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BTC Pipeline and ACG Phase 1 Projects Environmental and Social Documentation

IFC Response to submissions received during the 120-day Public Comment Period

- I. INTRODUCTION**
 - A. Background
 - B. IFC's Role in BTC Pipeline Development
 - C. Environmental and Social Documentation and IFC Comment Process
 - D. Number and Type of Comments

- II. COMMENTS ON IFC ENVIRONMENTAL & SOCIAL SAFEGUARD POLICIES**
 - A. Environmental Assessment
 - B. Natural Habitats
 - C. Cultural Properties
 - D. Involuntary Resettlement
 - E. Indigenous Peoples
 - F. Public Consultation and Disclosure
 - G. International Waterways

- III. OTHER COMMENTS**
 - A. Legal Regime
 - B. Allegations of Corruption in Socar

- IV. ANNEXES**
 - A. Organizations submitting Comments
 - B. BTC & ACG Phase 1 Projects Timeline
 - C. IFC Response to the Netherlands Commission on EIA
 - D. Site-specific Concerns and Responses
 - E. IFC Specific Responses to WWF

I. INTRODUCTION

Background:

The ACG Phase 1 and BTC Pipeline projects are multi-billion dollar, world-class oil development projects with complex financial, legal, technical, environmental and social challenges. In the widest geopolitical context, the projects will provide global markets with a new, strategically secure source of crude oil by creating an east-west energy corridor, independent of the Middle East. The BTC pipeline will provide the first direct transportation link between the hydrocarbon-rich, land locked Caspian Sea and the Mediterranean. It has already strengthened relations between Azerbaijan, Georgia and Turkey through increased cooperation on a variety of issues and through co-dependence required to realize project benefits. The BTC pipeline will enhance Turkey's strategic significance by establishing it as the western outlet of the future "east-west energy corridor" and as a hub for energy distribution through the Mediterranean, to European and other international markets. With prudent management, hydrocarbon revenues have the potential to improve economic conditions in Azerbaijan, assisting it in the transition from a centralized command economy to a market driven one. This may contribute to political stability and ongoing processes of economic restructuring and reform in the region. Total project costs are estimated to be US\$3.6 billion, including terminals and associated facilities at both ends of the pipeline, of which the project is seeking financing for up to US\$2.6 billion from a group of 11 lenders including IFC, the European Bank for Reconstruction and Development (EBRD), export credit agencies from Europe, the US and Japan, political risk insurers, and sponsors in the form of sponsor senior loans.

As noted above, the projects present numerous and complex challenges on a variety of levels. This has, inevitably, generated significant attention from various sectors of civil society, such as international advocacy NGOs. Some of these groups are concerned about project impacts on the environment, pipeline routing and locally affected communities while others have asked tough questions about the legal regime and economic viability of the projects. A small cadre of international NGOs have expressed a stated objective of stopping the BTC project as they view IFC and other IFI involvement as "subsidizing" the private sector or because they would like to halt IFC financing of the extractive industries.

As part of IFC's commitment to transparency and accountability, we have at all times sought to answer concerns and questions from all interested parties, including these critics. But, we also feel strongly that local people matter and ought to be heard, as they are the ones who will be affected by, and should therefore benefit from these projects. As part of our ongoing due diligence efforts, IFC has witnessed and validated BTC's consultation efforts on the ground numerous times, closely cooperated with other lenders, and engaged in intensive and ongoing discussions with NGOs, civil society, local communities, and local and national authorities via various means (face-to-face discussions/meetings; visits to affected communities; responding to numerous NGO letters and "fact-finding mission" reports). IFC, together with EBRD, also held Multi-stakeholder Forum (MSF) meetings in order to provide an opportunity for IFC/EBRD to communicate their position on issues of concern directly to local stakeholders and to listen to their concerns and suggestions. This provided us an opportunity to hear from over 800 participants across the three countries.

IFC feels strongly that these projects are sound. We feel that we have strong project sponsors that take environmental and social issues seriously. We believe that the projects have been developed and will be implemented to the highest international standards (including IFC's own). But, we also realize that there will be numerous implementation challenges as the projects progress. This requires ongoing monitoring, supervision and adjustments/improvements when needed. It also requires IFC to continue listening to local communities and civil society and answering questions when they arise.

IFC's Role in BTC Pipeline Development:

IFC's due diligence on the projects commenced officially with the signing of the mandate letter (joint mandate with EBRD) in December 2001.

However, the projects were heavily influenced by IFC's involvement in the financing of the Early Oil Project (EOP). Early Oil, which IFC financed in 1998, involved the development of the Chirag field and was the first stage in the development; it is currently producing approximately 140,000 bpd. EOP involved, in part, the development of a portion of the Chirag field and rehabilitation and completion of two existing onshore pipelines, one north of the Azerbaijan/Russian border ("NREP"), and one west to Supsa ("WREP").

IFC learned significant lessons from EOP implementation and has applied those lessons to the ACG Phase 1 and BTC Pipeline projects. Unlike in EOP, IFC required the release of a full Environmental and Social Action Plan (ESAP) and development and release of a full Resettlement Action Plan (RAP). IFC also requested the sponsors to release publicly the project agreements (e.g., Host Government Agreements and PSA). Since EOP, IFC has increased our capacity significantly to review social issues and additionality programs (including public consultation and social/community investment) and views these issues as key during the early stages of project implementation.

During the initial planning phase for BTC, when the project engineering concepts were being developed, a number of preliminary environmental and social screening activities and risk assessments were undertaken by the project, associated for example with the consideration of the environmental settings of the alternative pipeline routes. Having settled on a preferred route and commenced detail design and engineering work for this, the formal environmental and social impact assessment (ESIA) process was undertaken. This process constituted a systematic and detailed evaluation of the proposed design alternative in the context of the natural, regulatory and socio-economic environment in which the BTC pipeline development is proposed.

Therefore, in BTC and Phase 1, using IFC guidance and policies, the projects have carried out world class ESIA's and mitigation measures (including resettlement/compensation), implemented significant programs and hired staff for public consultation and community outreach; and, have allocated over US\$37 million for environmental, social and community development additionality programs.

Overview of project benefits

It is important to reiterate the project benefits that will accrue to the 3 countries and region:

- Revenues to Georgia and Turkey from transit fees
- The establishment of high quality operations to international standards, and the potential to transfer these standards to local businesses
- Provision of gas into domestic energy networks in Azerbaijan, Georgia and Turkey
- Increased oil export from the Caspian, through Turkey, without adding to the traffic in the Turkish Straits
- Economic and social benefits, particularly employment during the projects' construction, and opportunities for supplying goods and services by local business
- Follow-on foreign direct investment as a result of realizing successful commercial projects
- Benefits to the local communities through community, social and environmental investment programs
- A route to international markets that will make the region a major international energy player
- Help in promoting and securing economic and political links between the three countries and with the West

Environmental and Social Documentation and IFC Public Comment Process:

The environmental and social documentation prepared for the BTC Pipeline and ACG Phase 1 projects is extensive (which includes 46 volumes and over 11,000 pages) and covers a wide range and large number of issues, many of which are complex. As a potential lender in the project, IFC has worked intensively over the past 2.5 years with BTC and Phase 1 to ensure that the projects are designed, built and operated to the highest international standards in order to comply with IFC and World Bank safeguard policies and guidelines.

IFC has also reviewed the significant number of written comments and suggestions received following the release of the environmental and social documentation to the World Bank Info Shop on June 11, 2003. Various organizations have claimed that, in their opinion, the environmental and social documentation is not compliant with IFC environmental and social safeguard policies and guidelines.

However, after careful review of all comments received IFC has determined that the environmental and social documentation is compliant with our safeguard policies, procedures and guidelines.

Since many of the written comments received are similar in nature they have been grouped into like topics and themes and IFC has provided a response to each.

Number and type of ESIA comments IFC received:

IFC received nine written submissions, which include 49 national and international NGOs that signed or endorsed these submissions. IFC has also received numerous letters from various other interested organizations and individuals.

In addition to numerous field visits by IFC staff to witness BTC-led public consultation and land acquisition activities, IFC, together with EBRD, also heard from over 800 people via the Multi-stakeholder Forum (MSF) process held in Azerbaijan, Georgia and Turkey in August and

September 2003. Results of these six MSF meetings are presented in a report entitled “Report of IFC and EBRD Multi-stakeholder Forum (MSF) Meetings on the Baku-Tbilisi-Ceyhan Oil Pipeline and ACG Phase 1 Projects “ which has been released to MSF participants and the broader public (found here: <http://www.ifc.org/ifcext/btc.nsf/Content/MSFForumReport>). This MSF process has significantly informed our decision-making along with the written comments received during the 120-day public comment period (IFC’s normal disclosure requirements for Category A projects is a minimum of 60 days)¹.

Some submissions from certain NGOs were very lengthy and sought to analyze in-depth each and every IFC policy or procedural compliance or non-compliance from their perspective. Some of these reports also provided supporting evidence via previously submitted “fact finding mission” reports. IFC has replied to most NGO letters and “fact-finding” mission reports and we recommend that interested individuals refer to this material for greater in-depth analysis of certain issues, as we do not repeat it here.

This correspondence can be found on the IFC-specific project website at: <http://164.114.129.64/ifcext/btc.nsf/Content/AF0EB4AC401F4D8885256D6C00614BDB?OpenDocument>.

As stated above, the following responses are not intended to respond specifically to each and every point raised by concerned parties, but to provide overall responses on the key common themes that have been raised.

II. COMMENTS ON IFC ENVIRONMENTAL AND SOCIAL SAFEGUARD POLICIES

ENVIRONMENTAL ASSESSMENT (OP 4.01)

A number of NGOs gave various reasons why they felt that the projects were not in compliance with OP 4.01, Environmental Assessment. Some of these NGOs referred to the wrong Operational Policy (the World Bank’s OP 4.01 and not IFC’s OP 4.01).

Alternatives analysis / routing:

A number of NGOs asserted in comments submitted that IFC OP 4.01 was violated because they view that a proper alternatives analysis was not carried out for the BTC Pipeline route.

IFC disagrees with this assessment and has the followings comments:

- Alternative corridors have been assessed for the pipeline including the “no development” option. The proposed solution to the challenge of how to safely and responsibly export Caspian oil to world markets was determined following the assessment over almost six years of numerous technical, financial, environmental, social, cultural and political issues. Alternative export mechanisms were considered e.g. shipping, rail, and pipeline, however, for the transport of over 1 million barrels of oil per day, there was no other feasible, safe options other than a pipeline. In addition, the early stage studies considered the regional routing option prior to national 10km corridors. The general process was to examine several different 10 km corridors, select the final one and then use a five-stage iterative process to narrow the

¹ IFC’s Policy on Disclosure of Information (September 1998) requires that Category A projects are disclosed for a minimum of 60 days prior to being presented to the Board.

10 km Corridor of Interest to a final 8 m-wide permanent corridor. The actual process was difficult and complex because of constraints in Georgia (see next paragraph). Results of the routing analysis are presented in the ESIA's, and are further elaborated in the Addenda to the ESIA's. As a requirement of IFC's international and local disclosure, and also as required by the ESIA Project Permit provided by the Georgian Ministry of Environment, BTC has also developed a robust routing analysis report for Georgia in particular. In all, BTC has made some 200 route changes since the initial route selection; has continuously optimized the route from cost, technical, safety, environmental and social perspectives, all of which have added substantial length, and cost, to the pipeline. BTC has also followed the environmental preferred practice of paralleling existing infrastructure as much as possible so as not to open new corridors (e.g., in Azerbaijan, BTC parallels the existing Western Route Export Pipeline (WREP), and in Turkey, the existing Northeast Anatolia Gas Pipeline for 450 km).

- The difficulty of finding a route through Georgia has been of interest to all stakeholders because of geopolitical security constraints, difficult terrain, geo-hazards, natural habitats, and economic water sources (in the Borjomi area, for example). Initially, three corridors were considered and ultimately rejected. The Eastern Corridor through Georgia was BTC's preferred corridor from an environmental, engineering and cost standpoint, but was discarded because of the Georgian Government's view that the Akhalkalaki district was too high a security risk. This was confirmed in a February 2003 letter from the President of Georgia to the World Bank Group. The Western and Central Corridors are not constructable because of a combination of very serious environmental and safety risks as well as major geohazard and economic challenges. Having rejected the three main corridor options, BTC endeavored to find a route through a small gap that did not cross the area of the Akhalkalaki district to the south, which was ruled out by the Georgian Government as mentioned earlier, or the Borjomi-Kharagauli National Park and State Nature Reserve to the north. When the severe terrain geo-hazards are superimposed on this area, there is only one viable route available known as the Modified Central Corridor. The route passes through the Support Zone of the Borjomi National Park (not through the National Park itself) and is consistent with the intended use of this area. This corridor has been controversial because for 18 km it crosses the water catchment area for the Borjomula River that flows through the Borjomi mineral water park. Alternative routes to move the 18 kms of pipeline to the south were examined including variations of the Karakaia route and a tunneling option through the mountains, but were not viable as they would pose major environmental issues in an area which is currently environmentally intact and inaccessible to induced impacts including illegal logging. Once the route was selected, the focus was then shifted to studying the site-specific conditions and designing protective measures to minimize spill risk from mechanical and third party interference.

Concerns related to Lake Tsalka (Georgia): Some NGOs, such as the "East-West Energy Corridor" and Green Alternatives have expressed concern with regard to routing of the pipeline near Lake Tsalka in Georgia.

