

# **Baku-Tbilisi-Ceyhan Oil Pipeline**

**Human Rights, Social and Environmental Impacts**

**Turkey Section**

**Final Report of Fact Finding Mission  
18-21 September 2005**

Centre for Civic Initiatives  
Committee for the Protection of Oil Workers' Rights  
Corner House Research  
Kurdish Human Rights Project  
PLATFORM  
Urgewald



**BAKU-TBILISI-CEYHAN OIL PIPELINE:  
HUMAN RIGHTS, SOCIAL AND  
ENVIRONMENTAL IMPACTS**

**TURKEY SECTION**

**FINAL REPORT OF FIFTH FACT FINDING MISSION**

**ARDAHAN REGION**

**18-21 SEPTEMBER 2005**



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# 1 Summary

- 1.1 This report constitutes the findings of an international Fact-Finding Mission (FFM) that travelled to Turkey from September 18-21 2005 to investigate the impacts of the Baku-Tbilisi-Ceyhan (BTC) oil pipeline project. The FFM, consisting of representatives of the Centre for Civic Initiatives (Azerbaijan), Committee for the Protection of Oil Workers' Rights (Azerbaijan), Corner House Research (UK), Kurdish Human Rights Project (UK), PLATFORM (UK), Urgewald (Germany), and a UK barrister, conducted interviews in towns and villages in the Ardahan region, northeast Turkey.
- 1.2 This is the fifth FFM to visit Turkey. It returned to several villages visited during earlier FFMs to examine developments and progress on problems encountered previously. Field visits were undertaken in the Posof, Ardahan and Damal Districts.
- 1.3 Previous FFMs have already documented a range of concerns raised by affected peoples, experts, pipeline workers, NGOs and the project's own monitoring reports over the planning, land acquisition and construction of the BTC pipeline. These concerns relate to human rights abuses, expropriation of land, failures and discrimination in community investment programmes and labour violations. The Mission's remit was to investigate further these concerns and gather the statements of affected peoples. These are a summary of the Mission's findings:
- 1.4 The problems identified by last year's FFM in the Ardahan region have still not been addressed or resolved.
- 1.5 Freedom of speech in the region remains restricted. Those criticising BTC risk harassment and repression.
- 1.6 Landowners in Turkey received significantly lower levels of compensation than in Georgia and Azerbaijan.
- 1.7 Villagers reported that compensation for lost crops was paid for one year only, yet their land has not been reinstated yet and they have not been able to use their land for a second year. The FFM

investigated these claims and it was clear from the signed contracts that it was able to examine that the payments made were intended to cover all three years that the land was leased for construction. The FFM also notes that villagers have already expressed dissatisfaction at the levels of compensation paid for crops. This dissatisfaction is likely to rise when it becomes widely appreciated that the already disputed payments are for three years worth of crops rather than for the first year of leasing only.

- 1.8 The FFM views the widespread misunderstandings amongst villagers over the crop compensation payments as disturbing evidence of the failure of the project developers to inform villagers of their rights under the RAP and of the contracts they were signing.
- 1.9 The levels of compensation for acquired land in the 8m corridor continue to be disputed.
- 1.10 Users of community lands in one village visited (Otaglı) were not compensated under the RAP fund as required, all payment going to state agencies.
- 1.11 Ancillary damage caused through construction in all of the villages visited was neither compensated for nor fully repaired.
- 1.12 Promises made under the Community Investment Programme have not materialised.
- 1.13 Due to poor implementation, an artificial insemination programme undertaken as part of the community investment programme has damaged – rather than improved - local incomes.
- 1.14 Allegations of discrimination against religious minorities in the Community Investment Programme were received.
- 1.15 Promises to employ local people have not materialised in villages visited. Religious discrimination issues were raised.
- 1.16 The FFM received enquiries from a number of possible new applicants to the European Court of Human Rights in relation to the oil and natural gas pipelines.

## **2 Background to the BTC Project**

- 2.1 The BTC pipeline is scheduled to be officially launched and fully operational by January 2006, although doubts have been expressed as to whether or not this deadline will be achieved.<sup>i</sup> The pipeline, which is buried along its entire route, save surface facilities, will transfer one million barrels of crude oil a day (or 50 million tonnes per annum) from Sangachal on the Caspian Sea coast, via Azerbaijan, Georgia and Turkey, to the Mediterranean. All the oil transported will be exported to Western markets, despite major energy shortages for poorer people in the transit countries. The route chosen is more expensive and longer than most other possible options for Caspian oil exports, and like the project itself, is generally acknowledged to have been driven by political considerations, notably the desire by the USA and Europe to secure an additional non-Arab and non-OPEC source of oil.
- 2.2 The pipeline has been constructed by BTC Co., a consortium including BP, SOCAR, Unocal, Statoil, Turkish Petroleum, ENI, TotalFinaElf, Itochu, Inpex, ConocoPhillips and Delta Hess. Seventy per cent of the projects costs were raised through debt financing. In November 2003, funding was approved by the International Financial Corporation (IFC) of the World Bank Group and the European Bank for Reconstruction and Development (EBRD). Export credit and insurance guarantees were approved by national export-credit agencies of the UK, USA, Germany, Japan, Italy and France. Private investment came from 15 banks including ABN Amro, the Royal Bank of Scotland, Mizuho, Societe Generale, WestLB, HVB and Citigroup.
- 2.3 The Turkish section of the pipeline is being constructed by BOTAS, the Turkish state oil company. BOTAS is directly responsible for the expropriation of land and compensation of affected villagers. Under a Lump-Sum Turnkey Agreement, BOTAS agreed to construct the pipeline for \$1.3 billion, assuming the risks of any cost or schedule over-runs. According to the contract, if construction work took longer than scheduled,

BOTAS would pay \$500,000 per day in “liquidated damages” to the BTC consortium.<sup>ii</sup> However, press reports indicate that BTC Co has agreed that BOTAS need not pay the fine<sup>iii</sup>. This implies that rewriting or rewording project agreements is a feasible option; despite project partners previously having denied this was possible.

