Applying the Social and Environmental Screening Procedure to the ALT Project

October 2015
1. What is the Social and Environmental Screening Procedure – SESP (and why apply it to the ALT)?

2. Implications for the ALT Project
Social and Environmental Screening Procedure (SESP)
• A important tool that helps UNDP ensure that its projects are effective, and consistent with the UN Charter.

• Applies to UNDP projects over US$500,000 – ALT Project: US$ 10,800,000
Objectives

- Identify *opportunities* to strengthen social and environmental sustainability

- Identify potential social and environmental *risks*, their significance, and measures to respond to significant risks
How do we identify social and environmental risks?

We consider UNDP’s Social and Environmental Standards (SES)
Social and Environmental Standards

Overarching Policy and Principles

1. Human Rights
2. Gender Equality
3. Environmental Sustainability

Project-Level Standards

1. Biodiversity Conservation
2. Climate Change
3. Community Health
4. Cultural Heritage
5. Displacement
6. Indigenous Peoples
7. Pollution Prevention
SESP: Steps

• Gather Information

• Apply Screening

• Develop and Implement Responses to Risks
Step 1. Gather Info

Examples:

• Guyana’s UN Development Assistance Framework

• Guyana’s Legal and Regulatory Framework

• Input from Stakeholder Engagement, e.g., minutes of meetings with Indigenous Communities and others

• Reports of UN bodies, e.g., for ALT Project: CERD Committee, Inter-American Commission Human Rights
Project Document Commitment

“the GoG and UNDP have agreed to implement the Project Document in accordance with the UNDP safeguards and standards as stated in Annex 2, cognizant of the regulatory and legal provisions governing Amerindian rights, land titling and demarcation in Guyana.’

Relevant Annex 2 standards include ‘Compliance with the United Nations Declaration on the Rights of Indigenous Peoples and other relevant UN human rights instruments.’
Step 2. Conduct Screening
Screening: Two Parts

Part A – Identifying Opportunities to Advance Overarching Principles: Human Rights, Gender Equality, Environmental Sustainability

Part B – Identifying and Managing Social and Environmental Risks

- What are the potential social and environmental risks?
- What is the level of significance of the identified risks?
- What measures are necessary to address the risks?
ALT Project: Key Risk Areas

- Cultural Heritage
- Displacement
- Indigenous Peoples
Potential Risks Related to ALT Project

**Standard 4: Cultural Heritage**
- Potential impacts to places/objects of historical, cultural, artistic, traditional or religious value
- Impact to intangible forms of culture (e.g. knowledge, innovations, practices)

**Standard 5: Displacement and Resettlement**
- Physical displacement
- Economic displacement

**Standard 6: Indigenous Peoples**
- Impacts to indigenous rights, e.g., property rights, culture, livelihoods, etc.
- Need to recognize and foster full respect for human rights of indigenous peoples under national and international law
- Need to ensure full effective participation of indigenous peoples and FPIC
Two Key Issues – ‘High Risk’

- Scope of Indigenous Territories to be Titled
- Status of Traditional Rights
  (rights to lands traditionally occupied and used)
UN Committee on the Elimination of Racial Discrimination (CERD)

- Expressed concerns about process of demarcating and delineating
- Recommended more robust participation of indigenous communities in process
- Indicated need for adequate procedures and criteria for demarcation, taking into account customary law
- Recognized rights of communities to own, develop, and control lands traditionally occupied
- Recognized right to use lands to which they’ve had traditional access
UN Committee (CERD), Inter-American Commission on Human Rights:

- Traditional rights must be respected and protected even prior to issuance of State Title
How to Respect and Protect?

