



Green Alternative mwvane alternativa

BTC Co started construction of BTC pipeline at 23 May 2003. Document reviews the compliance of project documentation and activities already implemented by BTC Co with conditions of Environmental permit¹, and obligations undertaken in ESIA² by project sponsor.

Land Compensation – Infringement of unregistered land users interests continue

The communities along the pipeline still have not been compensated for the meadows and pastures, despite the fact BTC Co already started construction activities on the territories of some abovementioned meadows and pastures. It should be an underlined, that until now it is not known for people how the compensation would work out in whole Georgia. This increases the tension within the communities and several strikes have been already arranged along the pipeline route.

Legal Background

The Host Government Agreement granted to MEP participants the *"exclusive and unrestricted"* right regarding state land. At the same time the MEP participants are obliged to pay compensation only for the state land that is used for agricultural purposes within the Construction Corridor, or Permanent Land that could not be used for the relevant purposes because it was *"disabled as a result of project activities"*. It should be noted that under both the same agreement and Georgian law, cultivation costs of compensatory land must be paid to the State Department for Land Management of Georgia, while the landowner, i.e. the State, gets compensation for the damage caused by agricultural land take. In accordance with the Resettlement Action Plan, such land will be compensated for three years and the payment will be made to the local representative bodies.

BTC Co and CBOs

It has been announced widely that BTC Pipeline Company would directly compensate the communities, taking into account that villagers does not trust local administrative bodies, Sakrebulos. BTC Co and its subcontractor NGO Association "Protection of landowners Rights" advised the communities alongside of route to create the Community Based Organizations (CBOs). The most of the communities create the CBOs. e.g. For instance, in January 2003, the inhabitants of Sakuneti (Akhaltzikhe region) sent a letter to Mr. Johnson, manager of BTC project, requesting that the company transfer compensation for the meadows and pastures to the local CBOs bank account. It should be mentioned that all villages across of pipeline that should get compensation already created the CBOs, but no one has been compensated. the people collect among themselves CBO registration fee, about 50 USD that is quite big amount of money for some communities.

In March 2003, after the revision of the legal side of the above mentioned compensation mechanism for meadows and pastures, it becomes clear that these lands are still under state

¹ Issued November 30, 2002

² We refer to the documentation available on www.caspaindevelopmentandexport.com

ownership and could not stand as CBO property. According to HGA, this means that BTC Co is under no obligation to compensate the CBOs for the land, as they are not owners of the land³.

However, since that time nothing has been done in order to clarify the situation and create the legal mechanism to transfer the compensation to the CBOs. During the Multi-stakeholder meetings in September 2003⁴ “an IFC representative mentioned that they were aware of the issue. According to Georgian law, pastures and meadows were formerly state property, but recent legislation has provided for transfer to community ownership. BTC Co., in cooperation with village communities, will define sizes of pastures affected by the pipeline and the pastures that are being registered and transferred to community ownership. The compensation payment will then be transferred to a community bank account.... An IFC representative noted that regarding payment or compensation, first a community organization (*temi*) must be registered and agreed to among all parties, which takes some time. However, as soon as registration is completed, the payment would be immediate.”⁵

However, in the register of the Ministry of Justice any legal act that regulates transfer of the pastures and meadows⁶ has not been found. There is doubt there is no new legal acts that regulates transfer of those lands to communities does not exist and till now the legal side of compensation for those lands has not been solved.⁷

The issue is already not theoretical one, taking into account that BTC Co start to use for construction meadows and community lands of village Tsintskaro since June 2003. Despite the fact that Local CBO submitted in May all necessary documents, like other 15 CBOs, till now compensation has not been paid. However, the village since that time already arranged three strikes in order to get compensation.

Every time, including the Multi-stakeholder meetings it was underlined that CBOs could get additional information about the compensation mechanism from RAP. However, in RAP it described that compensation for Community lands would be paid for Sakrebulo.

Potential to Ethnic Conflicts

Another problem that has been identified BTC Co has not aware how the simple activities could raise the tension within communities. In Tsalka region, the ethnic situation is already very difficult taking into account that region is settled by Greeks, Armenians, Azeris and Georgians. Georgians itself compromise only 10 % of population. Itself the relations between different ethnic groups are already tense⁸.