- 2.4 As BP’s own external monitoring body – the Caspian Development Advisory Panel – has observed, the pressure to avoid incurring such financial penalties has created an institutional incentive within BOTAS to cut corners and rush work, particularly over land acquisition and quality control.<sup>iv</sup> Testimonies from pipeline experts who worked on the Turkish section highlighted a complete absence of many fundamental safety features. These included not allowing engineers access to construction sites, a lack of necessary specialists (e.g. seismic geologists), no quality recording, ignoring and suppressing warnings from professionals and not following engineering specifications. Experts with careers of 20 years in pipeline construction described it as “the worst project I’ve ever worked on”<sup>v</sup>.
- 2.5 The construction and financing of the pipeline has provoked major concerns regarding its social, environmental and human rights impact from a range of NGOs including Amnesty International and the World Wildlife Fund. In 2003, an analysis of the Environmental Impact Assessment for the Turkey section of the pipeline by international Non-Governmental Organisations found the project to be in breach of all relevant World Bank safeguard policies on multiple counts, in addition to violating other project standards. In all, the review identified at least 153 partial or total violations of IFC and EBRD Operational Policies plus a further 18 partial or total violations of the European Commission’s Directive on EIA and at least two direct violations of Turkish law, giving a total of at least 173 violations of mandatory applicable standards. Because compliance with these standards is required under the legal regime for the project, such violations of the standards put the project potentially in conflict with host country law.<sup>vi</sup>

- 2.6 The official launch of the BTC pipeline will not mark an end to problems for villagers affected by the project. A parallel natural gas pipeline – the South Caucasus Pipeline (SCP) – is being built by a consortium including BP, and allegations have already emerged over inadequate compensation and abuses in the land expropriation procedures. Furthermore, the oil will flow through BTC for a minimum period of forty years. During this time the pipeline will continue to impact the lives of those living above and around it. At a meeting in Georgia on 14-15 September 2005, international and regional NGOs committed to continuing monitoring until the problems identified have been resolved and redressed.



The unmarked Gendames vehicle that followed the Fact Finding Mission to the various villages

### **3 The Fact Finding Mission and its Remit**

- 3.1 The Fact Finding Mission (FFM) consisted, in alphabetical order, of representatives of Centre for Civic Initiatives (Azerbaijan), The Committee for the Protection of Oil Industry Workers' Rights (Azerbaijan), Corner House Research (UK), the Kurdish Human Rights Project (UK), PLATFORM (UK), Urgewald (Germany), Mr Ferhat Kaya of Ardahan guided the Mission and Mr Celil Kaya acted as interpreter. The Mission was the fifth undertaken in Turkey by international non-governmental organisations since 2002.
- 3.2 The FFM returned to several villages visited by previous missions to examine developments and progress on problems encountered earlier. Field visits were undertaken to Türkgözü village in Posof District, Hasköy, Çobanlı and Çalabas in Ardahan and Otaglı in Damal. The BTC pipeline has been built in the immediate vicinity of all five villages and they have all been directly affected. Interviews in each village were conducted with Muhtars and as many affected villagers as possible. In Ardahan the Mission also met with Mehmet Sura, the chair of the Chamber of Drivers and Chauffeurs.
- 3.3 The interview process was qualitative, beginning with open-ended questions about people's experiences of the project, the compensation process and the community investment programme. They were thus able to raise concerns and express opinions and feelings without begin influenced by the questions asked. The FFM followed this 'open' session with specific questions about compensation and court proceedings. Four members of the FFM took notes during meetings. These were typed, printed and checked during the Mission itself. The consolidated minutes were an accurate and full record of what was said.

## 4 Mission Findings

4.1 The Mission's findings are as follows:

### A. ONGOING FAILURE TO ADDRESS PROBLEMS

4.2 The 2004 FFM reported a number of serious allegations relating to intimidation, ethnic and religious discrimination, illegal land expropriation and poor quality control and safety risks. Yet every village visited cited last year's problems as either ongoing or deteriorating. None had received any meaningful response to the concerns they had raised with officials, whether through honest dialogue or attempts to improve practice on the ground.

4.3 Ongoing problems included intimidation of pipeline critics by security forces, expropriation of land without adequate compensation, physical damage to buildings, land and roads not repaired, religious and ethnic discrimination in employment practices and falling milk yield and increased miscarriages within the cattle herd due to displacement and lack of water.

4.4 Despite assurances to the contrary, BTC Co and BOTAS have failed to ensure that construction and operation of the pipeline is implemented according to the commitments made within the RAP and the Environmental Impact Assessment. Human rights abuses, environmental risks and compensation failures have repeatedly only been highlighted through the efforts of independent NGOs and local community groups.

**4.5 The Mission recommends that:**

- **The outstanding issues described in this and previous FFM reports<sup>vii</sup> be addressed immediately.**
- **The lenders conduct an independent assessment of the extent to which BTC grievance mechanisms have failed to respond to or redress documented failings.**
- **The external lenders conduct a wide-ranging review into how nine levels of monitoring failed to provide sufficient oversight and response to issues raised in previous FFM reports.**

## **B. INTIMIDATION AND DENIAL OF FREEDOM OF SPEECH**

- 4.6 Human rights, in particular freedom of expression, continue to be widely violated throughout Turkey<sup>viii</sup>.
- 4.7 The pipeline is creating increased surveillance, harassment and state repression in the region and particularly in affected villages. Pipeline security is to be provided by the Gendarme, the quasi-military police forces responsible for several atrocities and numerous abuses. Hikmet Özer, the new Muhtar of Çobanlı told the Mission, “Since pipeline construction began, 90% of our rights have been interfered with.”
- 4.8 In a pattern similar to previous visits, the Mission was followed from the hotel in Ardahan to four out of five villages visited by plainclothes officers in a white car clearly recognisable as belonging to the Gendarmes. While not forcibly preventing the delegation from meeting people, the Gendarmes parked directly outside each building entered, making their presence felt. On at least one occasion, a villager was stopped and questioned immediately after speaking to and in full view of the delegation.
- 4.9 The overall impression received by the FFM was that the primary response to the raising of serious problems and failures has not been an attempt to engage with affected communities and improve practice by BTC and BOTAS, but continued efforts by state security to suppress criticism.
- 4.10 In Hasköy, the first village to which the FFM was followed, a uniformed gendarme officer entered the Muhtar’s office within the first minutes of the meeting, during introductions. After standing for a while, he claimed that he needed one of the villagers (an applicant to the European Court of Human Rights) to show him the village water pipes. Although it is quite possible that this was an unconnected incident, the care the villagers took to appear uncritical in the presence of the officer was instructive. After the uniformed officer had left, the villagers explained that they had not been threatened

directly, but the state authorities and police “let us know that they exist, for example when they followed you here. They don’t scare us, but want to dissuade others from coming forward. People from other villages have been scared off from taking [ECHR] cases, as they don’t want to be in the same situation as us.”

