

Caspian Developments Advisory Panel

BP Response to the Report on Turkey, and Project-Related Security and Human Rights Issues in Azerbaijan, Georgia and Turkey

BP welcomes the Caspian Development Advisory Panel's report on Turkey, and its views, comments and recommendations on project-related security and human rights issues in Azerbaijan, Georgia and Turkey¹. Taken with the Panel's Interim Report on Azerbaijan and Georgia (published on 5 August 2004) it represents a valuable addition to the unprecedented – and continuing - level of consultation, public scrutiny and engagement that has characterised these projects to date.

Since publication of the Panel's interim report, loans to the BTC and ACG projects have been approved by the International Finance Corporation (IFC) and the European Bank for Reconstruction and Development (EBRD). In announcing the IFC decision, Rashad Kaldany, director of the World Bank Group's Oil, Gas, Mining and Chemicals department acknowledged that the projects were challenging, but stated that: 'These are sound projects that have achieved a lot of transparency'. The Panel's work makes a valuable contribution to that transparency, and BP would like to extend its thanks to the Panel members for their continued diligence and insight.

In the response to the interim report, BP stated that it shared the Panel's vision that the Caspian projects have the opportunity to '*create a model for investments in extractive industries that will leave a lasting positive legacy in the host countries*'. We remain committed to that aim.

In its second report, the Panel repeats its assertion that '*BP and virtually all of its partners are private-sector actors, and that many of the benefits expected to flow from development of Caspian oil and gas can only be secured through sovereign action by the governments of host countries.*' [4²] BP reiterates that it shares the Panel's view that it has an opportunity and obligation to contribute positively to development in

¹ For clarity, this is referred to as 'the second report' in our response

² Numbers in square brackets refer to page numbers in the second report

that region, we also recognise the boundaries that exist to limit our potential contribution: although we are a significant actor in the region, we cannot and should not attempt to emulate the role of government. The projects themselves are not inherently development projects, but the resultant revenues and gas supply received by the host governments do have the potential to catalyse economic development. BP recognises that there are additional actions that are and should be undertaken to address some of the broader socio-economic development issues. These issues are considered more fully in the Regional Review, an economic, social and environmental overview of the Southern Caspian oil and gas projects, published in February 2003.

We have consistently recognised the need to involve not only partners and host governments, but also international financial institutions, contractors, national and international NGOs, universities, local and regional authorities, communities and the wider international community in ensuring that tangible broad benefits are delivered to the host countries. It is important to recognise that many of the conclusions and recommendations arising in the Report relate to – and in some cases would require action, commercial negotiation and formal agreement with – members of this wider community. In particular, although the Report was commissioned by and for BP, we are delivering the Azeri-Chirag-Gunashli (ACG), Shah Deniz (SD), Baku-Tbilisi-Ceyhan pipeline (BTC) and South Caucasus pipeline (SCP) projects as the operator on behalf of their respective partnerships. Many of the recommendations can only be undertaken with the agreement of the partnerships that we represent/lead. As a priority, we will endeavour to share both the report and our response with them and encourage the Panel to continue to communicate directly with as wide a group as possible.

As the Panel notes, progress has been made on several of the Panel's key recommendations made in its interim report. We have shared details of our actions and plans directly with the Panel and are pleased that the Panel recognises our efforts. Regular updates will be published every six months on the projects' website (www.caspiandevlopmentandexport.com). The first of these updates will be published in Q1 2004.

The second report is organised in three sections: A consolidated summary, which outlines the Panel's views and key recommendations on the projects in all three countries; six chapters devoted principally to the progress and impact of the BTC project in Turkey; and one chapter on security and human rights in Azerbaijan, Georgia and Turkey.

In the executive summary, eight broad areas are outlined as deserving special consideration. These are:

- To encourage sustainable development via the creation of **a** Caspian Development Fund
- To comply with project standards in Turkey
- To clarify the governing legal regime
- To protect human rights
- To improve transparency and the free exchange of ideas
- Route considerations: Expand environmental monitoring activities
- Other environmental issues
- To monitor social impacts.

It is not our intention to repeat here our response to views and recommendations expressed by the Panel in its interim report. This response, and the response to the interim report are complementary and should be read together. While these eight broad areas are considered in general terms, this response concentrates in detail only on those recommendations and views relating to Turkey, and those relating to security and human rights.

Many of the recommendations have far-reaching consequences, and a merit a fuller response than is possible in this paper.