- The Lake Tsalka area is a sensitive groundwater area and the pipeline is only crossing this area as it is unavoidable. Impacts have been reduced by localized routing and engineering design, and pipeline monitoring is planned during operations. The pieces of the pipeline that are near Lake Tsalka and traverse the Borjomi area have been studied by many pipeline experts and have incorporated design, operational and security measures such that they will be the two most protected pieces of pipeline in the world.
- Lake Tsalka sits approximately 730 m from the proposed route, is mainly used for power generation and irrigation, and is a potential future water source for Tbilisi. This area is particularly sensitive because it is an unconfined aquifer and sits at a lower elevation in relation to the pipeline. Oil spill modeling shows that in the worst case event, contaminated groundwater could be successfully contained within the initial source area to minimize risk to

Lake Tsalka. The Georgian Ministry of Environment (MOE) issued a Permit approving the Georgian Environmental and Social Impact Assessment (ESIA) in November 2002. Attached to the approval were 13 "Continuing Activities Under The Environmental Permit for the BTC ESIA". One of the requests was for BTC to propose a minor re-route in the area of Lake Tsalka. In March 2003, BTC submitted to the MOE the Revised Routing Report which discussed alternative routing options in the Borjomi and Lake Tsalka areas. This report was reviewed by Jacob-Gibbs and BEICIP (advisors to MOE and GIOC), by the Netherlands Commission EIA who are advisors to the MOE, by GIOC and by the MOE. There were no objections to the alternative analysis presented in the Lake Tsalka area or to the selection of the original routing in any of the weekly coordination meetings between MOE, BTC, GIOC and their advisors. BTC has satisfied the request of the permit to submit the additional information and believes they have full rights to commence construction.

WWF has noted that the pipeline poses "unacceptable risks" to certain areas, including Borjomi (see above regarding routing) and that the local community has not been consulted adequately and is not aware of the extent of the risks.

- It should be noted that at no time has IFC ever stated that there will be no risk of an oil spill associated with the project. However, IFC is satisfied that the risks have been minimized through various mitigation measures to an acceptable level and that these proposed measures meet the requirements of the applicable WBG safeguard policies and international best practice. It should be noted that at the Borjomi MSF a number of local people responded that they had been made fully aware of the risks from an oil spill and found them acceptable, and believed that the BTC pipeline provided opportunities to catalyze other development initiatives in the area. They stated further that the projects proposed by WWF (particularly projects to clean up local water supply systems) over a number of years had never materialized. Please see Annex E for a discussion of concerns specific to WWF.

Cumulative Impacts and Other

A number of NGOs assert violations of IFC OP 4.01 as they claim the BTC Pipeline and ACG Phase 1 projects have not been properly planned, have not adequately assessed cumulative impacts or conducted a strategic environmental assessment (SEA).

IFC disagrees with this assertion and makes the following observations:

- Project planning has been undertaken through a very thorough project planning and development process, including significant in-country consultation and disclosure of 46 volumes and over 11,000 pages of ESIA materials.
- IFC policies and procedures do not require a SEA as this is typically done by one or more governments on a regional basis. However, in an early stage of the project, IFC and BTC recognized this shortcoming which led to the production of the Regional Review. This is a ground-breaking report which examines the BTC project in the context of the wider regional setting and is also an example of where the BTC project has gone beyond basic compliance. The Regional Review was disclosed to the public and can be found at www.caspiandevlopmentandexport.com.
- Alternative corridors have been assessed for the pipeline including the "no development" option. The challenge for safe and responsible export of Caspian oil was assessed over almost 10 years of numerous technical, financial, environmental, social, cultural and political consideration. As noted in the Regional Review, direct routes to the Black Sea - through Georgia to the west or Russia to the north - were dismissed as they would necessitate the oil transiting the Bosphorus and the Dardanelles. A southerly route through Iran or transit through Armenia/Iran to Turkey were dismissed due to external political considerations.

IFC has the following additional comments related to ***cumulative impacts***:

- ***Cumulative Impacts - ACG Phase 1*** -- The cumulative impacts of the ACG Phase 1 project as noted earlier, including other projects or potential developments that were realistically defined at the time the ESIA were undertaken and could impact the project area, have been assessed and presented in the ESIA and in the Regional Review report. Existing and proposed projects discussed in the ESIA include: ACG Early Oil project, ACG Phase 2, and ACG Phase 3, Garadagh Cement Plant, Lokbhtan oil field, and the Shah Deniz gas development. The ESIA considers the cumulative impacts associated with atmosphere, marine environment, coastal environment, onshore environment, socio-economic environment, and waste issues. In addition, the *Regional Review* complements the ACG ESIA and provides insights into the key economic, social and environmental opportunities and risks associated with the projects. It also discusses broader regional issues such as revenue management, local employment and supply chain management, the non-oil economy, poverty and inequality, human rights, governance and corruption, conflict, access to energy, regional export options, climate change, biodiversity, and oil spills.
- ***Cumulative Impacts - BTC Pipeline Project*** -- The cumulative impacts of the BTC pipeline, including other projects or potential developments that were realistically defined at the time the ESIA were undertaken and that could impact the project area, have been assessed and presented in the ESIA and in the Regional Review report. Existing and proposed projects discussed in the ESIA include: ACG Full Field Development, Shah Deniz Gas Development, South Caucasus Pipeline, Western Route Export Pipeline, Northern Route Export Pipeline, Northern Caspian oil fields and the Caspian Pipeline Consortium Pipeline, Blue Stream Gas Pipeline, Borjomi mineral water project, Tbilisi-Baku highway/railway (Silk Route), BOTAŞ Oil Pipeline, Iraq East Anatolian Natural Gas Pipeline, Korogula dam, Sugoza Power Plant, and the Sanko petrochemical plant. In addition, the *Regional Review* complements the BTC ESIA and provides insights into the key economic, social and environmental opportunities and risks associated with the projects. It discusses broader regional issues such as revenue management, local employment and supply chain management, the non-oil economy, poverty and inequality, human rights, governance and corruption, conflict, access to energy, regional export options, climate change, biodiversity and oil spills.

NGO Concerns regarding transport of Kazakh oil:

IFC financing is based only on the part of the ACG oil (currently producing Early Oil, Phase 1 and Phase 2). IFC understands that there is an on-going preliminary discussion on transportation of Kazakh oil through the BTC pipeline. However, recognizing the potential impact to the BTC pipeline by transporting any non-ACG oil, IFC has required that any modification or expansions of the BTC pipeline under the control of BTC Co. be consistent with the BTC ESAP. In addition, IFC obtained a commitment from BTC Co. and BP (as an operator) that tankers used for non-ACG oil (including Kazakh oil) deliveries to the Sangachal terminal facilities in the BTC Co's control will comply with international ship vetting standards. BP is also committed to updating existing ESIA's with a review of cumulative impacts if actual plans to transport Kazakh oil into the pipeline materialize.

NATURAL HABITATS (OP 4.04)

A number of NGOs claimed that the BTC Project was in violation of IFC's Natural Habitats policy.

- IFC does not agree with this assessment.
- Through selective routing, the pipeline avoids all internationally designated environmentally sensitive areas, including all IUCN Category I to IV sites, as well as Ramsar (wetland) sites. Most of the areas of ecological value listed are not actually designated or protected areas, but because of existing natural habitats, these areas will be treated as if they were officially protected in accordance with IFC OP 4.04, Natural Habitats Policy. Such areas include: Proposed Gobustan National Park (Az); Ktsia Tabatskuri Managed Reserve (Ge); Tetrtskaro Primary Forest Fragments (Ge); Tkhratskharo Pass to Tiseli (includes the "Borjomi" section) (Ge); Posof Wildlife Protection Area (Tu); and Sarikamis Natural Site Area (Tu).
- However, as above, IFC has worked closely with BTC Co. to ensure that the Natural Habitats policy is followed and adhered to. The Natural Habitats Policy requires that sensitive areas are avoided if possible and if not possible that this is demonstrated through an alternatives analysis. In addition, significant conversion can not take place and impacts must be minimized. Interested individuals should refer to the ESIA's for details of the alternatives assessed to try to avoid the areas and to the numerous Contractor Control Plans (CCPs) (e.g., Reinstatement CCPs) that seek to ensure the mitigation measures developed are followed-through at the contractor level and to the document "BTC Project and IFC Safeguard Policies OP 4.04 Natural Habitats and OPN 11.03 Cultural Property (April 2003)". This documents the US\$2.5 million Offset plans to ensure compliance with this OP and an approximately US\$8.75 million environmental enhancement project called the Environmental Investment Program (EIP). BTC is partnering with various national and international NGOs to implement the programs and will try to leverage this money to attract additional funds. . These documents can be found at:
<http://www.caspiandevlopmentandexport.com/Files/BTC/English/SLIPs/Part%20A/Safeguard%20Policy%20Requirements/Content/Safeguard%20Policy%20Requirements.pdf>.

Erzurum Marsh Area

Some NGOs were concerned with the potential impacts on the Erzurum marshes.

- IFC believes that the discussion of the Erzurum marsh area is complete in the Turkey EIA. IFC notes that this area is already unfortunately degraded because of existing drainage activities, installation of electrical transmission lines and installation of the East Anatolian National Gas Pipeline (NGP). The BTC construction activities on the Erzurum plain will have a positive impact on an already negatively impacted area: for example, restoration of the inland drainage network disrupted by the NGP.

INVOLUNTARY RESETTLEMENT (World Bank OD 4.30)

Compliance with Involuntary Resettlement Policy (OD 4.30): A number of international NGOs noted strong concerns with regard to alleged non-compliance with OD 4.30.

IFC has reviewed these submissions and finds that the Resettlement Action Plans (RAPs) are compliant with OD 4.30, and makes the following observations:

- BTC Co. has developed a comprehensive Resettlement Action Plan² (RAP) designed to comply with OD 4.30, which was distributed to various centers along the pipeline route. Over 70,000 copies of an easy-to-use Guide to Land Acquisition and Compensation (GLAC) were distributed to directly affected households and other interested parties. BTC Co has developed thorough land acquisition and compensation procedures, hired and trained staff, and conducted consultation in preparation and disclosure of the RAP to fulfill OD 4.30 requirements. IFC has worked very closely with BTC Co. for over two years to ensure that this is the case.
- It is nevertheless recognized that in a project of this size and linear extent, involving over 17,700 parcels of land (on average one parcel of land per 100 m of pipeline and within a context of complex land tenure systems in all three countries), IFC expects that implementation challenges will most certainly arise. Importantly, the RAPs contain robust mechanisms to address site-specific issues and grievances encountered during land acquisition and construction, and to take corrective action where necessary. Separate RAP Funds have also been established to address the needs of informal users of affected land (including squatters) in Turkey and Georgia, who do not qualify for compensation under local legislation. Challenges associated with implementation of a complex land acquisition process do not mean that the RAPs and project implementation are not in compliance with OD 4.30. BTC Co. clearly recognizes the importance of being diligent in ensuring that affected people know their rights, are listened to, and are fully compensated according to the RAP.
- An independent Social and Resettlement Action Plan (SRAP) Expert Panel has been put in place to monitor the implementation process and to make recommendations for corrective action. The first comprehensive SRAP Panel report has recently been completed and will soon be disclosed at on the BTC project website at www.caspiandevlopmentandexport.com. IFC, as part of its ongoing monitoring, is also maintaining a keen interest in the implementation process and has investigated a number of the key issues raised by NGOs and others and will continue to do so.

Development Aspects of the RAP

A number of organizations raised the question concerning the extent to which implementation of the RAPs will contribute towards development of affected communities.

A large number of direct and indirect developmental benefits have and will stem from implementation of the RAPs, a few examples follow:

- Compensation payments have generally been significantly higher than prevailing local market rates (many households have asked BTC to re-route the pipeline through their land rights so that they could claim compensation – confirmed by IFC during field visits). In communities with limited opportunities to acquire cash income this has enabled many households to acquire additional agricultural equipment/machinery, livestock and to afford increased agricultural inputs (such as fertilizer), which will hopefully result in increased production and returns and improved livelihoods.
- Compensation payments are also being used for a number of other purposes, which will ultimately result in developmental benefits (e.g. education, setting up of small household enterprises, improving homes, acquiring vehicles for transportation of agricultural produce and other goods, etc).

² The BTC Project RAP is comprised of three individual country RAPs linked together by an overarching document. Because the difference in laws and land tenure systems in each country this was the most practical way to design a project RAP which met country requirements and ensured parity across the project.

- Land tenure systems in all three countries are extremely complex and thorough land acquisition procedures provided for in the RAP have helped to provide much greater clarity concerning land rights, land market values and valuation of crops and other fixed assets, legal regulatory frameworks, payment procedures, etc. This will be of significant benefit to communities, government and future developments along the pipeline route.
- Acquisition of land for the project has necessitated the identification of land right holders and formalization of land rights (demarcation, registration, etc) which has all been facilitated and paid for by BTC Co. Although confined to the pipeline right-of-way, this provides a basis for formalization of land right holdings elsewhere in affected districts. This clarification of land rights is of particular importance in Turkey where maintenance of the land registration system in many districts traversed by the pipeline has been very poor for many years, and is a serious constraint to development.
- In order to address the acquisition of communal land it has been necessary to help improve the capacity of local organizations, or facilitate the establishment of new ones (e.g., *teme* in Georgia). This contributes to local organizational and institutional development, a pre-requisite for future development.
- The RAP Funds in Georgia and Turkey provide for compensation for affected assets and livelihoods not covered by local and national legislation, in order for the project to comply with OD 4.30. Use of these RAP Funds is contributing significantly to providing developmental benefits to households (many of which belong to vulnerable groups) that have previously not been taken into account in the implementation of pipeline projects in these countries.
- The preparation and implementation of the RAPs is being undertaken transparently and with the wide knowledge of the broader society in all three affected countries. We believe there is no doubt that the project's standards of compensation, consultation and contribution to development impact associated with involuntary resettlement will 'raise the bar' considerably in these countries. These standards will be the benchmark and expectation for similar projects involving land acquisition in the future.
- In all three countries, BTC has partnered with local, third party NGOs to carry out the land acquisition and compensation processes and to provide independent advice on associated legal rights to landowners. IFC believes this is best practice and could be replicated elsewhere.