- 4.11 Although the Mission members themselves were stopped only while leaving the region and then briefly, the Mission’s drivers were detained and questioned about their activities for over an hour every night on their way home.
- 4.12 It must be noted that not all villages specifically raised the issue of intimidation. While representatives in the three Kurdish villages reported incidents, the Muhtar in the Turkish Sunni village of Türkgözü denied that this was a problem. The Muhtar argued that as Turkey was a democracy, there was no need for repression. And yet the Mission witnessed an environment of control over expression in Türkgözü itself. Upon entering the village, the Mission was immediately approached by a number of individuals who were frustrated by BTC-related problems, primarily inadequate compensation and only being paid for loss of harvest for one year. The Muhtar brought an end to this discussion upon his arrival by announcing “This is a Turkish project and it is good for us. It’s an example of aid for Turkey” and separating the Mission from the other villagers.
- 4.13 Villagers reported that, following an information-gathering visit by the UK National Contact Point for the OECD Guidelines on Multinational Enterprises to Çalabas and Otağlı immediately prior to the FFM’s visit, they were contacted by the Gendarmerie who harassed individuals for speaking to him. A shopkeeper in Çalabas received a call demanding to know why all the foreigners come to this particular shop in the village, and what they do while they are there. In Otağlı, gendarmes came to the village seeking to question Ilyas Alban, but could not find him. The FFM was told that subsequently, plainclothes military intelligence (GTEM) officers came claiming to be BOTAS officials looking for Mr Alban.
- 4.14 This behaviour by the security services was not new or

surprising to the villagers. Villagers in Çalabas had been summoned or otherwise questioned by Gendarme after previous FFM delegation visits regarding BTC, and expected to either be taken into custody or receive a call from the Gendarme within the following days. They believed the gendarme were trying to send the message that “We are watching and know what you’re saying”, and that this had been effective at deterring other villagers from coming forward with their complaints.

4.15 Villagers also indicated that, were it not for the tight control exercised by the state, there would have been more protests over the pipeline, as in Georgia, where construction work is routinely blocked by villagers. The lack of widespread protest in Turkey is not due to satisfaction with the construction process, but as a result of the greater risks that protest carries. Apart from harassment by security services, villagers have been told that they will be liable for damages if they obstruct construction work on their land. A villager in Çalabas described an incident to the FFM where he had blocked a bulldozer from working on his land. The driver told him “Everything we’re doing is legal. If you don’t like it, go to the court. Every hour you stop me working, you’ll be liable for one billion [old TL] [\$600] in damages.”

4.16 The Mission notes that the intimidation it has identified was, for the most part, observed or predicted by previous Fact Finding Missions. It concludes that the incidence of intimidation could have been greatly reduced, had the project lenders considered the wider human rights and political context in which the project is being implemented and exercised adequate oversight.

**4.17 The Mission recommends that:**

- **The project lenders now intervene with the Turkish government and BOTAS to take immediate steps to ensure that the construction and operation of BTC is not accompanied by further intimidation of villagers and critics.**
- **Immediate action be taken to ensure that persons voicing criticism of the pipeline are able to access effective,**

**independent and confidential legal advice should their rights to freedom of expression be violated.**

## **C. LAND COMPENSATION**

- 4.18 Landowners and land users in Turkey received significantly lower levels of compensation than the already inadequate payments made in Azerbaijan and Georgia. In Turkey, average compensation within the 8m corridor is under \$1 per square metre, in Azerbaijan it is \$1.5 and in Georgia \$3. The difference is not in accordance with market value or national price divergence. Payments in all three countries were below market value, and prices and living costs in Turkey are generally higher than in the other two countries.
- 4.19 The pipeline corridor in Turkey is made up of a central 8m corridor which has been purchased freehold, with two 10m strips on either side expropriated for three years. Thus during construction a total of 28m was lost, but ultimately only 8m should be retained by BOTAS/BTC. Payment varied between villages, but the average price paid for land in the 8m corridor was 1.2 Lira [\$0.8] per m<sup>2</sup> in the area visited. Average compensation for the 20m rented during construction was 0.85 Lira [\$0.56] per m<sup>2</sup>.
- 4.20 Several villages complained to the FFM of unfair compensation calculations that failed to take full account of land productivity or crops grown. The villagers of Türkgözü claimed that they received the same levels of compensation as those in Damal, despite their land being significantly more productive. Prices were fixed and bargaining was not permitted. In some cases the same compensation was given for pastoral as agricultural land.
- 4.21 Particularly surprising was the low level of compensation for the 30m strip around the South Caucasus Pipeline (SCP, also known as Baku-Tbilisi-Erzurum). Turkish landowners received 0.046 Lira [\$0.03] per m<sup>2</sup> – precisely 1% of what Georgians received. Strictly speaking the South Caucasus Pipeline (SCP) ends at the Georgian-Turkish border, with the extension to

Erzurum wholly constructed and operated by BOTAS, not BTC Co. However, USAID in their report *Multilateral Development Bank Assistance Proposals* argued that if World Bank standards were not implemented on the Turkish as well as Azeri and Georgian sections, the IFC should withhold investment.<sup>ix</sup> This section of the pipeline is as integral as any other – without it the natural gas will go nowhere. Thus lenders and operators of the SCP [BTC Co etc] must ensure that the same minimal standards are enforced on the Turkish section as elsewhere. Payments of \$0.03 per m2 are clearly inadequate by any calculation.

#### **4.22 The Mission recommends that:**

- **A full independent reassessment of compensation levels be undertaken, taking into account the need for villagers to develop alternative means of subsistence and of securing incomes.**
- **Where this suggests villagers should have received higher levels of compensation, they receive additional payments.**
- **BTC should publish figures for compensation paid to all villages affected by the pipeline, including names of those compensated, the type and area of land expropriated, the procedure for expropriation, and the area of land remaining in the land parcel after expropriation.**



## D. CROP COMPENSATION

- 4.23 The Turkish Resettlement Action Plan includes two elements of compensation. One payment is for the expropriated land in the 8 metre corridor, the second for lost crops in the 28 metre corridor.
- 4.24 Under the RAP, the value of lost crops is calculated on a “cost approach”, the estimated production costs (tillage, fertilisers, seeds, labour, interests, land rent and overheads) being deducted from the projected income.<sup>x</sup> In addition, the RAP also requires compensation “for use restrictions imposed upon their land”.<sup>xi</sup> For land in the 20-metre corridor, the RAP also requires that the valuation takes into account future productivity losses following reinstatement (assumed to be in the order of 10 per cent).<sup>xii</sup>
- 4.25 It was evident to the FFM that the basis used under the RAP for calculating crop losses had never been properly explained to the villagers, who without exception assumed that they would receive the full market value of their crops, not the “cost” value. Given that this was common in all the villages visited, the FFM deems it evidence of a systemic failure by the project developers both to inform the villagers of the provisions of the RAP and to abide by the commitments to the International Financial Institutions (IFIs) backing the project.<sup>xiii</sup> The FFM would also question the validity of land acquisition documents signed by villagers who had not been properly informed of their rights or indeed of the basis on which they were being compensated.
- 4.26 Further evidence of the systemic failure to inform villagers of their rights to compensation was evident from the confusion amongst villagers over whether or not they were entitled to three years’ worth of compensation for lost crops or one year’s. Although the RAP itself is clear that compensation is for three years,<sup>xiv</sup> all the villages visited reported that no payment had been received for the second year. Concerns were also expressed that the land would not be restored as promised.
- 4.27 In Çobanlı, villagers had been compensated for the loss of communal production from pastures with 18,000 Lira (\$12,000).  
The 30 individually affected farmers also received an

average of 500 Lira (\$333), adding up to a total of 15,000 Lira (\$10,000). Çobanlı residents interviewed estimated this compensation to be close to the actual loss of crops for one year. The villagers had all expected to receive a further payment to compensate for crop losses during the second year of construction. However, they reported that no such payment had been received, leaving the villagers with what they perceived to be a loss of around \$22,000. One villager had applied to court demanding compensation for the second year's losses.