Detailed response to the Panel's recommendations on the Projects' activities in Turkey

The Panel's report on Turkey focuses on the economic, environmental and social and human rights impacts of the BTC project as well as an examination of BP and BTC's investment initiatives, but it highlights in particular what it describes as the 'unique challenges' raised by the Lump Sum Turnkey Agreement (LSTK) with BOTAS. We appreciate the Panel's efforts in describing the framework of our contractual commitments and the nature of the relationship with BOTAS, and while we agree that the 'LSTK agreement presents BP with perhaps the most significant challenge it has in Turkey,' [27] we also believe that we, and our counterparts in BOTAS can take some pride in the lasting progress that has already been achieved over the past four years. BP and BTC remain committed to minimising the risks and capturing the opportunities offered by the LSTK.

Economic impact

BP agrees with the Panel that 'publish[ing] estimates of various project-related payments to the host governments will contribute to an open dialogue about the terms governing the infrastructure development activities in Turkey and...contribute to...dialogue about how these earnings should be used'. The Panel recommends that that BP and BTC '**continue and extend their commitment to 'publish what you pay' in Turkey.**' [31]

As noted in the interim report, BP supports the Extractive Industries Transparency Initiative and has already made a commitment to publish revenues in all three countries. We remain committed to this initiative. However, it should be noted that BP/BTC can only commit to disclosing what we pay to Turkey in the form of the Treasury revenues (eg corporation tax) under the HGA, but not payments made under commercial agreements such as the LSTK.

The Panel makes a number of recommendations relating to **procurement, employment** and the **development of SMEs**. [32-37] We are pleased that the Panel has noted the areas where SMEs are already extensively used on the project and that it has acknowledged that the project should bring direct and indirect procurement and employment opportunities into other sectors of the local economy. It is worth stressing here that EPC contractors are mainly responsible for procuring local goods and services through their own procurement departments; the responsibility is not vested in BOTAS alone. Moreover, while BP and BTC are already undertaking several initiatives to tackle these issues (see below), opportunities to influence potential local procurement for BTC are essentially confined to just one more year of construction activity.

The Panel recommends that '**BP and its partners continue to give priority to the establishment of a micro-financing programme in Turkey...and continue to work with the IFC and other appropriate regional development organisations such as GTZ to evaluate the credit needs of SMEs.**'[35] BP and BTC acknowledge the Panel's comments and continue to hold detailed discussions with the IFC on the development of just such a programme. This will take some time to establish in

Turkey as a change in Turkish law relating to micro-finance institutions is required. The IFC has been at the forefront of promoting this change – and is supported in its endeavours by BTC – and we anticipate the necessary legislative changes in mid to late 2004.

The Panel also makes specific reference to regional development organisations, such as GTZ, and BTC will continue to hold regular meetings with them and other development agencies in Turkey. A number of initiatives have already been undertaken. For example, BTC and the IFC together carried out a preliminary needs-assessment of SME activities in Adana and Erzurum. This will be supplemented with a more detailed study on SME and microfinance opportunities that will be undertaken by external consultants by 1Q 2004.

BTC is already complying with the Panel’s recommendation that it **track procurement from local SMEs** [35]. A tender is about to be awarded to track local procurement, and to provide support to SMEs for this purpose.

The Panel makes two recommendations relating to **employment** [37]. BP and BTC recognise that expectations of local employment opportunities are high. However we stress that BOTAS community relations supervisors and the EPC contractors’ community liaison officers have taken great efforts to ensure that employment expectations are managed carefully and that accurate figures on employment opportunities are presented to all communities. Moreover, BOTAS has employed a third party (a group of five universities) to monitor recruitment and employment practices of the EPC contractors.

The Panel also recommended that **BP and its partners encourage BOTAS to improve coordination with local government officials regarding hiring in their communities.** [37] BP and BTC will continue to emphasise the importance of this coordination with BOTAS, although we acknowledge that the EPC contractors and particularly BOTAS have made considerable efforts to inform local authorities on project activities, including potential employment opportunities.

Environmental Impact

We are pleased with the Panel’s statement that it ‘continues to be favourably impressed by BP’s commitment to and strategy for minimising and mitigating environmental damage.’ [39] The Panel also highlights one of the key environmental benefits of the BTC pipeline: the fact that it avoids the need for additional tanker traffic through the Turkish Straits. We agree, however, with the Panel that one of BP and BTC’s most significant challenges in meeting environmental goals will be ensuring that BOTAS and its contractors comply with EIA and other project commitments.

