exist. To explore these alternatives, needs for water, food and energy are assessed and objectives clearly defined. The appropriate development response is identified from a range of possible options. The selection is based on a comprehensive and participatory assessment of the full range of policy, institutional, and technical options. In the assessment process, social and environmental aspects have the same significance as economic and financial factors. The options assessment process continues through all stages of planning, project development and operations.”¹³⁰

3.2.2 The WCD Guidelines on Comprehensive Options Assessment

In the WCD framework for assessment of options, the first step is to **formulate development needs and objectives** in an open and participative way. Once these needs and objectives have been formulated, if appropriate, **options for water and energy development should be identified**. Alternative options including **policy, programme and project alternatives should be considered** before a decision is taken. In taking a decision to proceed with one of the identified options, **all development objectives should be taken into account** and **social and environmental aspects should be given equal significance to technical, economic and financial factors**.

The benefits of following a comprehensive options assessment procedure are potentially lower impacts on the environment and more positive development impacts on communities. However, there will also be long-term economic and financial benefits as well, through a reduction in delays which incur additional costs. The project would also have greater public support, engendering less conflict and more legitimacy.

3.2.3 The Yusufeli Dam – Have Options been Comprehensively Assessed?

The Turkish Government has identified increased access to electricity for Turkish people as a development priority. The Mission accepts this to be true.¹³¹ The Yusufeli dam is planned to contribute to fulfilling this need. However, the dam is not the only option and alternatives to the Yusufeli dam exist at all levels – policy, programme and project. The Mission has evaluated the extent to which these have been considered.

The Mission has identified the following alternative options:

a) The non-project alternative

- Improvements in the transmission and distribution system (supply side);
- Demand side management;
- Energy efficiency.

The non-project alternatives represent key opportunities for Turkey. More details on this can be found in Box 1. Official figures show that in 1995 there were 17% grid losses throughout the network in Turkey,

¹³⁰ World Commission on Dams: Dams and Development A New Framework for Decision Making. London. November 2000. p221

¹³¹ The Mission has not and cannot evaluate whether this need has been formulated through an open and participatory process as advocated by the WCD.

compared to an international average of 6.5.¹³² Indeed, Turkey is the “most energy wasteful” country in Europe, spending twice the energy as some other countries per unit of GDP produced. The International Energy Agency (IEA), in its 2000 Energy Efficiency Update for Turkey¹³³ states “*Energy efficiency is considered to be the cheapest energy source.*” This report also details many additional (often simple) measures that the Turkish authorities could be taking to promote energy efficiency.

The Mission concludes that Turkey could make better use of the electricity it currently generates by improving efficiency of the grid and by making policies to encourage demand side efficiency. The Mission recommends that these measures are comprehensively assessed before construction of the Yusufeli dam goes ahead.

b) Non-dam alternatives

- Solar power;
- Wind power;
- Gas.

Non-dam electricity generation alternatives are also discussed in Box 1. Wind and solar power may represent good opportunities for Turkey, with the financial costs of wind power being comparable to or even less than the costs electricity generated by large dams. Solar power is a good environmental and social alternative, especially if panels are installed on individual buildings, reducing the need to have massive generating stations in rural areas.

Without access to the EIA, The Mission cannot make a final evaluation of the extent to which these alternative sources of power have been considered. Past experience, however has shown that Turkey has dismissed renewable alternatives as being expensive and impractical.¹³⁴ This is without giving any weight to the environmental and social benefits of renewable forms of electricity.

The Mission heard evidence that alternative, renewable energy sources have not been considered adequately, if at all, and recommends further investigation into such energy sources.

c) Dam Alternatives

- The “Three Dam” option;
- Other dam projects.

The Mission learnt of a series of alternative dams, “the Three Dams project”, which could form an alternative to the Yusufeli dam. This would be a series of three smaller dams in the same region, flooding some of the surrounding area, but leaving the town of Yusufeli unflooded and intact.

One interviewee also told the Mission that he had been informed by DSI that 36 – 38 alternative dam projects to Yusufeli have been considered in total.

The Mission is not aware of whether the Three Dam project or any other dam projects have been considered as part of the Environmental Impact Assessment. In general the only project of which the people of Yusufeli have any knowledge or information is the Three Dam project. The others have been dismissed by the authorities. One interviewee told us “*this one (i.e. Yusufeli dam) is selected. For the guidelines some pseudo projects can be prepared but Yusufeli will be chosen.*”

The Three Dam project has also been dismissed by the Turkish authorities in communication with the people of Yusufeli. Initially the people of Yusufeli discovered the Three Dam option during a visit by an association in Yusufeli to Turkey’s President Suleyman Demirel in April 2000. On discovering this project, the President was initially very supportive, but the association later received a letter from the

¹³² “Turkey at an energy crossroads” Greenpeace, June 1997

¹³³ International Energy Agency “Turkey Updated October 2001” available at <http://www.iea.org/pubs/newslett/eneff/TK.PDF>

¹³⁴ See for example “Ilisu Dam and HEPP. Environmental Impact Assessment Report” Consortia for Ilisu. April 2001

President's offices saying that the Three Dam project was not a viable option as it would be \$350 million more expensive.¹³⁵

By contrast, the Three Dam project will involve far lower resettlement and road building costs, since resettlement would be a very small or non-existent cost and far fewer new roads would need to be built. (See Appendix 2 for a map of Yusufeli showing the existing road structure.) Assuming the \$350 million figure cited for the extra cost of the Three Dam project only takes account of its construction costs, such additional expense could easily be outstripped by the major expenditure on resettlement and road building that the Yusufeli dam would involve. This could make the Three Dam project cheaper than Yusufeli. The Mission was also told by the Mayor of Yusufeli that in fact only two dams of the Three Dams would need to be built as one (at Artvin) has already been constructed. Again, this would reduce the cost.

The construction companies put the value of the project at \$838 million, which must mean that they are contracted to build the dam but not to rebuild the roads. The Mission was unable to establish where the financing for road re-building will come from and whether this money has been set aside. This is also a particular concern of the local population. **The Mission strongly recommends that no resettlement can take place before the new roads have been built and urges the Turkish government to show that sufficient funds are available to rebuild the road network.**

The Three Dam option has also been dismissed as producing 25% less electricity than other options.

The only other hydro-electric project that the Mission was specifically told about was a project involving generating electricity by running water through a pipeline. This option, the Mission was told, had been dismissed on account of its expense.

However, without access to the EIAR, and with so many figures and scenarios being discussed, it is impossible to make a final and complete assessment of the economic case for choosing Yusufeli over the Three Dam or any other dam project.

The WCD guidelines stress that decisions on different options must not be based purely on economic and technical factors. The Mission heard evidence that environmental and social factors (deemed by the WCD as having equal significance, and therefore equal weighting in decision making, to economic, financial and technical factors) have not been considered for the Three Dam project, nor for any other projects. Officially the Three Dam project has been dismissed due to cost, and there has been no mention of any other considerations.

3.2.4 Summary

Options for alternative projects have not been comprehensively assessed. The Turkish government has not given serious consideration to alternatives such as solar and wind power and demand and supply side management. Alternative dam projects have been dismissed on an economic basis without any clear justification being put forward to stakeholders and without considering social and environmental factors. The Mission recommends that export credits cannot and should not be granted until the range of alternative projects and options have been comprehensively and transparently assessed.

The Mission finds that WCD Strategic Priority 2 on assessing options and alternatives has not been complied with.

¹³⁵ See section 2.1.2 for a more detailed description of this visit.

Table 3.2 Strategic Priority 2: Comprehensive Options Assessment - summary of requirements and extent of compliance

Key Requirement	Relevant para	Specific Guidelines and Principles	Extent of Compliance
Participation	SP 2.1 Ch 8 p222 Ch 8 p222	<p>“Development needs and objectives are clearly formulated through an open and participatory process before the identification and assessment of options for water and energy resource development.”</p> <p>“National policy statements on water resources, agriculture, energy and the environment should embody guiding principles that facilitate a more open process of needs assessment. Policy formulation should be a participatory process that lays the foundation for the involvement of affected groups throughout later stages of needs and options assessment.”</p> <p>“Effective participation depends on locally appropriate processes that define the form of participation and the method for consolidating needs identified at local, sub-national and national level. Institutions or bodies representing communities should be clearly defined.”</p>	Unknown Not assessed Non-compliance
Assessment of alternatives in planning	SP 2.2 Ch8 p223 Ch8 p223	<p>“Planning approaches that take into account the full range of development objectives are used to assess all policy, institutional, management, and technical options before the decision is made to proceed with any programme or project.”</p> <p>“Comprehensive options assessment must precede selection of any specific development plan, whether it includes a dam or an alternative.”</p> <p>“The range of options being examined at the outset will be broad and go beyond technical alternatives to consider relevant policy, programme and project alternatives. It should also consider:</p> <ul style="list-style-type: none"> - institutional changes and management reforms that could influence consumption patterns, reduce demand, and affect the viability of other supply options; - the river basin context, cumulative impacts and interactive effects, including the interaction between surface and groundwater resources; - multipurpose functions of alternatives; - secondary local and regional development effects of alternatives; - subsidies that can distort comparison of alternatives; - life cycle analysis to compare electricity generation alternatives; and - the gestation period required before benefits are delivered.” 	Non-compliance Non-compliance Non-compliance Suspected non-compliance Non-compliance. Suspected non-compliance Suspected non-compliance Suspected non-compliance Suspected non-compliance Suspected non-compliance Suspected non-compliance

Key Requirement	Relevant para	Specific Guidelines and Principles	Extent of Compliance
	Ch8 p223	“A major consideration in selecting options is assessing institutional capacity for implementation. If capacity is weak for a particular option, and strengthening measures or external support are not viable, then the option should be rejected.”	Unknown
	Ch 8 p223	“The reasons for rejecting options should be clear to stakeholders”	Non-compliance
Consideration of social and environmental aspects	SP 2.3	“ Social and environmental aspects are given the same significance as technical, economic and financial factors in assessing options.”	Non-compliance
	Ch 8 p223	“The focus must shift from mitigation and compensation to make avoidance and minimisation of social and environmental impacts fundamental criteria guiding options assessment.”	Non-compliance
	Ch 8 p223	“Stakeholders must agree on guiding principles to mitigate and compensate for the social and environmental consequences of options that remain on the table before taking further decisions.”	Non-compliance
	Ch 8 p223	“Environmental issues needing consideration include impacts on natural ecosystems and water quality and the implications of the different options for local, regional and transboundary effects.”	Non-compliance
	Ch 8 p224	<p>“Requirements include:</p> <ul style="list-style-type: none"> - social and ecosystem baseline studies at an early stage to describe existing conditions and resource endowment; - determination of the relative weighting of environmental and social aspects in relation to technical, economic and financial aspects through an open process; - a strategic impact assessment to determine environmental, social, health and cultural heritage impacts of alternatives and reject inappropriate alternatives at an early stage; and - explicit assessment of future net greenhouse gas emissions of a project.” 	Unknown Suspected non-compliance Non-compliance Non-compliance Unknown
Maximising existing systems	SP 2.4	“Increasing the effectiveness and sustainability of existing water, irrigation, and energy systems are given priority in the options assessment process.”	Non-compliance
	Ch 8 p224	“Planning must give priority to making existing water, irrigation, and energy systems more effective and sustainable before taking a decision on a new project.”	
	Ch 8 p224	“The options assessment process needs to consider alternative means to increase livelihood opportunities and local food security. This should include an objective assessment of the potential for local community based projects and other alternative or complementary measures.”	Non-compliance
Application of social and environmental principle	SP 2.5	“If a dam is selected through such a comprehensive options assessment process, social and environmental principles are applied in the review and selection of options throughout the detailed planning, design, construction, and operation phases.”	Non-compliance

3.3 Strategic Priority 3: Addressing Existing Dams

3.3.1 Key Message

“Opportunities exist to optimise benefits from many existing dams, address outstanding social issues and strengthen environmental mitigation and restoration measures. Dams and the context in which they operate are not seen as static over time. Benefits and impacts may be transformed by changes in water use priorities, physical and land use changes in the river basin, technological developments, and changes in public policy expressed in environment, safety, economic and technical regulations. Management and operation practices must adapt continuously to changing circumstances over the project’s life and must address outstanding social issues.”¹³⁶