Framework Plan for Ceyhan Fishermen

Some NGOs noted alleged violation of IFC's involuntary resettlement policy due to the fact that only a framework plan had been devised for displaced fishermen at the Ceyhan terminal at the time of IFC Board consideration.

- IFC has determined that the comprehensive framework for compensation of fishermen included in the RAP is in accordance with the requirements of OD 4.30. The fishermen will not be affected until 2005. Consultation over the details of the compensation package is part of an on-going process, which will be completed well before the occurrence of any impacts on their activities. It should be noted that this development of an appropriate compensation package for fishermen being pioneered by BTC is breaking considerable new ground in Turkey, and it will undoubtedly serve as a model for future development projects that affect fishermen.

NGO's concerns regarding BTC and SCP: One submission stated "though IFC is only considering financing the BTC pipeline, we contend that the impacts of both (BTC and SCP) pipelines must be considered together in assessing the situation in the villages of Garabork and Chiyni."

- IFC is financing only the ACG Phase 1 and BTC Pipeline projects. However, the Southern Caucasus Pipeline (SCP) is running parallel to BTC (in the same corridor)., The RAP covers the entire corridor area which includes BTC and SCP therefore there is no difference between the projects in process or compensation for land use, nor will SCP require the physical resettlement of households.

Site-specific concerns

There also have been a number of instances where NGOs such as the Baku-Ceyhan Campaign, "Fact Finding Mission" reports and others have raised site-specific concerns and IFC has followed-up with BTC for clarification.

IFC believes these interventions have resulted in greater clarity and/or have contributed to the positive resolution of issues. Three examples are:

1. Concerns related to Horizontal Directional Drilling (HDD) and compensation in the vicinity of the Ciyni and Garabork settlements in Azerbaijan. The villages were visited by an IFC social development specialist together with the independent SRAP Expert Panel. It was found that there were uncertainties related to whether standard restrictions on land use would apply in the vicinity of the deeply buried HDD section. The delay in arriving at a technical decision had resulted in frustration amongst local households who were concerned about the amount of compensation that would be payable. This was discussed with BTC who subsequently decided not to wait for the technical decision and standard compensation rates have been paid.
2. Concerns related to potential landslides at Dgvari village in Georgia, which is close to, but not directly affected by the pipeline were raised at the MSF meetings. The village has been in the process of being resettled for a number of years by the Georgian Government, but this has not been completed due to a lack of funds. BTC has recently assisted the Georgian Government by undertaking detailed surveys and a report and recommendations have been submitted to the Ministry of Environment. This is an example of additionalities being provided by BTC.
3. Allegations by FFM that one of the villages which BTC reported that they consulted with in Turkey was in fact "abandoned" and non-existent village (Hacibayram). An IFC social development specialist visited the area and found that the villagers do exist, and that they constitute a cohesive community still farming their land through which the pipeline passes, but largely living in a nearby town to avail themselves of facilities and services. They reported satisfaction with the consultation and land acquisition process and compensation amounts paid.

Please see Annex D for in-depth detail and analysis of these site-specific concerns raised by NGOs.

Turkey: Use of Article 27

Some NGOs such as the Baku-Ceyhan Campaign and WWF alleged that "emergency powers" were invoked by the Government of Turkey to override key provisions of OD 4.30 thereby flouting commitments under the HGAs and RAP.

- IFC has investigated this issue including conducting detailed field verifications.

- Emergency powers have **not** been invoked for the purposes of the BTC project. The project has, however, made use of the provisions of *Article 27* of the *Expropriation Act* which relate to 'expedited expropriation'. **Use of Article 27 of the Expropriation Law is not limited to national emergencies as implied by some NGOs.**
- Article 27 has provided land shareholders, the Courts and BOTAS with a practical avenue for overcoming serious legislative shortcomings arising from the Turkish concept of multiple land shareholders. In many cases, its use provides the only avenue by which land shareholders with an active interest or actively working their land (those that will economically displaced by the project) can complete land transactions and receive compensation from the project in cases where some other shareholders in their land parcel were absent or did not attend negotiations. The use of Article 27 expedites payment of compensation to those that will experience primary economic displacement, while protecting the interests of absentee shareholders.
- In all cases, as required under the Expropriation Law, compensation for crops on BTC affected land is paid to the owner of the crops prior to occupation of land. As soon as the expropriation is announced by the District Court, the full compensation amount is placed into an interest bearing bank account referenced to the Court case and land plot number.
- The August 2003 Social and Resettlement Action Plan (SRAP) Expert Panel review examined the use of Article 27 through discussions with project affected landowners, District Court judges and independent lawyers acting on behalf of landowners. Some findings of the SRAP report include:
 - *The whole process is free-of-charge to affected landowners [as all legal and procedural costs are met by BOTAS, as required under Turkish law];*
 - *Affected landowners can exert their rights in the very same manner as under the normal Article 10 procedure; specifically, they can challenge the compensation amount offered, and the Judge will then order a fresh valuation by independent experts;*
 - *People [land shareholders] who do not show up for negotiations or for registration are usually not residing in the village, and sometimes have cut all relationship with it. It may also happen that the number of shares is so high that some shareholders receive very little compensation and are not eager to give a power of attorney for such a small amount, not to mention attend Court proceedings, even if all costs are covered by RAP Fund;*
 - *As long as the actual users receive their crop compensation before the land is entered into, they usually are not too sensitive to the land compensation being blocked, as they themselves, although the rightful users, hold only a few shares that would result in small amounts of land compensation.*

The SRAP report also concluded:

- *There is no alternative to entering land through an Article 27 procedure when not all shareholders attend negotiations and engage in the land registration and transfer process;*
- *This need for Article 27 procedures is a result of the poor maintenance of Turkish land registration system, which has not been able to keep track of the successions of deceased persons.*

Some NGOs have expressed concern that the Turkish Government has invoked emergency powers available to it under the Expropriation Law

Use of Article 27 (refer above) of the *Expropriation Law* is not limited to national emergencies. As noted by the SRAP Expert Panel, there is no alternative mechanism to enable the project to complete transactions and to enable shareholders with an active interest to receive compensation for land when not all shareholders attend negotiations and engage in the land registration and transfer process.

It is claimed by some NGOs that invocation of emergency powers places those affected by the project in the position of having to accept the compensation offered to them.

Under Article 27, project affected people have exactly the same rights, legal recourse and protections as people whose land is acquired using the standard Article 10 procedures. It is untrue to state that persons whose land is acquired using Article 27 are in the position of ‘...having to accept the compensation offered to them...’. It is also untrue to imply that poorer people are likely to be worse off under the Article 27 procedure. Whether the land is acquired under Article 27 (expedited procedure) or Article 10 (standard procedure), the landowner/lessee has the right to reject the offered compensation and apply to the District Court for an independent valuation. Under Turkish Law, the costs of such action, including legal representation, are met by the implementing agency, in this case, BOTAS.

The recently completed August 2003 SRAP Expert Panel confirmed that landowners were receiving paid-for legal assistance and did not find undue delays in District Court processing of valuation cases.

Some NGOs claim that the RAP is in potential breach of provisions under Turkey’s Expropriation Law.

Project land acquisition procedures (including those for negotiation and valuation) and related documentation have been carefully designed by BOTAS to be fully compliant with the requirements of the Expropriation Law. To date, BOTAS’ procedures and documentation have been scrutinized through numerous court hearings and judgments, and found to be entirely robust and legally compliant. Given this practical scrutiny by a large number of District Court judges and plaintiff lawyers, NGO concerns that land negotiations and approaches to valuation for the project are potentially in breach of the Expropriation Law Article 8 would appear unwarranted.

Compensation rates

Some NGOs have claimed that in many instances affected communities are receiving less than the average compensation rate per hectare for the whole pipeline route.

It should be noted that the pipeline passes through a wide range of land types with varying agricultural values: from high value irrigated land, (particularly near Ceyhan) to relatively low value extensive grazing areas (particularly in the more mountainous and arid sections through which the pipeline passes).

The independent SRAP Panel has, however, found that compensation rates are consistently higher than local market rates for any land type that the pipeline traverses, to the extent that there is a concern that this may distort local market rates. Indeed, the SRAP Panel notes that, in Turkey, “*satisfaction with rates offered for land has been observed to be almost unanimous.*” The fact that less than 2% of affected land right holders have raised issues or complaints (mostly to do with verification of site-specific or procedural issues, and not compensation rates), and that nearby land users commonly express disappointment that the pipeline does not pass through

their land, indicates strongly that local people are aware and satisfied that compensation rates are significantly higher than local market rates.

One NGO submission quoted the wrong involuntary resettlement policy (OP 4.12) and attributed the quotes to OD 4.30. The same NGO submission alleged that construction commenced on the pipeline before finalization of the RAP.

IFC (and hence the BTC Project) follows World Bank OD 4.30, Involuntary Resettlement and not OP 4.12. *It is not true that construction commenced before finalization of the RAP. The RAP was released locally in December 2002 before finalization of any land acquisition negotiations and months before any construction commenced.* The RAPs released to the WB InfoShop on June 11, 2003 contained updates to reflect the latest information stemming from the land acquisition process and details emerging from further work that had been done on application of the RAP fund.

CULTURAL PROPERTY (World Bank OPN 11.03)

Some NGOs allege that BTC Co. was in violation of the IFC Cultural Property policy adhered to by the project (World Bank OPN 11.03 Cultural Property).

- IFC does not agree with this assessment. We believe the actions taken and the documentation and procedures set up by BTC Co. to ensure that the project complies with IFC's Cultural Property Policy are appropriate. Interested individuals should refer to the ESIA's for a description of the philosophy of avoiding sites where possible and to the applicable BTC Management Plans contained in the ESAP (e.g., Archaeological Late Finds Protocol (Az and Ge) and the Botas Cultural Heritage Management Plans (Tu)) that seek to ensure the mitigation measures are followed-through at the contractor level during construction. In addition, the document entitled, "BTC Project and IFC Safeguard Policies OP 4.04 Natural Habitats and OPN 11.03 Cultural Property – dated April 2003" documents the Offset Plans to ensure compliance with this OP is found on: <http://www.caspiandevlopmentandexport.com/Files/BTC/English/SLIPs/Part%20A/Safeguard%20Policy%20Requirements/Content/Safeguard%20Policy%20Requirements.pdf>

Site-specific concern regarding Damal (Turkey)

- A site specific concern was raised about cultural properties found at Damal (Turkey). An NGO claimed they were unable to gain further information from BOTAS about possible re-routing and levels of significance.
- IFC notes that the project has adopted significant measures for protection of cultural properties, including a Cultural Heritage Management Plan which complies with IFC's Cultural Property policy. We understand that the age of Damal settlement is estimated to be of the Byzantine period, which is of particular significance, as less is understood about this period in eastern Anatolia. With regard to the assertion that the pipeline will not be moved, the site is currently under assessment by the Ministry of Culture and Tourism, and BTC Co. is confident in its belief that the Ministry will assign the correct level of significance as befits a cultural heritage find of this type.

INDIGENOUS PEOPLES POLICY (World Bank OD 4.20)

Numerous NGOs have asserted that the World Bank's Indigenous Peoples (OD 4.20) policy should have been invoked on the BTC Pipeline project. One NGO, the Baku-Ceyhan Campaign, noted that they would be submitting a complaint to IFC's Compliance Advisor/Ombudsman (CAO) on this issue.

- IFC does not agree with this assessment. After consultation with, and agreement by World Bank specialists on this policy and in this region, IFC concluded that the Indigenous Peoples policy does not apply to Kurds or to any other group along the pipeline. We note that the issue is of particular concern to certain NGO advocacy groups and IFC believes that this issue has been highly politicized. It is worth noting that in the course of our discussions with Kurdish households and groups in a number of villages affected by the pipeline, they all clearly stated that they did not want to be singled out and treated as a separate group (some villages are of mixed origin and there are a significant number of mixed marriages). These Kurdish households' chief concern was that they receive the same benefits as other affected households and they wanted the transparent consultation process followed during land acquisition and compensation to be maintained throughout the life of the project

Approach to vulnerable groups

- Not invoking the Indigenous Peoples policy does not mean that IFC or the BTC project is not aware that there are particularly vulnerable groups along the pipeline route. IFC, together with BTC, took great care to identify potentially vulnerable groups in the resettlement process. We have provided NGOs and disclosed publicly IFC's position paper on "Potentially Vulnerable Groups in the BTC Pipeline and ACG Phase 1 Projects." Again, these vulnerable groups are:
 - fishermen, whose nets will be displaced at the pipeline landfall from the ACG field in the Caspian Sea
 - seasonal herders who will be displaced at Sangachal Terminal in Azerbaijan
 - various ethnic minorities, including Azeri and Greek communities in Georgia and Kurdish communities in Turkey
 - elderly communities in Georgia
 - Alevi Muslim communities in Turkey
 - artisanal fishermen near Ceyhan Marine Terminal in Turkey, and
 - women and women's groups.
- In addition to IFC's approach paper on vulnerable groups already publicly released, IFC notes the following:

"IFC, in consultation with World Bank specialists in the ECA region and the Lenders Group Independent Social Expert, have determined that the project does not affect any groups or communities (including the Kurds) that would fall under the definition of the World Bank's OD 4.20, Indigenous Peoples policy. Project affected Kurdish communities constitute an ethnic minority with a distinct language and dialects but do not meet the key characteristics of indigenous people as defined by OD 4.20, since they: 1) are not primarily involved with subsistence oriented production, and 2) are not tied to or solely reliant on the natural resources of the area. Based upon IFC's firsthand field visits, the Kurdish communities are not isolated or disconnected from the larger socio-economic structures of the area. IFC is however cognizant that there are a number of potentially vulnerable groups (e.g., ethnic minorities such as Azeri and Greek communities in Georgia; and Kurdish and Alevi Muslim communities in Turkey; the elderly, women, displaced fishermen, etc). The approach taken to address the vulnerability of these different groups has been to implement comprehensive RAPs and social and community

investment programs. The RAPs have given specific attention to project impacts that may affect marginalized and vulnerable groups and have set in place the means to ensure that compensation measures are applied equitably.”