The Panel devotes some time in considering the impact of the pipeline’s construction and operation on the **Erzurum Plain** and makes detailed recommendations relating to **management plans** [43], the **Black Grouse** [44] programme in the Posof Wildlife Protection Area and issues associated with **gas supply lines.** [45]

The crossing of the Plain will be carefully managed. Consideration will be given to the pre-existing hydrologic regime and the impact that the BTC and the natural gas pipeline will have on the natural wetland areas. Construction will be carried out while the ground is frozen in winter to further minimise the environmental impact. We fully support the concept of a Wetlands Management Plan. We are pleased that the panel recognizes our work to explore ways to restore the original water flows to the natural wetlands.

A Black Grouse programme already exists in Georgia, and cooperation with a Turkish project has already been agreed. For example, the Turkey project will send feather samples to the project in Georgia for genetic analysis and the results will be shared between them.

BP and BTC have undertaken to encourage (where appropriate) both BOTAS and the government of Turkey to implement a public disclosure and consultation process for selecting the route of the gas supply lines to the pumping stations. The range of environmental standards and commitments made for the BTC pipeline (including those relating to reinstatement) should apply to these gas supply lines.

The Panel recommends that BP and BTC **continue to encourage the senior management of BOTAS to give a much higher priority to the complete reinstatement of the land surface.** [47] This is, and will remain, a priority. Associated with this is the Panel's recommendation that BP and BTC should **regularly consult with environmental NGOs on BOTAS's reinstatement efforts and invite NGOs to review and inspect the reinstatement efforts along the pipeline route.** [48] BTC's 'engagement' strategy is designed to fully engage all stakeholders at a local, provincial and national level on all such issues. 'Engagement' also takes place through the various monitoring activities including the bi-annual Social and Resettlement Action Plan (SRAP) and annual CDAP monitoring, together with ad-hoc activities such as Multi-Stakeholder Fora held in Erzurum and Adana and the Environmental conference held at the Middle East Technical University. We will endeavour to address all concerns through this process.

The Panel recommends that **BP, through the Environmental Investment Program, fund a study of the cumulative impact of all of the commercial activities in the Gulf of Iskenderun on the coastal and marine environment and on the livelihoods of those directly dependent on the Gulf for their living. In particular, changes in fish stock in the Gulf should be monitored and tracked.** [50]

BP and BTC consider that the commitments outlined in the EIA (Section 16) address this recommendation. The EIA in this respect, calls for:

- A commitment to assess the sustainability of natural resources and infrastructure needs. This includes assessing the sustainability of natural resources such as water and aggregate supply, and the pressures of use on infrastructure elements such as waste management.
- Environmental risk assessment and oil spill response plans and manuals.

- The project has committed to EIP initiatives in the Gulf of Iskenderun, which will ensure the promotion and conservation of biodiversity, with respect to important species identified through the EIA process in the Gulf.
- There will be ongoing environmental monitoring of coastal geomorphology and offshore sediments, air quality monitoring with a view to understanding changes in local ambient air quality, and ecological monitoring (turtles, benthic and sessile benthic communities). In addition, BTC will discuss the possibility of exchanging information with other monitoring programmes so that, with the regulators, the extent of any cumulative problems can be properly understood as a precursor to taking some form of appropriate management action.

Based on the initial findings of the EIA socio-economic survey and TUDAV report, an extensive household income survey was conducted for each fishing community living in the settlements in the vicinity of Ceyhan Marine Terminal by Ankara University (comprising fisheries experts from different organizations). This study was conducted in five settlements around the Ceyhan Terminal in May-June 2003. The survey confirmed that impacts due to the extension of operational zone for the BTC jetty, is limited to Golovasi village. Ankara University's survey also included data collection about fishing activities, fish stocks around the whole Iskenderun Gulf to ensure that the extent of the impact on Golovasi fishermen was subject to a thorough analysis. Preparation of a summary Livelihood Restoration Plan for disclosure to fishermen and other stakeholders is on-going.

BP and BTC Co. believe that further impact assessment studies would only confirm the findings of the EIA and consequently result in the above actions.

We note that the Panel 'is satisfied with BTC's risk assessment and oil spill response planning as outlined in the EIA and Supplementary Lenders Information Pack for Turkey.' [50] BOTAS, in its capacity as the Turnkey Contractor and Designated Operator, in consultation with BTC Co and relevant regulatory authorities, continues to work on oil spill response plans and containment manuals for the pipeline route and Terminal. BOTAS is planning to complete these documents in the first quarter 2004.

The Panel notes that BTC did not originally include a risk assessment of the growing tanker traffic in the shipping lanes near the Gulf of Iskenderun. [50] However, a shipping lane risk assessment has already been undertaken, and the report has been provided both to the international financial institutions and to NGOs. Results from this assessment have been incorporated into the oil spill response planning process as of February 2003.