3.3.1 The WCD Guidelines on Addressing Existing Dams

The WCD notes that the benefits of existing dams have often not been fully realised. It insists that, “opportunities to improve the efficiency, environmental and social performance of existing dams and optimise their benefits *must* be taken” (emphasis added). As a first step, governments should **initiate a comprehensive post-project monitoring and evaluation process**. Following such a review, **programmes to restore, improve and optimise benefits from existing dams should be identified** and implemented. **Outstanding social problems must be addressed** through remedies evolved, in conjunction with affected communities. Recommended remedies include: **restitution** (stopping the damaging conduct or carrying out already agreed obligations); **indemnity** (payment for losses incurred); and “**satisfaction**” (for example, through a public acknowledgement of damage and an apology). Priority “must be given to financing a negotiated reparation plan before funding new dam projects in a specific location or river basin in a country.” The **effectiveness of existing environmental mitigation measures should also be assessed** and unidentified impacts identified. **All dams should be required to have formalised operating agreements.** Where the licence of an existing dam is due to expire, or decommissioning of the dam is required, **a new environmental impact assessment should be undertaken.**

3.3.2 Have existing dams been properly assessed?

(a) Post Project Monitoring Process

Without access to the project agreements and licences for Yusufeli, the Mission was unable to assess whether Yusufeli's operators would be required to ensure post-project monitoring of the dam. The Mission notes, however, that Turkey has no national programme for post-project monitoring of the performance of its existing dams. **The Mission therefore considers Yusufeli to be in violation of Strategic Priority 3.1, which requires comprehensive post-project monitoring of “all existing large dams”.**

(b) Optimising Benefits

The WCD requires that steps are taken to identify and implement programmes to restore, improve and optimise benefits from existing large dams. Although, at a national level, the Turkish authorities have programmes in place to improve the productivity of irrigation from existing dams and to address some of the health and other impacts caused by dam projects, no systematic programme along the lines required by the WCD exists. **The Mission therefore deems Turkey to be in breach of the WCD's Strategic Priority 3.2.**

¹³⁶ World Commission on Dams: Dams and Development A New Framework for Decision Making. London. November 2000. p225

(c) Addressing Outstanding Social Issues, Including Reparations

The Mission did not have an opportunity to visit or study other dams in the Yusufeli region. It is not therefore in a position to comment on the extent to which the WCD's recommendations on reparations have been met at the local level - and thus whether or not Yusufeli is in breach of the WCD's requirement that no new projects be financed before reparations plans have been negotiated with communities affected by existing dams on the Çoruh.

The Mission is, however, aware of Turkey's poor reputation with resettlement and of ongoing social problems at numerous other dams in Turkey. As noted previously, villagers in Yusufeli were themselves sufficiently concerned by reports of inadequate compensation being paid in other dam projects that they organised a delegation to visit those ousted by the recently completed Birecik dam. The Mission notes that the outstanding resettlement issues at Birecik and other dams in the South-East of Turkey, such as Ataturk, have yet to be addressed. Moreover, contrary to WCD recommendations:

- no reparations programme has been initiated;
- affected communities have not been given legal, financial and professional support in order to participate in a negotiated reparations process; and
- an independent committee has not been appointed by the government to assess reparations with the participation of legal experts, the dam owner, affected people and other stakeholders.

The Mission therefore deems Turkey to be in breach of the WCD's Strategic Priority 3.3, which requires social issues at existing dams to be identified and remedied. The Mission notes, however, that Turkey is by no means alone in failing to meet this WCD requirement; richer western countries have also failed to address, or even acknowledge, the need for reparations. In this regard, the Mission notes that those Western financial institutions which backed many of the recently-built dams in Turkey have also failed to meet their obligations to affected communities.

(d) Assessing the Effectiveness of Existing Mitigation Measures

The Mission did not review the programmes that may be in place nationally or regionally to assess the effectiveness of current mitigation measures at existing dams in Turkey. It is not therefore in a position to judge Turkey's compliance with Strategic Priority 3.4.

(e) Formal Operating Agreements with Time-bound Licence Periods

The Mission did not review the extent of Turkey's compliance with Strategic Priority 3.5, which requires all dams to be subject to formal operating agreements. It is not therefore in a position to judge the extent of Turkey's compliance.

3.3.3 Summary

The potential of optimising existing dams has not been addressed. Outstanding social issues have not been addressed and there are no processes and mechanisms to enable affected communities to participate in negotiated reparations processes. A comprehensive post-project monitoring process does not exist.

The Mission therefore finds that WCD Strategic Priority 3 on Addressing Existing Dams has not been complied with.

Table 3.3 Strategic Priority 3: Addressing Existing Dams – summary of requirements and extent of compliance

Key Requirement	Relevant Para	Specific Guidelines and Principles	Extent of Compliance
Post-project monitoring for existing dams	SP 3.1 Ch 8 p227 Ch 8 p227 Ch 8 p227	<p>“A comprehensive post-project monitoring and evaluation process, and a system of longer term periodic reviews of the performance, benefits, and impacts for all existing large dams are introduced.”</p> <p>“An essential first step is for governments, or their regulatory agencies, to clearly specify the requirements for monitoring and evaluation in the appropriate regulations, project licences and operating agreements.”</p> <p>“Government guidelines need to clearly define roles of dam owners and operators and stakeholders who will participate in the evaluations and set out the resources and means for stakeholder input and interaction.”</p> <p>“Dam operators and the agencies involved should publish monitoring results annually, and make results freely accessible to all stakeholders.”</p>	Non-compliance Unknown Non-compliance Non-compliance
Optimise benefits of existing dams	SP 3.2	<p>“Programmes to restore, improve and optimise benefits from existing large dams are identified and implemented. Options to consider include rehabilitate, modernise and upgrade equipment and facilities, optimise reservoir operations and introduce non-structural measures to improve the efficiency of delivery and use of services.”</p>	Non-compliance
Address outstanding social issues	SP 3.3	<p>“Outstanding social issues associated with existing large dams are identified and assessed; processes and mechanisms are developed with affected communities to remedy them.”</p> <p>“Affected people should receive legal, professional and financial support to participate in the assessment, negotiation and implementation stages of the reparation process.”</p> <p>“Affected peoples must be defined according to actual experience of impacts ... not by the limited definition in original project documents and contracts.”</p> <p>“Damage assessments should include non-monetary losses.”</p> <p>“Reparations should be based on community identification and prioritisation of needs, and community participation in developing compensatory and remedial strategies.”</p> <p>“The roles and responsibilities of all parties involved in planning, financing, building and operating the dam must be clearly established in the process of hearing and assessing a claim by an independent committee constituted by the government in consultation with the affected people and other stakeholders.”</p> <p>“An independent committee should be empowered to collect, manage, and award reparations. To ensure that decisions conform to the laws of the country and to international laws, such</p>	Non-compliance Non-compliance Non-compliance Partial compliance Non-compliance Non-compliance Non-compliance

Key Requirement	Relevant Para	Specific Guidelines and Principles	Extent of Compliance
		<p>committees should include legal representatives selected by government and affected communities. Parties contributing to the fund should be represented to ensure transparent use of their funds. Accountability of the parties responsible for reparation should be ensured through contracts and legal recourse.”</p>	
Assess effectiveness of existing environmental mitigation	SP 3.4	<p>“The effectiveness of existing environmental mitigation measures is assessed and unanticipated impacts identified; opportunities for mitigation, restoration and enhancement are recognised, identified and acted on.”</p> <p>“Continuous monitoring is a prerequisite to identify and assess what the actual impacts are and the possible effect of mitigation and restoration measures.”</p> <p>“Resources for implementing monitoring must be integrated in the project cost.”</p> <p>“Clear guidelines on environmental monitoring and a response to deal with impacts are needed.”</p> <p>“Other constraints will have to be addressed, particularly for privately developed hydropower projects that involve long-term supply contracts negotiated on previous release patterns.”</p>	Not assessed
Relicensing	SP 3.5	<p>“All large dams have formalised operating agreements with time-bound licence periods; where re-planning or relicensing processes indicate that major physical changes to facilities or decommissioning, may be advantageous, a full feasibility study and environmental and social impact assessment is undertaken.”</p> <p>“Given the ageing population of dams, safety issues require more attention in the form of inspections, routine monitoring, evaluations, surveillance systems, and regularly updated emergency action plans. Where practical and feasible, it is also important to update dams to contemporary standards, especially regarding spillway capacity and resistance to earthquakes.”</p> <p>“Based on the range of issues that may surface with decommissioning, a feasibility study should be carried out to select the overall best solution, considering economic, environmental, social and political factors.”</p>	Not assessed

3.4 Strategic Priority 4: Sustaining Rivers and Livelihoods

See also Sections 2.2 and 2.7 for further discussion and elaboration on these issues.

3.4.1 Key Message

“Rivers, watersheds and aquatic ecosystems are the biological engines of the planet. They are the basis for life and the livelihoods of local communities. Dams transform landscapes and create risks of irreversible impacts. Understanding, protecting and restoring ecosystems at river basin level is essential to foster equitable human development and the welfare of all species. Options assessment and decision-making around river development prioritises the avoidance of impacts, followed by the minimisation and mitigation of harm to the health and integrity of the river system. Avoiding impacts through good site selection and project design is a priority. Releasing tailor-made environmental flows can help maintain downstream ecosystems and the communities that depend on them.”¹³⁷

3.4.2 WCD Guidelines on Sustaining Rivers and Livelihoods

These guidelines are aimed at ensuring the protection and health of river ecosystems as the basis for life and for livelihoods of local communities. A national policy should be developed so not all rivers are developed and that **some rivers with high ecosystem values are maintained in their natural state**. If an undeveloped river is chosen as the site of a project, priority should be given to the project being located on a tributary. Once a river is chosen for a project, the foundations for sustaining ecosystems and livelihoods must begin with obtaining an **understanding of the river basin and the functions it performs**. These functions include the ecosystem's functions and values and the factors required to sustain these, and the dependence of communities and livelihoods on the river ecosystem. The decisions made must **value the ecosystems, social and health issues and avoid impacts on these as a priority**, taking a precautionary approach. Projects that **avoid significant impacts on threatened and endangered species** should be selected. If such impacts cannot be avoided, measures should be put in place so that there is a net gain in the region for the species concerned. Downstream impacts on ecosystems also need to be considered and projects should be designed so that **downstream ecosystems and livelihoods are maintained**.

3.4.3 The Yusufeli Dam’s Impacts on the Rivers and Livelihoods

The Mission was unable to thoroughly obtain “*a basin-wide understanding of the ecosystem’s functions, values and requirements, and how community livelihoods depend on and influence them*” - this is a review which should be carried out by the project developers. Without access to the EIA (which has not been released) it is difficult to make a complete assessment of the extent to which the project proponents and developers have reviewed the functions and values of the ecosystems. Instead, the Mission has collated all information available to it on the ecosystems and potential impacts of the dam and has reviewed whether these have been mitigated by the authorities. (For more details see also section 2.2)

a) Impacts on natural habitats and species in the region

- Submergence of the valley resulting in habitat loss.
- Impacts on the surrounding areas, including new construction (resettlement and roads) and creation of new agricultural land resulting in habitat loss and fragmentation.

¹³⁷ World Commission on Dams: Dams and Development A New Framework for Decision Making. London. November 2000. p234

As the Mission noted in section 2.2.1, indications are that the project's impacts on natural habitats and species in the region have not been adequately considered. The Mission recommends that such impacts are subjected to a full and independent assessment before any export credits are granted.

b) Impacts on communities and livelihoods in the region

- Impacts on tourism (white water rafting and hiking).
- Impacts on agriculture (loss of agricultural land).
- Impacts on quality of life.

As noted in section 2.5.4, without access to the EIAR, it is difficult to assess whether the impacts on tourism have been taken into account. A lawyer told the Mission that all the tourist rafting potential and industry will be lost once the dam is built.¹³⁸ The Mission is concerned that a one-off payment of compensation will fail to adequately re-establish those currently making a living in the tourism industry with new jobs and livelihoods.

Agricultural land, mostly in the form of terraces covering the mountainside, will be lost. The Mission was told by the Mayor of Yusufeli that an up to date cadastral survey up to 712 metres (the estimated level of the shore of the lake) was almost complete.¹³⁹

The agricultural land in Yusufeli mostly takes the form of terraced “orchards” built on the side of the mountains. These are the result of much hard work – “the region around Yusufeli is largely stony and so people carried earth on their backs and made terraces to create orchards” the Mission was told. The orchards are therefore highly valued by their owners who tend them with such care and knowledge that the land is consequently very productive and it is possible to get four different harvests a year.

The orchards are therefore small but very valuable agricultural land. Owners of orchards are worried that compensation, which will be paid by the square metre, will reflect the small size of land holdings and not its true agricultural value. Thus a one-off payment for a typical sized holding of land (200 square metres) would reflect neither the effort and time required for creating the land nor its value in terms of productivity. A resident of Yusufeli told the Mission that he had asked DSI to provide compensation at the price of land in Ankara, and that this request was declined.