In addition, the BTC project’s SRAP expert panel has looked specifically at the situation of Kurdish speakers in Turkey and concluded that:

“In all respects, the situation of Kurdish-speakers in relation with the Project has been found to be identical to that of mainstream Turkish villages:

- The process of compensation is exactly the same, including the legalization, prior to expropriation, of customarily-held land (zilyet);
- The level of information on the Project is the same due to identical consultation activities, and Project documentation although provided in Turkish was widely understood;
- People have free access to Court, receive free legal support to apply to Court, and do take advantage of the opportunity to challenge rates offered, just like in other villages;
- Other social benefits of the Project (access to employment and other opportunities) are the same as in other villages.

Since NE is prioritised for CIP activities Kurdish villages in Ardahan and Kars benefit from these programmes directly.”

Meaningful Consultation and Access to Information for Kurdish Communities

In respect of concerns raised by NGOs concerning consultation with, and provision of project information to, Kurdish communities, the following statements previously released publicly by IFC are relevant:

IFC is concerned that all affected households along the pipeline route be informed about the project’s impacts, its land acquisition procedures, and its compensation measures, in a language with which they are fully conversant.

IFC discussed with BTC various practical measures that could be taken to ensure that every project-affected person had meaningful information available. This resulted in a number of actions, such as the inclusion of Kurdish-speaking members in teams involved with community liaison, land acquisition and negotiation, particularly when visiting communities with households of Kurdish origin. The BTC teams noted a very high level of literacy in the Turkish language in these communities, and IFC concurs with this assessment after a detailed verification in the field.

IFC’s social development specialists have made various visits to a cross section of affected villages to observe the land acquisition process and to validate BTC consultations. During recent visits to Turkey, IFC staff observed the land acquisition process in a number of communities, that are either entirely or partially of Kurdish origin. Discussions were held with a range of affected households, village leaders and elders, local schoolteachers, and other members of these Kurdish communities.

In our conversations with these members of the Kurdish communities, we were informed that there was no one in these communities who was not fluent in Turkish. While Kurdish is also commonly spoken at home it was emphasized by respondents that very few individuals had ever seen local Kurdish dialects in written form and almost no one had ever learned to read Kurdish.

Those few individuals that cannot read Turkish are also illiterate in Kurdish. In addition, all affected households and communities consulted indicated their strong preference for use of the Turkish language for negotiations and documentation of land acquisition agreements. Discussions with a local NGO (Rural and Urban Development Foundation - RUDF) involved with third party monitoring of the community liaison and land acquisition processes, gave no reason to believe that this situation is any different in other Kurdish communities along the pipeline route. It is noted however that this is not necessarily the case with other Kurdish communities elsewhere in Turkey (such as the southeast) distant from and not directly affected by the pipeline.

The Kurdish-speaking members of the teams that IFC staffs met are from the districts traversed by the pipeline and are familiar with local circumstances. They are clearly competent and professional team members. It was apparent from IFC staff observations that the land acquisition teams have been able to establish a good rapport and a relationship of trust with affected communities. This sets a sound foundation for ongoing interaction when construction commences. BTC has clearly demonstrated a commitment to continue with active consultation and community liaison activities.

PUBLIC CONSULTATION AND DISCLOSURE

A number of NGOs felt that the consultation process was flawed, inadequate, not synchronized, and/or violated IFC's standards. Some NGOs cited their "fact finding missions" as supporting evidence.

- IFC disagrees strongly with these assessments based upon first hand observation and in-depth field verification.
- ESIA consultations have been synchronized and documentation has been available to locally affected people (with "non-technical summaries" of EIA and concise 'user-friendly' Guides to Land Acquisition and Compensation/GLACs). IFC has witnessed these consultations during the host government ESIA disclosure ("roadshow") phase and during the land acquisition and compensation phase.
- IFC believes that BTC Co has developed comprehensive Public Consultation and Disclosure Plans (PCDPs) that record comprehensive consultation undertaken to date and outline fully plans for on-going consultation and the steps the project must take to ensure compliance with IFC's standards. These plans are publicly available. BTC Co. has used and referred extensively to IFC's public consultation *Good Practice Manual* to develop and implement its consultation and disclosure program. IFC staff also witnessed and validated the consultation and disclosure process through all phases and will continue to do so throughout our involvement with the project.

NGO Claims on Consultation: Some NGOs, such as the Baku-Ceyhan Campaign, claim that fewer than 2% of people affected were consulted face to face; consultation began too late, was rushed and lasted only two months in total.

- IFC disagrees - The statement that only 2% of people were consulted is meaningless without stating what total population is being referred to (regional, national, local communities or actual affected households). All affected villages within 2 kms of the pipeline (and some others further away that have land affected by the pipeline) and those within 5km of construction camps and permanent facilities have been consulted. There are over 750,000 people living in villages and towns within the vicinity of the 1,760 km pipeline which makes it remarkable that there is not one instance of physical relocation (only temporary economic displacement resulting from impacts to existing land use-mainly cropping and grazing). BTC

does not claim to have consulted everyone of these 750,000 individuals but has consulted everyone of the affected land users during an extensive and comprehensive consultation process that has taken place over a period of more than two and a half years. Of the affected current land users, 100% have been consulted at least once (and often several times) by the land acquisition and compensation teams, and this has included visits to each affected land right parcel (the pipeline crosses a total of 17,700 individual parcels) to ascertain details of impacts to assets (crops, pastures, orchards, fences, water pipelines, etc.). It should be noted that in a number of cases (particularly in Turkey) land parcels are owned by multiple shareholders, many of whom have migrated to urban areas and no longer use or have any involvement with the land. Difficulties have been experienced in contacting some absentee owners. However, BTC with the assistance of local NGOs is making considerable efforts and a comprehensive process is in place to contact all outstanding absentee land owners and shareholders. Therefore, the project does not view consultation as a static and one-off activity. BTC Co. consultation activities are ongoing and form an integral part of landowner/shareholder identification studies, user and crop identification studies, common land studies and development of compensation methodologies, notifications, first and second round negotiations, pre-construction and construction meetings, etc. Many project affected land owners and users will have had multiple face-to-face to meetings and discussions with a variety of project team members, specialists and construction personnel prior to and after their signing of agreements. An example of the level of recent activities, between April and July 2003, contractors themselves held 143 public meetings to discuss traffic and safety awareness, employment opportunities, etc.

- Preparation of the ESIA's commenced in 2001 with initial scoping meetings with various affected communities, and interaction continued in the course of undertaking a number of environmental and socio-economic baseline surveys. The draft ESIA's were released in May 2002 as part of the host country disclosure process and this was immediately followed by an intensive period of consultation ('road-shows') that took place with all villages along the pipeline over two months. This process, which included meetings with affected villages and also NGOs and civil society, generated numerous comments (800+ in Azerbaijan, 3,000+ in Georgia and 1500+ in Turkey) that were incorporated, as appropriate, into the final ESIA documentation. These comments were incorporated in to the draft ESIA's and the ESIA's that were finalized for host government purposes. Guides to Land Acquisition and Compensation (GLACs) which are user-friendly summaries of the full Resettlement Action Plan (RAP) were distributed to affected communities (over 70,000 copies distributed) in September 2002. It should be noted that the preparation of the RAPS or GLACs is not a requirement of any of the three governments, and preparation of the GLAC is not an IFC requirement but another example of an "above and beyond" measure taken to ensure landowners were well informed and have easy-to-use information at their disposal. Land acquisition teams then commenced detailed discussions with directly affected households. The RAPs were released in December 2002. Finalization of some land acquisition agreements commenced in early 2003 and by September 2003, 99%, 69% and 77% of land required (ha) had been acquired in Azerbaijan, Georgia and Turkey respectively. The environmental and social assessment package was released to the World Bank InfoShop on June 11, 2003 for a 120 day comment period (note that IFC requirements are for a 60 day comment period), which includes the above mentioned documents plus many more – 11,000 pages in 46 volumes which is the largest IFC environmental and social document release ever. In addition to the comprehensive public consultations held by BTC, IFC/EBRD decided to also formally meet with project stakeholders so that our Board would be well informed of public responses. In August/September 2003 a series of MSF meetings, run by independent facilitators, were held in six centers along the pipeline route (two in each country) that were attended by over 800 people. There have also been over 80 NGO meetings between IFC and NGOs during the past two years making this project one of the most community/NGO interactive projects completed to date.

- IFC has witnessed and validated BTC's consultation efforts at each step in the process on the ground numerous times, closely cooperated with other lenders, and engaged in intensive and ongoing discussions with NGOs, civil society, local communities, and local and national authorities via various means (face-to-face discussions/meetings; visits to affected communities; responding to numerous NGO letters and "fact-finding mission" reports; and via the Multi-stakeholder Forum process). Extensive consultation has thus taken place over a long period of time and there is a robust process of on-going consultation in place that will continue throughout construction and operation of the pipeline

IFC disagrees with the assertions of some NGOs that disclosure of documentation and public consultation has not been meaningful or culturally appropriate.

- As noted previously, the full ESIA documentation (includingESIAs, RAPs/GLACs, SLIPs, Non-Technical EIA Summaries, etc) is over 46 volumes and 11,000 pages. This is probably the largest and most comprehensive set of EIA documentation ever released by an IFC client. However, BTC Co. has also made a concerted effort to ensure that findings of this comprehensive set of documentation are summarized and available in a meaningful form to a wide range of interested and affected parties.
- IFC has also required that the ESIA documentation (including SLIPs, RAPs, etc) be available in the following local languages: **Azerbaijan:** Azeri, Russian, English; **Georgia:** Georgian, Russian; English; **Turkey:** Turkish, English. (Please see below for discussion of the Kurdish language issue).
- Some NGOs assert that ESIA information was hard to access as information was "online". This was only one means of dissemination. Hard copies of ESIA documentation were posted in district centers along the route.
- Further to the recommendations of IFC's Good Practice Manual on public consultation and disclosure, BTC Co also developed and disseminated more than one hundred thousand ESIA Non-technical Summaries and GLACs along the entire pipeline route.

Consultation with Women

Some NGO submissions alleged that the rights and interests of women were neglected during the consultation period.

- On the contrary, the status of women and their ability to gain access to consultation meetings and express their views with confidence was identified as an important issue by the project from the outset. Indeed, various consultation techniques were used and, for example in Turkey, BTC Co held separate, women-only meetings to ensure that women had a chance to raise their concerns openly, where open meetings may have provided constraints to full and adequate consultation in some conservative areas. A further example of the specific attention for engagement of the women is the target that was introduced aiming to guarantee that 40% of interviews on the qualitative/perception questions for the socio-economic survey were conducted with women. This ensured adequate female contribution to the data gathered. The RAP survey also studied the fact that women might be disadvantaged in terms of accessing the project information and more importantly gender-based discrimination could become important in the course of expropriation since, especially in the determination of customary ownership, women's rights may have been ignored. According to RAP findings on average, 49% of the individuals living in affected households are females, and the average ratio of females to males is about 1.1 in these households. Females have a high level of ownership in cases where an official title exists for the affected land plot; thus, females are unlikely to be adversely impacted provided that the expropriation payments are

made to each individual owner. Each women landowner received the GLAC as did male owners 60 days before payments were made and were contacted separately by land teams during consultation and negotiation meetings in every settlement.

- IFC appreciates that there is always room for improvement in consultation with any project, and there is no doubt that with the benefit of hindsight, more emphasis could have been placed on using a wider variety of participatory techniques to improve interaction. However, we strongly believe that overall consultation has been extensive, widely inclusive and thorough.
- It should be noted that IFC staff also witnessed a number of consultation meetings with Alevi Muslim and Kurdish villages, in the course of disclosure of the ESIA and subsequent discussions concerning land acquisition.

Ongoing consultation

Some NGOs assert that ongoing consultation has not happened “since the disclosure roadshow”.

- *This statement ignores the fact that BTC Co has met every single current land user who is directly affected by the project, and has made extraordinary efforts to contact absentee landowners and shareholders during the land acquisition and compensation process that commenced in fall 2002.* In fact, IFC has agreed with BTC the need for ongoing consultation throughout the construction and operational phases of the project and BTC has fully taken on board this recommendation. This is evidenced by the hiring of a number of Community Liaison Officers (CLOs) by BTC Co. and requiring the contractors hire CLOs as well.

Turkey: consultation with Haskoy village

One NGO submission noted that a village in Turkey (Haskoy) was not consulted.

- In contradiction to this remark, BTC’s records show that the town of Haskoy is one of the most intensively consulted Kurdish-speaking communities visited by BTC/Botas teams, on at least ten occasions over the last two years. It is also one of the first settlements to benefit from BTC’s Community Investment Programs – with an 18-kilometre fresh water supply pipeline.
- An IFC social development specialist also visited the Haskoy village in January 2003 in the course of assessing land acquisition issues and the feasibility of making available project documentation in Kurdish (see discussion below on Kurdish issues). The Muhtar reported that affected land right holders were very satisfied with level of consultation and feedback to queries raised, and that the transparent approach of the land acquisition teams was refreshing compared to the previous pipeline project that traversed their area.
- IFC suggests that interested parties review fully the PCDPs and the PCDP Updates (prepared for IFI disclosure) that provide evidence of consultation and disclosure activities over the past two and a half years.

