



October 10, 2003

Mr. Nicolas Hildyard
The Baku Ceyhan Campaign
Friends of the Earth
(England, Wales, and Northern Ireland)
Kurdish Human Rights Project
2 New Burlington Place,
London W1S 2HP, England
UNITED KINGDOM

Dear Mr. Hildyard:

*BTC Pipeline and World Bank Memorandum of Understanding
with the European Commission on Co-Operation for Accession Preparations*

Thank you for your letter of September 10, 2003 to Mr. Wolfensohn expressing your concerns about “actual and potential violations of human rights, civil rights and environmental protection standards in connection with the Baku-Tbilisi-Ceyhan pipeline project and the project agreements between the BP-led BTC Consortium and (for present purposes) the Republic of Turkey.” Mr. Wolfensohn has asked that I respond on his behalf.

Your letter indicates that you have already conveyed your concerns to the European Commission in the form of a complaint dated July 3, 2003. You also indicate that a copy of the response from the European Commission dated August 4, 2003 was enclosed. While we have not been able to find a copy of that document among the attachments to your letter, we have seen the copy of your response to the Commission dated September 2, 2003. In that response, you acknowledge the Commission’s assurances that they will investigate and report on the developments in Turkey surrounding this case. You also take a position regarding the legal framework for the pipeline project, which, in your opinion, is prone to generate human rights, civil rights, property rights, and environmental violations.

IFC is currently considering participating in the financing of the BTC pipeline project. Our legal due diligence is ongoing and at this time we do not have any particular reason to be concerned about the possibility that the legal framework adopted by the three project countries and the foreign investors may in itself result in those violations.

The BTC pipeline is a complicated, multi-country, multi-partner, multi-decade commitment costing more than \$3.5 billion. It will be constructed in a part of the world that is going through rapid political and socio-economic transition. As such, there is a need for a durable framework,

which provides a transparent and effective legal structure. The Host Government Agreements (HGAs) and the Intergovernmental Agreement (IGA) are intended to provide this framework.

The HGAs and IGA were negotiated over a long period and subsequently debated and ratified by the parliaments of each of the three project countries.

The HGAs are intended to establish a common stable legal environment for the construction of a pipeline through these countries, in a manner consistent with the high technical, safety and environmental standards specified therein. The technical, safety and environmental standards as stipulated in the IGA 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). 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 (which are also enacted in local legislation). In this case, they must compensate BTC Co. for the additional costs or lost benefits arising from that, i.e., restore the Economic Equilibrium established under the Project Agreements if and to the extent the Economic Equilibrium is disrupted or negatively affected, directly or indirectly, as a result of any change in Azerbaijan Law or in Turkish Law ...” provided further that in Georgia the Government does not have an obligation to restore that Economic Equilibrium in case of laws which are enacted that do not impose on the Project, the Facilities, Project Activities and/or the Project Participants legal terms or conditions more onerous than those generally observed by the members of the European Union, respecting cultural heritage, health, safety or the environment, as the case may be.

Consistent with the agreed HGA/Environmental Impact Assessment (EIA) regime, the three project governments have rights against BTC Co. both under the respective HGA and under local law. It is for this reason that all parties have focused so carefully on the EIA rights under local law that are consistent with the HGA/EIA regime available against BTC Co., both for the Turkish government and for local citizens.

As we understand it, your concerns are based on a broader concern about the Turkish government's human rights record. On May 16, 2003, Azerbaijan, Georgia and Turkey signed a Joint Statement 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:

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

(c) Paragraph 7 – confirmation that references in the project documents to EU standards are references to those standards as in force from time to time;

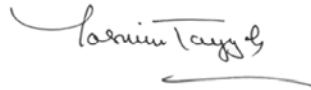
(d) Paragraph 8 – a commitment to specified labor standards and to any other international labor standards, which may be in force in a Project State from time to time.

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

Furthermore, IFC derives additional reassurance from the fact that in mid-September 2003, BTC formally confirmed that it would 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 in a BTC Human Rights Undertaking. 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. 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, we see no reason at this time for IFC to follow up with the European Commission or the three countries as requested in your letter of September 10, 2003.

Sincerely,



Yasmin Tayyab
Civil Society Coordinator

Cc: Mr. James Wolfensohn