Another concern about loss of land is that only land below 712 metres is being taken into consideration for compensation.¹⁴⁰ This Mission is concerned about this, as firstly it does not allow for the lake level ending up higher than the estimated 712 metres. Secondly this means that compensation is only given for direct impacts (i.e. loss of land due to flooding) and potential indirect impacts such as changes in size, drainage, erosion and problems with accessing land are not considered.

Impacts on people’s quality of life are discussed in detail in the next section (Section 3.5)

The people of Yusufeli have not been consulted or asked about their use of water, nor about how much of the river will be diverted by the dams. There are concerns about availability of water at some of the potential resettlement sites. The Mission did not find any plans or mechanisms for sharing the remaining water and its benefits. It also has concerns for those people who are likely to lose their businesses if the river changes.

c) Downstream impacts

- Impacts on the River Çoruh’s floodplain in Georgia, dependent on sediment from the river.

The Greens Movement of Georgia has said of the Yusufeli dam:

¹³⁸ Around Yusufeli, the River Çoruh has the incline of 5 degrees and the right volume of water needed to make fast enough, but not too dangerous to raft. With less water flowing through it, the river will become too slow.

¹³⁹ Interview with Yusuf Saglam, Mayor of Yusufeli, 27 April 2002.

¹⁴⁰ Interview with Yusuf Saglam, Mayor of Yusufeli, 27 April 2002.

“The realization of this huge project will stop the alluvia flow in the river Chorokhi [Çoruh] in the direction of the Black Sea, and the beaches situated on the Georgian coast (Batumi, Kobuleti, Ureki and others), as well as the Cape of Batumi and the whole lowland of Kakhaberi, will face the danger of guaranteed destruction. Only on the Batumi-Kobuleti line of the coast with 1400 ha of beaches will be washed down. This destructive process will reach its peak only 2-years after the flow of the coast-constructing alluvia will be stopped and in fact, ecological catastrophe, faced by city port Poti (Great part of the town is captured by the sea), will be repeated here.”¹⁴¹

The Mission has not been able to further investigate these concerns, but notes that environmental groups in Georgia have been campaigning on this issue since 1996.

As the Mission noted in section 2.7, Turkey has not consulted with riparian state Georgia about the dam and it therefore seems unlikely that the downstream impacts of the dam have been adequately assessed and Georgian concerns considered or mitigated. **The Mission recommends that an urgent review of the Yusufeli dam’s downstream impacts is carried out before the project is further developed.**

3.4.4 Strategic Impact Assessment of the Cumulative Impact of Dams on the River Çoruh

The impact of the Yusufeli dam on the River Çoruh and its basin-wide ecosystem cannot be considered in isolation to the impacts of the other dams on the river. The Mission has not evaluated the EIAs for these other dams but notes that **no strategic analysis or assessment has been made of the cumulative impacts of these dams on the river and its surrounding environment. This lack of SIA puts the Yusufeli and other dams on the Çoruh at complete odds with the spirit of WCD Strategic Priority 4, and the Mission therefore considers that these guidelines have not been complied with.**

3.4.5 Summary

The project’s impacts on natural resources have not been adequately considered, if they have been considered at all. The Mission has not found evidence of plans to mitigate these impacts. The impacts on communities of changing the “natural” features of the region have not been adequately considered or discussed with those affected. Neither a basin-wide study nor a strategic impact assessment have been carried out.

The Mission therefore concludes that the Yusufeli dam does not comply with WCD Strategic Priority 4 on Sustaining Rivers and Livelihoods.

¹⁴¹ The Greens Movement of Georgia in correspondence with Friends of the Earth, 2002

Table 3.4 Strategic Priority 4: Sustaining Rivers and Livelihoods – summary of requirements and extent of compliance

Key Requirement	Relevant Para	Specific Guidelines and Principles	Extent of Compliance
Take account of existing uses	Ch 8 p235	“Water reallocation through dams should explicitly take account of existing uses, and of the species and ecosystems the water supports.”	Non-compliance
Share available water	Ch 8 p235	“The State must use effective mechanisms for sharing the available water between users, bearing in mind the balance between different uses – irrigation, water supply, power generation, and ecosystem – and the livelihood and quality of life needs of riverine communities.”	Non-compliance
Balance negatives and positives	Ch 8 p235	“negative economic and social impacts must be weighed equally against positive impacts.”	Non-compliance
Understanding the basin-wide ecosystem	SP 4.1	“A basin-wide understanding of the ecosystem’s functions, values and requirements, and how community livelihoods depend on and influence them, is required before decisions on development options are made.”	Non-compliance
Assess cumulative impacts	Ch 8 p236	“project proponents must assess the ecosystem consequences of the cumulative impact of dams, dam induced developments and other options along the full length of the river reaching as far as the delta, even where this extends into neighbouring provinces or countries. Where the resources of riparian communities could be negatively affected they should be consulted on the proposal before decisions are made”	Non-compliance
Social and health impacts	SP 4.2	<p>“Decisions value ecosystems, social and health issues as an integral part of project and river basin development and prioritise avoidance of impacts in accordance with a precautionary approach.”</p> <p>“Consultants and agencies involved in planning should focus on ecosystem, social and health issues at the same time that economic and technical studies for options assessment begin.”</p> <p>“Planning teams should explicitly incorporate ecosystem, health and social findings in the final choice of project through multi-criteria analysis.”</p> <p>“Strategic impact assessment during the options assessment stage should include independent and comprehensive assessment of ecosystem, social and health impacts and evaluation of any cumulative or inter-basin impacts.”</p> <p>“The precautionary approach requires States and water development proponents to exercise caution when information is uncertain, unreliable, or inadequate and when the negative impacts of actions on the environment, human livelihoods, or health are potentially irreversible.”</p> <p>“Determining what is an acceptable level of risk should be undertaken through a collective political process.”</p> <p>“A precautionary approach therefore entails improving the information base, performing risk analysis, establishing precautionary thresholds of unacceptable impacts and risk, and not taking actions with severe or</p>	Non-compliance Non-compliance Non-compliance Non-compliance Non-compliance Non-compliance Non-compliance

Key Requirement	Relevant Para	Specific Guidelines and Principles	Extent of Compliance
		irreversible impacts until adequate information is available, or until the risk or irreversibility can be reduced, making outcomes more predictable.”	
Maintain some rivers in natural state	SP 4.3 Ch 8 p237 Ch 8 p238	<p>“A national policy is developed for maintaining selected rivers with high ecosystem functions and values in their natural state. When reviewing alternative locations for dams on undeveloped rivers, priority is given to locations on tributaries.”</p> <p>“States should have a policy that excludes major intervention on selected rivers to preserve a proportion of their aquatic and riverine ecosystems in a natural state. The policy should be an integral part of the overall national water policy.”</p> <p>“To put this policy into practice, the State, appropriate research institutions, communities and NGOs must gather the essential baseline information to inform the policy from a holistic national perspective.”</p>	Not assessed
Avoid impacts on threatened and endangered species	SP 4.4 Ch 8 p238 Ch 8 p238 Ch 8 p238	<p>“Project options are selected that avoid significant impacts on threatened and endangered species. When impacts cannot be avoided viable compensation measures are put in place that will result in a net gain for the species within the region.”</p> <p>“Most States have ratified the UN Convention on Biological Diversity and the Ramsar Convention on Wetlands and they should urgently apply their guidelines.... States that have not yet ratified the Conventions are encouraged to do so, and in the meantime to respect their provisions.”</p> <p>“Where significant impacts on threatened or endangered species are considered unavoidable, after exhausting other water and energy options and other dam project options, project authorities should put in place a credible and monitored compensation plan. This should ensure that the population status of the species within the region shows a net gain that adequately compensates for loss of habitat to the project.”</p> <p>“The project authorities will finance compensation as an integral part of project costs for the life span of the project.”</p>	Non-compliance Not assessed Non-compliance Unknown
	SP 4.5	<p>“Large dams provide for releasing environmental flows to help maintain downstream ecosystem integrity and community livelihoods and are designed, modified and operated accordingly.”</p> <p>“Dams should now be specifically designed to release the necessary flow of good quality water.</p> <p>“Ecosystem responses to dam operating regimes are variable, so dam owners should undertake regular monitoring and a five yearly evaluation of environmental performance. This evaluation should inform modification of environmental flows where necessary”</p>	Unknown

3.5 Strategic Priority 5: Recognising Entitlements and Sharing Benefits

3.5.1 Key Message

“Joint negotiations with adversely affected people result in mutually agreed and legally enforceable mitigation and development provisions. These provisions recognise entitlements that improve livelihoods and quality of life, and affected people are beneficiaries of the project. Successful mitigation, resettlement and development are fundamental commitments and responsibilities of the State and the developer. They bear the onus to satisfy all affected people that moving from their current context and resources will improve their livelihoods. Accountability of responsible parties to agreed mitigation, resettlement and development provisions is ensured through legal means, such as contracts, and through accessible legal recourse at national and international level.”¹⁴²

3.5.2 WCD Guidelines on Recognising Entitlements and Sharing Benefits

The main objective of these guidelines is that adversely affected people end up with an improved quality of life and that they are amongst the first beneficiaries of the project. The first step in implementation of this is to **recognise the rights of adversely affected stakeholders**. This includes the entitlement of stakeholders to participate and negotiate in decision-making about the project. **Assessment of the risks** associated with the project can then be combined with this recognition of rights in order to identify adversely affected stakeholders and include them in joint negotiations on the project. **Affected stakeholders include all people impacted, not just those needing to be re-housed.** All of these people should then be involved in negotiating mutually agreed entitlements for mitigation, development and resettlement. **Affected people should be the first amongst the beneficiaries of the project.**

3.5.3 Recognising Entitlements: Identifying Stakeholders

The Turkish authorities and project proponents have identified those who will need to be resettled and those who will lose some or all of their land as adversely affected stakeholders. This, however, is only a subset of those people whose lives will be changed by the dam.

Adversely affected stakeholders include, at a minimum, the 15,000 people who will be resettled and the further 15,000 people in the province of Yusufeli who will be affected by the loss or changed location of their centre. This represents 60 villages plus the town of Yusufeli itself that will be impacted by the dam. This is approximately twice as many people as identified by the Turkish government. **The Mission is concerned about those 15,000 people who will be indirectly yet profoundly affected by the dam as they have not been taken into consideration at all.**

The Mayor of Yusufeli (i.e. the elected representative of these 61 settlements) told the Mission “Our position is that everyone in the region should be consulted – not just those who would be flooded out of their homes. Yusufeli is the commercial and social centre of the region – if it is destroyed, everyone will be affected, so everyone should have their say on the project. Flooding the town and moving it miles away would destroy a whole network of relationships. The issue will only be resolved by consulting everyone – women, children, old people, *everyone*.¹⁴³”

Following the guidelines of the WCD, these people also have a right to participate and negotiate in decision making about the Yusufeli dam. There has been no participation in decision-making, neither by those directly nor by those indirectly affected by the dam. Instead, there has been only limited, top-down provision of information and selective consultation of some of those directly impacted. Affected

¹⁴² World Commission on Dams: Dams and Development A New Framework for Decision Making. London. November 2000. p240

¹⁴³ Interview with Usuf Saglam, Mayor of Yusufeli, 27 April 2002.

stakeholders have not been given the opportunity to negotiate, let alone agree upon their entitlements for mitigation, development and resettlement. **The Mission notes that this puts the Yusufeli project at odds with the spirit and intention of the WCD's Strategic Priority 5, and therefore considers that this strategic priority has not been complied with.**

3.5.4 Recognising Entitlements: Identifying Impacts and Risks to Affected Stakeholders

The Mission identified the following impacts, risks and areas of concern of the people of Yusufeli province:

a) Resettlement of inhabitants of Yusufeli and surrounding villages

Resettlement is discussed in detail in section 2.2, the issues are summarised here.

15,000 people will lose their homes as a result of the construction of the Yusufeli dam. These people have not been consulted about whether they want the dam. Some (2,500) have been consulted about where they would like to be resettled, but they feel that even their views on this have been mis-represented and are not being taken into account. Another problem is that there are many different views amongst those due to be resettled about where they want to go. **These issues are far from being resolved and the Mission recommends that no export credits are granted for the project until they can be resolved.**

b) Impacts on surrounding villages

Yusufeli town has a central location in the province of Yusufeli (see the map of Yusufeli in Appendix 2). It is well connected to the rest of the province by main roads running along the river, enabling the surrounding villages to use Yusufeli town as their cultural, economic and political centre. Some of the suggested resettlement locations are less central in the province, disadvantaging the villages on the other side of the province since their centre could be inaccessibly far away.

This problem would be compounded if the town and roads were flooded before new roads were built, as the only main road connecting the north with the south and east of the province will be flooded. (See section 2.3 for more information on concerns about the roads.)

