



CAO OMBUDSMAN ASSESSMENT REPORT

**Complaint regarding the
Baku-Tbilisi-Ceyhan (BTC) Pipeline Project
Vale, Georgia**

[Georgia / BTC Pipeline-30/Vale]

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Office of the Compliance Advisor/Ombudsman
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1. Introduction

The Compliance Advisor Ombudsman (CAO) is the independent recourse mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA). The CAO reports directly to the President of the World Bank Group. Its mandate is to address in a fair, objective, and constructive manner complaints brought by communities or individuals affected by IFC or MIGA projects, and to enhance the social and environmental outcomes of these projects.

Upon determining that a complaint meets the specified criteria for a CAO intervention, the CAO Ombudsman conducts an assessment of the situation to clarify the issues, facilitate communication between the parties about their perspectives and interests, and assist them in identifying opportunities for resolution. The assessment does not gather information to determine fault or make judgments on the merits of a complaint.

To be eligible for CAO assessment, complaints must demonstrate that:

- The complaint pertains to a project that IFC/MIGA is participating in, or is actively considering.
- The issues raised in the complaint pertain to the CAO's mandate to address environmental and social impacts of IFC/MIGA investments.
- The complainant may be affected if the social and/or environmental impacts raised in the complaint occurred.

2. Summary and Purpose of the Assessment

This assessment is in response to a complaint filed with CAO in August 20, 2007 signed by five residents of Vale, who claim that BTC Co. did not meet previously its land restoration and compensation commitments. The complaint says BTC failed to implement a monitoring program in conjunction with impacted landowners to assess the quality of land following completion of pipeline construction.

The Baku-Tbilisi-Ceyhan (BTC) Main Export Pipeline project involves development, financing, construction, and operation of a dedicated crude oil pipeline system to transport oil from the existing Sangachal oil terminal near Baku, Azerbaijan, through Georgia to an export terminal at Ceyhan, Turkey, on the Mediterranean Sea. The 1,760- kilometer pipeline is buried throughout its length as it passes through Azerbaijan (442 kilometers), Georgia (248 kilometers), and Turkey (1,070 kilometers). The pipeline transports up to one million barrels of crude oil per day from a cluster of discoveries in the Caspian Sea known collectively as the Azeri, Chirag, deepwater Gunashli (ACG) field.

The project is operated by BTC Co., which comprises a consortium of 11 partners. At the filing of this complaint, the CAO had received a total of 33 complaints in relation to the BTC project, ranging from individuals to communities to local organizations.

The purpose of this assessment is to describe facts and information gathered during throughout the assessment, and to report outcomes of the assessment and next steps taken by the parties to resolve the issues.

3. The Project

The Baku-Tbilisi-Ceyhan (BTC) oil and gas pipeline is a 1,768 km long crude oil pipeline stretching from the Caspian Sea to the Mediterranean Sea. It is the second longest oil pipeline in the world and passes through Azerbaijan, Georgia and Turkey. The project involves a consortium of 11 partners established in August 2002. British Petroleum (BP), the largest shareholder in the project (30.1%), serves as managing operator of the pipeline. Other partners (in descending order) are SOCAR [State Oil Company of Azerbaijan] (25%), Unocal (8.9%), Statoil (8.7%), TPAO [Turkish Petroleum Corporation] (6.5%), Eni (5%), TotalFinaElf (5%), ITOCHU (3.4%), INPEX (2.5%), ConocoPhillips (2.5%), and Amerada Hess (2.3%).

In its capacity as pipeline operator, BP leads the project design and construction phases. The total project cost is approximately US\$3.6 billion.

The International Finance Corporation's (IFC's) gross investment in the project is US\$250 million, \$125 million of which is for IFC's own account (referred to as an A loan), with an additional \$125 million in syndicated loans, (or so-called B Loan program).

The Georgia section of the pipeline starts in Gardabani at the Azerbaijani-Georgian border and passes through seven regions of the country, including the southern region of Samtskhe-Javakheti, where the town of Vale is located.

To date, CAO has received 32 complaints about the BTC project, ranging from individuals to communities to local organizations. Most of the complaints come from Georgia; this is the fourth complaint from the Vale area regarding the social and environmental impacts of the project.

4. The Complaint

In August 2007, CAO received a complaint signed by five individuals claiming that BTC failed to fulfill commitments in its "Guide to Land Acquisition and Compensation." Specifically, the complaint states that prior to carrying out the project, BTC made commitments to landowners stating that upon completion of the project, land parcels would be returned to former owners granting full usage and land tilling rights. At the same time, BTC was to assemble a monitoring group in conjunction with the former landowner to assess the quality of the land and to carry out long-term supervision of the effects of the project. The complaint says that in the case of any damage or negative impacts to the land, BTC was to provide technical and welfare assistance to the former owners, including cash payouts as compensation for lost crops.

The complaint states that BTC did not carry out the monitoring program together with the landowners, that land being returned to former landowners was not suitable for planting, and that compensation packages were either non-existent or not commensurate with actual losses.