OP 7.50, INTERNATIONAL WATERWAYS POLICY

As required under OP 7.50 (Projects on International Waterways), on July 24, 2003 IFC notified Executive Directors of the riparian countries of Iran, Turkmenistan, Kazakhstan, and Russia of the ACG Phase 1 project details and the Executive Directors of the riparian countries of Armenia, Syria, Iraq, Bulgaria, Romania, Ukraine, Russia were notified of the BTC project details.

III. OTHER COMMENTS

LEGAL REGIME:

Numerous NGOs including the Baku-Ceyhan Campaign, WWF and Amnesty International have expressed concerns with regard to the legal regime of the BTC Pipeline project, namely in respect of the Host Government Agreements (HGAs) and the Intergovernmental Agreement (IGA).

In this respect it should be noted that:

- while IFC did not participate in the negotiation of these agreements; the Corporation insisted that the IGA and the HGAs were disclosed to the wider public which added significant transparency to the projects; and
- that as a result of this disclosure, NGOs were able to analyze and make comments that – in many cases -- have been duly noted and addressed by the host governments and the Project Company as detailed herein below.

IFC's legal due diligence is still ongoing, so far our assessment is that the IGA and the HGAs (which have been discussed and approved by Parliament in all three Project countries) provide the right legal and contractual framework for the construction of the BTC pipeline through three different countries, in a manner consistent with the high technical, safety and environmental standards as specified therein.

These technical, safety and environmental standards are 'international standards within the petroleum industry that shall in no event be less stringent than those generally applied in the member states of the European Union. The HGAs permit host countries the flexibility to develop applicable local legislation without restriction, except in cases where such new legislation imposes standards that conflict with those set out in the HGAs. Furthermore under the HGAs not only the three project governments but also their citizens have rights against BTC Co in case that company fails to comply with its obligations under the same.

We also analyzed whether or not certain provisions in the HGAs restricting the rights of the State Authorities to amend, rescind, terminate, declare invalid or unenforceable the HGAs, the IGA, or any other Project Agreement without the prior written consent of the Project company as a successor in all of the rights and obligations of the original Project Sponsors, could entail an undue restriction of the constitutional powers of Parliament in the Project countries to reject or abrogate international treaties. In this respect, we were advised by counsel in all three countries that the local Constitutions would always prevail over the provisions of the HGAs. However, since the IGA and the attached HGAs were ratified by Parliament in all three countries, under generally accepted principles of international law, the unilateral termination of the treaty by one of the signatories could trigger international liability regarding the other signatories. Since –in addition to being part of an international treaty, the HGAs are also foreign investment agreements between each country and the Project company, it goes without saying that the same concept would apply to a unilateral decision to terminate the foreign investment agreement other than for the reasons contemplated under the same, basically, lack of compliance of its obligations by the foreign investor.

On May 16, 2003, Azerbaijan, Georgia and Turkey signed a Joint Statement together with BTC Co. responding to a number of the criticisms of the project made by a number of NGOs. Four key commitments agreed to in the Joint Statement, which are worth highlighting, are:

Paragraph 5 – (OECD Guidelines on Multinational Enterprises) – a commitment to implement the project consistently with the OECD Guidelines on Multinational Enterprises;

Paragraph 6 – (Project Security and Human Rights) – a commitment to the goal of promoting respect for and compliance with human rights principles and conclude a protocol between the host governments and BTC Co setting out how security operations will be conducted in accordance with specified human rights conventions;
Paragraph 7 – confirmation that references in the project documents to EU standards are references to those standards as in force from time to time;
Paragraph 8 – a commitment to specified labor standards and to any other international labor standards which may be in force in a Project State from time to time.

It is also worth noting that on July 23, 2003 the *Protocol on Security and Human Rights* contemplated under Paragraph 6 of the Joint Statement was executed and is publicly available on the project's website: www.caspiandevlopmentandexport.com

Furthermore, in mid-September 2003, in a BTC *Human Rights Undertaking* that is also available in the above mentioned website BTC formally confirmed that it will not seek compensation from the governments for matters related to the host governments' obligations under international human rights, environmental and other treaties to which it is a party. This document also clarifies the HGA clauses that provide stability for the project in the event of changes to legal and fiscal regimes. The BTC Human Rights Undertaking also confirms that the HGA's arbitration provisions will not hinder people's access to domestic courts and that the standards applicable to BTC Co are 'dynamic' and will evolve as international standards evolve.

In addition, to further project transparency, BTC also agreed to make the project's complex legal arrangements more accessible by publishing a simple summary of the agreements.

In view of all the above, IFC has not identified so far any specific provisions in the IGA/HGAs that may be inconsistent with the rights to life, liberty, fair trials, etc. as conferred by the Universal Declaration of Human Rights or the European Convention on Human Rights.

ALLEGATIONS OF CORRUPTION IN SOCAR:

As part of the ESIA public comment period on BTC, IFC received a complaint regarding alleged corruption in SOCAR.

- IFC takes allegations of corruption very seriously. It is important to note that IFC is not lending to SOCAR. The final beneficiary of the IFC loan is BTC Co. -- a company where SOCAR has a minority interest of 25%.
- BTC Co. has committed itself through representations made to the lenders in the loan agreements not to make improper payments and adhere to the highest international standards of competitive tendering and contract award. In addition it has in place management systems to ensure transparency and fairness. This applies directly to the main contractors and sub-contractors and they will make best effort to ensure that this philosophy extends downward to national and local suppliers to the project, leading by example and through close supervision.
- Furthermore, as part of IFC's ongoing commitment to transparency (especially in the extractive industries), IFC has asked BTC (and BTC has agreed) to "publish what they pay" and Azerbaijan has agreed to "publish what they receive". This fiscal transparency together with the commitments made to the entire donor community under the Poverty Reduction Strategy Programs is in IFC's view one of the most effective ways to ensure that revenues will be wisely spent.

- In addition, IFC has worked closely with the World Bank with respect to the State Oil Fund of Azerbaijan's operations including the use of outside auditors. Furthermore, IFC continues to work with the World Bank and the IMF, advocating the need for ongoing transparent management and utilization of Azerbaijan's oil revenues.

In addition, IFC would like to respond to numerous NGOs, including WWF, who have made the comment about "Free Public Money".

- BP's Lord Browne made this statement in 1998 when the economics of the project were being assessed and there were doubts about the amount of Caspian oil available for the project. At that point there were valid questions about the project's viability. Over time, as BTC and potential lenders came to better understand the size of the reservoirs - especially the critical Azeri-Chirag-Gunashli deposit - this view has changed, which is why BTC now describes the BTC project as "commercially robust." Since no financial institution (including IFC) is subsidizing the project, BTC expects to raise project finance at prevailing market rates reflecting the risk premium for investing in the region.

ANNEX A: Organizations submitting comments to IFC on BTC Pipeline and ACG Phase 1 projects

- Submission from “East-West Energy Corridor” NGO coalition (comprising 27 Georgian organizations): *Concerns of the Georgian NGO Coalition “East-West Energy Corridor – Energy Resources for the Welfare of People and Protection of the Environment” regarding Baku-Tbilisi-Ceyhan Project*. Submitted on 29 September 2003.
- *Review of the Environmental Impact Assessment for the Baku-Tbilisi-Ceyhan oil Pipeline (Turkey section) – October 2003*. Submitted by the following organizations: Amis de la Terre (France), Baku Ceyhan Campaign (UK), Campagna per la Riforma della Banca Mondiale (Italy), CEE Bankwatch Network (Central & Eastern Europe), The Corner House (UK), Environmental Defense Fund (USA), Friends of the Earth (England, Wales & Northern Ireland), Friends of the Earth Japan, Green Alternative (Georgia), Halifax Initiative (Canada), Kurdish Human Rights Project (UK), Milieudefensie (Netherlands), PLATFORM (UK), Urgewald (Germany), WEED (Germany). Submitted on 8th October, 2003.
- *Disclosure Period of ESIA Documentation for Proposed BTC Oil Pipeline: WWF Comment on Application by BTC to IFC and EBRD for Finance*. Submitted by World Wildlife Foundation (WWF). Submitted on 9 October 2003.
- Unfavorable Geotechnical Conditions at Borjomi Section of BTC Pipeline, Edisher Katsadze, Engineer-Geologist, *Center for Development and Cooperation*. Submitted on 3 October 2003.
- Submission from Galina Kozlova, Ecograph, (Azerbaijan). Submitted on 8 October 2003.
- *Disclosure Period on ESIA Documentation for Proposed BTC Oil Pipeline: WWF Comment on Application by BTC to IFC and EBRD for Finance and Independent Review of the Baku-Tbilisi-Ceyhan (BTC) Pipeline, EIA, Turkey Section*. Submitted on 9 October 2003.
- Submission from Ms. Manana Kochladze and Ketu Gujaraidze, 9 October, 2003.
- *Comments to the IFC -- Baku-Tbilisi-Ceyhan Pipeline project*, Center for International Environmental Law (CIEL). Submitted on 10 October 2003.
- Submission from *Georgian Young Lawyers Association* on 13 October, 2003.
- Numerous other individual letters of interest and concern.

ANNEX B: BTC & ACG PHASE 1 PROJECTS TIMELINE

NOVEMBER 1997	<ul style="list-style-type: none"> ○ FIRST OIL PRODUCTION COMMENCES AT CHIRAG (PART OF EARLY OIL PROJECT)
JULY 1998	<ul style="list-style-type: none"> ○ IFC AND EBRD APPROVE FINANCING OF EARLY OIL PROJECT
1998-1999	<ul style="list-style-type: none"> ○ PRELIMINARY ROUTING STUDIES AND CONSTRAINTS MAPPING AND CONSIDERATION OF ALTERNATIVES ○ PRELIMINARY ENVIRONMENTAL RISK ASSESSMENTS
MARCH 1998-2001	<ul style="list-style-type: none"> ○ EARLY CONSULTATION – ENVIRONMENTAL AND SOCIAL DATA GATHERING/STAKEHOLDER IDENTIFICATION AND ANALYSIS ○ BP INTRODUCTORY MEETINGS WITH NATIONAL, STATE AND LOCAL GOVERNMENT OFFICIALS ○ TECHNICAL CONSULTATIONS FOR DRAFT ESIA INPUT ○ VILLAGE-LEVEL SOCIAL IMPACT ASSESSMENT CONSULTATIONS/DATA GATHERING ○ COMMENCEMENT OF CIVIL SOCIETY CONSULTATIONS (ONGOING) ○ 2001: LAND IDENTIFICATION SURVEY AND RAP CENSUS
DECEMBER 2001	<ul style="list-style-type: none"> ○ IFC AND EBRD ENTER INTO A JOINT MANDATE LETTER WITH BTC/ACG PHASE 1
MAY 2002	<ul style="list-style-type: none"> ○ DISCLOSURE OF IGA, HGAs AND PSA ON THE PROJECTS' WEBSITE (WWW.CASPIANDEVELOPMENTANDEXPORT.COM)
JUN-AUG 2002	<ul style="list-style-type: none"> ○ DRAFT ESIA IN-COUNTRY DISCLOSURE (60-DAYS), IN-COUNTRY ROAD-SHOWS, DISTRIBUTION OF NON-TECHNICAL ESIA SUMMARIES, AND MEETINGS WITH LOCAL AND SELECT INTERNATIONAL NGOS ○ DUTCH EIA COMMISSION RELEASES REPORT ON BTC GEORGIAN DRAFT ESIA ○ MOTT McDONALD (UK) APPOINTED LENDERS' INDEPENDENT ENVIRONMENTAL CONSULTANT ○ 3-WEEK LENDER GROUP ENVIRONMENTAL AND SOCIAL OVERVIEW TRIP TO REGION
SEPTEMBER 2002	<ul style="list-style-type: none"> ○ WORLD BANK ANNUAL MEETINGS – IFC MEETS WITH VARIOUS INTERNATIONAL NGO REPRESENTATIVES ON BTC
OCTOBER 2002	<ul style="list-style-type: none"> ○ OCTOBER 18, 2002: TURKISH GOVERNMENT APPROVES FINAL ESIA ○ OCTOBER 29, 2002: AZERBAIJAN MENR APPROVES FINAL ESIA ○ LOCAL DISCLOSURE OF GUIDES TO LAND ACQUISITION AND COMPENSATION (GLACs) – OVER 40,000 COPIES DISTRIBUTED (OCTOBER- 60 DAYS BEFORE ANY FINALIZATION OF LAND ACQUISITION AGREEMENTS) ○ DUTCH EIA COMMISSION RELEASES REPORT ON BTC GEORGIAN FINAL ESIA
NOVEMBER 2002	<ul style="list-style-type: none"> ○ NOVEMBER 30, 2002: GEORGIAN MOE APPROVES FINAL ESIA (WITH REQUEST FOR ONGOING WORK/ADDITIONAL INFORMATION) ○ LAND ACQUISITION CONSULTATION AND COMPENSATION NEGOTIATIONS COMMENCE BETWEEN BTC & LANDOWNERS IN ALL THREE HOST COUNTRIES (NOV/DEC)
DECEMBER 2002	<ul style="list-style-type: none"> ○ IN-COUNTRY DISCLOSURE OF RESETTLEMENT ACTION PLANS (RAP) ○ SIGNING OF FIRST LAND ACQUISITION AGREEMENTS (DEC/JAN)
JANUARY 2003	<ul style="list-style-type: none"> ○ CASPIAN DEVELOPMENT ADVISORY PANEL (CDAP) APPOINTED BY BP ○ COMMENCEMENT OF FIRST COMPENSATION DISBURSEMENT (JAN-APRIL)