This concern is reflected by the heads of ten villages in the north west of the province¹⁴⁴ in a signed statement supporting a split new centre at Sarigöl (in the north west) and at Kilickaya (in the south west):

"Yusufeli town with 60 villages in its borders had characteristics that meet the needs of these villages due to its central location. As far as the locations of Kilickaya, İşhan and Oğdem are concerned, one village is near to them but the other villages' distances to the central town would be increased by 3 or 4 times. For example, Yayalar village's distance to the town currently is 55km. If Kilickaya is chosen as a location for the central town, this village's distance to the central town will be 85km. Likewise, Avçilar Village's distance to the current central town is 55km. Its distance to the location for the new central town in Sarigöl will be 75km. The conditions are the same as far as İşhan and Oğdem are concerned.

The above mentioned issues show that just as we entered year 2000, how the people in this region can suffer and how the conditions can be getting worse instead of improving as far as the issue of education, health, transport are concerned. How long it would take to bring a sick person from a remote village to the town and then to refer this person to somewhere is an issue that should be considered. The conditions would become severe in winter and it might cause fatal delays.

A citizen would waste two days to get a simple job done in a government agency following his/her departure from his/her village.

¹⁴⁴ Altıparmak, Taskiran, Bicakcilar, Yaylalar, Bostancı, Ozguven, Kuplace, Balcılı, Demirdoven and Yuksekoba. (See the white section (upper left) of the map in Appendix 2)

The consequences of establishing one central town could not be productive, but would fail the region's people in education, health, trading and social life.”¹⁴⁵

A further concern is that villages indirectly affected by the dam have not been consulted at all on the dam or its impacts,¹⁴⁶ yet the flooding of Yusufeli will have a profound bearing on their lives. The Sahara Survey (see sections 2.3 and 3.1), although described as the project's “Resettlement Plan”, only covers “Yusufeli Central town and 17 villages that are totally or partly affected by the Yusufeli Dam”¹⁴⁷ and does not consider or address the impacts of the dam on the remaining 43 villages.

The Mission is very concerned that inhabitants of these 43 villages are not considered stakeholders.

c) Changed status, size and amenities of Yusufeli

The population of the town of Yusufeli is already decreasing. There are concerns that, if the people of Yusufeli are split between more than one new “centre”, disperse to several villages or move away (for example to Ankara), the new Yusufeli town will be smaller and will therefore have a lower status and be eligible for less state support.¹⁴⁸

A potential solution to this, suggested by some residents of Yusufeli, is to build the new Yusufeli on the shore of the dam's reservoir, keeping one town but building it on both sides of the lake. The Mission was told that this would be more expensive, but that Yusufeli would keep its status and the surrounding villages would keep their centre.

The Governor of Yusufeli told the Mission that there is also concern amongst the people that the new town will be smaller and less advanced. He confirmed that, at least initially, the resettlement site will be less developed in terms of social services and economic opportunities, but said that later on all the people and organisations of Yusufeli would move there. At present, there are no development projects included as part of the resettlement package. The Governor explained that, “the problem is that the new resettlement site is not yet known”.¹⁴⁹

d) Loss of land and availability / productivity of new land

See section 3.4.3.

e) Loss of livelihoods and income

See section 3.4.3

f) Loss of community spirit

The Mission heard many accounts of the unusual degree of solidarity between residents of Yusufeli.

“In a village of about 100 people, over 60 will be as close as family members who help each other. The possibility of being displaced and not re-establishing those ties is making them feel terrible”

“There is no crime here. There is a prison but the doors are open except when other towns send prisoners. We have a good life”

One interviewee told the Mission that, if a man was to lose his means of making a living, he would be able to survive for at least a year on the generositys of his friends and neighbours in the community. He expressed concern that closely knit community would be lost if Yusufeli was uprooted.

¹⁴⁵ “Briefing on Nominated Town” (“Secilmis Kasaba Hakkında Kisa Bilgi”)

¹⁴⁶ Interview with Yusuf Saglam, Mayor of Yusufeli, 27 April 2002.

¹⁴⁷ DSI / Sahara Engineering Ltd, “Conclusion Report on the Yusufeli Dam Resettlement Plan” [“Yusufeli Barajı Yeniden Yerlesim Plani Sonuç Raporu”] February 2001

¹⁴⁸ In Turkey, the state gives financial support to towns according to their size.

¹⁴⁹ Interview with Arslan Yurt, Kaymakam of Yusufeli, 26 April 2002.

g) Impacts already occurred

Since 1999, when the current plan for the Yusufeli dam project was finalised, there has been little or no outside investment in Yusufeli, since the State is insistent that the dam will go ahead. Within the town, people also feel that they cannot invest in their future. For example, a hotel owner told the Mission that he needs to carry out repairs and improvements to his hotel, but doesn't feel that he can make the investment.

This lack of investment has contributed to the sense of resignation about the project and partially explains why the Mission was frequently told, “if the dam is going to be built, we want it to be built as soon as possible so that we can get on with our lives”.

The above impacts have not been thoroughly considered, and in some cases have not been recognised or identified, by the project proponents. The Mission recommends that no export credits are granted until all impacts on the local communities are discussed with those impacted and until solutions for their mitigation and for development and resettlement have been negotiated with affected stakeholders.

3.5.5 Compensation

See section 2.3.3(a).

3.5.6 Sharing Benefits

The WCD advocates that affected stakeholders should be the first beneficiaries of the project. For proponents, the main benefit of the dam would be increased electricity production for Turkey and for Ankara in particular. Another ‘benefit’ is seen as being increased investment in the region, although this is misleading, since past investment in the region would have been maintained if the project had never been planned. Indeed, in the Mission's view, the region has lost out on investment *because of* the planned dam.

The Mission heard of the following suggestions for benefit sharing from the dam:

- A share of production of the electricity;
- Free or cheap electricity;
- Guaranteed jobs for locals during construction and afterwards during operation and maintenance;
- Improved services and better development in the region.

Some people in Yusufeli told the Mission that they have written to twenty-two state agencies, setting out their position. If the dam is to be built, they want the compensation to be paid immediately and a share of the production of the dam. If the dam is not going to be built, they would be pleased if the Government would declare so openly (on television for example) and they want the investment that would have been spent on the dam to be invested in Turkey. They have received no replies to these letters and there has been no discussion about the people from Yusufeli receiving a share of the electricity production.

The Mission concludes that affected stakeholders have not been given the opportunity to participate in discussions or decisions on sharing benefits and do not stand to share in the project's benefits.

3.5.7 Summary

Affected stakeholders have not all been identified by the Turkish government – only about 50% of those who would be impacted by the dam are officially recognised as affected. Whilst some affected stakeholders have taken part in limited consultation, most have not been involved at all in the planning for the dam and no discussion or negotiation on mitigation and development and resettlement has taken place. The rights of affected stakeholders have not been recognised or respected. The affected population does not stand to gain a share of the benefits from the dam.

The Mission finds that WCD Strategic Priority 5 has not been complied with.

Table 3.5 Strategic Priority 5: Recognising Entitlements and Sharing Benefits – summary of requirements and extent of compliance

Key Requirement	Relevant Para	Specific Guidelines and Principles	Extent of Compliance
Recognise rights of and identify risks to stakeholders	SP 5.1 Ch 8 p241	<p>“Recognition of rights and assessment of risks is the basis for identification and inclusion of adversely affected stakeholders in joint negotiations on mitigation, resettlement and development related decision-making.”</p> <p>“The socioeconomic, cultural, political and health impacts must be identified through a number of assessment methods such as Social Impact Assessment (SIA), Health Impact Assessment (HIA), impoverishment risk analysis and cultural heritage impact assessment with active participation of the affected people.”</p>	Non-compliance Non-compliance
Stakeholders include all those affected	SP 5.2 Ch 8 p241 Ch 8 p241	<p>“Impact assessment includes all people in the reservoir, upstream, downstream and in catchment areas whose properties, livelihoods and non-material resources are affected. It also includes those affected by dam related infrastructure such as canals transmission lines and resettlement developments.”</p> <p>“The impact assessment studies must identify and delineate various categories of adversely affected people in terms of the nature and extent of their rights, losses and risks.”</p> <p>“Socioeconomic, demographic and health benchmark surveys of all adversely affected populations must be completed and publicly reviewed prior to drafting mitigation, resettlement and development plans.”</p>	Non-compliance Non-compliance Non-compliance
Negotiation	SP 5.3 Ch 8 p241 Ch 8 p242 Ch 8 p242 Ch 8	<p>“All recognised adversely affected people negotiate mutually agreed, formal and legally enforceable mitigation, resettlement and development entitlements.”</p> <p>“...mitigation and resettlement measures should be considered as a development opportunity focusing on a number of fundamental inputs:</p> <ul style="list-style-type: none"> compensation for lost assets through replacement, substitution, cash and allowances; livelihood restoration and enhancement in the form of land-for-land options; sustainable non-agricultural employment and other measures; a share in project benefits and other development measures; and access to primary services such as schooling and health care. <p>“For compensation to create effective new entitlements, customary and legal rights, and the future value of land and common property resources must all be acknowledged.”</p> <p>“To reach agreement and prevent future disputes, a transparent and</p>	Non-compliance Non-compliance Non-compliance Non-compliance Non-compliance Non-compliance Non-compliance Non-compliance

Key Requirement	Relevant Para	Specific Guidelines and Principles	Extent of Compliance
	<p>p242 Ch 8 p242</p> <p>Ch 8 p242</p> <p>Ch 8 p242</p> <p>Ch 8 p242</p> <p>Ch 8 p242</p>	<p>legally enforceable mechanism must exist to calculate the replacement value of all affected assets.”</p> <p>“To check against under-valuation of assets, the date for calculating the value of assets must match the date of payment.”</p> <p>“Where people prefer cash compensation, it must be paid with adequate safeguards that enhance long term livelihood sustainability.”</p> <p>“Regaining lost livelihood requires adequate lead time and preparation and therefore people must be fully compensated before relocation from their land, house or livelihood base. If compensation payment is delayed, interest on the compensation amount must be paid to account for inflation.”</p> <p>“Mutually agreed mitigation, resettlement and development provisions should be prepared jointly with the participation of all affected people, government and the developer.”</p> <p>“Stakeholders must set up a high level multi-stakeholder committee representing government, the developer and affected communities. The committee will be responsible for directing implementation of the mitigation, resettlement and development programme and will serve as an appeals forum to hear complaints and resolve disputes.”</p> <p>“A Mitigation, Resettlement and Development Action Plan (MRDAP) accepted by the affected people should be formalised through ... legally binding contractual agreements”</p>	Non-compliance Unknown Unknown (relocation has not yet happened) Non-compliance Non-compliance Non-compliance
Benefit sharing	SP 5.4 <p>Ch 8 p243</p> <p>Ch 8 p243</p> <p>Ch 8 p243</p> <p>Ch 8 p243</p>	<p>“Adversely affected people are recognised as first among the beneficiaries of the project. Mutually agreed and legally protected benefit sharing mechanisms are negotiated to ensure implementation.”</p> <p>“The adversely affected people should participate in the identification, selection, distribution and delivery of benefits.”</p> <p>“The adversely affected people, government and the developer / financier should assess and agree on the level of benefits. As a general principle, the level of benefits should be sufficient to induce demonstrable improvements in the standard of living of the affected people.”</p> <p>“All categories of affected people – displaced and those located upstream, surrounding the area of the reservoir, downstream of the dam and host communities for resettlement should be considered eligible in principle.</p> <p>“Commitments on benefits from the project should form part of the performance contracts with affected families and the community.”</p>	Non-compliance Non-compliance Non-compliance Non-compliance Non-compliance

3.6 Strategic Priority 6: Ensuring Compliance

3.6.1 Key Message

“Ensuring public trust and confidence requires that governments, developers, regulators and operators meet all commitments made for the planning, implementation and operation of dams. Compliance with applicable regulations, criteria and guidelines, and project-specific negotiated agreements is secured at all critical stages in project planning and implementation. A set of mutually reinforcing incentives and mechanisms is required for social, environmental and technical measures. These should involve an appropriate mix of regulatory and non-regulatory measures, incorporating incentives and sanctions. Regulatory and compliance frameworks use incentives and sanctions to ensure effectiveness where flexibility is needed to accommodate changing circumstances.”¹⁵⁰

3.6.1 The WCD Guidelines on Ensuring Compliance

First, all project participants should adopt a set of criteria and guidelines for the project in order to provide a framework for assessing compliance. Then, before the project commences, a compliance plan which details how compliance can be achieved, giving criteria and guidelines, can be prepared. The costs for establishing these compliance mechanisms should be built into the project budget. Measures should be taken to avoid corrupt practices and incentives should be developed to reward project proponents for abiding by criteria and guidelines for compliance.