It also recommends that **BP work with BOTAS and encourage BOTAS to develop, implement and publish a comprehensive oil spill response plan for the terminal handling oil from the Iraq-Turkey pipeline. The oil spill response plan should be coordinated and integrated, since a spill at one facility will impact the operations at the other.** [50] It is our intention to encourage BOTAS to develop, implement, and publish a comprehensive oil spill response plan for the terminal handling oil from the Iraq-Turkey pipeline in line with the legal requirements of Turkey and EU as part of

good business practice. The two respective oil spill response plans should be coordinated to an extent that it is practicable to do so.

Ceyhan will be subject to BP Ship Vetting procedures which look at the quality of vessels, their managers and their operation and maintenance. BP will use only double-hulled tankers at Ceyhan from start-up and we will encourage our partners to apply this as a restriction to the terminal generally. It is in this context that we agree to **urge other BTC shareholders to use only double-hull tankers to load and transit crude oil at Ceyhan, and that it encourage Turkey to adopt EU standards for transit of crude oil**, as recommended by the Panel. [53]

The final recommendation in this section relates to the discharge of ballast water. We will comply with IMO legislation. The Panel specifically recommends that **BP consult with the IMO to determine international best practice for ballast discharge and treatment and that BP consult with the IFC and NGOs...to press for adoption of IMO standards.** [55] We agree.

Social impact

The Panel describes in some detail the process of land registration, acquisition and compensation, and conveys the complexities and challenges of the arrangements in place to ensure that landowners and land users are fairly compensated. The Panel also describes the RAP Fund, which was established by BTC to ensure all project-affected people who are not addressed by the Turkish laws are also compensated in a fair way. The Resettlement Action Plans³ have been subject to extensive scrutiny and audit and we are pleased that the Panel has confirmed the quality of the baseline data. As is noted in the report, this consultation and disclosure was judged by the IFC to be ‘a robust process...that will continue throughout the construction and operation of the pipeline.’ [61]

The Panel recommends that **BP and BTC continue and expand their efforts to enhance transparency and accountability for the use of communal payments.** [63] The panel commends BP and BTC for taking important steps to track the use of communal payments for public purposes. For example, a telephone survey was conducted on a sample of approximately 20 villages in September 2003 to check that common land payments were used entirely for affected communities. This survey indicated that community leaders had access to the money paid for common lands. There was no evidence that sub-governors or governors had cut the common land payment made to the village budgets as acknowledged by SRAP Panel during their field trips to Turkey in April 2003. To reinforce this, a letter from the Ministry of Interior Affairs was sent to all governors and sub-governors stating clearly that common land payments should be used by the affected communities. The BTC Project will continue to monitor this closely.

BTC encourages transparency throughout this project. It reports the amounts paid to communities and these notifications are posted in the villages concerned. However, it is important to stress that decisions about expenditure quite properly rest with the

³ Even though these are called Resettlement Action Plans, no one will be required to physically move as a result of the construction or operation of the Baku-Ceyhan pipeline.

community, not with BTC. However, an additional field survey will be undertaken by BTC's consultants Ankara University to villages to check how these payments were/will be used, and to explore the possibility of using the money in coordination with CIP Partners. A system of tracking will be established as part of this work.

In Turkey, partners in the Community Investment projects, which include the International Blue Crescent Foundation, Ataturk University, Surkal and PAR Consulting, have begun discussions with villagers in five provinces about potential ways of using the common land payments. There are already examples where common land payments have been merged with CIP budgets – including those for infrastructure projects in Ardahan Province (for example, a drinking water project in Hasköy village).

The Panel also considers the impact of the pipeline, on the fishermen around the Ceyhan terminal. The recent household survey conducted with fishermen living in the settlements around the Ceyhan Terminal by Ankara University fisheries experts indicates that when taking income resources from fishing and agriculture into account, fishermen may experience an average loss of income of 8-12 per cent due to an expected 20 per cent reduction in fishing grounds. This impact is limited to Golovasi village and is confined to the operation phase of the project. The panel recommends that **BP work with BOTAS and the affected community to finalise and formalise a compensation regime as quickly as possible.** [64] From the beginning of our activities, BP and BTC have been working in a way that is in accordance with this recommendation. There have been several meetings with NGOs and universities and several focus group meetings with the fishing community in the vicinity of the Ceyhan terminal [detailed in the EIA (PCDP) and RAP (Annex 6.4 and 7.2)]. A draft compensation plan based on the recent impact assessment undertaken by Ankara University in Turkish and English has already been distributed to local experts and the SRAP panel representatives for comment and review. Once the review is complete, the plan will be shared with the fishermen at Golovasi.

It is important to note that there is no reduction in the fishing grounds until the pipeline and terminal are operational: the health protection zone for construction of the jetty falls under the existing BOTAS operation zone.