- 4.28 Villagers in Türkgözü were particularly disenchanting and confused over payments for lost crops. As elsewhere, they were uncertain whether the compensation they had received was intended to cover one year or three. Several argued that it could only be for one, as the compensation paid totalled less than the lost crop value for a single year.
- 4.29 The FFM subsequently examined the receipts signed by a number of villagers for payments made by BOTAS for leasing land. Those contracts reviewed by the FFM stated that the single payment made was to cover all three years that the land was leased for construction. That villagers were unaware of this, insisting that they had been paid for one year only, is disturbing evidence of the lack of understanding of the RAP process on the part of the villagers. As such, it reflects a self-evident failure on the part of the project developers to implement the RAP's requirements to inform villagers of their rights.
- 4.30 Given that the payments made cover all three years of construction and not just the first year, the level of compensation received by villagers is of deep concern to the FFM. The evidence received by the FFM that the valuation did not reflect market prices was convincing even for one's years worth of crop loss. If the compensation payments in fact cover three years worth of loss (in addition to 10 per cent compensation for loss of future productivity) then the levels received per square metre are derisory. The FFM finds it hard to believe that such levels of compensation will not result in severe hardship for poorer villagers, leading to a deterioration in their income contrary to the requirements of the World Bank's

Involuntary Resettlement guidelines (OD 4.30) with which the project is legally required to comply.

#### **4.31 The Mission recommends that**

- **Compensation levels be re-evaluated in light of OD 4.30's requirement (Para 2c) that "Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher."**
- **Should the above prove impracticable due to the provisions of the contracts that have already been signed with villagers, the project lenders should ensure that villagers whose income has declined as a result of the project are compensated directly from the RAP fund, whose purpose, as stated in the RAP Commitments Register, is to "provide a commonly accessible means for income improvement for residents of villages affected by expropriation"<sup>xv</sup>**
- **The project lenders should establish an independent multi-stakeholder monitoring group to ensure that BTC has not left behind destroyed or unproductive land and that villagers are not suffering economically post-construction. In particular, the FFM considers it essential that there is independent verification that landowners have willingly signed off on the required Reinstatement Confirmation.**

## **E . ONGOING COURT DISPUTES OVER COMPENSATION**

- 4.32 In all the villages visited by the FFM, villagers expressed dissatisfaction over levels of compensation and over the difficulties in obtaining due process. In Türkgozü, villagers told the FFM that most of the 51 people affected were dissatisfied with their compensation, having expected twice as much. Four villagers had taken their claims to court. The Muhtar

explained this as due to the others being older and not “having energy to go to court”. Others implied that, the low level of court applications was because of doubts about the independence of courts.

- 4.33 Similar explanations were given in Çalabas. One villager explained, “Most of us are illiterate. We don’t have faith that Turkish courts here will help.” Eight had challenged the original compensation, with a lawyer who was also in the employ of BOTAS. After the court agreed with the original compensation, only one person appealed.
- 4.34 In Otaglı, at least one villager went to court after receiving no compensation for his land. Mr Ilyas Alban lost 16,800 m<sup>2</sup> after the pipeline was laid through the middle of his land. Like most villagers in the Damal region, Mr Alban is a customary owner, without registration papers. Despite having inherited and farmed this parcel his whole working life and the community recognising it as his, the inventory recorded it as state land and he was denied compensation. The court case has since been adjourned, pending the completion of a cadastral survey in the area. World Bank guidelines state that up-to-date cadastral surveys are a pre-requisite in resettlement planning. The absence of such surveys should have been addressed prior to IFI support being agreed.
- 4.35 The desire to challenge the compensation paid for land in the 8m corridor was widespread. All villagers, regardless of their religion and ethnicity, had similar grievances of feeling short-changed on the land that provides their income. The FFM believes that the comparatively low numbers of court cases is not due to contentedness with the level of compensation received, but a result of widespread lack of belief in and ability to engage with the Turkish court system.

**4.36 The Mission recommends that:**

- **Accurate information regarding appropriate legal remedies be provided to all persons affected by the construction of the pipeline. Independent legal advice be made available to all affected persons.**

- **The project lenders recognise that the Turkish court system does not currently provide an adequate means of dispute resolution or redress for poorer citizens or vulnerable groups.**
- **On future projects, ensure that compensation has been paid and land expropriation disputes resolved before construction. This includes current work on the Turkish section of the South Caucasus Pipeline (SCP).**

## **F. COMMUNITIES NOT COMPENSATED FOR COMMON LAND**

- 4.37 According to the Resettlement Action Plan, compensation for community land is not paid to the customary users but to state agencies, the villagers being compensated through a special fund known as the RAP Fund.<sup>xvi</sup> The RAP also commits to community development programmes being put in place in order to “compensate for losses in benefits obtained from common property resources”<sup>xvii</sup>.
- 4.38 The FFM heard evidence of villagers not being compensated for loss of community land. This has significantly reduced both the quantity and quality of land available to villagers, as affected villages have not been able to buy replacement land. In Hasköy, the pipeline crosses common pasture for 6-7 km. The villagers complained to the FFM that 2,200 Lira (\$1,500) had been paid to the State Treasury, arguing that it should be paid to the legal personality of the village (i.e. the villagers).
- 4.39 Although 35 families in Otaglı lost sections of their individual land parcels, all 117 families in the village were affected by the pipeline cutting across 3.5 km of common pasture land. Although the villagers received 4,000 Lira [\$2,600] for lost grass crops for cow fodder, this was a one-off payment and will not provide a means of ensuring replacement land or income for the future. Villagers have complained to the BOTAS office in Kars, but have received nothing.