UN Bodies:

- Activities on all traditional lands require FPIC

- Communities without State-issued title ‘should be vested with the same powers Village Councils have to control traditional lands and resources’ (CERD)

- Taking of property only when ‘strictly necessary,’ consultation with view to securing informed consent, adequate compensation, and effective remedy to challenge taking
Step 3. Identify and Implement Measures to Respond to Risks
Some Issues to be Addressed

• Procedures and criteria for demarcation and delineation

• Consultation with, and participation of, indigenous communities in process

• Protection of traditional rights – for communities with and without title, e.g., FPIC

• Recognition of rights of communities to own, develop, and control lands traditionally occupied

• Fair process to resolve land claims

• Ensure that the manner in which consent is provided for demarcation and titling conforms to customary law
Potential Measures to Address Risk Identified

In line with ALT Project Outputs:
1. Land titles issued and demarcation process completed for all Amerindian villages that submit requests
2. Increased use of existing and alternative mechanisms to resolve land titling disputes
3. Communication strategy, including a handbook on process of titling and demarcation

Track 1: Clarify shorter term solutions through a set of guidelines on:
- Stakeholder engagement at all levels, including components of a communication strategy
- Dispute Resolution Process, including draft procedures
- Process to demarcate, delimit and title, including recommendations to improve investigation guidelines

Track 2: Explore longer term solutions through other measures, including legal
- Indigenous Peoples Land Commission
- Legal reform of Amerindian Act
- Regulation
- Temporary moratorium on concession activities on Amerindian lands
Track 1
Clarify shorter term solutions through a set of guidelines

Stakeholder engagement at all levels, including components of a communication strategy (in line with output 3 of ALT)

- Representative platforms
- Decision making processes
- Schedule of project board meetings
- FPIC for communities
- Information sharing and dissemination (horizontal and vertical), languages and formats to improve community understanding of process and rights
- Roles and responsibilities
Track 1
Clarify shorter term solutions through a set of guidelines

Dispute Resolution Process, including draft procedures
(in line with Output 2 of ALT)

- Identification and assessment of what is currently in place to resolve conflict (within communities; between communities; between communities and mining sector; others)

- Proposed measures to strengthen existing mechanisms as well as create new ones

- Roles and responsibilities at all levels: Community/village; Min of Indigenous Peoples Affairs; Min of Agriculture, Min of Forestry, GGMC
Track 1
Clarify shorter term solutions through a set of guidelines

Process to demarcate, delimit and title, including recommendations to improve investigation guidelines
(in line with Output 1 and 3 of ALT)

- process for joint mapping
- means for ensuring accurate base information
- process to ensuring final agreement among all relevant parties on boundaries
- procedures on sequencing of demarcation and extension
- criteria to determine whether proposals for extensions / titles are accepted/rejected
- process for sharing of maps and title/extension claims across ministries, sector agencies, communities
- proposals for improved guidelines for investigations
Track 1
Clarify shorter term solutions through a set of guidelines

Cross-cutting for all three guidelines

- Capacity building needs at all levels to implement agreed guidelines, including, e.g.: (in line with Output 2 of the ALT)
  - Government, NTC, and others’ capacities to understand and exercise responsibility to protect rights of IPs and related implications
  - Indigenous Peoples’ organizational capacity to disseminate information to local communities and ensure informed engagement

- Criteria to ensure project is being implemented in line with agreed guidelines and standards
Track 1

Clarify shorter term solutions through a set of guidelines

Proposed Process (Jointly MoIPA/UNDP-led; initiated in Nov/Dec 2015 and completed by Q1 2016)

1. Identify inclusive and representative working group participants to participate in training and completion of new guidelines (based on agreed criteria)

2. 2-3 day consultation on key issues and next steps related to the new guidelines (including dispute resolution, human rights and international law, implications of the ALT, titling process etc.)

3. Directly following training above, 2 week consultation with communities in the hinterland to ‘ground-truth’ the content of the new guidelines

4. Draft guidelines developed and shared with working group for comments based on above consultation (within 2-3 weeks)

5. Feedback and validation meeting on the new guidelines
Track 2
Explore longer term solutions through other measures, including legal

To address problematic provisions in and issues related to the Amerindian Act, including:
  • Lack of protection of traditional rights for communities with and without title
  • Unrealistic timeline set for appeals – request for change from 30 to 90 days
  • Need for more robust process for making determinations of public interest

MoIPA will consider the following options
  • Indigenous Peoples Land Commission
  • Legal reform of Amerindian Act
  • Regulation
  • Temporary moratorium on concession activities on Amerindian lands

Proposed Process (MoIPA-led; to be initiated immediately)
  • MoIPA scopes feasibility of options
  • MoIPA builds support for options among other key ministries
  • Legal consultant hired via UNDP to support MIPA on legal review, analysis and draft text, as needed related to the options above, ensuring consistency with international law