The result of intervention of BTC Co in region makes situation more complicated. According to the Tskintskaro villagers (Armenians) at July 5, 2003, they blocked the BTC pipeline construction works. Together with the fact that compensation for community lands still has not been paid. However, the majority of villagers claim that conflict arise from the fact, that they have been against of detouring work of cultivated by the group of the Turkish workers. In a case if the compensation would not be paid and project sponsor would continue construction work around the village it also could lead to some ethnic tensions between the groups.

³ Letter of Association “Green Alternative” to BTC Co manager Ed Johnson, 12.03.2003

⁴ BTC Pipeline Project and ACG Phase 1 Project – Report of IFC and EBRD Multi-stakeholder Forum (MSF) meetings, Georgia

⁵ BTC Pipeline Project and ACG Phase 1 Project – Report of IFC and EBRD Multi-stakeholder Forum (MSF) meetings, Georgia

⁶ Interviews with relevant person of ministry of Justice, checking the Register by lawyers of Green Alternative and Young Lawyers Association

⁷ Letter “Association of Green Alternative” to BTC Co manager Ed Johnson, cc; APLR, GIOC 23.10.2003. Green Alternative underlines that there is no legal acts on changes of land ownership registered in Ministry of Justice and requests BTC Co to clarify position. Response from Georgian International Oil Company, 31.1.2003 underlines that the “situation described in letter reflects reality”.

⁸ In 25 July, 2002. Greek, Armenian, and Azerbaijani residents of Tsalka, have expressed their opposition to the planned deployment beginning next year of Interior Ministry troops in the district. Caucasus Press on 26 July quoted “Rezonansi” as reporting that the Tsalka population is likewise resolutely opposed to the routing via Tsalka of the Baku-Tbilisi-Ceyhan oil-export pipeline and the Baku-Tbilisi-Erzurum gas pipeline, despite recent efforts from representatives of British Petroleum to convince them that the region will benefit from those projects. TSALKA RESIDENTS OPPOSE DEPLOYMENT OF GEORGIAN INTERIOR MINISTRY TROOPS <http://www.eurasianet.org/resource/georgia/hypermail/200207/0088.shtml>

Claims of Local communities

The Green Alternative collects number of the copies of different community representatives⁹. Most of the communities claim that they several times contact in written way to company but never get any official response. Majority of communities have no idea about the grievance mechanism provided by the project. In some communities our advise to contact Community Liaison Officer (CLOs) raised quite lots of the concerns, as they already have very negative experience, it is usually very difficult to find out who is responsible for what and meet with CLOs.

It should be mentioned that according to the RAP, the affected villagers should receive the description of the grievance mechanism together with purchase agreement. However, this thing never happened.

e.g. Near Jandari village¹⁰ the BTC Co is constructed the Workers camp and Pump station. Workers until now are living in the village.

The mayor of village Jandari the people are concerned with heavy trucks movement on the central road. The dust and noise make impossible normal livelihood. This has been adding with destroyed road and gas pipeline, due to the aggregate quarry that BTC Co developed. The mayor also concerned with the behavior of the foreign workers, he claims that all night there is the noise, often workers are drunk¹¹.

In Sigrasheni village, Tetrtskaro region the people complains about the vibration by heavy truck movement and impact of the movement on houses of village. population several times submit written complain to the BTC, however, until now they do not have any response¹². They also complain regarding the heavy trucks movement in the nighttime.

The majority of local mayors and people we speak are concerned with the employment issue and situation that pipeline does not support any other business development in the region.

In Tetrtskaro region, people express disappointment with the fact that company is bringing from Tbilisi everything including food, beverage, and water. There is no region where new business activities or development has been fixed because of pipeline construction.

The lots of the people complain about untransparent process of selection of the workers. It should be mentioned that the expectations of the people amount of the jobs are very high.

Since starting construction, there were eight workers strikes (2 – In Tsalka, 3 in tetrtskaro, 2 in Jandara)¹³. The workers mainly complain about low salaries, 0.6 USD per Hour. Most of the people with whom we speak underline that they are working 12-14 hour per day and often are getting miserable salaries, like only for 10 hour. Often workers express their dissatisfaction with the fact that they have no contract agreements with BTC Co subcontractors. In most cases, when workers have agreements it was not signed by both sides, that means that it has no legal effect.