**4.40 The Mission recommends that:**

- **The level of income reduction in villages as a result of losing community lands be assessed. Additional community investment programmes be implemented aimed at increasing income in affected villages.**
- **In future projects, lenders insist that communities are compensated fully for all their land expropriated.**

**G. ANCILLARY DAMAGE NOT COMPENSATED FOR OR REPAIRED**

- 4.41 Pipeline construction caused ancillary damage to individuals' and communities' land, livestock, buildings and roads in most villages visited. In Çobanlı, Mulazın Özer showed his land to the FFM. The pipeline corridor widened in his land from 28m to 34m, as measured by the FFM. As a result of construction, the corridor strip had become slightly higher than the rest of the land, through an additional earth mound. This led to problems with water drainage, turning the land on both sides into swamp. A pile of heavy rocks had also been left behind on his land.
- 4.42 In Otağlı the water access gap for cattle had been narrowed due to construction. This meant that during watering the cows would press together very tight to gain access to the water. Villagers believed that intense pressure had led to a high number of miscarriages. Other problems included cattle getting stuck in the deep mud of the construction trench, and cows dying as a result of eating welding waste. The previous year, BOTAS had destroyed the village cattle pen. Cement had been delivered as a contribution towards repairs, but after a year and a half, the village is still waiting for a promised truckload of sand.
- 4.43 In Hasköy, 8km of the village road had been damaged. BOTAS had promised to asphalt the road, but this had not happened yet and the villagers doubted that it would. Cattle miscarriages had increased significantly and milk yields fallen by 50% since construction began.

#### **4.44 The Mission recommends that:**

- **An independent survey be conducted to assess ancillary damages caused in all affected villages in Turkey and BOTAS compensate accordingly.**
- **In future projects, the companies and IFIs involved take note of the widespread failure to compensate for ancillary damage, despite relevant clauses in the RAP.**<sup>xviii</sup>

## **H. COMMUNITY INVESTMENT PROGRAMME**

- 4.45 In each section of the BTC pipeline various development NGOs have been contracted to implement the Community Investment Programme. In Azerbaijan these include Save the Children and the International Rescue Committee, in Georgia CARE International and Mercy Crops, in Turkey a number of NGOs, including Blue Crescent International in the Ardahan region.
- 4.46 Reis Gökce described to the FFM how the villagers of Çalabas had been promised water pipes every kilometre, piped water to each house, a veterinary office and veterinary help with animals, repairs to their school and a programme for women and children including health workshops and family planning. “When they first came, we welcomed them and believed their promises, it sounded like heaven on earth.” Yet “nothing’s been done – the only thing left behind is the mess of the soil.”
- 4.47 Villagers in Çobanlı described how BOTAS officials had come twice to their village promising things. The old wood school, described by villagers as “not fit for education” was to be rebuilt, and the road destroyed by heavy construction trucks was to be restored. They had been promised that all community development projects would be complete by December 2005, but at the time of the visit these projects had not materialised. The villagers have been to Ardahan and Kars to trace the individuals who made the promises, but claimed they had “disappeared”.
- 4.48 In Hasköy and Çobanlı, villagers did receive pipes from Blue Crescent for a water system to be put in by the village service

authority, but had to supply the labour themselves. In winter the water system freezes and stops working. By promising much and not delivering, BOTAS and its development contractors are causing widespread disenchantment.

**4.49 The Mission recommends that:**

- **Steps are taken to ensure that promises made by BOTAS, the International Blue Crescent and other contracted NGOs are fulfilled.**
- **A public directory of promised and completed community investment projects and budgets is made accessible to affected people.**
- **BP and lenders ensure that contractors in future projects implement policies to keep public records of requested and promised community investment programmes.**

**I . COMMUNITY INVESTMENT PROGRAMME  
COUNTER-PRODUCTIVE**

4.50 The RAP Commitments Register is explicit that Community Investment Programmes should respond “to the preferences of PAPs [Project Affected People]”.<sup>xix</sup>

4.51 Yet, villagers reported that the largest community investment programme undertaken in the region did not correspond to their priorities and has severely damaged local incomes. Artificial insemination for cattle was heavily promoted by Blue Crescent, who told villagers that it would increase their milk yield, improve their breed of cow, and furthermore “We’re in the process of joining the EU, therefore this must be done”.

4.52 In every village visited, Blue Crescent had inseminated most of the villages cows, charging \$3-\$10 per cow. Villagers claimed that their usual practice of using a bull results in 80-90% of cows carrying calves. Yet in most villages visited, village examinations of Blue Crescent inseminated cows showed only 5-15% to be successful. Only in one case did the estimate approach 50% of successful insemination. Having lost 38-

94% of a year's calves, the economic costs are major: all the villages estimated the loss to be in the thousands of dollars.

- 4.53 The villagers in Hasköy had not requested a programme of artificial insemination, but Blue Crescent had pressured them into agreeing. Once the project began, the villagers realised that the Blue Crescent staff were very inexperienced. They believed that Blue Crescent were aiming to inseminate as many cows as possible rather than ensuring they performed the insemination correctly, because they had an incentive to increase the numbers inseminated. The villagers had to pay 5 Lira (\$3) per cow.
- 4.54 In Çobanlı, Blue Crescent had claimed artificial insemination would make economic sense and lead to higher milk yields and a better breed of cow. Yet despite Blue Crescent repeating the insemination three times, examinations by the villagers indicated that very few cows were in calf. Usually 90% of cows covered are in calf, this year it appears to be less than half. With 400-500 cows in the village, the Muhtar estimated the loss to be around 150,000 Lira (\$100,000). This is made up of the sale value of the cow and the subsidy support by the Agriculture Ministry. The Muhtar and other villagers are considering taking Blue Crescent to court, but are waiting until spring to make a better estimate on their losses.
- 4.55 Similar accounts were given to the Mission in Çalabas. The villagers estimated that only 10% of their 150 cows are in calf, meaning a probable loss of 105-120 calves. Villagers had paid 10 Lira (\$6.5) per cow inseminated. The project also meant that they no longer had access to support from the National Authority for Veterinary Affairs (NAVA). When villagers contacted the NAVA for help, they were told, "Blue Crescent is responsible for you, you live in the pipeline area."
- 4.56 Blue Crescent had carried out the artificial insemination project in Otağlı in 2004. Villagers were told that the process would usually cost 40-50 Lira per cow, but Blue Crescent would only charge 5-7 Lira as it was part of the Community Investment Programme. The Otağlı villagers complained that the Blue Crescent employees did not appear skilled. They did not test the cows correctly and as a consequence inseminated cows already

in calf or not ready yet. From 200 animals inseminated, only five or six gave birth. An official source had told them that only 8% were successful. They believed the village had lost at \$10,000 of its income as a result.

**4.57 The Mission recommends that**

- **An external committee assess income lost as a result of the artificial insemination programme and make public its findings.**
- **BOTAS and Blue Crescent compensate villagers for any losses.**
- **An immediate external audit be conducted into Blue Crescent’s project implementation, practices of assessment, level of skills and training of employees, incentive strategies and project budgets.**
- **Lenders commission an independent assessment of outcomes and the overall impacts (particularly on development) of the Community Investment Programme.**
- **A public discussion be conducted as to whether artificial insemination is relevant and useful enough to be implemented as part of the CIP.**

**J. RELIGIOUS DISCRIMINATION IN COMMUNITY INVESTMENT PROGRAMME**

4.58 In Türkgözü village the Muhtar claimed that Blue Crescent “have done everything they promised: built a morgue, a gate for the mosque and a road.” When questioned as to why a morgue had been built as part of the community investment programme, villagers explained that this had been the request by the previous Muhtar. Previously the closest morgue had been in Posof, now they could conduct the correct washing of the body and store it in the village itself prior to burial.