BP and BTC acknowledge that one of the most debated aspect of land acquisition has been BOTAS's use of Article 27, triggered in cases where land owners were absent, or could not complete the registration process due to multiple ownership issues etc.

Article 27 has been triggered in approximately 44 per cent of cases along the pipeline route in Turkey. BTC has identified directly all shareholders where Article 27 has been used in areas where physical construction started; nearly three-quarters of the cases related to people (including absentee landowners and multiple owners) who would receive less than \$50. This is because the number of shares is so high (as many as 500 shareholders per parcel) that some shareholders receive very little compensation and are unwilling to give power of attorney to complete the registration process for the relatively small amount offered, despite the costs being covered by RAP Fund, as explained in the SRAP Report.

BP and BTC have made – and will continue to make – every effort to ensure that Article 27 is used as a last resort. The NGO advising on land acquisition issues in Turkey, RUDF, monitors compliance to RAP principles. Additional steps have included a supplementary owner/address identification study, additional notification and second round of consultation and negotiation meetings in every village (subject to private land acquisition) undertaken by BOTAS at BTC’s recommendation before application to the courts.

Given that considerable care has already been taken to address some of the concerns relating to the use of Article 27, we welcome the Panel’s assessment that BOTAS’s actions are ‘a good example of the positive aspect that civil society has had on the projects’ [67], although we would point out that both IFC and BTC also had a direct role in encouraging BOTAS to take remedial actions. We agree that we will continue **to pay particular attention to continued implementation by BOTAS of the modified Article 27 process to ensure that land is justly acquired on the basis of adequate compensation.** [67]

It is important to note that the application of Article 27 does not relate to land use: all landowners and land users receive compensation for their crops in cash before land is delivered to contractors. Crop payment is made to the actual user of the land through RAP Fund rather than to all shareholders of the same parcel who may be living outside the village. In many multiple ownership cases crop compensation is much more than land compensation.

The Panel also tackles the issue of the return of land or access to land and recommends that **BP work with BOTAS to quickly clarify and communicate to affected individuals the mechanism for the return of land or access to land and for imposing post-construction use restrictions.** [68] This was also considered by the SRAP panel. As a result of their suggestions BTC, BOTAS and the Designated State Authority will disclose definitive strategies for the return of use rights to former owners and users and will organise an awareness campaign about the restrictions of use applying to the permanent and temporary corridors and their surroundings, during the signing of the exit protocols with the affected landowners and users.

BP and BTC are aware of the concerns expressed by some international NGOs about the impact of the project on minorities, especially on Kurdish speakers and women. The Panel visited some Kurdish and local communities during their trip to Turkey. The Panel recommended that **BP work with BOTAS and the other Project Participants to ensure that ongoing consultations, grievance procedures, and land acquisition activities remain open and accessible to Kurdish speakers and women along the pipeline corridor.** [70] A core principle of the BTC project is that all communities along the pipeline route are treated the same, regardless of ethnicity, language, religion or gender. The EIA and RAP specify additional mechanisms such as separate women meetings, employing female community liaison officers and Kurdish speaking personnel (although surveys and consultation meetings have proved that Turkish is spoken and understood by all affected people) to ensure these groups are not marginalized. All mitigation measures including consultation, compensation are already – and will continue to be applied.

The Panel has noted the ‘effective implementation of the Cultural Heritage Management Plan’[71] and recommends that **BP continue to facilitate the publication of the results of the excavations and that it considers other ways....to amplify the positive impact of the project**’ [71] We will continue to work towards this end, and will consider the Panel’s recommendation carefully. It also recommends that **BP use its influence with BOTAS to see that the policy of avoiding important cultural heritage sites is followed.** [71] We agree and are already adhering to this process. For example, BTC are engaging the Government at high level, to discuss pipeline routing issues at specific locations to ensure that the Project meets its goals in terms of no damage to protected archaeological sites.

Investment Programmes

BP has already commented on the Panel’s recommendation that further socio-economic investment is required in the region through the operations phase. In this respect, BP is developing a Regional Development Initiative to complement and enhance the existing community and environmental investment programmes through the operations phase (see BP’s Response to the Interim Report on Azerbaijan and Georgia on www.caspiandevlopmentandexport.com). BP is already involved in intensive discussions and planning with a number of agencies and institutions, in addition to the EBRD – notably IFC and GTZ. We continue to be aware of the challenges faced by other similar initiatives elsewhere, and we welcome the continued and valuable input from the Panel as this work evolves.