3.6.2 Ensuring Compliance at Yusufeli

The Mission has been unable to fully investigate this strategic priority and notes that this will not be possible until other strategic priorities detailing how the project should be executed are complied with. Only after these guidelines and standards have been agreed, can a plan be put in place to ensure their compliance. Nonetheless, the Mission has investigated the mechanisms which will be used to ensure that commitments made to date by project proponents will be complied with. The Mission found no evidence that a compliance plan has been drawn up or considered. If one does exist, it must have been drawn up without the input of many project participants.

¹⁵⁰ World Commission on Dams: Dams and Development: A New Framework for Decision Making. London. November 2000. p244

Table 3.6 Strategic Priority 6: Ensuring Compliance – summary of requirements and extent of compliance

Key Requirement	Relevant Para	Specific Guidelines and Principles	Extent of Compliance
	SP 6.1 Ch 4 p245 Ch4 p245	<p>“A clear, consistent and common set of criteria and guidelines to ensure compliance is adopted by sponsoring, contracting and financing institutions and compliance is subject to independent and transparent review.”</p> <p>“All project participants, including government agencies, multilateral, bilateral and commercial financing institutions, private sector developers and NGOs should adopt a clear set of criteria and guidelines for developing water and energy resources.”</p> <p>“...each participant makes a binding commitment to the criteria and guidelines that apply to them”</p>	Unknown – suspected non-compliance Non-compliance Unknown – suspected non-compliance
	SP 6.2 Ch 8 p247	<p>“A Compliance Plan is prepared for each project prior to commencement, spelling out how compliance will be achieved with relevant criteria and guidelines and specifying binding arrangements for project-specific technical, social and environmental commitments.”</p> <p>“This plan will set out how the developer will ensure compliance with project related obligations”</p> <p>“Binding arrangements must be in place for social and environmental measures. The agreed terms of resettlement and environmental management conditions need to be incorporated into legally binding and publicly available documents, and into any relevant statutory approvals issued by the State.”</p>	Unknown – suspected non-compliance Unknown – suspected non-compliance Unknown – suspected non-compliance
	SP 6.3 Ch 8 p248	<p>“Costs for establishing compliance mechanisms and related institutional capacity, and their effective application, are built into the project budget.”</p> <p>“Because of the high cost of compliance and the risk of failure, a project’s ability to deliver on the Compliance Plan must be explicitly addressed in the multi-criteria analysis to assess options.”</p>	Unknown – suspected non-compliance
	SP 6.4	“Corrupt practices are avoided through enforcement of legislation, voluntary integrity pacts, debarment and other instruments.”	Unknown
	SP 6.5	“Incentives that reward project proponents for abiding by criteria and guidelines are developed by public and private financial institutions.”	Unknown

3.7 Strategic Priority 7: Sharing Rivers for Peace, Development and Security

3.7.1 Key Message

“Storage and diversion of water on transboundary rivers has been a source of considerable tension between countries and within countries. As specific interventions for diverting water, dams require constructive co-operation. Consequently, the use and management of resources increasingly becomes the subject of agreement between States to promote mutual self-interest for regional co-operation and peaceful collaboration. This leads to a shift in focus from the narrow approach of allocating a finite resource to the sharing of rivers and their associated benefits, in which States are innovative in defining the scope of issues for discussion. External financing agencies support the principles of good faith negotiations between riparian States.”¹⁵¹

3.7.2 WCD Guidelines on Sharing Rivers for Peace, Development and Security

The main objective of these guidelines is to reduce conflict between riparian states in relation to their shared rivers, even where disagreements on other international issues remain unresolved. To this end, the **WCD urges that all states ratify the UN Convention on the Law of the Non-Navigational Uses of International Watercourses** (see Section 4.1). Where there are obstacles to doing this, **following the key principles of “equitable and reasonable utilisation” of the river, “no significant harm” to other riparians and “prior information” to other riparians on planned measures can provide a framework for an agreement for a shared river basin.**

In order to move away from disputes about allocating a finite resource, riparian states should **negotiate on the basis of the benefits derived from the water. Openness and information sharing is a key first step. Dams on shared rivers should not be built where riparian states raise an objection that is upheld by an independent panel**. If a government agency plans or facilitates the construction of a dam on a shared river in contravention of the principle of good faith negotiations between riparians, **external financing bodies withdraw their support**.

3.7.3 Sharing the River Çoruh

Without visiting Georgia and holding further interviews in Turkey, the Mission is unable to make a complete assessment of whether this Strategic Priority has been complied with. However the Mission notes that The Greens Movement of Georgia have stated in correspondence with Friends of the Earth, England, Wales and Northern Ireland that: *“At the beginning of 70s it was leak out that Turkey planned to build the dams cascade on river Chorokhi (Coruh) on Turkish territory. In 1982 General plan was finished, however, turkey refused the request Soviet Government to give them the projects.”¹⁵²* The Georgian Ministry of Energy stated in a letter to the Greens Movement of Georgia that the *“Georgian side was not informed about construction of Yusufeli dam”*.

From this it appears that Turkey did not officially notify the Former Soviet Union, nor has it subsequently notified Georgia. The Mission has not been able to confirm or refute this assertion, but notes that, if it is true, then the project directly violates the WCD's five policy principles governing the planning and implementation of dam projects on shared rivers in the interests of peace, development and security (see table 3.7).

¹⁵¹ World Commission on Dams: Dams and Development A New Framework for Decision Making. London. November 2000. p251

¹⁵² The Greens Movement of Georgia in correspondence with Friends of the Earth, England, Wales and Northern Ireland. 25 January 2002.

The apparent failure of the project promoters to comply with the duty to inform downstream neighbours has particular implications for export credit agency support. As noted, the WCD recommends that external financing bodies withdraw their support for projects where a government agency is planning or facilitating the construction of a dam on a shared river in contravention of the principle of good faith negotiations between riparians. The general nature of the sanctions proposed by the WCD reflects the Commission's concern that, even where external agencies refuse funding for a specific project that contravenes the principles of international customary law on shared rivers, they may nonetheless enable the project to be built by supporting other developments in the same sector (dams on other rivers, for example), thereby freeing up national resources which can then be allocated to the rejected project.¹⁵³

The Mission concurs with the WCD and regrets that OECD Export Credit Agencies are continuing to fund the water sector in Turkey regardless of protests by its riparian neighbours - Georgia in the north and Iraq and Syria in the south - that they have not been properly consulted on the building of dams on shared rivers. Under the WCD guidelines, such continuing disputes should have been sufficient to trigger sectoral sanctions. Since the publication of the WCD report, however, export credits or insurance guarantees have been given for the Ermenek dam by the Austria's ECA (OeKB) and Hermes, the German ECA.¹⁵⁴

3.7.4 Conclusion

The Mission has been unable to investigate this strategic priority in full but is nonetheless concerned about Georgia's assertions that Turkey has not informed them about the planned construction of the Yusufeli Dam not consulted with them about its downstream impacts. The Mission recommends that this is investigated further and that, if found to be true, export credit agencies decline applications for financing and support for this project.

¹⁵³ World Commission on Dams, *Dams and Development: A New Framework for Decision-Making*, Earthscan, London, 2000, p.255-256. The WCD states: "[The] often-inconsistent policies [of external financing agencies] make it more difficult to improve the way transboundary issues are handled. The complexity of the situation is increased by the disparate and fluid nature of financial support. This inconsistency often results in situations where, although an external agency may not be directly financing a dam on a shared watercourse, its support for other projects in the same sector allows national resources to be allocated for the purpose."

¹⁵⁴ The Ermenek dam would be built on the Göksu River near Konya. Austria's export credit agency (OeKB) approved credits worth over \$500 million for the project in March 2002, despite there being no environmental impact assessment, social impact assessment or resettlement action plan for the project. In April 2000, Hermes, the German export credit and insurance guarantee agency, approved a guarantee. The dam would flood at least one community completely. Companies and banks involved include: ABN AMRO, Bayerische Landesbank, Bank Austria Creditanstalt, Alstom, Alpine Mayreder Bau, VA Tech Hydro, Voith Siemens.

Table 3.7 Strategic Priority 7: Sharing Rivers for Peace, Development and Security – summary of requirements and extent of compliance

Key Requirement	Relevant Para	Specific Guidelines and Principles	Extent of Compliance
Negotiated agreements on shared rivers	SP 7.1	“National water policies make specific provision for basin agreements in shared river basins. Agreements are negotiated on the basis of good faith among riparian States. They are based on principles of equitable and reasonable utilisation, no significant harm, prior information and the Commission’s strategic priorities.”	Unknown – suspected non-compliance
Equitable allocation of benefits	SP 7.2	“Riparian States go beyond looking at water as a finite commodity to be divided and embrace an approach that equitably allocates not the water, but the benefits that can be derived from it. Where appropriate, negotiations include benefits outside the river basin and other sectors of mutual interest.”	Unknown – suspected non-compliance
Do not build dam where independent panel upholds riparian’s objection	SP 7.3	“Dams on shared rivers are not built in cases where riparian States raise an objection that is upheld by an independent panel. Intractable disputes between countries are resolved through various means of dispute resolution including, in the last instance, the International Court of Justice.”	Not assessed
WCD principles upheld between political units within countries	SP 7.4	“For the development of projects on rivers shared between political units within countries, the necessary legislative provision is made at national and sub-national levels to embody the Commission’s strategic priorities of ‘gaining public acceptance’, ‘recognising entitlements’ and ‘sustaining rivers and livelihoods’.”	Non-compliance
External financiers only support projects negotiated in good faith	SP 7.5	“Where a government agency plans or facilitates the construction of a dam on a shared river in contravention of the principle of good faith negotiations between riparians, external financing bodies withdraw their support for projects and programmes promoted by that agency.”	Unknown – suspected non-compliance

Section 4

International, European and Turkish Law

Section 4 International, European and Turkish Law

It was not part of the Mission's remit to assess whether the Yusufeli project conforms to the law. There are, however, relevant national and international laws relating to issues such as environmental impact assessment, access to information and to rights. This section reviews some of these applicable international, European and Turkish laws on issues already raised in this report. It is not intended to be a complete analysis or review of the applicable law nor to assess whether these laws have been met. Instead it presents an initial summary of laws relating to issues previously discussed and highlights areas of potential concern.

In the light of the information about these issues presented in previous chapters, the Mission strongly recommends that the legality of the Yusufeli Dam is assessed before the project can go ahead.

4.1 International Law on the Regulation of Shared Rivers

According to general international law, a river that flows through more than one country is known as an international river or watercourse.¹⁵⁵ A major development in international law was the conclusion, in 1997, of a UN Convention on the Law of the Non-Navigational Uses of International Watercourses.¹⁵⁶ The Convention took 27 years to develop adopted by 103 votes in favour to 3 against (Turkey, China and Burundi), with 27 abstentions. To date, 16 states have signed and 12 have become parties.¹⁵⁷

The Convention is intended to provide principles and rules to guide States in negotiating future agreements on specific watercourses. In this sense, it acts as a "framework convention".¹⁵⁸ Part 2 of the Convention sets out general principles:

- The principle of equitable and reasonable utilization and participation (Articles 5¹⁵⁹ and 6¹⁶⁰);
- The obligation not to cause significant harm (Article 7¹⁶¹);
- The general obligation to cooperate and exchange data and information (Articles 8¹⁶² and 9¹⁶³).

¹⁵⁵ Article 2 (a) of the UN Convention on the Law of the Non-Navigational Uses of International Watercourses defines a watercourse as a "system of surface waters and groundwaters constituting by virtue of their physical relationship a unitary whole and normally flowing into a common terminus". Article 2 (b) defines international watercourse as "a watercourse, parts of which are situated in different States".

¹⁵⁶ UN Document A/51/869.

¹⁵⁷ According to Article 36 of the Convention, the Convention will enter into force when 35 states have become parties.