FEBRUARY 2003	<ul style="list-style-type: none"> ○ IFC (R. KALDANY) MET WITH NGOs IN BAKU (2/12/03) AND TBILISI (2/14/03) ○ PIPE DELIVERY TO SITES
MAY 2003	<ul style="list-style-type: none"> ○ P. WOICKE MEETS WITH AZERBAIJANI NGOs IN BAKU
JUNE 2003	<ul style="list-style-type: none"> ○ FULL SUITE OF ESIA DOCUMENTATION RELEASED LOCALLY & TO WORLD BANK INFOSHOP (120 DAYS PRIOR TO IFC BOARD CONSIDERATION) ○ PROJECT CONSTRUCTION COMMENCES
JULY-AUG 2003	<ul style="list-style-type: none"> ○ SOCIAL AND RESETTLEMENT ACTION PLAN (SRAP) EXPERT PANEL CONDUCTS FIRST REVIEW IN ALL THREE COUNTRIES
AUG-SEP 2003	<ul style="list-style-type: none"> ○ IFC & EBRD MULTI-STAKEHOLDER FORA (MSF) MEETINGS IN EACH COUNTRY – 3 WEEKS, 2 MEETINGS PER COUNTRY, 800+ PARTICIPANTS
OCT 2003	<ul style="list-style-type: none"> ○ IFC RECEIVES COMMENTS ON ESIA DOCUMENTATION ○ IFC RESPONDS PUBLICLY TO ESIA DOCUMENTATION COMMENTS ○ PRESENT PROJECTS TO IFC BOARD

Annex D – IFC Response to the Netherlands Commission on EIA

In response to the Netherlands Commission for Environmental Impact Assessment's "Advisory Review Report" on BTC ESIA (dated October 15, 2003), IFC provided the following response:

BACKGROUND

The difficulty of finding a route through Georgia for the Baku-Tbilisi-Ceyhan (BTC) Main Export Pipeline has been of interest to all stakeholders because of geopolitical security constraints, difficult terrain, geo-hazards, natural habitats, and economic water sources (in the Borjomi area, for example). Initially, three corridors were considered and ultimately rejected. The Eastern Corridor through Georgia was BTC's preferred corridor from an environmental, engineering and cost standpoint, but was discarded because of the Georgian Government's view that the Akhalkalaki district was too high a security risk. The Western and Central Corridors are not constructable because of a combination of very serious environmental and safety risks as well as major geohazard and economic challenges. Having rejected the three main corridor options, BTC endeavored to find a route through a small gap that did not cross the area of the Akhalkalaki district to the south, which was ruled out by the Georgian Government as mentioned earlier, or the Borjomi-Kharagauli National Park and State Nature Reserve to the north. When the severe terrain geo-hazards are superimposed on this area, there is only one viable route available (known as the Modified Central Corridor). The route passes through the Support Zone of the Borjomi National Park (not through the National Park itself) and is consistent with the intended use of this area. This corridor has been controversial because for 18 km it crosses the water catchment area for the Borjomula River that flows through the Borjomi mineral water park. Alternative routes to move the 18 kms of pipeline to the south were examined including variations of the Karakaia route including a tunneling option through the mountains. These options were not viable as they would pose major environmental issues in an area which is currently environmentally intact and inaccessible to induced impacts including illegal logging and poaching. Once the route was selected, the focus was then shifted to studying the site-specific conditions and designing protective measures to minimize spill risk.

NETHERLANDS COMMISSION FOR EIA (NCEIA)

The Netherlands Commission for Environmental Impact Assessment (NCEIA) was asked to advise Georgia's Minister of Environment on the Environmental and Social Impact Assessment (ESIA) for the Baku-Tbilisi-Ceyhan (BTC) Main Export Oil Pipeline and the South Caucasus (SCP) Gas Pipeline. A report by the NCEIA of the BTC ESIA and ESIA Addendum was released on November 22, 2002 which stated that the modified central corridor was a viable option but also recommended that additional information be presented to determine if it is technically feasible to undertake construction of the Karakaia ridge route including the southern flank or via tunneling. The October 15, 2003 report presents the NCEIA's conclusions after review of supplemental information. Though the report states clearly that the NCEIA "is not in a position to assess the geopolitical security of the two Karakaia routes, the Central and the Karakaia tunnel that crosses this district" the NCEIA fails to mention that they are also not assessing the environmental, social or safety parameters and have based their conclusions on one single parameter: engineering technical feasibility.

FINDINGS AND IFC RESPONSE

The NCEIA advisory review report (dated October 15, 2003) concludes:

1. *Alternative routes for Tskhratskaro and Kodiana pass sections* – “it is technically feasible to construct the proposed pipelines along the following two routes: (i) Karakaia ridge route and (ii) the Karakaia route on the southern flanks of the Karakaia massif. It is technically feasible to construct the Karakaia tunnel avoiding overland crossing of the Karakaia massif.”

IFC Response - IFC agrees that it is technically feasible to construct one or more pipelines across the Karakaia ridge route and it might be technically feasible to construct one or more pipelines across the Southern flank route through dynamite blasting. However, these options would have the following negative ramifications on the local environment:

- open up access to illegal logging, grazing, poaching in an area that is currently environmentally intact because of lack of access (ridge and southern flank);
- destroy the viewscape of the Bakuriani bowl referred to by some NGO’s as “Little Switzerland” (ridge);
- create an on-going situation of slope instability, reinstatement and maintenance issues for the life of the pipeline (ridge and southern flank);
- create large amounts of rock spoil that would need to be trucked somewhere else for ultimate disposal and thus would end up secondary impacts (ridge and southern flank);
- place the pipeline in an area that would be very difficult to ensure year-round access (ridge and southern flank);
- increase significantly the safety risk to personnel during construction (ridge); and
- doing the above would not resolve the residual risk surrounding oil being released to the Borjomula Catchment (ridge).

IFC agrees that it is technically feasible to construct the tunnel option through the Karakaia massif. However, this would have the following negative ramifications on the local environment:

- open up access to illegal logging, grazing, poaching in an area that is currently environmentally intact because of lack of access;
- create massive amounts of rock spoil that would need to be trucked somewhere else for ultimate disposal (estimated to be 20,000 truck trips) creating major secondary impacts;
- impact the natural drainage of the groundwater in the area during construction and possibly affect it permanently; and
- create an on-going situation of slope instability, reinstatement and maintenance issues for the life of the pipeline.

2. *Alternative route for the Lake Tsalka area* – “The commission concludes that a route south of Lake Tsalka has not been assessed in the Routing Report.”

IFC Response – The alternative south of Lake Tsalka was rejected earlier for a variety of reasons and thus this recommendation by the NCEIA in their November 2002 report was not one of the Continuing Activities attached to the permit from the Georgian Minister of Environment.

IFC CONCLUSION

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 for all of the above reasons.

ANNEX E: Site-specific Concerns

There also have been a number of instances where NGOs such as the Baku-Ceyhan Campaign, "Fact Finding Mission" reports and others have raised site-specific concerns and IFC has followed-up with BTC for clarification.

IFC believes that this follow-up has resulted in greater clarity and/or has contributed to the positive resolution of issues. Details of three examples are provided below.

- **Ciyini and Garabork settlements (Azerbaijan):** The following is IFC's detailed response to the NGOs which is also found at:

[http://164.114.129.64/ifcext/btc.nsf/AttachmentsByTitle/BTC+-+HDD+Azerbaijan+-+IFC+Reply/\\$FILE/BTC+-+FOE%2C+BIC+-+HDD+Azerbaijan+-+IFC+Reply.pdf](http://164.114.129.64/ifcext/btc.nsf/AttachmentsByTitle/BTC+-+HDD+Azerbaijan+-+IFC+Reply/$FILE/BTC+-+FOE%2C+BIC+-+HDD+Azerbaijan+-+IFC+Reply.pdf)

"An IFC Social Development Specialist accompanied a member of the independent Social and Resettlement Action Plan Expert Monitoring Panel on a visit in late July 2003 to a selection of affected communities in Azerbaijan and Georgia. This included visits to the Azeri villages of Garabork and Chiyini and meetings with some affected households to review issues that had been raised previously concerning the use of Horizontal Directional Drilling (HDD). The RAP Monitoring Panel is currently preparing a report which will be released publicly after presentation to the BTC Co. Board. The following is a summary from the IFC's perspective and does not pre-suppose the findings of the SRAP Monitoring Panel.

Further to questions raised by IFC regarding the use of HDD and the Azerbaijan settlements of Garabork and Chiyini, BTC forwarded a technical paper outlining the benefits and technical details relating to HDD in these areas and provided further clarifications related to issues raised by NGOs concerning this matter.

Background:

The settlement pattern at both Garabork and Chiyini villages is linear and this has necessitated traversing of the settlements by the BTC pipeline at points where there is less dense settlement and land use. In order to further minimize local impacts BTC decided to utilize HDD at the 'pinch points', although there would have been sufficient space to lay the pipe in a trench without the necessity to demolish any nearby houses (it is important to note that the HDD does not pass under any households). The closest distance from existing dwellings at Chiyini village will be 43 and 46 meters from the BTC and SCP pipelines respectively; and at Garabork village the closest distance will be 40 and 20 meters from the BTC and SCP pipelines respectively. The use of HDD was based on the objective of minimizing physical disturbance (dust, noise, etc) and economic disruption to local households (by avoiding orchards, crop land, irrigation canals, road access etc.)

Issues:

Communication:

BTC's Land Team has had on-going meetings with households in the vicinity of the pipeline since November 2001, when the Preliminary Land Acquisition Program commenced (100m corridor land owner identification process). Initially meetings were held with the local authority and community to determine ownership of land rights, and later individual meetings were held specifically with those households directly affected by the pipeline. Meetings with affected households and local authorities have continued throughout the land acquisition process and through the recent commencement of the construction phase. Discussions IFC held with local authorities and a number of local households indicate that communication has been undertaken well overall, but that there are a number of uncertainties and misunderstandings in some affected households, based mainly around raised expectations.

Raised Expectations:

Local opportunities for acquiring cash income are limited and compensation payments received by affected households have been welcomed and have enabled households to improve their circumstances (purchases of agricultural equipment and livestock, motor-vehicles, improvements to homes, etc). Some nearby households have even requested re-routing of the pipeline to pass through their land in order to receive compensation.

At both Garabork and Chiyni there is no doubt that the households with land in the 'pinch point' areas had high expectations with respect to compensation, and that there was considerable disappointment when it was decided to utilize HDD (thus not directly affecting existing land use). This was exacerbated when compensation payments were finalized with nearby households with land in the pipeline r-o-w beyond the planned HDD sections.

HDD Restrictions of Land Use:

Households with land in the HDD sections then wanted to know if there would be any compensation for any restrictions of land use (construction of buildings, planting of trees, etc). The Project Land Teams informed them that they were not certain what restrictions would apply since the HDD would be at considerable depth (up to 20m) and that this was being investigated and had been referred to the engineering and operations teams. Restrictions in land use as outlined in the Guide to Land Acquisition and Compensation (GLAC) are not necessarily applicable to HDD sections.

At the time of the IFC visit (July 2003) there was still no decision regarding any possible restrictions in land use in the HDD sections. This uncertainty concerning any possible compensation payments had resulted in dissatisfaction amongst affected households. It was apparent that the Land Coordinators had been in regular contact with these households but were unable to give a definitive answer because the issue was still under consideration. At Chinyi, IFC found that while households were prepared to wait for a decision they wanted the answer as quickly as possible. At Garabork one household was clearly frustrated and agitated about the uncertainty concerning compensation payments. The Land Team had clearly maintained a very professional and competent approach in interacting with households, despite the tensions that had been raised by their inability to provide a definitive answer.

It has since been learnt that in order to address the concerns raised by affected households in this area, BTC has decided not to wait for a technical decision on any possible land use restrictions and to pay standard compensation rates for restrictions of land use as outlined in the GLAC. It is understood that this compensation process is currently underway.

Conclusion:

The BTC Land Teams and Land Coordinators have been in regular contact with the affected households. However, their inability to provide a rapid definitive answer concerning any compensation payments for restrictions of land use resulted in uncertainties, misunderstandings and some tension. It is critically important that if there are any anomalies (which might require more or less restrictions in land use) that these issues be resolved expeditiously and communicated clearly to all affected households, communities and authorities. IFC and the independent RAP Monitoring Panel have discussed these issues with BTC and BTC has followed up and taken steps to address these issues at Garabork and Chiyni and is paying compensation for restrictions of land use."

- **Dgvari village (Georgia):** The issue of risk of landslides at Dgvari village (**although not associated with the construction or operation of the BTC pipeline**) is of concern to BTC and IFC. The issue was raised during the Multi-stakeholder Forum (MSF) meetings. We understand that the Georgian Government has had a program in place for some years now to

resettle Dgvari (because the village site is situated within an area that has been subject to previous landslides), but that the resettlement has not been completed because of a shortage of funds. The settlement is close to, **but not directly affected by the BTC pipeline**. The following actions have been taken: 1) the settlement and its environs have recently been mapped in detail by BTC geo-hazard/landslide specialists. This work was undertaken at the request of the Georgian Government and field work has been completed; 2) A draft report has been prepared by BTC and recommendations to address the problem at Dgvari have been included in a report to the Georgian Minister of Environment (MOE); 3) BTC will also produce a brief report for public release. This is an example of where the project has gone above and beyond requirements in order to be a good neighbor.

- **Hacibayram Village (Turkey):** Fact Finding Mission (FFM) visited Turkey in August 2002 and claimed that Hacibayram village, which is listed in BTC's initial Public Consultation and Disclosure Plan (PCDP) as having been contacted telephonically, was in fact an abandoned and non-existent village – the implication being that BTC's recorded consultation process was inaccurate, inadequate and misleading.