BP and BTC are proud at the level of cooperation with local organisations in the development of its community and social programmes along the pipeline route. We are pleased that the Panel has commended BP and its Partners for their strong support through the CIP for Turkish organisations.

The Panel recommends that **BP and its partners continue to incorporate social goals, such as women’s education, for its investment programmes in Turkey, both during and after construction.** [76] BP and BTC once again acknowledge the Panel for recognising the positive efforts being made by the CIP. We remain committed to stating the importance of social goals – especially access to education by women - in our project and RFP documentation. One of several examples is the Ardahan Sustainable Rural Development project, led by the International Blue Crescent Foundation, which has launched a project for training women in Ardahan province in handicraft production and business marketing and is being co-financed by the UNDP.

We share the Panel’s concern that ‘the amounts of money committed to date...might not be large enough to have a durable impact’ and note their detailed recommendation relating to this issue. [78] The Community Investment projects’ performance will be assessed as they progress. Some of the CIP funds have been retained for allocation once we have a better idea of how the projects are performing. There will be an opportunity to allocate more funds to some of the projects which are clearly fulfilling their objects. At all times, however, we will be guided by the need to avoid long-term dependency on CIP funding.

We recognise the need to ensure a holistic co-ordinated approach to all of our investment programmes. As we develop the RDI we will continue to assess the best approach to ensure this happens. The CIP and EIP projects are focused on relatively small-scale geographical areas affected by the project. In the case of CIP this is a narrow area, two kilometres either side of the pipeline and slightly larger areas at other project facilities such as the terminal and construction worker camps. For EIP the focus areas are the regions crossed by the pipeline. We anticipate that the RDI will have a much broader geographical, socio-economic and geographic remit including issues such as governance, and the development of the SME sector in the region as a whole.

The Panel also comments on the lack of links between the EIP and CIP [80]. It is important to note that CIP is designed to be implemented within the narrow geographical area defined above. It is expressly intended to focus on individual communities within the pipeline corridor band to assist with their socio-economic development. Its activities are diverse, localised and tailored to local needs.

With its broader geographical remit, the EIP covers larger areas, for example two projects cover the whole pipeline route, and three cover very large marine or land areas – and in most there are very few communities. The focus is clearly on biodiversity.

The cross-country CIP and EIP managers have clear responsibility for ensuring the identification and achievement of synergies between the CIP and EIP and both the Project Community Investment Plan (PCIP) and the Project Environmental Investment Plan (PEIP) clearly state: ‘The approach is to ensure integration of the CIP and the EIP to ensure a holistic approach to the social and environmental elements with the aim of sustainable initiatives’ (section 1.5 PCIP, section 1.4.3 PEIP).

In practice, to date this has seen CIP activities designed around achieving socio-economic development in a way which is environmentally sustainable. For example, using organic and sustainable agricultural methods, using irrigation in a non-wasteful way, introducing sanitation systems which will preserve the local environment. Partners are required to commit to health, safety and environmental principles and provided with guidance and training prior to project activities.

In parallel, EIP activities are designed to promote involvement and commitment of people living in the areas of the projects, through public awareness and education programmes.

We will continue with this approach during the construction phase and will also examine how we can ensure that during the operations phase we further enhance the environmental sustainability aspects of the CIP projects, and how we can increase community awareness of and commitment to EIP projects during the operations phase.

The Panel recommends that **BP and its partners explore ways to simplify the (EIP) RFP process in Turkey while maintaining its current transparency and quality to facilitate participation by Turkish NGOs.** [80] We are currently reviewing the

EIP RFP process and looking at ways of simplifying the process prior to the next RFP to be issued in 2004.

The role of BOTAS⁴

BP shares the Panel's view that Botas' central role under the Host Government Agreement and Lump-Sum Turnkey Agreement presents BTC Project and BP 'with perhaps the most significant challenge it has in Turkey.' [82]

BP's role in relation to Botas is best described as one of an informed buyer. For the last three years, since the inception of the BTC project, BP has been treating this relationship in the spirit of a public and private partnership. Through this partnership BP believes it has already indeed helped the Turkish government and BOTAS to 'demonstrate to the EU and the international community that they are fully capable of hosting and participating in investments that meet or exceed the most stringent international environmental, social, technical and human right standards.' [84]

BP and BTC currently have about 100 personnel working in Turkey, who are capable of engaging third party specialized consultants, overseeing and supporting project activities. Some 55 (40% national recruits and 60% international recruits) are based on the construction sites full time. In addition to this, regular due diligence, inspection and audit visits take place at construction sites in Turkey from the BTC Project core management team, the BP corporate team, and partner company representatives. There are quarterly lender visits, a bi-annual social and resettlement action plan panel, Turkish regulatory oversight, and un-planned "fact-finding missions" from NGOs.