¹⁵⁸ Samson, P. and Charrier, B, "International Freshwater Conflict - Issues and Prevention Strategies", Green Cross International, 1997, available from www.gci.ch/GreenCrossPrograms/waterres/gcwater/study.html

¹⁵⁹ Article 5 states: " 1. Watercourse States shall in their respective territories utilize an international watercourse in an equitable and reasonable manner. In particular, an international watercourse shall be used and developed by watercourse States with a view to attaining optimal and sustainable utilization thereof and benefits therefrom, taking into account the interests of the watercourse States concerned, consistent with adequate protection of the watercourse. 2. Watercourse States shall participate in the use, development and protection of an international watercourse in an equitable and reasonable manner. Such participation includes both the right to utilize the watercourse and the duty to cooperate in the protection and development thereof, as provided in the present Convention. "

¹⁶⁰ Article 6 states: "1. Utilization of an international watercourse in an equitable and reasonable manner within the meaning of article 5 requires taking into account all relevant factors and circumstances, including: (a) Geographic, hydrographic, hydrological, climatic, ecological and other factors of a natural character; (b) The social and economic needs of the watercourse States concerned; (c) The population dependent on the watercourse in each watercourse State; (d) The effects of the use or uses of the watercourses in one watercourse State on other watercourse States; (e) Existing and potential uses of the watercourse; (f) Conservation, protection, development and economy of use of the water resources of the watercourse and the costs of measures taken to that effect; (g) The availability of alternatives, of comparable value, to a particular planned or existing use. 2. In the application of article 5 or paragraph 1 of this article, watercourse States concerned shall, when the need arises, enter into consultations in a spirit of cooperation. 3. The weight to be given to each factor is to be determined by its importance in comparison with that of other relevant factors. In determining what is a reasonable and equitable use, all relevant factors are to be considered together and a conclusion reached on the basis of the whole. "

¹⁶¹ Article 7 states: "1. Watercourse States shall, in utilizing an international watercourse in their territories, take all appropriate measures to prevent the causing of significant harm to other watercourse States. 2. Where significant harm nevertheless is caused to another watercourse State, the States whose use causes such harm shall, in the absence of agreement to such use, take all appropriate measures, having due regard for the provisions of articles 5 and 6, in consultation with the affected State, to eliminate or mitigate such harm and, where appropriate, to discuss the question of compensation. "

¹⁶² Article 8 states: Watercourse States shall cooperate on the basis of sovereign equality, territorial integrity, mutual benefit and good faith in order to attain optimal utilization and adequate protection of an international watercourse. 2. In determining the manner of such cooperation, watercourse States may consider the establishment of joint mechanisms or commissions, as deemed necessary by them, to facilitate cooperation on relevant measures and

Part 3 of the Convention addresses “Planned Measures”, setting out in detail the duties of states where measures planned by one watercourse state may have a significant adverse effect upon other watercourse states, including notification and consultation.

The Convention makes absolutely clear the basis on which shared waters should be shared. In order to determine how waters can be shared in an equitable and reasonable manner, *all* the relevant factors and circumstances must be taken into account, and the Convention sets out in Article 6 the following factors as being relevant:

- (a) Geographic, hydrographic, hydrological, climatic, ecological and other factors of a natural character;
- (b) The social and economic needs of the watercourse States concerned;
- (c) The population dependent on the watercourse in each watercourse state;
- (d) The effects of the use or uses of the watercourses in one watercourse state on other watercourse states;
- (e) Existing and potential uses of the watercourse;
- (f) Conversation, protection, development and economy of use of the water resources of the watercourse and the costs of measures taken to that effect;
- (g) The availability of alternatives, of comparable value, to a particular planned or existing use.

Turkey is not even a signatory to the convention and was one of only three states to vote against its adoption. It might therefore be said that the Convention has no legal purchase on any disputes between the two riparians. However, an authoritative legal opinion prepared for Friends of the Earth (FOE) in April 2000 finds that the approach set out in Part 3 of the Convention reflects a *general* obligation of *all* states under customary international law, regardless of whether or not they are signatories or parties to the Convention, even if the particular details and timetables set out in the Convention may not.

Surveying the applicable law, the opinion concludes that general international law places obligations on riparian states of shared rivers to notify, consult and negotiate. In summary, the main state obligations are as follows:

(a) Duty to notify

The duty to notify downstream states of any projects which could have significant effects on the use of the waters by those states. Notification should take place *before* construction of the dam or other project is authorised, and should include the technical specifications and other information and data to ensure that the affected states are in a position to determine the potential harm to their interests.

(b) Duty to consult

If after notification the downstream states consider that the proposed project does have potential for causing significant harm and informs the upstream state of this position, the upstream state is required to enter into consultations with them. In conducting such consultations the upstream state must examine the concerns of the downstream states, and propose a solution that may give preference to its own scheme, but takes into account in a reasonable manner the interests of the

procedures in the light of experience gained through cooperation in existing joint mechanisms and commissions in various regions.

¹⁶³ Article 9 states: 1. Pursuant to article 8, watercourse States shall on a regular basis exchange readily available data and information on the condition of the watercourse, in particular that of a hydrological, meteorological, hydrogeological and ecological nature and related to the water quality as well as related forecasts. 2. If a watercourse State is requested by another watercourse State to provide data or information that is not readily available, it shall employ its best efforts to comply with the request but may condition its compliance upon payment by the requesting State of the reasonable costs of collecting and, where appropriate, processing such data or information. 3. Watercourse States shall employ their best efforts to collect and, where appropriate, to process data and information in a manner which facilitates its utilization by the other watercourse States to which it is communicated. "

downstream states.

(c) Duty to negotiate

If consultations do not resolve the issue to the satisfaction of all parties, negotiations should be entered into. Such negotiations must be meaningful, and should lead to an equitable solution derived from the applicable law of international watercourses.

The Mission notes that, according to Georgia, no consultation has taken place with Turkey over Yusufeli (see section 3.7). The Mission was not able to investigate this claim but notes that the claimed failure of Turkey to consult would place Turkey in violation of international law on international shared rivers.

4.2 European Law

As a candidate for entry to the European Union (EU), Turkey must progressively harmonise its domestic law so that it conforms with European Community (EC) requirements, and its entry into the EU will depend on its ability to adapt to the norms established by Europe. The Harmonisation Law reforms of 2nd August 2002 are the clearest indicator yet of Turkey's desire to be seen to meet EU accession criteria.¹⁶⁴

This section reviews the relevant European law with respect to the Yusufeli Dam.

4.2.1 Relevant European Community Law

The EC obliges players in major projects to offer certain minimal guarantees in respect to the environment. The Council Directive of 27 June 1985¹⁶⁵ covers plans and projects, including dams¹⁶⁶, which are likely to impact on the environment. It states that:

"consent for public and private projects which are likely to have significant effects on the environment should be granted only after prior assessment of the likely significant environmental effects of these projects has been carried out ... this assessment must be conducted on the basis of the appropriate information supplied by the developer, which may be supplemented by the authorities and by the people who may be concerned by the project in question;"¹⁶⁷

"The environmental impact assessment will identify, describe and assess in an appropriate manner, in the light of each individual case ... the direct and indirect effects of a project on the following factors:

- *human beings, fauna and flora,*
- *soil, water, air, climate and the landscape,*
- *the inter-action between the factors mentioned in the first and second indents, material assets and the cultural heritage.*"¹⁶⁸

According to this Directive, the lead partner is responsible for this evaluation. It must provide the necessary information to the responsible authorities, which may give their own opinion and require a wider consultation among all interested parties.

Similarly, member states must ensure that all received information "shall be offered to public view within a reasonable period of time, in order to give the concerned public the chance to express their opinion before the authorisation is given."

The European Parliament Directive of 27 June 2001 "relating to the evaluation of impacts of certain plans and programmes on the environment"¹⁶⁹ reaffirmed the provisions of the 1985 Directive, making it obligatory to perform a precise evaluation of environmental impacts. Henceforth, this evaluation must include various sorts of consultation in advance of the decision (consultation with the competent

¹⁶⁴ These reforms ostensibly eliminate the death penalty, and permit criticism of the state, "without the intention to insult", and the broadcasting and teaching of minority languages.

¹⁶⁵ "Council Directive of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment" Directive 85/337/EEC. Official Journal NO. L 175 , 05/07/1985 P. 0040 – 0048.

Available at <http://europa.eu.int/comm/environment/ea/full-legal-text/85337.htm>

¹⁶⁶ Annex II, 10 (f) "Dams and other installations designed to hold water or store it on a long-term basis."

¹⁶⁷ "Council Directive of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment" Directive 85/337/EEC. Official Journal NO. L 175 , 05/07/1985 P. 0040 – 0048.

Available at <http://europa.eu.int/comm/environment/ea/full-legal-text/85337.htm>

¹⁶⁸ "Council Directive of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment" Directive 85/337/EEC. Official Journal NO. L 175 , 05/07/1985 P. 0040 – 0048. Article 3

Available at <http://europa.eu.int/comm/environment/ea/full-legal-text/85337.htm>

¹⁶⁹ Directive 2001/42/CE of the European Parliament and of the Council of 27 June 2001, relating to the evaluation of impacts of certain plans and programmes concerning the environment. No. L197, 21/7/02. Available at http://europa.eu.int/comm/environment/ea/full-legal-text/0142_en.pdf

authorities, the public, and neighbouring countries if applicable) as well as notification of these parties once the decision has been made.

The 2001 Directive requires the following elements to be included in the evaluation:

- Environmental characteristics of the zones affected by the project.¹⁷⁰
- Environmental problems linked to the project.
- Objectives concerning environmental protection.
- Significant likely effects on the environment, biodiversity, population, human health, animal and plant life, soil, water, air, climatic factors, material well-being, cultural, architectural and archaeological heritage, the countryside, and the interaction among these various factors.
- Measures intended to avoid, reduce and compensate for any significant negative impacts of the project.
- Summary of the reasons why other possible solutions were not chosen.
- Description of the way in which the evaluation was undertaken.
- Description of projected measures to follow.

In January 2002, the European Council adopted a common position on the adoption by the Parliament and Council of a Directive “concerning public access to information in relation to the environment, abrogating directive 90/313/CEE of the Council.”¹⁷¹ This Directive, which is to be incorporated before June 2004 by member states, aims to guarantee that every person should have the right of access to environmental information held by public authorities or on their recognition, without requiring that any such person should be obliged to declare an interest. This guaranteed right of access particularly concerns information relating to plans and programmes liable to have an impact on the environment, as defined by the previously cited directive of 27th June 2001.

The Mission reiterates its previous concerns that the EIAR is likely to be incomplete and inadequate. It also notes that adequate consultation has not taken place with the affected community nor with riparian state Georgia. If these concerns are correct then these omissions would put Turkey in breach of European law, a situation far from ideal for a country hoping to attain entry into the EU.

This is of particular concern given Turkey stated its willingness to promote respect for the environment within the Community framework. In August 2001, Turkey became a member of the European Environmental Agency, with the aim of expediting its entry into the European Union through an accrued harmonising of its environmental law with Community norms.¹⁷²

The European Environmental Agency’s mission is to collect as much information as possible on statutes and environmental practices in the member states or in accession countries, in order to facilitate the work of the Commission, which is attempting to harmonise practices in this area. Membership of this Agency

¹⁷⁰ The characteristics of impacts and of the vulnerable area are defined as: probability, duration, frequency and reversible nature of the impacts; the cumulative nature of the impacts; the cross-border character of the impacts; the risks to human health or the environment; the magnitude and spatial or geographical extent of the impacts; the value and vulnerability of the vulnerable area, in terms of natural characteristics or particular cultural heritage, of violation of environmental quality standards or of delimited values, or of intensive exploitation of soils; the impacts on the areas or countryside under a statute of protection recognised at the national, Community or international level.

¹⁷¹ Common Position (Council of Europe) no. 24/2002, adopted January 28, 2002

¹⁷² Journal Officiel, (the official journal) n° L 213 du 07/08/2001 pages 0112-0119 "accord entre la Communauté européenne et la république de Turquie concernant la participation de la république de Turquie à l'Agence européenne pour l'environnement et au réseau européen d'information et d'observations pour l'environnement" (european environment agency: 45 3336 7100)

thus demonstrates willingness to follow an active environmental policy. Despite this, Turkey has not made it obligatory to undertake an impact study of projects such as the Yusufeli dam, which nevertheless has important potential impacts on the environment. **The Mission believes that such a disparity between actions and promises is cause for concern, and must give rise to scrutiny by member states of the EU.**

4.2.2 Responsibilities of France

France bears part of the responsibility for the Yusufeli project through the actions of its ECA, COFACE. As previously discussed, the 2001 European Directive on the evaluation of impacts¹⁷³ requires the mandatory undertaking of an independent impact study on the consequences of dam projects and requires transparency in carrying out this inquiry. **The Mission notes that these requirements have not been met.**

COFACE has refused French NGOs access to the EIAR. The French Commission for Access to Administrative Documents (CADA) recently¹⁷⁴ justified the non-communication of environmental documents retained by COFACE, on the grounds of protection of industrial and commercial secrecy. However, the law¹⁷⁵ allows administrative authorities and public establishments to pass on such a document to all interested parties, even if it violates industrial and commercial secrecy. An environmental defence association undoubtedly has such an interest.

In addition to this, the European Council's adopted common position on the adoption by the Parliament and Council of a Directive "concerning public access to information relating to the environment"¹⁷⁶, states that environmental documents must be communicated to the public, even to those without direct involvement. "*It is necessary to guarantee that every person physically or morally of the EC should have the right of access to environmental information held by public authorities or on their recognisance, without requiring that any such person should be obliged to declare an interest.*" Furthermore, this Directive, once adopted by the Council and the Parliament, will abrogate the directive invoked by CADA.