It should be underlines that during the information meetings BTC states that workers should work minimum 10 hours daily. According to the Georgian Legislation, that BTC Co claims to be followed, the working day is 8 hours. Any extra working hours should be compensated by doubled salary. Of course, the contract agreement does not include the article about amount of hours the workers should work, or anything about extra hours.

⁹ number of communities starting to cc to us the letters they are sending to the BTC Co managers

¹⁰ village is settled with Azeri population

¹¹ letter from Mr. T.Mamedov , Jandari Sakrebulo chair to Mr. D.Stuart, BTC Co

¹² Letter from Green Alternative to Mr.Ed Johnson, BTC Co Georgia manager, 23.10.2003; letter from Sigrasheni population and photos to Mr.Ed Johnson, BTC Co Georgia manager 03.09.2003

¹³ Strikes has been widely elucidated by the media.

Implementation of Environmental Permission Conditions

Route selection

In Georgia, route has been selected in very doubtful way. According to the SLIP, "The route selection process has been undertaken with substantial effort to determine the optimal route with full consideration of development constraints. The selection of the route for the AGT pipelines was carried out in accordance with the requirements of the Georgian Host Government Agreement (HGA)".

It is quite difficult to agree with the project sponsor that during the route selection sensitive environmental locations, high-risk sensitive geozard locations and security-sensitive areas have been avoided.

The pipeline goes through Borjomi Gorge that represents the one of the most unique biodiversity spots in Caucasus. Pipeline cross the support zone of the Borjomi-Kharagauli National Park, Ktsia-Tbaskuri managed reserve (IUCN IV category) as well as catchments area for Borjomi mineral waters. The area is well known also for its high geohazard, seismic and landslide risks.

Environmental Permit N0011, 30.11.2002, issued by the Ministry of Environment of Georgia is the clear evidence of abovementioned.

The project sponsor claims "route and project have been approved as per the issuance of the environmental permit", and it just required "some further studies"¹⁴.

However, according to the Environmental Permit, BTC Co. was obliged "prior to the completion of the design of this section of the route [Tskhratskaro-Kodian pass, Borjomi region], provide at least the following alternatives in the revised Route Report, both of which cross the Akhalkalaki district 1) the Central Corridor; 2)The eastern section of the Karakaia route in combination with western section of Central Corridor."¹⁵ It also requires from project sponsor that "In the case of crossing of ground water deposits by the pipeline, BTC Co shall apply all efforts to locate the pipeline route outside zones I, II and III for water sanitation protection".

However, project sponsor despite the requirements of the environmental permit conditions, just presented justification of the already selected route concluding that none of these two routes are feasible. It should be mentioned conclusion that "construction of two large diameter pipelines across this terrain would be virtually impossible".

According to the Georgian experts, the BTC Co had possibility to find out technically acceptable terrain, not even mentioning the fact that the results of decoding of the aero photos performed by the BTC Co was incorrect¹⁶. The Dutch Commission for EIA concludes also concludes that: " it is technically feasible to construct the proposed two pipelines along the following two routes: (i) the Karakia ridge route and (ii) the Karakai route on the southern flanks of the Karakia massif" as well as that "it is technically feasible to construct the Karakia tunnel avoiding overland crossing of the Karakia massif." Commission also underlined that " The total time required to construct this tunnel is approximately two and half years. Given this time frame, the construction of a tunnel still fits into the overall planning of the project."

It should be underlined that while according to the IFC/EBRD " IFC and the BTC Lenders Group independent technical and environmental consultants have examined these routing options and have concluded that *when all parameters are examined none are acceptable alternatives to the modified central corridor*" ¹⁷.

¹⁴ BTC, Georgia, SLIP –Part C, 3.2.1 Route selection Process.

¹⁵ Continu Environmental permit

¹⁶ Experts opinion letter send to IFC/EBRD,

¹⁷ The among reasons for rejections of the routes IFC named increased illegal grazing, damage of landscape, large amount rock spoil and increased slop instability. The only thing

It should be notice that till now project sponsor has not submitted report required by Ministry of environment, under Environmental Permit, regarding Borjomi section, “ BTC CO shall study land sliding events and model the slope stability to be undertaken in light of natural, tecnogenic and seismic factors.”¹⁸

Tsalka Re-routing

Another sensitive area is the Tsalka Lake. It should be mentioned that Tsalka Groundwater Reservoir represents the Strategic drinking water supply for Capital city, with population 1.5 mln people.

