THE LEVEL OF TRANSPARENCY OF OIL AND GAS TRANSIT OPERATIONS THROUGH BULGARIA, GEORGIA, TURKEY AND UKRAINE

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EXECUTIVE SUMMARY

Report overview

This report is the result of the "Promoting Hydrocarbon Transit Transparency in Bulgaria, Georgia, Turkey and Ukraine" research project undertaken under the auspices of the Open Society Georgia Foundation[1] across these four participating countries.

The major objective of the project was to effectuate transparency in the hydrocarbon transit sector in these countries of the east-west energy corridor. To achieve this important objective, the project team performed a country-by-country research of transit operations and examined their degree of transparency in the context of state revenue generation. The present report presents conclusive results of these project activities.

This executive summary is followed by country chapters with a concise overview of the hydrocarbon energy sectors of Bulgaria, Georgia, Turkey and Ukraine. The country chapters attempt to highlight challenges that exist in the oil and gas transport industries and to disclose the difficulties that exist in getting public information on transited volumes of oil and gas, state budget revenues, and tariffs for the transit of oil and gas in those countries.

The lack of transparency of revenue schemes relevant to transit arrangements and the unavailability of reliable data and basic communication obstructions with key actors are the biggest problematic areas. The report sets forth generalized policy recommendations based on these preliminary findings, with suggestions for further actions.

The research is well-aligned to the general scope of the Extractive Industries Transparency Initiative[2] (EITI). However, the EITI focus in this report has been slightly altered from transparency in extractive industries to transit industries. The principles of EITI - the engagement of civil society in the oversight of management and deployment of revenues for the benefit of effective economic and social development – have not changed in the EITI transit initiative.

1 Open Society Georgia Foundation (www.osgf.ge) was founded in 1994 and is a member of the Open Society Foundations network.

2 www.eiti.org

Report methodology

The research process started in May 2011 and lasted through December 2011. Project activities across Bulgaria, Georgia, Turkey and Ukraine were carried out through the coordinated and synchronized efforts of country experts. The methodology approach was similar across all four countries. The key players in the energy transit industry, together with the relevant state authorities, were identified and targeted for data collection. Information the project team solicited comprised of both oil and gas transit arrangements.

The key players in the energy transit industry, together with the relevant state authorities, were targeted for data collection.

In particular, each country expert sent information request letters to the relevant stakeholders (private companies and state authorities) asking them to provide the following information:

a) Precise declared annual **volumes** of transited oil and gas for calendar years 2008, 2009, 2010;

b) **Tariff** values, as levied factually for transit of oil and gas for 2008, 2009, 2010;

c) Declared values of **budget revenue** receipts by relevant state authorities for 2008, 2009, 2010;

d) Declared values of **budget payments** by companies involved in transit operation for 2008, 2009, 2010.

Such requests were addressed in writing, while country teams tried to gather the same information online through relevant websites, available public reports and various official sources of public domain.

This methodology was used in order to assess whether the information on transited oil and gas volumes, tariffs, revenues and payments were available to the public in Bulgaria, Georgia, Turkey and Ukraine.

Major findings and recommendations

Written requests were left unanswered, while in certain cases responses were incomplete and ineffectual to the request. The few clarifications the project team received were sometimes inadequate, or lacked the level of disaggregation necessary for the needs of the project.

A lack of publicly available information on hydrocarbon transit was apparent across all four countries from the very beginning.

Relevant government and private company websites either did not possess the desired information or the published data was simply inadequate for the rese-

Transparent public reporting by governments on their petroleum revenues and by companies on their payments to governments will contribute to economic growth and prudent use of these revenues.

arch needs. There were no cases when the project team was able to obtain the requested data from two different sources, making data verification impossible.

The ultimate recommendation of this report is that all project country governments and companies involved in transit operations make oil and gas transit related data available to the public.

EITI Transit initiative - a tool for more transparency in oil and gas transit industry

The project team suggests that country governments and private companies operating in oil and gas transit industries in Bulgaria, Georgia, Ukraine and Turkey implement unified reporting requirements – such as EITI Transit - whereby Governments and private and state-owned companies that are engaged in hydrocarbon transit would be obligated to produce a standardized form report that would include financial data pertinent to hydrocarbon transit operation, i.e.:

- tariff structure
- volumes of transited oil/gas
- revenues of the state budget from transit operations and
- payments to the levying authorities.

Increased public support, improved investment and business climate

The basic principles of EITI can be transformed into EITI Transit unaltered. Once a host government chooses to endorse this initiative, then all budget revenue streams from territorial oil and gas transit will be disclosed to the public. Receipts to the budget will be reconciled with declared payments from energy companies by independent third party auditors, with active engagement of civil society, thereby enhancing wider accountability and transparency in the country. Negligible administrative costs and resource burdens are easily outweighed by the value of increased public support, improved investment and general business climate.