Consistent with the current practice on the BTC Project in Turkey, BP and BTC will rigorously maintain its position of compliance by all project participants, including BOTAS, of commitments made of behalf of the BTC project in the EIA. These efforts will continue so that BOTAS and its contractors remain fully aware of and committed to fulfilling their obligations under the relevant Project management plans.

The Panel makes two broad recommendations relating to BOTAS:

It encourages BP, through its leading role in BTC to continue to use its leverage including (if necessary) stoppage of work, to ensure that BOTAS fulfils the commitments BP and BTC have made in the EIA [85] and that BP and BTC continue to work to ensure that BOTAS and its contractors remain fully aware of and committed to fulfilling their obligations under the various project management plans. [85] We stress that BTC has already been rigorously complying with both of these recommendations. We will continue to ensure that this remains the case.

⁴ While we accept the Panel's commentary of our relationship with BOTAS it is important to note that, contractually that relationship is with BTC, not BP.

Detailed response to the Panel's recommendations on Security and Human Rights in Azerbaijan, Georgia and Turkey

The Panel states that 'securing the pipeline is important not only to protect the investment and physical assets of BP and its partners, but also to realize the projects' strategic benefits to the host governments, the region and the world at large' [88] and describes the challenges and progress which has been made to date. We welcome the Panel's recognition of the work that both we and the three host governments have undertaken to address human rights concerns and security issues. The Panel has also offered an independent commentary on the human rights and security situation in the three countries based on the interviews they held, and their own perception of the issues – which we have noted.

BP and BTC accept that we have a role in supporting and encouraging the promotion of human rights objectives in all three countries, just as it does in countries where it operates in other parts of the world. **However, a company cannot - and should not - take on the responsibilities and rights of countries to protect their own citizens.**

BP and its partners on the BTC project are building a sound relationship with Turkey⁵. Our track record in the country is one of a law-abiding, financially-sound responsible organisation which has been sensitive to community needs and based on a reputation for bring benefits directly to the Turkish people. In the over 90 years that BP has been present, our reputation has been strong and we are confident that, through the BTC project, this reputation will be enhanced. We have noted the cases and NGO reports referenced by the Panel, although we wish to draw attention to the fact that such reports are not unique to Turkey.

In the report, the Panel raises concerns relating to their perception of the potential for the Turkish government to react to recent terrorist attacks (which killed many Turkish citizens). There is no sign that security measures have gone beyond the following up of investigations of the incidents themselves. The Turkish government has explicitly stated that it will not over-react. The Turkish military's involvement in internal security management of issues is – and continues to be – no different than that of the UK or US military.

We would also like to draw attention to the fact that the Turkish Gendarmerie and Police forces have extensive experience of fighting terrorism within the scope of the Turkish constitution and other laws. Human rights awareness and training has become more central to this effort, and human rights courses have been held for 11 years by the Gendarmerie Command. In April 2003, the Gendarmerie established a special human rights centre which aims to deal with all human rights issues relating to their activities.

The Panel makes 14 recommendations relating to human rights and security across the three countries. Eleven are considered here in some detail.

⁵ BP has had a presence in Turkey for over 90 years, and has a widespread, visible downstream presence in most areas of the country.

The Panel recommends that the **BTC Human Rights Undertaking is more broadly distributed in local languages in the three host countries.** [97] The BTC HRU was translated into Azeri, Georgian and Turkish soon after its publication on the projects' website in English. These local language versions are available on the website, and were highlighted in the BTC Bulletin of September 2003. However, we note the Panel's recommendation and will examine opportunities to further promote the document in the region. While outside the scope of the Panel's remit, the Panel also recommends that **BP remain engaged in discussions with the NGO community on longer-term improvements in the human rights protections that could be included in the legal regime for future projects.** [97] This has indeed already been subject to preliminary discussion at the highest levels between BP and Amnesty and we look forward to updating the Panel on progress in due course. Finally, BP confirms the Panel's understanding that BTC Co will continue to be bound by the BTC Human Rights Understanding in the future, regardless of changes in relative ownership stakes among the shareholders within BTC.

Priority is already being given on how to operationalise the various protocols and agreements relating to security. We note that the Panel recommends that **BP and the Project Participants accelerate the efforts to operationalise security, make arrangements public if possible including the role and function of the Joint Pipeline Security Commission.** [99] We would like to assure the Panel that the Commission is described in Article seven of the Security Protocol, which is already made public on the project website.