The Mission recommends that COFACE releases the EIAR and resettlement Plan to the public as soon as possible.

¹⁷³ Directive 2001/42/CE of the European Parliament and of the Council of 27 June 2001, relating to the evaluation of impacts of certain plans and programmes concerning the environment. No. L197, 21/7/02. Available at http://europa.eu.int/comm/environment/eia/full-legal-text/0142_en.pdf

¹⁷⁴ Judgment of June 22 2000, ref. 20002392

¹⁷⁵ French law number 78-753 , 17/07/1978, article 6 (of 17 July 1978)

¹⁷⁶ Common Position (Council of Europe) no. 24/2002, adopted January 28, 2002

4.3 Turkish Law

It is beyond the remit of this Mission to assess the Yusufeli project in relation to Turkish law, or to assess the adequacies or otherwise of national laws to ensure a fair and just outcome in Yusufeli. However, the Mission did find some worrying evidence of potential problems with the project in relation to law in Turkey and these are outlined below.

4.3.1 An Appeal in the Turkish Courts?

The Mission learned that a local association¹⁷⁷ has launched an appeal against the Turkish government. The arguments and concerns put forward by the association can be summarised under three main headings:

(a) Impact Assessment

Absence of an impact study, although the flood area includes a rich and varied ecology and an important cultural heritage.

(b) Resettlement and Infrastructure Rebuilding

Problems of rehabilitation of the region including the lack of a coherent publicly accessible resettlement plan; the failure to include highway reconstruction costs as part of the project, with potentially disastrous effects on forty villages which would be totally isolated; the impossibility of rebuilding the important city of Yusufeli (administrative, industrial, commercial and educational heart of the region); and the destruction of a tourist area (eco-tourism, rafting in the gorges).

(c) Agriculture

Specific agricultural problems: the valley basins (ie the areas which would be flooded) now allow for diverse crops (including olives, rice, cherries and honey). It would be impossible to grow these crops above the level of the dam, because land at higher altitudes is much less fertile than in the valleys, and the mountain topography makes it very difficult to cultivate.

The Turkish Administrative Court has judged the association's appeal admissible. The association intends to pursue its case through the courts, exhausting all domestic avenues of appeal, before lodging an appeal before the European Court of Human Rights if necessary.

The Mission notes with concern that the project is still going ahead with the threat of a court case looming and recommends that the legal implications investigated further before the project can proceed. The Mission also recommends that the banks which are considering backing the project take account of possible legal challenges in their due diligence for the project.

4.3.1 Expropriation and Land Rights

Turkish law has two main requirements: that full registration of land rights must have taken place before the expropriation procedure began, and that there must be a reasonable balance between public and private interests.

As previously discussed, registration of land rights is still incomplete. The Mission also has several concerns about payment of compensation, outlined below.

In Turkish law women cannot own property in land and dwellings. Thus any compensation will only be paid to men as the property holders.

Compensation varies according to whether the land is agricultural and whether it is abandoned or uncultivated. The burden of proof of the agricultural nature of the land and its use, as well as the proof of ownership of the land, rest with its user, which heightens the problems of obtaining a quick and fair recompense.

¹⁷⁷ The "Yusufeli İlçesini Guzellestirme Yatma ve kultur Varlıklarını Koruma Denergi".

There are 95 judgments against Turkey by the European Court of Human Rights on the basis of violation of private property. This striking tally gives rise to doubts about the just, equitable and speedy nature of the compensation.

The Mission recommends that the dam does not go ahead until land registration is complete and all compensation has been fairly negotiated and agreed with affected stakeholders.

Appendices

Please note, we do not have electronic copies of Appendix 1 or of the original Turkish documents in Appendices 3 and 4. For hard copies of these, please contact Friends of the Earth.

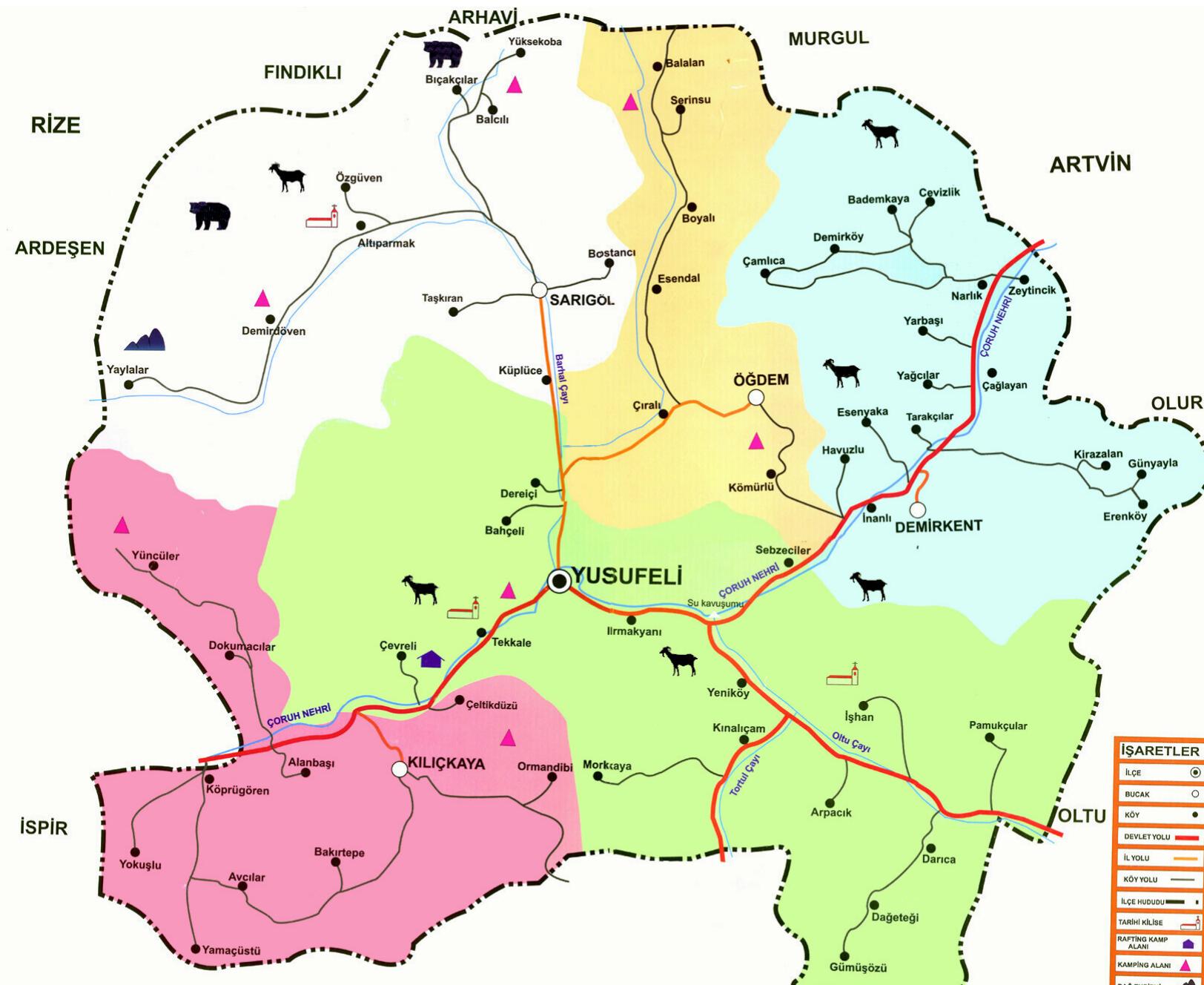
Appendix 1

**Legal Opinion as to the
obligation under
international law for
Turkey to consult with
downstream states in
relation to the proposed
construction of a hydro-
power dam on the Tigris
River**

Appendix 2

Map of the Province of Yusufeli

Map of the Province of Yusufeli



KEY

(translation of the key shown left)

İŞARETLER
İLÇE
BUCAK
KÖY
DEVLET YOLU
İLYOLU
KÖYYOLU
İLÇE HÜDUDU
TARİHİ KİLİSE
RAFTING KAMP ALANI
KAMPİNG ALANI
DAĞ TURİZMİ
NEHİR,ÇAY
AV TURİZMİ

- District Capital
- Town
- Village
- Main road
- Minor road
- Local road
- District border
- Historic church
- Rafting campsite
- Camping site
- Mountain tourism
- River/stream
- Hunting tourism

Appendix 3

**Sahara Engineering's
Report:
“Conclusion Report on
the Yusufeli Dam
Resettlement Plan”**

DSI

T.R.

**GENERAL DIRECTORATE OF STATE
HYDRAULIC WORKS**

**DEPARTMENT OF REAL ESTATE AND
EXPROPRIATION**

**CONCLUSION REPORT ON
THE YUSUFELI DAM RESETTLEMENT
PLAN**

SAHARA ENGINEERING LTD.

SUMMARY

It is aimed to democratically determine the resettlement preferences of the people, whose house and lands will be totally or partially affected by the Yusufeli Dam, and to prevent people suffering by finding out the economical development dynamics for the people.

The plan covers Yusufeli Central Town and 17 villages that are totally or partly affected by the Yusufeli Dam.

Socio-economic research and by using the total counting method “Household questionnaires” were carried out and primary and essential information were directly collected from public institutions and organisations, and NGO’s.

Planning accommodates:

- a) The social dimension in order to determine the social structure and socio-economic structure;
- b) The economical dimension in order to develop employment and rehabilitation possibilities;
- c) Location dimension in order to combine the preferences for location and settlement.

Also, suggestions were made to protect the cultural heritage by evaluating the historical environment.

Only Tekkale Village Castle would be affected in this region that is rich in historical and cultural heritage.

The plan was carried out and executed by Sahara Engineering Ltd. on behalf of DSI (General Directorate of State Hydraulic Works).

Research Field: 3 villages and 23 districts of these villages which will be totally affected by the dam and 14 village districts of these villages, which will be partially affected. Among the 8 districts of Yusufeli Central Town, 7 of them will be totally, one of them will be partially affected.

The questioners were carried out in 2522 house in the research field.

Data collection was carried out through following instruments:

- Questionnaire for the House Holders in the Villages,
- Questionnaire for the House Holders in the Town,
- Questionnaire for the heads of the Villages and for the heads of Districts in Town.
- Core Group Discussion Forms.
- Data obtained from public institutions.

The following works in the works scheme were carried out:

- An Enlightenment and Advice Centre was founded in Yusufeli.
- An enlightenment and acquaintance meeting was organised in the centre.
- Questionnaires for the households in villages and in the town, and for the heads of villages and districts were prepared and were approved by the government office.
- The approved questionnaires were carried out among 2522 families and 65 heads of villages and of districts.
- “Core Group Discussions” were held with 22 Core Groups.
- Working groups meetings were held.

- The 1/25,000 scale section of maps and the lands maps, the fosters maps, the productivity maps, the cadastral maps, the geological maps and the hydrological maps were obtained, converted into binary notation and transferred to the computer based system.
 - The land registry records of the Central Town, the cadastral plan of which is totally established, and of Yenikoy and Kinalicam Villages, the cadastral plans of which are partially established, were obtained and were transferred to the computer based system.
 - In order to make the current workforce effective suggestions for training were made.
 - Employment creating instance activities were planned.
 - Economic investment options were determined.
 - The fixed assets that would be flooded were determined by using the computer based system.
 - The proprietorship situations of places were determined, where the cadastral and land registry work were carried out.
 - A co-ordination meeting was organised in Yusufeli on 31.10.2000.
 - Land usage situation was determined.
 - The Treasury's lands, which were registered in the National Property Directorate's records, were determined.
 - The implemented questionnaires were analysed.
 - Agricultural and economical structures were determined.
 - Agricultural and economical eventualities were evaluated.
 - Natural, historical and touristic eventualities were determined and evaluated.
- And, in the light of all the information, this report was prepared.
- As the changes in population is observed, it is understood that population is declining. The population of Yusufeli Town and the villages under its administration were 37063 in 1990, 30154 in 1997 and 28964 in 2000.
- According to the outcomes of the field research, the common demands of the people are as follows:
- Appraisal and expropriation should be made by taking the region's characteristics into account.
 - Compensation for expropriation should be paid in advance.
 - Life standards should be at least equal to the current standards after the construction of the dam.
 - Priorities in employment opportunities at the dam construction should be given to Yusufeli people.
 - Due to the characteristics of the nature, contiguous areas must be expropriated.
 - All services, primarily road, which will be necessitated due to the dam construction, should be provided within the same period.
 - A certain amount of share in the revenue of the dam should be given to local people.
 - In order to increase employment, measures can be taken and the investments should be made.
 - The dam construction plan should be revealed to people in detail.