An IFC Social Development Specialist met with the Hacibayram Muhtar and nine household heads in January 2003. Although the village is not permanently occupied it is still recognized by the provincial authorities; the Muhtar receives a government stipend and continues to carry out administrative duties although most villagers are now resident in the larger nearby urban center of Tercan (19 km distant) and some are further a field in other centers (Erzurum, Erzincan, Ankara, Istanbul, and Izmir).

Hacibayram village (including the associated small settlement of Rizabey) consists of a total of 30 households with some 210 members- all Turkish Sunni except for one Alevi household. Some households began to move to Tercan and other centers in the 1950s to seek improved employment and educational opportunities (in common with 'rural-to-urban' migration that has taken place throughout Turkey). Out-migration continued gradually until the 1990s. The last 5 households left in 1994 after concerns about unrest in the district in the late 1980s and early 1990s (none were directly affected by this unrest).

Villagers still farm their land, return their beehives each summer and some camp in the village temporarily during planting and harvest periods (one household head lives in the school throughout each summer). Households clearly have a strong sense of community and still view themselves as Hacibayram villagers although now living in Tercan and other centers.

The BTC/BOTAS consultation process commenced with an initial telephone discussion with the son of a member of the Hacibayram Elders Committee in Tercan during which an initial questionnaire was completed (at this stage BTC/BOTAS were not aware that no one was permanently living in the village any longer).

Disclosure documents were posted to the Muhtar and after follow up calls BTC received completed feedback forms in September 2002. This was followed by three village level meetings with villagers based in Tercan (50 people); meetings with individual households to assess affected assets and determine compensation amounts; establishment of contact with absentee landowners and land users; and finalization of land acquisition agreements in the period between September 2002 and January 2003.

The Muhtar and household heads the IFC Social Development Specialist met in Tercan all confirmed that they were very satisfied with the consultation process to-date and stated that there had been a considerable improvement in interaction compared to establishment of the previous pipeline that traversed the area. All were satisfied with the compensation amounts and all affected households, except one (some details were still being finalized), signed land acquisition agreements on 8 January 2003 (29 parcels of land).

The key concern raised by Hacibayram villagers was the need for adequate re-instatement of land; monitoring of contractors to ensure that re-instatement was performed satisfactorily, and measures for recourse if it was not satisfactory. Other issues raised included the scope and extent of the community investment program, employment procedures with contractors and the possibility of promoting SME development in Tercan.

The household head that resides in the village during summer reported that a small group of foreigners visited Hacibayram in the summer of 2002 but did not identify themselves (Apparently the FFM mission to Turkey. A Kurdish Human Rights Project member of the FFM subsequently confirmed to IFC that they did meet a villager at the village site during the August 2002 visit). The household head was concerned that these strangers informed him that each landowner should individually negotiate for an adequate compensation rate for land and crops (he and other villagers were subsequently relieved to receive confirmation from BTC that compensation rates worked out with local agricultural experts and RUDF applied to all affected households). BTC's social development specialist for Turkey traveled to London to meet with FFM (soon after FFM raised the issue) to discuss the Hacibayram situation and consultation undertaken with villagers, but the meeting was cancelled by FFM at short notice.

FFM subsequently visited the Hacibayram Muhtar in March 2003. While it appears that there is now an acknowledgement by FFM that the villagers do exist and that they still own their land, FFM now claims that the Muhtar had only met BOTAS once in February 2003, and that the villagers were not satisfied with compensation prices. This allegation does not correspond with IFC's findings and the fact that all land acquisition agreements (except one) were signed on January 8, 2003 after a lengthy process of consultation. Villagers expressed satisfaction with the compensation process to IFC. BTC's Community Investment Program is currently providing assistance to villagers who continue to use the land surrounding the old Hacibayram settlement. It thus appears that FFM's investigation of the Hacibayram situation was superficial, not objective and was primarily aimed at discrediting the project's consultation, land acquisition and compensation process.

ANNEX F: IFC-Specific Responses to WWF

IFC Response to “Disclosure Period on ESIA Documentation for Proposed BTC Oil Pipeline: WWF Comment on Application by BTC to IFC and EBRD for Finance, October 9, 2003” and “Independent Review of the Baku-Tbilisi-Ceyhan (BTC) Oil Pipeline EIA, Turkey Section, October 9, 2003”

1. WWF concern: *The procedure for the planning of the project has been fundamentally flawed; no Strategic Environmental Assessment (SEA) has been undertaken for the project, alternatives and cumulative impacts have not been assessed, the substantive agreements were signed before the EIA was undertaken, and the staggered application procedure has continuously presented the project as a fait accompli.*

Strategic Environmental Assessment Response

- The definition applied in the EU Directive on SEA (2001/42/EC) is that an SEA is usually applied to the evaluation of the environmental consequences of plans, programs, and policies. This is typically carried out by one or more governments on a regional basis where there are multiple subprojects to choose from in a sector. Once governments then decide which sectors or projects to move forward with they then turn to the project sector to develop the project. IFC is only involved in this process once a private sector client comes to us with a defined economically viable project.
- Projects often arrive at IFC after the governments and private sector have already agreed on a project. According to IFC policies and procedures, the ESIA has to study the alternatives of the already defined project but it does not require an SEA as this is a governmental (and often IBRD) undertaking.
- To our knowledge, it is true that a formal SEA was not done by the Government of Azerbaijan on what is the best way to transport oil out of the land locked Caspian Sea. This does not mean that alternatives were not assessed on a regional basis by the government. In fact, pre-feasibility studies from the pipeline transportation of oil from the Caspian Sea to the Mediterranean Sea have been conducted over the years, which led to the World Bank commissioning a formal Feasibility Study in 1997, which was completed in 1998. This information, along with country specific information, was used by the governments to define the starting and ending points and border crossing boundaries in the HGAs/IGA. It is well within a government's rights to make conscious decisions about where within their countries projects will be located and how projects will be developed.
- The *Regional Review*, which is part of the IFC InfoShop disclosure package, was BTC's attempt to fill the SEA gap. This is a groundbreaking document by the private sector that looks at the project in the wider regional context and discusses broader regional oil export options that were considered and later rejected by the governments. IFC believes that this document is an example of where the project has gone above IFC policy and procedure requirements and in fact is an excellent example of best practice.

Alternative analysis response

- The export constraints presented by the land-locked nature of the Caspian Sea have long presented a challenge to the would-be developers of Azerbaijan's natural resources. Debate surrounding the nature of an appropriate export solution can be traced back to the early 90's and was not resolved by the signing of the “Contract of the Century” (the ACG PSA). That agreement specifically anticipates the subsequent development of a Main Export Pipeline – a

large diameter export route that would enable the full development of the ACG field. At that time there were a number of potential solutions – through Georgia to the Black Sea, through Russia to Novorossiysk, south via Iran, or via Georgia and Turkey to the existing oil export terminal at Ceyhan. Each of the options had significant political implications for Azerbaijan as owner of the natural resources, and potentially for each of its chosen export partner countries.

- The key stakeholders were driven by the need to create a genuinely competitive option to attract investors who make their decisions based on the balance of risk and reward in each component and the total value chain. It should be noted that the upstream hydrocarbon investment in Azerbaijan is roughly four times that of the associated export system. The stakeholders were also driven by the need to meet the requirements of the Azerbaijan Republic, which is incentivised to ensure that the cost of transporting the oil to market is minimized thereby generating maximum income for the country for its resources.
- All routes were considered on the basis of delivering oil to the Mediterranean market without transiting the Bosphorus – which is considered an unacceptable long-term environmental risk as the sole export route for Caspian oil. A large diameter pipe to Novorossiysk and Supsa would probably have required capital expenditure (capex) in the region of \$1-2bn, but would have required a subsequent further bypass round the Bosphorus – with estimated costs in the region of \$1bn. Both these options would have necessitated additional trans-shipment costs across the Black Sea, with further environmental risk posed by additional on- and off-loading from ships. In this context, the potential BTC capex of c\$3bn was of a comparable magnitude. The decision by the BTC investors to sanction the project reflected the fact that BTC was a commercially viable option – such view reinforced by increased confidence in cost estimates of under \$3bn for the pipeline, and increased confidence in the magnitude of the ACG reserves.
- It is true that the HGA/IGA specifies that the project will begin in Sangachal and will terminate at “a point at or near Iskenderen City” in Turkey. The actual end location chosen was at Ceyhan (90 km from Iskenderen as measured by shoreline distance) because it offers the shortest route for the pipeline from the Georgia border to the Mediterranean Sea; in-shore conditions in Ceyhan provide access to deep water suitable for large and very large crude oil tankers; the Ceyhan area contains a number of coastal industries, including an existing Botas Marine Terminal which exports crude oil; the land for the new terminal was already owned by Botas; Ceyhan is an existing harbor area thus this new development will be in an already industrialized area; and this location has the advantage of being able to use a gravity feed system thus eliminating the cost and negative environmental consequences of needing equipment to pump crude from storage tanks to the tankers.

Cumulative Impacts Response

- The cumulative impacts of the BTC pipeline, including other projects or potential developments that were realistically defined at the time the ESIA's were undertaken and that could impact the project area, have been assessed and presented in Chapter 13 of the Azerbaijan and Georgia ESIA's and Chapter 16 of the Turkey ESIA and in the Regional Review report. Existing and proposed projects discussed in the ESIA's include: ACG Full Field Development, Shah Deniz Gas Development, South Caucasus Pipeline, Western Route Export Pipeline, Northern Route Export Pipeline, Northern Caspian oil fields and the Caspian Pipeline Consortium Pipeline, Blue Stream Gas Pipeline, Borjomi mineral water project, Tbilisi-Baku highway/railway (Silk Route), BOTAŞ Oil Pipeline, Iraq East Anatolian Natural Gas Pipeline, Korogula dam, Sugozu Power Plant, and the Sanko petrochemical plant. In addition, the Regional Review complements the BTC ESIA's and provides insights into the key economic, social and environmental opportunities and risks associated with the projects. It discusses broader regional issues such as revenue management, local employment and supply chain management, the non-oil economy, poverty and inequality, human rights,

governance and corruption, conflict, access to energy, regional export options, climate change, biodiversity and oil spills.

2) WWF concern: The planning and start of construction of the proposed project has failed to comply with key IFC/EBRD standards.

- IFC has worked diligently over the past several years to ensure project's compliance with the applicable WBG safeguard policies prior to starting construction. The project does comply with, and in several cases exceed, the applicable WBG safeguard policies requirements. We note again that IFC does not have a requirement to for a Strategic Environmental Assessment and that the project has documented the alternatives assessment and cumulative impacts as described in the question above.
- It's not clear why WWF thinks that IFC had no input into the draft ESIA's and are just now being requested to review them. IFC has been formally engaged in the project since December 2001 and even prior to that time provided input into the scoping document for the draft ESIA's and then submitted comments on the draft ESIA's. Even after the ESIA's were finalized from a host government perspective, IFC input was still provided and the results of some of this process is documented in the Supplementary Lenders Information Package (SLIP).

3) WWF Concern: In Turkey, there are fundamental failures in the EIAs undertaken for the project and on which the application to the IFC and EBRD is based.

- A comprehensive ESIA package (46 volumes and over 11,000 pages) has been prepared to high international standards. This has been fully assessed (including in the field) and meets the applicable WBG safeguard policies.
- IFC and other lenders have also used environmental and technical consultants to provide an independent review of the documentation.
- The Public Consultation and Disclosure Plan (PCDP) documents consultations that occurred during the scoping stage (pre-draft ESIA). As an illustration, in Turkey once the draft ESIA was completed in June 2002, it was disclosed for 60 days (in accordance with Turkish law) in hard copy (95 hard copies of the draft ESIA in Turkish and 10 in English were distributed to IFIs, BTC Project Office in Ankara, State authorities, 10 provincial governorship offices, 35 district governorship offices, 10 national university libraries, 3 national public libraries, 6 local university libraries along with over 600 electronic copies on CD ROM sent to State authorities, national NGOs, interest groups and media) along with copies of the Non-Technical Summary (distributed to the same groups that received hard copies of the full draft ESIA plus National NGOs and interest groups (1,000 copies), National media (300 copies), Local NGOs and interest groups (1,250 copies), Public libraries-provinces and districts (3,500 copies), Muhtars (6,300 copies), and project affected settlements (1,100 copies) in addition to information being available on the internet. This was followed by an intensive period of consultation ('road-shows') that took place with all villages along the pipeline over two months (again documented in the PDCP), which resulted in a comprehensive ESIA consultation and disclosure process. IFC's additional 120-day (only 60 days is required) international disclosure and public comment period began on June 11, 2003 and allowed for another round of comments on ESIA documentation for all three countries. This process is consistent with the requirements of OP 4.01 and in many quarters would be considered best practice.

- In respect of a specific issue on consultation in Georgia, WWF contends that the people of Borjomi have not been adequately informed of the risks of an oil spill in accordance with OECD guidelines.
- BTC's draft Environmental and Social Impact Assessment (the "ESIA") was disclosed to the public in Georgia, as per the host country requirements. The ESIA assessed the routing options and concluded that the route through the Borjomi support zone was the only viable option. The ESIA was widely disseminated in the public domain and commented upon during the 60-day disclosure period. Consultation on ESIA findings, following disclosure of the ESIA on May 30, 2002; this included one-day "roadshows" at approximately ten communities along the pipeline route and three general public meetings in each of Tbilisi, Rustavi and Borjomi. The advertisement of public disclosure of ESIA documentation was publicized through a total of ten television adverts aired between 29th May, 2002 & 25th July, 2002 as part of in-country disclosure and approval process and advertisements in several national and local newspapers.
- Despite the considerable public consultation on the BTC project in Georgia as evidenced above (and found in the PCDPs), WWF states that it took them to point out these risks at the Borjomi Multi- Stakeholder Forum (MSF) meeting that IFC and EBRD convened and that it was new information to the audience. However, WWF fails to note that a number of local people responded that they had been made fully aware of the risks from an oil spill and found them acceptable, and believed that the BTC pipeline provided opportunities to catalyze other development initiatives in the area. The affected people stated that the projects proposed by WWF (particularly projects to clean up local water supply systems) over a number of years had never materialized. It should be noted that at no time has IFC ever stated that there will be no risk of an oil spill associated with the project. However, IFC is satisfied that the risks have been minimized through various mitigation measures to an acceptable level and that these proposed measures meet the requirements of the applicable WBG safeguard policies and international best practice.