We were pleased to note the Panel's report of its meeting with Turkish Deputy Foreign Minister Abdullah Gul, which they describe as 'very positive' and in particular note his 'forthright recognition of the problems and commitment to implement the recent reforms.' [100] At the same time, we note the Panel's assessment of their meeting with the Supreme Security Committee. The Panel recommends that **BP and BTC remains actively engaged with Turkey's Supreme Security Committee and other host country coordinating entities...to help ensure thorough implementation of security obligations with due respect for human rights.** [100] While there is no structured programme of meetings with the SSC and other state entities, Botas convenes with them on a regular basis. These meetings are usually attended by BTC Co Representative in Turkey and BTC Security Manager..

The Panel also recommends that **BP distribute risk assessments.** [101] As the Panel recognises, we have a duty of care towards the people who work for BP and BTC and this has to guide what material we can put into the public domain. Within this constraint, we have already been sharing our risk assessments with Amnesty, and we will, within these limits, consider the wider dissemination of these risk assessments.

There are two recommendations in the report relating to physical protection. BP and BTC have, as the Panel recommends, already carefully **considered the potential impact of the physical protections for the local communities** [102] and will continue to do so as construction proceeds. More specifically it urges BP and BTC to explore the benefits to local communities of plans to supply extra lighting and power to pump stations. We agree that the supply of power from pump stations to local communities could have recognisable benefits. However, this is essentially an issue that the host governments need to consider. Furthermore, this recommendation only

applies to Georgia where power to villages can be in short supply, not to Azerbaijan and Turkey.

The Panel has noted BP and BTC plans to use local security guards, and recommends that the **use of local security be sustained and expanded, and that the local community is involved in security planning.** [103] This is already in hand and is a key factor in recruitment for the operational phase.

The Panel recommends that **BP and BTC provide details of mechanisms for screening personnel for human rights abuse and define what constitutes credible implication. It also encourages us to urge the three host governments to take the same steps.** [105] BP and BTC will cooperate with established government authorities of each host country on this matter. It is important to note, however, that we do not screen or investigate personnel ourselves. In addition, the Panel recommends that **BP and BTC publish additional detail regarding Human rights training, post curriculum materials on the web, train field personnel in human rights issues and involve NGOs.** [105] We are in the process of appointing suitable human rights trainers, and will take all of these points into account in the development of effective programmes.

We are happy to clarify the two points raised by the Panel in its recommendation that we **establish guidelines for what constitutes a clear risk for assets or personnel and define mechanisms for risk assessment.** [107] A clear risk constitutes reliable information or analysis that a person or asset is under threat of violence, extortion or fraud. Risk is assessed by collection and experienced analysis or relevant information from multiple sources such as host government, police, commercial information companies, embassies and other companies. We look forward to discussing our approach further with the Panel and to clarifying any further underlying concerns they have relating to this recommendation.

We agree unequivocally that ‘human rights monitoring and reporting are the most important aspects of operationalising the host governments’ and project participants’ human rights commitments.’ [108] It recommends that BP and BTC establish a human rights monitoring programme. We are indeed currently establishing a monitoring programme. Furthermore, with the Voluntary Principles on Security and Human Rights, BTC is using an implementation check-list to monitor the interactions between in-house security and private/public security provision.

The Panel’s final recommendation is that **BP and its partners establish a monitoring mechanism, such as an “ombudsman’s office,” in each of the host countries that, subject to local law, would (i) serve as a point of contact in each country for people alleging Project-related human rights violations, (ii) confidentially investigate such allegations, and (iii) make recommendations to BTC on how to address the allegations.** [110]

BP agrees on the need for a monitoring mechanism and to this end is in the process of appointing a human rights trainer and monitor. However, it is important to stress that any confidential investigations are the sole preserve of the state authorities, and not within the remit of a private investor such as BTC. BP believes that while an ombudsman could have a potentially useful role in the dissemination of information

and serve as an interlocutor between BP/BTC and the external communities, there are considerable risks and issues associated with an ombudsman having an investigative role. We will continue to develop our plans in this regard, and look forward to sharing the results with the Panel.

Conclusion to the Second Report of the Caspian Developments Advisory Panel

BP and BTC greatly appreciate the work undertaken by the Panel in 2003, and recognise that the Projects have benefited from the independent advice, challenge and counsel offered by the Panel members. It is our intention to translate both the second report and our response into Azeri, Georgian, Turkish and Russian to ensure that their independent view is shared widely with those most directly affected by the Projects' construction and operation.

We would also like to take this opportunity to thank the Panel's secretariat and the individuals and organisations who have offered their own opinions, insights and expertise directly to the Panel. We look forward to working with of those who have an interest in ensuring the successful completion of the BTC pipeline and other Caspian projects, during 2004 and beyond.