4.59 The Mission met with community members in Otaglı, a village in the Damal area. The residents are Alevi, a form of Islam with practices markedly different from the Sunni majority in Turkey.

While Sunnis gather in a ‘Çami’ (mosque) with men and

women separated, Alevis assemble together in a Çemevi or assembly hall. Alevis constitute 20% of their population and have been subject to widespread discrimination, despite legal protection of their religion. In 1995 a mob attacked a gathering of Alevi writers and artists in Sivas, resulting in a fire that killed 37.

4.60 In Otaglı, the Muhtar had submitted a written petition requesting a ‘Çemevi’ [prayer] house and a morgue. The verbal response from Blue Crescent was “We don’t build religious buildings.” The Muhtar requested a written response, but this was refused. The Otaglı villagers stressed that requests for ‘Çemevi’ houses and morgues were legitimate, and pointed out that the Sunni villages of Gütlü, Huyvet, Türkgözü and Amal had received either morgues or work on their mosques. **The mission gained the impression that they had been discriminated against because of their Alevi religion.**

4.61 A later request for a Muhtar’s office was also refused. Ultimately, they received 350m of pipes and a water valve, worth \$300. After received these, the Muhtar was informed that the budget allocated for Otaglı had already been used up. The villagers described their surprise, “If we had known these pipes would use up our budget we wouldn’t have accepted them.”

#### **4.62 The Mission recommends that**

- **An independent investigation be conducted as to whether or not the Otaglı villagers were discriminated against because of their Alevi religion.**
- **Blue Crescent publish costs and types of projects implemented in all villages, with information on how the projects were selected and who requested them.**
- **Project lenders investigate the allocation of community programmes and ensure that no discrimination takes place.**

## **K. LACK OF EMPLOYMENT OPPORTUNITIES**

- 4.63 BTC's Employment and Training Management Plan commits to an employment strategy aimed at ensuring that the "recruitment procedure is transparent and there is no discrimination".
- 4.64 Promises to employ local people have not been fulfilled. In all but one villages visited, residents complained that very few if any locals had been employed during construction. As directly affected communities who had lost sources of income to the pipeline, they believed that they should be given priority. In Hasköy, nobody was employed except for two night watchmen – the villagers speculated that this was because only locals were prepared to stay up at night on the cold mountaintops. Villagers also complained that none of their vehicles were hired, as they were too old; BOTAS only hired vehicles purchased in 2004 or 2005. The villagers of Çalabas complained that nobody from their village was employed; they claimed that those working on construction nearby were from "hundreds of kilometres away".
- 4.65 Türkgözü, the Turkish Sunni village, was the exception – the Muhtar reported that 10-15 local young men had been employed in unskilled labour. "This is every young man who needs a job."
- 4.66 In Otaglı, the Mission heard allegations of religious discrimination from Mr Ilyas Alban, a former employee of Tepe-Nacap, a contractor working in the Hanak/Damal District section of the pipeline. Tepe-Nacap is a Turkish-Dutch joint venture. Mr Alban was fired from his work on 31 August 2004. He received threats from foremen the night before "You are Alevi. If you go to work, I will break your legs." The next morning the chief supervisor, Cem Mihçioğlu said he knew of the incident and forced Mr Alban to sign his dismissal papers.<sup>xx</sup>

Mr Alban has made complaints regarding the discrimination to various bodies, including the local court prosecutor and the Prime Minister's Human Rights Monitoring Group. He is still waiting for an official response.

Mr Alban was particularly hard-hit by pipeline construction as a significant proportion of his land was used for construction.

This, along with his wife being seriously ill and requiring hospital treatment, forced Mr Alban to gradually sell his thirty cattle. His reduced income has led to his family having their electricity cut off and him not being able to support his wife sufficiently.

- 4.67 Mehmet Sura, the chair of the Chamber of Drivers and Chauffeurs in Ardahan, was pleased to tell the Mission that his members actually had benefited from pipeline construction. BOTAS hired drivers with their vehicles at a rate of \$1,200 a month excluding gas, which is fair. 200 of his 2,000 members had applied to work for BOTAS; 120 had been selected. 76 were still employed at the time of meeting.

BOTAS had only hired drivers with vehicles purchased in 2004 or 2005. Mr Sura thought this was fair, and had encouraged local drivers to buy new vehicles. Residents of his own village had bought 15 new vehicles, of which nine were currently still rented by BOTAS. Mr Sura also argued that the Chamber as a whole had benefited from the pipeline construction, as it meant more work was available for all.

Mr Sura suggested that in future a guideline be introduced where a certain percentage of employees needed to be selected locally. He felt that many drivers from the bigger cities of Erzurum and Kars had been employed in the Ardahan region, probably because of their greater political clout.

**4.68 The Mission recommends that:**

- **The allegations of discrimination brought to its attention be independently investigated and addressed**
- **BOTAS make public the data on number of villagers who are or have been employed on the project, their duration of employment and village of origin / residence.**
- **Quotas be introduced in future projects to ensure a given percentage of the workforce is employed from the locality.**

## **L. EUROPEAN COURT OF HUMAN RIGHTS CASES**

- 4.69 There are a number of applications still pending before the European Court of Human Rights regarding violations of villagers' rights as a result of the pipeline development project. These centre on lack of consultation, failure to provide adequate compensation and inadequate or misleading legal advice. Articles of the European Convention of Human Rights violated include Article 1 of Protocol 1 (the right to peaceful enjoyment of property), Article 14 (convention rights to be secured without discrimination), Article 13 (the right to effective remedy) and Article 8 (the right to respect for private and family life).
- 4.70 The FFM received enquiries from a number of possible new applicants to the European Court of Human Rights in relation to both the oil and natural gas pipelines.



Construction led to drainage problems, turning sections of land into swamp.

## BTC Contributing to Displacement of Kurds

During the 1990s, between three and four million Kurds were displaced from their heartlands in southeast Turkey as a result of a systematic campaign of village destructions undertaken by the Turkish military, supposedly in order to eliminate the support base of the rebel Kurdistan Workers' Party (PKK). Around 5,000 settlements were destroyed, and wide swathes of rural areas remain virtually empty due to the state's reluctance to allow displaced people to return home. Many Kurds have alleged that village destructions were part of a long-standing central policy of forcing Kurdish migration off their land to facilitate the assimilation of the Kurds into mainstream Turkish society.