The Environmental Permit also require from Project sponsor submit to two Re-routing alternatives to the selected route, both passing to the north of Tsalka Lake. Both alternatives were refused by the project sponsor due to difficult terrain and existence of archaeological sites. Earlier the Dutch IEA Commission recommended to explore route passing to the south of Tsalka Lake, however this route has never been studied. In our opinion, in Tsalka rerouting report BTC Co again presented justification of already selected route, rather than detailed assessment of other alternatives.

Tsalka rerouting report was presented for approval to the Ministry of Environment of Georgia at the end of May, 2003. The Ministry felt dissatisfied with the report and thus, passed the issue to the National Security Council. The Experts Opinion send to the National Security states that in report submitted by project sponsor “ additional works that done inexpediency. It is surprising, because simple desk studies was enough to justify that presented alternative routes does not deserve additional studies.”¹⁹

To date, the issue is still under discussion, i.e. National Security Council still did not come to the final decision, however BTC Co already started construction in the Tsalka Region. Even though construction activities are currently underway to the west and the east of the disputable area, we think that starting construction of the pipeline in such way, does not leave any option for the Georgian Government - neither to continue discussion on the possibilities of exploring other alternatives for this section of the pipeline route, nor to disagree on the selected route. We feel that project sponsor prefers to continue pressure on the national government rather than to find adequate solution. Our position is strengthened by the fact that construction started in Tsalka region and not in Tetrtskaro region from KP 75, as it was planned by the project sponsor and presented in the ESIA documentation.

Problem of village Dgvvari

The village is located at a distance of 900m from the Baku – Tbilisi – Ceyhan Pipeline 44-meter Construction Corridor. The village is situated at the foot of Kodiana Mountain and settled by 120 families. Since 2000 the village experienced the activation of complex landslide (7 million cubic meter of soil) , as a result several houses are already abandoned and others are seriously damaged. The population of the village is worried because the 44-meter Construction Corridor crosses one of the landslide zones near the village. Two other landslide sections are at the distance of 150m from the Corridor. There is also on going worries about the impact of the pipeline operation on landslide (warming surroundings and vibration)

Green Alternative would like to underline , that till now nobody knows names of IFC and BTC Project lenders group independent environmental and technical experts , and all independent expertise (including WWF International one) has been rejected anonymously without real arguments.

¹⁸ letter Ms. Nino Chkobodze, Minister of Environment of Georgia, to Mr. Tedo Japaridze, Head of Georgian Security Council, 8.08.2003. confirmation: interview with Mr. Gia Jorjoliani, Head of State Expertise and Environmental Permission

¹⁹ letter Ms. Nino Chkobodze, Minister of Environment of Georgia, to Mr. Tedo Japaridze, Head of Georgian Security Council, 8.08.2003

Meanwhile, neither ESIA, its addendum, RAP nor SLIP does not mention the village Dgvari. There are no studies what would be impact of pipeline or its construction activities (including traffic) on the village. It should be mentioned that despite the sensitiveness of issue, the people of the village have very limited access to information, and BTC Co do not provide any direct communication with the people of the village.

Green Alternative would like to underline that approach taken by IF/EBRD regarding the village Dgvari is non acceptable. According to the Multi-stakeholder Forum report “ The settlement is to close , but not directly affected by the BTC pipeline”. Unfortunately, till now there is no document that would describe the impact of the pipeline on the village that is located 900 meters far.

According to IFC following measures has been undertaken: “1) The settlement and its environs have recently been mapped in detail by BTC geohazard/landslide specialists at the request of the Georgian Government, and fieldwork was completed in October 2003; 2) A draft report is currently being prepared by BTC Co. and recommendations to address the problem at Dgvari will be included in a report to the Georgian Minister of Environment (MOE); and3) BTC will produce a brief report for public release.”

Last week of October Green Alternative visited the Dgvari village. The village people are very concerned with fact that geologists are samples only in the village, but not studying the situation on the mountains where the landslides are taking place. People say that when they raise this question the answer was that to study situation with landslides, the activities undertaken is enough. However, people themselves are very concerned with the fact what would be pipeline impact on their village and they fear that they could be buried under the landslide as a results of the heavy trucks movement for pipeline construction.