- Determination of the location for resettlement should be carried out democratically.
- In order to protect the identity of Yusufeli, urban and rural settlement should be realised collectively.
- Infrastructure should be provided for the hamlets and the high plateau that will not be flooded.
- The identities of Artvin and Yusufeli should be protected in any circumstance.
- Change in administrative borders should not be required in relation to the dam construction.
- In exchange of the sacrifices that will be made, cheap electric should be provided.
- The cadastral work should be completed immediately.

According to the outcomes of the research, the preferences in determining the resettlement locations were as follows:

Preferences of the villagers:

1. Kilickaya, 2. Yansiticilar, 3. Ishan.

Preferences of the town people:

1. Yansiticilar, 2. Ogdem, 3. Kilickaya

According to the questionnaires of the heads of the villages and districts:

1. Yansiticilar, 2. Ishan, 3. Sarigol-Cilat.

The most productive lands in the region will be flooded. Therefore, greenhouse productions, rice agriculture, vegetable and fruit production will diminish considerably, which are the most important income sources.

As well as considering the social and economical rehabilitation, which is necessary for the affected people, due to scarcity in sources in economical terms, it is thought that "Coruh Project combined Planing" rationalises the economic enterprises especially in the new era.

As far as the selection of the resettlement location is concerned, our Field Group considered that Ishan and Kilickaya are adequate.

In conclusion, people's demands and the alternative locations as an outcome of the technical research come to light.

At this stage, selecting the location for the new central town in a democratic way can meet with the expectations in the region and can dispose the tension.

According to the outcome of the implemented research, 398 urban and 93 rural resettlement demands were put forward. It is calculated that \$108 million for a 90 km road, \$61,658,395 for resettlement and \$234,244,890 for expropriation, excluding the cost of road in total \$295, 903,285 is needed.

TRANSLATOR'S NOTE: This document contains a) Summary and b) 9 pages of the 285 (or more) page report (in Turkish) as far as seen from its index.

Summary has been translated as a whole, and the translation of the titles and the subtitles in the above mentioned 9 pages are attached to it.

TITLES AND SUBTITLES IN THE SENT 9 PAGES OF THE REPORT

PREFACE

I- GENERAL SITUATION

- 1.1. Description of the Plan
- 1.2. Aim of the Plan
- 1.3. Coverage of the Plan
- 1.4. Work Method
- 1.5. Executed Works
- 1.6. Targets of the Plan.
- 1.7. Targeted Groups by the Plan
- 1.8. Expropriation
- 1.9. Resettlement

II. YUSUFELI DAM AND YUSUFELI TOWN

- 2.1. Yusufeli Dam
- 2.2. Yusufeli Town (It **only** contains one completed and one uncompleted paragraphs.

Appendix 4

**“Special Technical
Contract for the
Preparation Work of the
Yusufeli Dam
Resettlement Plan”**

SPECIAL TECHNICAL CONTRACT FOR THE PREPARATION WORK OF THE YUSUFELI DAM RESETTLEMENT PLAN

A: WORK DESCRIPTION

A-1. Work Title: "The Preparation of the Yusufeli Dam Resettlement Plan"

A-2. Work Field: They are the inhabited units in the Yusufeli Dam site and affected by the dam and are in Yusufeli Town administration area in the Province of Artvin. These inhabited units are Arpacik Village, Down District, Kinalicam Village, Baglar District, Gorgulu District, Yardibi District, Irmakyani Village, Kelikiskim District, Dereici Village, Demircubuk District, Kabandibi District, Ikiz Kavak District, Durdere District, Uysallar District, Tekkale Village, Hazukket District, Tasbasi District, Cal District, Celtikduzu Village, Gocek District, Ballidut District, Cevreli Village, Meydan District, Kirazli District, Cimler District, Cemketen District, Asagi Cala District, Aslanbasi Village, Mures District, Kis Kim Vineyard in Yusufeli Town administration in the province of Artvin; **all the other villages that might be affected by the project and also the areas that will be chosen by the government office.**

The reservoir area of the Yusufeli Dam is 3,500 hectares and the population in the affected inhabited units is estimated as 12,700.

A-3. Work Contents: To plan the resettlement for the population who are affected by the Yusufeli dam. To carry out a research on the socio-economic situation of the people affected by dam reservoir. To look for the state owned lands that create possibility of providing settlement for the people, if possible, in their region or in the nearest location by taking into consideration the region's topographical characteristics and the affected people's requests, which will be determined through questionnaires, meetings and core group discussions. To produce the required map and the plans for settlement; **to prepare "RESETTLEMENT PLAN" on the basis of the above mentioned conditions; the Resettlement Plan should be in compliance with our country's legislation and international norms. The contents and the format of the Plan will be determined through the consent of the government office.**

A.3.1. In order to determine the socio-economic situation and the preferences of the people, who lost or will lose wholly or partially their lands, houses or villages, and to prepare the resettlement plan accordingly, Contractor will carry out the following activities:

A.3.1.1. Enlightenment Meetings: For the purpose of enlightening the people who will be affected by the dam reservoir, meetings will be organised by getting consent of the government office on dates, places and formations; Contractor should prepare information, documents and tools; should inform the participants about meeting and should provide travel, accommodation and other expenses for the participants.

A.3.1.2. Questionnaires for villages: Through the heads of the villages and the districts, Contractor should prepare the information, on which the resettlement would be based, and should carry out village questionnaires, which is subject to prior control and approval of the government office.

A.3.1.3. Questionnaires for households: By applying a statistical method, which should be chosen by the government office, Contractor should carry out questionnaires among the affected people by interviewing the heads of households. Questionnaires forms are subject to the government office's approval and the questionnaires should be evaluated by means of computerised analysing. The report that contains the obtained statistical information should be submitted to the government office for approval; to make alteration on them or to multiply them when considered necessary.

A.3.1.4. Core Group Discussions: Contractor should arrange discussions with the core groups which are affected by the project and are also approved by the government.

During these discussions notes and minutes should be taken. The outcomes of the discussions should be computerised, analysed and merged with the results of the heads of villages questionnaires and the households questionnaires. The places, numbers and the conducting staff's characteristics of the core group discussions are also subject to the government office's approval.

A.3.2. Work Group Meetings: [This type of meetings will be organised] with the local administrators, the heads of villages, the local people, the local NGO's and the press in order to inform them about the executed works that are related to the project and to get their opinion [on the issues]. The number and the places of the meetings will be decided by the government office. Contractor will invite the government office and the experts to the meeting under the condition of obtaining the government office's approval, and will provide travel, accommodation and other expenses for them.

The expenses made for the people who are invited without government office's approval will not be paid.

A.3.2.1. The (following) initial works of the work group meetings will be carried out by the contractor:

- Setting the agenda,
- Naming and inviting the participants,
- Preparing brochures, posters, flyers and similar introductory documents,
- Preparing slide projector, video and the similar demonstration tools,
- Hosting the invited people throughout the meeting period,
- Hiring and preparing the meeting place.

A.3.2.2. Evaluation of the work group meetings: The contractor should submit a report that contains the outcomes of the work group meetings and its suggestions with the cassettes, films and similar documents to the government office and should carry out the necessary work for multiplying and systematising them.

A.4. Founding an Enlightenment and Advice Centre: It is a task to set up a bureau as an advice centre where the essential technical staff, a secretary and the equipment such as telephone, fax, computer are available in order to provide information for the people who are affected by the dam reservoir and to enable the government office to establish communication with the region. The foundation and the management expenditures will be paid by the contractor.

A.5. Training Activities: The contractor will develop suggestions on training courses the subjects of which will be selected by the contractor will plan the exemplifying activities by taking the outcomes of the social researches on the affected population, the conditions of the surrounding and the local people's wishes into account; will prepare projects that outlines the economical investment alternatives ; and will submit them to the government office.

B: FIELD DIMENSION:

B.1: Converting map information into binary notation and transferring them to the computer based system:

Taking the cadastral maps (classic, binary and photogrammetric), which cover the area on which cadastral work was carried out before, from the Directory of Land Registry and Cadastre, Conductor should convert the information into binary notation, should merge the digits and convert them into the country's co-ordinate system and transfer them to a map program which should be chosen by the government office.

B.2: If exists, obtaining land registry records and correlating them with the results reached from converting the map information into binary notation.

By obtaining the information about all the plots of land and the fixed assets from the related land registry offices, the (mentioned) information will be correlated with the digital information which are obtained from the earlier conversion process and will be transferred to computer based system.

B.3: Fitting the dam reservoir into the sections of cadastral maps; determining the fixed assets that are to be flooded, proprietorship situation, public lands, pasture and commonly used lands of village; and transferring these information into computer based system.

[Translator's Note: The following paragraph describes how this work should be carried out technically]

B.4: Searching for Resettlement Locations: The alternative rural and urban resettlement locations will be determined 1) by carrying out researches and analysis on the units, which are affected by the dam, and also on the towns which administratively related to these units and 2) by taking the affected people's wishes and the impacts of the dam on the existing structure into account. For this purpose:

The alternative resettlement locations should be determined; information of these locations should be transferred to computer based system and showed as the sections of cadastral map; the information about the structure of the nature, the land usage, the infrastructure (existing and planned) should be transferred to computer based system.

B.4.1: Criteria on which the researches and the analysis should be based:

The resettlement plan should be prepared by taking the structure of the environment, the land usage and settlement centres, infrastructure situation, proprietorship (especially the state owned lands) aspects into account.

B.4.2: Transferring information about the determined resettlement units to computer based system and showing them on the sections of the cadastral map:

[Translator's Note: The following paragraph describes how this work should be carried out]

B4.3: Transferring the information about the structure of the environment, the land usage, the infrastructure (existing or planned) to computer based system:

As far as the plots of lands for resettlement are concerned:

The structure of the environment: Topography (in terms of settlement and agricultural adequacy), hydrological structure, geological structure, fault lines, earthquake zones, land surveys, natural vegetation;

Land usage: Settlement locations and their names, administration borders (province, town and village), militarised and prohibited zones, conservation of historical and environmental areas, the construction prohibited areas;

Infrastructure (exist or planned): Energy transfer lines, construction borders, water supply canals, roads, characteristics (of the infrastructure), grades (of the infrastructure), intensity (of the infrastructure), railways, oil pipelines, telecommunication lines, water pipelines and sewage network;

should be determined and the information should be transferred to computer based system.

These information will be published and multiplied upon the government office's requirement.

C. DETERMINING THE RESETTLEMENT LOCATIONS:

C.1: Rural development and the resettlement locations

Contractor should create the required locations for resettlement on the basis of the results of the questionnaires that will be carried out among the people affected by the dam and should create the resettlement locations that are determined as adequate. Also, the works outlined in article 4.2 and 4.3 should be carried out for these locations.

D: REHABILITATION:

D.1. Employment:

Researches on employment, which could make the affected people as productive as at least they used to be and increase their income level, should be carried out. In order to provide the opportunity for realising the economical and social rehabilitation researches should be carried out and the suggestions should be made accordingly. Schemes that provide additional income especially for women should be suggested. Special schemes for young and elderly population should be suggested.

D.2. AGRICULTURAL AND ECONOMICAL DEVELOPMENT PACKAGE IN THE RESETTLEMENT AREAS:

By using the socio-economic questionnaires carried out among the affected people, the agricultural and economical investment options, technical needs and their costs should be evaluated and included in the plan.

D.3. THE OTHER ALTERNATIVES THAT GENERATE INCOME

As the region's natural and touristic characteristics provide, the income opportunities through eco-tourism, hunting, fishing, handcraft and the other means, which would be determined by researches, should be determined for the resettled families and these should be suggested in the report.

ADVICE, FOLLOW UP AND ANALYSIS

At the end of the plan, suggestions of a structure of the unit that provides advice for the families, who would be subject to resettlement and suggestions of a follow up system and a structure for the resettlement, which covers the process of planning, implementing and evaluating, should be made; a budget, economical and financial analysis should be provided. The government office's permission and request of other works relate to these issues should be sought.

F: WORK SCHEME

After being notified of verification of the contract, the contractor should submit a work scheme that contains work stages and expenditure instalments to the government office for approval within 10 days.

Contractor should inform the government office about the changes at the latest 3 days later following the changes in the work scheme in relation to work stages and development; and should report it by stating the reasons. The government office could make changes in it after studying the reasons.

G: PREPARATION AND MULTIPLICATION OF PROJECT FINAL REPORTS

Contractor should prepare and submit a report and its attachments in every stage of the work in accordance with the norm and the criteria that are determined by the government office. (Contractor) should make the necessary preparation and multiplication work according to the government office's requirement and should implement the applicable resettlement plan. Also, (contractor) should not give information and documents, and should not make revelation to third parties without obtaining the government office's permission. The report should be prepared in Turkish and in English.

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