A similar process has been taking place in the northeast, where Kurds form a significant minority of 30-40% of the local population. Here displacement was less a result of direct military action, but due to gradual economic pressure and state harassment.

	Families resident	Families dislocated
Hasköy	200	700
Çobanlı	30	120
Çalabas	19	49

Affected villagers speaking to the Mission described the BTC pipeline as an added pressure on residents to leave. The harsh environment and long winters in themselves make the plateaus of northeast Turkey financially precarious for those reliant on agriculture. The disruption of the BTC pipeline – especially given that compensation payments are low and late – is easily ruinous for those on the economic margins.

By expropriating land used in near-subsistence agricultural production without providing an immediate alternative source of income, the BTC pipeline is contributing to the dislocation of the Kurdish population.

## 5 Conclusion and Recommendations

- 5.1 This report is not a comprehensive account of failures and problems arising through the construction and early operation of the BTC pipeline in the Ardahan region of northeast Turkey. The Fact Finding Mission did not seek out those with critical rather than positive attitudes towards BTC and made itself available to all who wished to speak to it. Given the restrictions on freedom of speech described previously, the specific instances described are likely only a small sample of reality.
- 5.2 The BTC pipeline has been praised by BTC Co and the international financial institutions involved as a model of high standards, responsible corporate behaviour and the positive influence of IFI participation in projects. Yet despite this, the Fact Finding Mission heard compelling evidence that the project has led to state repression, discrimination against ethnic and religious minorities, severe reductions in income, failures to provide adequate compensation for land or crops – a disruptive impact in an already financially precarious region.
- 5.3 The FFMs’ specific findings highlight systemic failures at every point in the construction process: Consultation<sup>xxi</sup>, compensation, employment, damage repair, community investment and grievance mechanisms. There is little evidence to indicate a significant improvement during the operational phase.
- 5.4 Moreover, failings brought to the attention of BTC Co have not been solved and the FFM is concerned that the consortium has adopted a strategy of burying the problems along with the pipes.
- 5.5 The failure to remedy the well-documented failures highlighted in the previous FFM report is not limited to the project operators themselves. The IFC, EBRD and national export credit agencies guaranteed that standards would be enforced through Lenders’ various oversight mechanisms. A monitoring plan detailed more than seven different layers of scrutiny. Yet the problems described in this report indicate that the IFIs’ complaint mechanisms have been ineffective, permitting BTC Co to escape its responsibility. The IFIs argued that their participation

in a project would improve practice, but they have yet to deliver on promises to ensure adequate and fair compensation, pipeline safety and environmental standards.

- 5.6 As the IFIs and BTC Co have shown themselves unwilling to adequately address their failures, the FFM urges ministries and parliamentarians to investigate. They must ensure that:

### **REDRESSING FAILURES OF CONSTRUCTION PHASE**

- 5.6.1 Villagers are adequately compensated for damages incurred due to construction of BTC.
- 5.6.2 Villagers are adequately compensated for loss of income due to construction work.
- 5.6.3 Promises for community investment that reflects the priorities of affected villagers are honoured.
- 5.6.4 Land disputes are resolved equitably.
- 5.6.5 Safety issues of the pipeline are investigated independently.
- 5.6.6 Those harassed for criticising the pipeline are protected and receive recompense.

### **SOUTH CAUCASUS PIPELINE**

- 5.6.7 Villagers are adequately compensated for their land and loss of income.
- 5.6.8 IFIs ensure that the same standards are enforced on the Turkish section as in Azerbaijan and Georgia.

### **OPERATIONAL PHASE**

- 5.6.9 Pipeline security is demilitarised.
- 5.6.10 Issues relating to repression are raised with the Turkish state and BOTAS officials in order to ensure that freedom of expression is honoured and the safety of pipeline critics in the affected region guaranteed.

- 5.6.11 Any further loss of income due to pipeline construction or operation is compensated for as soon as possible.
- 5.6.12 Communities are not discriminated against on grounds of ethnicity or religion.
- 5.6.13 An ongoing community investment programme is implemented according to the needs and requests of the villagers affected, without religious or ethnic discrimination and with the correct level of expertise amongst staff.

### **FUTURE PROJECTS**

- 5.6.14 Consortium members and supporting IFIs are held to account for failing adequately to address problems previously reported to them.
- 5.6.15 IFIs screen projects for their potential human rights impact.
- 5.6.16 It is recognised that capital-intensive projects with state involvement in regions without freedom of expression generally contribute to increased state repression. A veneer of ‘consultation’ does not change this.
- 5.6.17 Compensation is implemented as a means of providing alternative and sustainable sources of income, not ‘buying off’ those affected.
- 5.6.18 Breaches to existing guidelines (World Bank, OECD, EC) are made public together with the actions taken, and justification provided where the breach is not considered sufficient to constitute a voiding of loan agreements.
- 5.6.19 Project implementation does not contribute to processes resulting from existing discrimination according to ethnicity or religion.

## 6 Appendix

### Findings of 2004 FFM in Ardahan Province

- 6.1.1 Intimidation and excessive surveillance by security police.
- 6.1.2 Extensive use of emergency powers to expropriate land for construction prior to compensation being paid. This indicates a failure in project planning and a clear breach of World Bank guidelines on resettlement, with which the project is legally required to comply under the Host Government Agreement<sup>xxii</sup>.
- 6.1.3 Damages caused had not been addressed or compensated for. These included extreme amounts of dust from heavy traffic, cattle death and destroyed buildings.
- 6.1.4 Difficulties experienced by villagers in obtaining legal redress for damages incurred.
- 6.1.5 Allegations of discrimination against ethnic and religious minorities in both BTC employment practices and the carrying out of community development programmes.
- 6.1.6 Allegations of poor quality control during construction.<sup>xxiii</sup>

## 7 Footnotes

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<sup>i</sup> Watkins, E., “BP exec clarifies BTC line start: early '06”, Oil and Gas Journal, 26 October 2005. The article quotes a BP official as saying the first oil would flow from the pipeline’s Ceyhan terminal in January 2006. David Woodward, President of BP Azerbaijan, had previously been quoted as saying the target to launch full operations by the end of this year was “challenging” because of extensive testing and commissioning in the Turkish section of the pipeline.