Management plans

Despite the fact that construction of pipeline has been started in may, 2003 and according to the ESIA the company committed to present all specific management plans prior to the construction (e.g. Transport management plan, waste management plan, etc.) Most of the plans are still under the development process or has been presented to the Ministry of Environment/GIOC in English language.

Waste management plan

The waste management issue is still one of the most important. Despite the number of the comments raised by experts and civil society, waste management plan for BTC pipeline is still unclear. While the contractor control plan for waste management in Georgia, has been prepared by the BTC Co, it does not gives even the sense of the action how the waste would be actually managed.

The project sponsor claims that “that the incinerators would be compliant with the following EU directives: 89/369/EEC, 94/67/EEC, 91/689/EEC and COM (97) 604. The total waste to be incinerated is estimated at 190 tones per quarter (140 t of solid waste and 50 t of liquid waste). Up to 50% of the total waste is classified as “hazardous” under 75/442/EEC and 91/689/EEC.”²⁰

According to the SLIP totally two incinerators should be constructed. The ESIA for BTC, neither addendum nor SLIP does not contain EIA for specific incinerators. According to the Georgian Law on environmental permits the incinerators belong to the category A, and it require submission of full EIA to relevant governmental bodies, as well as environmental permission for its construction.

It should be underlined that environmental permit issued by Ministry of Environment at 30 November 2002, has not contained permission for incinerators construction.

Public participation process under the IFC/EBRD guidelines.

Responsibility of Parties

The Public participation process has been open by International Finance Corporation and EBRD at 12 June 2003. The public notice published by EBRD regarding the places when and where the public hearings would be held at 29 July, 2003.

According to the SLIP, Part A, Introduction charter “ These documents are initially being disclosed by the IFC and EBRD. BTC Co expects that other lenders may also disclose these documents in accordance with their individual public disclosure and consultation process. The BTC is committed to supporting these disclose efforts.”

“These documents are initially being disclosed by the International Finance Corporation (IFC), part of the World Bank Group, and the European Bank for Reconstruction and Development..... BTC Co. views the lender public consultation and disclose process as the next step in a public ” .

Problems of Public Hearings

Decision to carry out hearings only in two locations was a mistake; as it was noted in previous letter send by Georgian NGOs at 11 August 2003.

The structure of hearings, where more than 200 people participated in each case, clarifies that the fears and arguments of those above-mentioned NGOs have been too close to reality. Taking into account the number of the participants and interest of the people to deliver their thoughts to the decision-makers the facilitators have been forced to give each person opportunity to speak only for 2-3 minutes and there were possibility to ask only one question. Often facilitator ask person to go directly to the question, and not to make any comment, taking into account the amount of the people that want to ask question. When people have not been satisfied with the answer, the suggestion was to discuss the issues privately.

The public meetings in Georgia, clarifies that while the people are best informed about the BTC pipeline project in comparison with Azerbaijan and Turkey, anyway there are number of the questions that needs to be clarified. These include the variety of issues starting with problems of land compensation and associated corruption and violence, compensation in a case of oil spill, the problems that BTC pipeline creates to biodiversity and number of businesses in Georgia (hydropower energy, Borjomi mineral waters production, tourism), oil revenues distribution and incomes of Georgian state budget.

We believe that IFC and EBRD staff attending the meetings saw that people (representatives of civil society, experts) in majority know quite well problems related to the project, and/or the cases and issues they raised are acute and needs to be resolved.

We feel that consultation process does not comply with IFC/EBRD policies and Guidelines (breach of EBRD environmental policy, IFC best practice manual, IFC 4.04.).

Despite the assurance from the side of the BTC CO and Banks, that “meaningful participation”²¹ has been carried out there is no evidence that any opinion of the external experts or public has been taken into account. For instance, even recommendations of Dutch EIA Commission on routing issue on Borjomi and Tsalka area has not been considered or taking by BTC Co for implementation, not even speaking about the different groups of Georgian scientists bringing serious concerns

The project sponsor failed “to take into account the views, roles and rights of groups, including NGOs and local communities, affected by IFC financed project involving natural habitats, and to involve such people in planning, designing”. BTC Co does not involve the major stakeholders in Borjomi area, like GG&MW Company, Borjomi Natural Park administration

²¹ Environmental policy, EBRD

and WWF Caucasus office, that is running Borjomi-Kharagauli National park, not even mentioning about the small waters producing companies located within the area.