4. WWF Concern: Fundamental issues exist over the legal regime in place for the pipeline, in particular agreements that override the applicability and scope of national environmental and social laws in nations through which the pipeline would pass.

- Please see full response to this question under "Legal Regime" in the main body of this report.

5. WWF contends that emergency powers have been invoked in Turkey to "leapfrog resettlement procedures".

- Emergency powers have **not** been invoked for the purposes of the project. The project has, however, made use of the provisions of *Article 27 of the Expropriation Act* which relate to 'expedited expropriation'. Use of Article 27 of the Expropriation Law is not limited to national emergencies as implied by some NGOs. Please see full response to this issue in main body of response under "Involuntary Resettlement" section.

6. WWF Concern: Significant flaws with the proposed routing for the pipeline have not been addressed due to the failure of the EIA to consider alternatives.

- Please see Annex C for complete information related to alternatives analysis and routing, specifically through Georgia.

7) WWF Concern: *The lack of due diligence in addressing the impacts of the project threatens a range of internationally important environmental systems in the region.*

- Through selective routing, the pipeline avoids all internationally designated environmentally sensitive areas, including all IUCN Category I to IV sites, as well as Ramsar (wetland) sites. Where the pipeline does cross natural habitats, these areas will be treated as if they were officially protected in accordance with OP 4.04, Natural Habitats Policy.
- In addition to aligning the pipeline to follow existing infrastructure and/or traverse degraded or low potential agricultural land as much as possible, biodiversity impact mitigation includes impact minimization during construction, a US\$2.5 million OP 4.04 (Natural Habitats) Offset Program, and an approximately US\$6.7 million enhancement program called the Environmental Investment Program (EIP). BTC is partnering with various national and international NGOs to implement the programs and will try to leverage this money to attract additional funds.
- The requirements of OP 4.04 which include demonstrating that there are no viable alternatives, minimizing impact, restoring areas crossed and providing for offset mitigation have been addressed.

8) WWF concern: *The project does not comply with IFC, EBRD and European Commission (EC) requirements regarding evaluation of alternative routes. The project agreements predetermined the pipeline start and end point in Turkey, so that the evaluation of alternatives was limited to varying distances from an alignment connecting these two points. As such, the project agreements, which have the full force of law, are also counter to BP's API pledge of participating with governments to create responsible environmental laws, and the OECD guideline to refrain from accepting environmental regulatory exemptions.*

An independent evaluation in 1998 identified two alternative routes, both of which are considerably cheaper and would result in less environmental damage, than that proposed by BTC. These routes would avoid three significant wetlands in Turkey (as well as the contentious Borjomi mineral springs region in Borjomi).

- Pre-feasibility studies for the pipeline transportation of oil from the Caspian to the Mediterranean Sea have been conducted over the years of which the host government authorities have benefited from the knowledge. These studies led to the World Bank commissioning a formal Feasibility Study in 1997, which was completed in 1998. This information was used by the governments, along with other country knowledge, to define the starting and end points and border crossing boundaries in the HGAs/IGA. It is well within a governments rights to make conscious decisions about where within their countries projects will be located and how projects will be developed.
- All routes were considered on the basis of delivering oil to the Mediterranean market without transiting the Bosphorus – which is considered an unacceptable long-term environmental risk as the sole export route for Caspian oil. A large diameter pipe to Novorossiysk and Supsa would probably have required capex in the region of \$1-2bn, but would have required a subsequent further bypass round the Bosphorus – with estimated costs in the region of \$1bn. Both these options would have necessitated additional trans-shipment costs across the Black Sea, with further environmental risk posed by additional on- and off-loading from ships. In this context, the potential BTC capital expenditure of \$3bn was of a comparable magnitude. The decision by the BTC investors to sanction the project reflected the fact that BTC was a commercially viable option – such view reinforced by increased confidence in cost estimates of under \$3bn for the pipeline, and increased confidence in the magnitude of the ACG reserves.

- Please refer to assessment of alternatives in main body of report under “Environmental Assessment” section.

9) WWF Concern: *The price of the project was fixed nearly two years before the EIA was approved by the Government of Turkey. Hence, any findings of the EIA that would result in significant additional project cost would have to be borne by the Government of Turkey, as its State Economic Enterprise, BOTAS, is the pipeline contractor. This violates the ‘polluter pays principle’, as well as the placing the Government in a position whereby it is not inclined to impose stringent environmental safeguards as it would have to pay for them from central revenues at a time of severe economic crisis.*

- IFC is satisfied that these concerns are not well founded for a number of reasons. First, we believe that it is legitimate in a major commercial transaction such as this for the project company to agree to a fixed price with a contractor in return for which the contractor assumes a number of risks and obligations that are otherwise borne by the project company, including, in this case, environmental compliance. Typically a contractor that does this evaluates those risks very carefully and its price reflects that evaluation. Secondly we believe that the Turkish state institutions are sufficiently robust to deal with any conflict of interest of the type outlined in this complaint. Thirdly, IFC’s own evaluation of the EIA and the agreement of a detailed ESAP give us confidence that no compromises or dilution of requirements of the nature suggested in this complaint have actually occurred. Separately, we do not believe that it violates the “polluter pays” principle for the project company to agree with a commercial contractor for it to assume a large part of the financial risk flowing from this principle, especially when that contractor is in practice the person best placed to control or mitigate any pollution.
- It is also important to note that the IGA and the HGAs do not prevent the countries (including Turkey) from addressing gaps in their respective environmental laws as long as the new laws do not impose more stringent standards than the regime imposed in the IGA and the HGAs. The host governments are not obliged to compensate BTC Co. for the additional costs or lost benefits arising from any change of laws as long as they are consistent with the IGA and the HGAs. The environmental standards as stipulated in the IGA and the HGAs are “international standards within the petroleum industry which standards shall in no event be less stringent than those generally applied in the member states of the European Union. Therefore, any finding of the EIA, which are consistent with the environmental standards under the IGA and HGAs, will be borne by BTC Co. not by the host governments. It is also worth highlighting that the applicable standards of the member of the European Union will be dynamic not static.

10) WWF Concern: *The Turkish segment of the BTC pipeline is a relatively minor component of a very large Caspian Sea hydrocarbon development led by BP. The overall development should first be subject to a Strategic Environmental Assessment, in accordance with IFC, EBRD and EC procedures, before the project-specific EIA is considered for approval.*

- Please see the response on #1 and #6 above.

11) WWF Concern: *The EIA submitted to the Government of Turkey failed to comply with IFC, EBRD and EC requirements for full disclosure. It did not provide data on vegetation, and stated that other environmental information would be submitted at a later date. Yet the Government approved the EIA despite these shortcomings.*

- The Turkey EIA and supporting baseline documentation presented a detailed analysis of the vegetation. Further site-specific (28 m corridor) survey information is being gathered during pre-construction surveys as is described in the EIA and in the Contractor Control Plan - Ecological Management Plan for Turkey. This cautious approach allows for the responsible management of special areas.
- While the collection of data on a project of this size is a continuum, an ESIA is ultimately a snapshot in time. Information is collected in order to understand the baseline conditions, be able to predict the impact of a project upon the baseline conditions, and from this information find the best location and design for the pipeline and then develop methods to mitigate and monitor the residual impacts that remain. The BTC ESIA has done this but as is the case with all large projects there is always more information to collect post ESIA drafting and even on in to operations that is needed but is not expected to cause changes in design. IFC is tracking the remaining studies through the construction ESAP and later through the operations ESAP that were committed to in the ESIA's, etc. to make sure that they are completed.

12) WWF Concern: The project agreements, in which the project is defined, do not extend to addressing oil spills from loaded tankers after they depart the marine terminal at Ceyhan. Hence, no provision has been made in the event of another Exxon Valdez type disaster, where responsibility of the TransAlaska pipeline and terminal operator (led by BP) did not extend to responding to the spill.

- The HGA/IGA describe the project as ending at the point at which oil will exit the terminal and requires an Oil Spill Response Plan (OSRP). In Turkey, responsibilities and liabilities associated with an oil spill are determined in accordance with the "polluter pays" principle, as indicated in Turkish Environmental Law, Article 3. General types of spills that are within BTC's responsibility include: spills emanating from the BTC Ceyhan tank farm that reach marine waters; spills from any BTC pipeline rupture that reach marine waters, such as those emanating from a jetty line leak; spills during vessel loading, including overflows, hose leaks, etc; spills relating to a collision between the vessel and the loading facility; and spills resulting from accidents with BTC tugboats. Spills caused by a vessel outside of BTC control (e.g. grounding, collision, structural failure, etc.) are not the responsibility of BTC.
- In order to ensure that tankers exporting crude from the BTC pipeline are in good working order, BTC will apply BPs Ship Vetting policies and procedures that enforce established International and National legislation and Industry recommended practices and procedures.

13) WWF Concern: The evaluation of cumulative impacts is weak. For example, BOTAS, the pipeline constructor and a subsidiary of the Turkish Oil Company which has a 6% share in the BTC project, is currently constructing a major gas pipeline across the Ulas Lake wetland, which is also to be transected by the BTC pipeline. This situation was not addressed in the EIA, and contravenes IFC Operational Procedures regarding biological protection.

- There are two state owned Turkish companies related to the project. One is TPAO which does have a share in the BTC pipeline and the other is BOTAS which does not have a share but which is the construction contractor. The BOTAS pipeline referenced by WWF does not run across Ulas Lake wetland but is about 3 km away and passes through agricultural land.
- Please refer to earlier responses above and in the main body of the report under "Environmental Assessment" addressing cumulative impacts.

14) WWF Concern: International environmental best practices have not been applied in selecting the construction technique to be used to cross watercourses. The project partners propose to dig trenches across these water channels, which have the potential to cause sedimentation and consequent adverse effects downstream. The environmentally preferred option is boring under the stream, using a technique known as ‘horizontal directional drilling’ (HDD) or ‘trenchless technology’. Such technology is to be used by the partners elsewhere along the pipeline, mainly in Azerbaijan.

- The use of horizontal directional drilling (HDD) is, like other engineering options, a function of the right tool for the job and it is not always environmentally preferred. The proper application of use of HDD depends upon a number of factors such as the land take required, the sensitivity of the crossing, the underlying geological conditions and the use and sensitivity of surrounding areas. As with requirements for control of sedimentation with open cut crossings, environmental safeguards are required with HDD such as controlling drilling muds. In addition to these considerations, there are locations where HDD can not be done because of technical feasibility. Each watercourse along the entire pipeline has been assessed to determine the crossing method from an environmental, social and engineering standpoint.
- In response to a WWF question in the same section of the paper on the location of emergency shut off valves, please refer to Chapter 8 of the ESIA for a complete discussion of the Environmental Risk Assessment (ERA) and how this information was used to determine valve locations. It is not true that “emergency shut-off valves (or Block Valve Station – BVS) have been located purely on the basis of equal distance apart, or some hydraulic consideration.”
- The WWF statement in the same section of the paper that tanker loading vapor capture has not been incorporated in the project is not accurate. The vapor recovery system will include a knock out drum system to re-inject back into the crude stream prior to combustion of remaining waste gases. The terminal is based on a gravity feed system and therefore pump drivers are not needed. This is one of the advantageous of this location. The supply of waste gas is too irregular as a viable source of fuel being generated only during tanker loading operations.
- The WWF statement in the same section of the paper that best practice for ballast water disposal has not been incorporated into the project is not accurate. The project is bound by the HGAs to international best practice in this regard. Research by the International Maritime Organization (IMO) indicates that onshore disposal of ballast water presents a number of technical difficulties and thus is not widely accepted as international best practice.

15) WWF Concern: International best practices also have not been applied to the marine terminal concept, which is jetty combined with onshore storage tanks. This has the potential to disrupt beach nesting of endangered beach turtles. The precautionary principle should have been applied in this situation. The environmentally preferred technology is an offshore mooring, possibly combined with a floating tanker. While BOTAS has limited experience with such structures, some 500 have been deployed worldwide, and relevant operational expertise can readily be subcontracted.

- Various crude loading/transfer options were assessed prior to selection of the jetty option. Because of the anticipated volumes of oil, two single point mooring (SPM) systems would be required to substitute for the single jetty option. The SPM method was not chosen because of the greater risk from oil spill due to shipping lane activity interfering with the SPMs, lack of Botas operational experience with this system, additional complications of recovering Volatile Organic Compounds (VOCs) associated with this system, the issue that it would be difficult if not impossible to find enough space required for two SPMs, and there would be an increased area that would no longer be available to fishermen. Finally, the jetty area presented many

positives – the land was already owned by Botas, it is an existing harbor area thus this new development will be in an already industrialized area, and this location has the advantage of being able to use a gravity feed system thus eliminating the cost and negative environmental consequences of needing equipment to pump crude from storage tanks to the tankers.

- WWF's statements that a jetty may have significant consequences on beach nesting by the threatened marine turtles of the Mediterranean Sea and that a SPM is a superior option are not supported by facts. A specific study was carried out on turtles in the area with the conclusion being that the project would not have a significant impact. Please refer to the ESIA for more information.