<sup>ii</sup> The FFM calculates that according to the Turnkey Agreement, \$90 million in damages has already been incurred by BOTAS due to delays in construction. Article 8.2 of the Turnkey Agreement signed between BTC Co and BOTAS requires BOTAS to pay \$500,000 in “liquidated damages” for each calendar day that the project is delayed beyond the agreed completion date – up to a limit of 240 days. The Guaranteed Completion Date (for the Construction Phase) is set (Article 8.1) as 32 months after the Commencement Date. Press reports put the commencement date as 26<sup>th</sup> September 2002, which would have required completion by 26 May 2005. On this basis, Turkey will already have incurred \$90 million in liquidated damages. Article 8.2 reads: “If Provisional Acceptance does not occur on or before the Guaranteed Completion Date for the Land Acquisition and Construction Phase, the Turnkey Contractor shall pay to the MEP Participants, as liquidated damages and not as a penalty, an amount equal to five-hundred-thousand Dollars (\$500,000) per calendar day (the “Late Completion Payment”), for each calendar day by which Provisional Acceptance is later than the Guaranteed Completion Date. Payment of the Late Completion Payment by the Turnkey Contractor shall be limited to a maximum of two hundred forty (240) days. Notwithstanding the payment by the Turnkey Contractor of the Late Completion Payments for two hundred forty (240) days, if Provisional Acceptance is delayed by more than two hundred forty (240) days beyond the Guaranteed Completion Date for the Land Acquisition and Construction Phase, the MEP Participants shall have the right to terminate this Agreement.”

<sup>iii</sup> “The agreement on the pipeline has been revised and Turkey now does not have to pay compensation due to the delay. The former agreement stipulated that Turkey should pay compensation if failed to complete the construction on time.” *Baku-Ceyhan Oil to Reach Turkey in April*, 14.01.06, <http://www.zaman.com/?bl=hotnews&alt=&trh=20060114&hn=28612>

<sup>iv</sup> The December 2003 *Caspian Development Advisory Panel Report* ([www.caspiandevlopmentandexport.org](http://www.caspiandevlopmentandexport.org)) notes: “[T]he pressure to complete the Project on schedule and on budget, coupled with a weak if evolving

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environmental and social compliance culture win BOTAS and its contractors, may give rise to pressures to ignore standards and cut corners. In fact, in meetings with the Panel, key senior Turkish government officials demonstrated little appreciation of the need for such standards.”

<sup>v</sup> *Whistleblowers expose Turkey pipeline failings*

<http://www.platformlondon.org/carbonweb/documents/PR260604.htm>

<sup>vi</sup> Baku Ceyhan Campaign, Review of the BTC Environmental Impact Assessment – Turkey Section, September 2003, [www.baku.org.uk](http://www.baku.org.uk)

<sup>vii</sup> KHRP et al., *International Fact Finding Mission: Baku-Tbilisi-Ceyhan Pipeline – Turkey Section*, 2003

KHRP et al., *BAKU-TBILISI-CEYHAN OIL PIPELINE: Human Rights, Social and Environmental Impacts Turkey Section*, 2004

<sup>viii</sup> US State Department: “The State and Government continued to limit freedom of speech and press; harassment of journalists and others for controversial speech remained a serious problem”,

<http://www.state.gov/g/drl/rls/hrrpt/2004/41713.htm>

Also see <http://web.amnesty.org/report2005/tur-summary-eng>

<sup>ix</sup> USAID, *Multilateral Development Bank Assistance Proposals: Likely to have adverse impacts on the environment, natural resources, public health and indigenous peoples – September 2002 – October 2004*, 2005.

<sup>x</sup> RAP Commitment Register, [www.caspiandevlopmentandexport.com](http://www.caspiandevlopmentandexport.com), R106.

<sup>xi</sup> RAP Commitment Register, [www.caspiandevlopmentandexport.com](http://www.caspiandevlopmentandexport.com), R.114

<sup>xii</sup> RAP Commitment Register, [www.caspiandevlopmentandexport.com](http://www.caspiandevlopmentandexport.com), R78, R116, R 144 and R154. R78 states: “In returning the temporarily used lands to their original owners, DSA/BOTAS will recognise that future productivity losses will occur. DSA/BOTAS will also take into account the existing court appointed commission valuations that assume a minimum of 10 per cent lifetime productivity loss for the lands used for construction.” R144 states: “Landowners and land users will be compensated for the potential 10 per cent economic loss associated with reduced productivity of reinstated land.” R116 states: “For the duration of construction, payments will be made for these lands based on their discounted net income. Subsequently these lands will be reinstated and returned to their original owners for use by them, subject to certain restrictions. Thus a special effort will be made to reinstate the land properly. In reviewing the past land conflicts on land valuation, it can be seen that the court experts are assuming a minimum of 10 per cent productivity loss subsequent to reinstatement. In the calculation of the compensation levels for the 20-metre corridor that will be returned to people, this factor will be taken into account.” R 154 states: “Reductions in land productivity resulting from re-instatement will be compensated”.

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<sup>xiii</sup> Such commitments, all contained in the RAP Commitments Register, would include R47 and R48, which commit to “consultation and negotiations for the valuation of the expropriated assets” and to ensuring that project affected villagers are “systematically informed and consulted during the preparation of the [RAP] about their options and rights.”

<sup>xiv</sup> Resettlement Action Plan (Chapter 6, para 6.10.2): “Affected farmers will be compensated for the duration of construction (approximately 2 years) plus an additional year to allow for the proper reinstatement of land and the removal of construction debris” See also RAP Commitments Register, [www.caspiandevlopmentandexport.com](http://www.caspiandevlopmentandexport.com), R126

<sup>xv</sup> RAP Commitments Register, R99.

<sup>xvi</sup> RAP Commitments Register, [www.caspiandevlopmentandexport.com](http://www.caspiandevlopmentandexport.com), R10 and R11. R10 states: “The loss of income to other users of public lands will also be recognised and compensated.” R11 states: “It is also important to devise mechanisms to deal with differences between existing Turkish law and OD 4.30 as, for example, with regard to individual and community users of public lands. BTC Co has established and will administer a RAP fund to deal with these discrepancies. It will respond to outstanding issues of compensation to individuals affected by the project and to communities for the reduced access of villagers to forests and pastures.”

<sup>xvii</sup> RAP Commitments Register, R59. See also R60.

<sup>xviii</sup> RAP Commitments Register R76: “In broad terms, any asset to which the risk of damage or destruction is posed during the construction phase is subject to compensation.”

<sup>xix</sup> RAP Commitments Register, R60.

<sup>xx</sup> For a fuller account, see KHRP et al., *BAKU-TBILISI-CEYHAN OIL PIPELINE: Human Rights, Social and Environmental Impacts Turkey Section*, 2004

<sup>xxi</sup> See KHRP et al., *International Fact Finding Mission: Baku-Tbilisi-Ceyhan Pipeline – Turkey Section*, 2003

<sup>xxii</sup> Known as OD 4.30, the World Bank resettlement guidelines are unequivocal in their requirement that compensation should be negotiated and paid prior to displacement. There are no provisions for derogation from this requirement.

<sup>xxiii</sup> For a full account of previous findings, please see KHRP et al., *BAKU-TBILISI-CEYHAN OIL PIPELINE: Human Rights, Social and Environmental Impacts Turkey Section*, 2004