4.1 Additional Issues Raised During the Assessment

During the initial assessment period, the five complainants clarified the specific impacts to their land parcels. Generally, each one raised concerns about the arability of the land parcels following construction completion and return of the land to the owners. Some complainants involved additional concerns; for example, one was seeking compensation for a damaged sprinkler system that the complainant said was caused by BTC construction traffic.

The complainants said they had appealed directly to BTC Co., to the IFC Georgia office, and to local government authorities regarding the same issues, but had not received a satisfactory response. Those complaints, and the jointly signed complaint to CAO, said that two key steps described in the "Guide to Land Acquisition and Compensation" were not carried out by BTC Co. Those steps, "Final Inspection" and "Further Monitoring," committed to the following:

1. Carry out the final inspection of the land, together with the original landowner, to ensure that after installing the pipes the land has been returned to its adequate condition for future agricultural use of the soil, taking into account its environmental limitations.
2. Correct all damage after the construction and resolve all other problematic issues associated with it (e.g., restoring all small watering pipes to ensure proper irrigating).
3. Upon returning the land, there must be a designated group which will be responsible for long-term monitoring, as well as conduct a study, which would be beneficial for the long term, about the impact the project has had on the land, and, if needed, BTC will help the original landowners rectify the problems caused by the project, be it help with the technical or financial issues.

4.2 Perspective of the Company

BTC Co. said it was aware of certain impacts along the pipeline right-of-way that it was continuing to mitigate, and that these efforts involved a complex of measures to minimize or address them.

Regarding the monitoring and inspection steps described in the Land Acquisition Guide, BTC Co. said carrying out final inspections together with land owners was proving difficult, due to a high number of absentee land owners and an inability to locate people and arrange for inspections. In lieu of the joint inspections, BTC Co. said it had retained an independent consultant to carry out the inspections and report its findings to BTC.

The company acknowledged that this approach had raised concerns among some land-owners, especially in cases where 'arability' or impact were difficult to measure. BTC said it would continue to work together with the landowners and CAO to resolve the issues.

5. Ombudsman Complaint-Handling Process

Due to heavy winter snow cover in the months following receipt of the complaint, a CAO assessment trip was postponed until Spring 2008, in agreement with the parties, and the assessment period was extended. In the meantime, CAO encouraged a direct meeting between BTC Co. and the complainants to discuss the issues directly.

The complainants and company reported back to CAO that a tentative agreement had been reached on March 5, 2008, in which complainants would attempt to plant the impacted parcels, and BTC Co. would carry out an analysis of the yield together with the complainants in autumn, prior to harvest, to determine potential compensation or mitigation measures.

However, by early April 2008, the stakeholders had not implemented the agreement. In late April 2008, the CAO Ombudsman team traveled to Vale and facilitated a second meeting

between the stakeholders. After a series of facilitated negotiations, the parties reached a second agreement, in June 2009, to plant portions of the impacted land, and to jointly monitor the yield in September 2009 to determine whether crop-loss compensation should be paid. The agreement involved the following commitments by the parties:

- Complainants will plow plots within “a few days” and report condition of the soil after plowing.
- If soil is determined to be too rocky for cultivating, complaints will report this to BTC. BTC then agrees to send third-party specialist(s) to evaluate the condition of the soil.
- If soil consultants determine the soil is in poor condition, BTC commits to mitigate appropriately.
- If complainants do plant a crop after plowing, BTC commits to assessing the yield in the fall of 2008 to determine whether the yield is reduced due to BTC operations. If yes, BTC agrees to pay appropriate compensation.
- BTC and the complainants agree the assessment team reviewing crop yield in fall '08 will include a representative selected by the complainants, a BTC representative, and a CAO process or technical expert.

CAO worked with the parties throughout the summer of 2008 to clarify implementation details and monitor the agreement. In July 2008, the stakeholders agreed on a consultant to carry out a study of two areas along the pipeline right-of-way to determine the anthropogenic (caused by human activity) impact on the soil condition following reinstatement of the BTC right-of-way and to evaluate agricultural potential.

6. Complaint Closure

The study, conducted by the Georgian company Sanitary Ltd., involved excavation of 19 trial pits of 1-meter depth and nine trial holes of 0.3-meter depth across the area. The trial pits were excavated 20 meters from the BTC pipeline, and the trial holes within the right-of-way. The study concluded that in Area 1, no topsoil existed, the surface was represented by coarse-graded material, and the area was practically unusable and not suitable for agriculture. In Area 2, the study concluded that reinstatement was satisfactory and the soil condition was suitable for agriculture (although some places required ‘simple cleaning’ from boulders scattered about the area).

After several additional meetings to clarify the outcome of the study and BTC’s mitigation plan for Area 1 (where several of the complainants’ parcels are located), BTC carried out remediation works to reinstate the land, and the parties reported in November 2008 that reinstatement was complete. The complainants, along with several other landowners in Area 1 who were not signatories to the CAO complaint, forwarded to CAO a signed copy of the agreement.