The country overview sections of this report provide more specific indications of what these challenges are and illustrate the important role of transparency mechanisms that should be in place when it comes to hydrocarbon transit.

2.1 BULGARIA

Country Summary

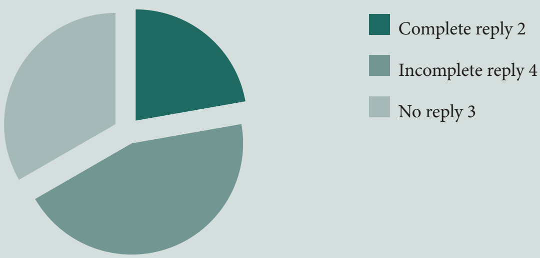
Bulgaria's membership in a number of international bodies and obligations has not been sufficient to address transparency concerns over gas transit information. While general access to information is guaranteed by the law, the access to gas-transit-related information was effectively limited by two-way contracts between Russian Gazprom and its Bulgarian counterpart. Terms of the contracts between Russia-Bulgaria are not publicly disclosed.

Project team could not get the information on gas transit tariffs, state budget revenues from transit and company payments.

Most of the information on volumes of natural gas transited through Bulgaria can be obtained either online (on company websites), or by a formal request to the government. However, there is no publicly available information on transit tariffs, revenues and payments. Information on transit tariffs is classified, as per confidentiality clauses of gas transit contracts between Russia and Bulgaria. Furthermore, neither government, nor private companies, could provide the requested information on revenues and payments from gas transit to the state budget. While Bulgaria's transit operator, Bulgartransgaz's audited reports are available online and detail company revenues from the transit of gas, it is not possible to discern the exact amount of revenues that went to the state budget.

Analysis of the requested information on Hydrocarbon Transit from Governmental Agencies and Private Companies

Bulgaria



Overview of the hydrocarbon transit sector

The Bulgarian energy sector is comparably small in global terms, but is rather sizable in the country's industrial portfolio. It is considered strategic for the country's economy and national security. Although the private sector's share in Bulgarian energy has been increasing steadily, the larger share is still controlled by the state. Transparency remains a major governance issue for the energy sector in Bulgaria.[1] The import and transit of hydrocarbons is a specific concern as the country is almost entirely dependent on a single source - Bulgaria imports nearly all of its gas through a single pipeline from Russia. Gazprom (through its intermediaries) is the single supplier of gas for import and transit for Bulgaria. The import and transit pipeline systems are physically separated. The transit system has so far been reserved for Gazprom gas only and is not connected to national gas transmission pipelines. Under existing contracts, Bulgaria is obliged to transit up to 17 bcm annually to Turkey, Greece and Macedonia. This is more than six times higher than the entire internal demand for 2010.

The gas transmission system of Bulgaria is owned and operated by Bulgartransgaz EAD[2] and is comprised of: (1) a gas transmission network for supplying internal consumption, including gas pipelines with high-pressure branches (1,700 km); three compressor stations (total capacity 49 MW); 68 gas pressure-reduction stations; and eight gas measuring stations; (2) A gas transmission network for natural gas transit, including transit pipelines (945 km) and six compressor stations (total capacity 214 MW); (3) The "Chiren" underground gas storage facility and one compressor station (total capacity 10 MW).

Currently, natural gas is transited by Bulgartransgaz EAD through Bulgaria to Turkey, Greece, and Macedonia. By decision of the Bulgarian government, transit fees are retained by Bulgartransgaz EAD, although transit contracts are negotiated between Gazpromexport, Russia and Bulgargaz EAD, Bulgaria. In December 2006, a memorandum between Gazprom and Bulgargaz EAD (the sole public supplier license-holder) extended the span of natural gas transit contract from Russia, through Bulgaria, and on to third countries until 2030. The contract "booked" volumes of 17.8 bcm per annum with an option for an additional 5 bcm per annum[3]. Both Bulgargaz EAD and Bulgartransgaz EAD are subsidiaries of Bulgarian Energy Holding EAD (BEH)[4], which is a 100% state-owned shareholding company that also incorporates all of the remaining state-owned companies in the energy sector.

1 Center for the Study of Democracy (CSD) 2010: "The Energy Sector in Bulgaria: Major Governance Issues." www.csd.bg/artShow.php?id=15199

2 The company also owns over 2,500 km of cable network and 651 km of optical cables.

3 www.gazpromexport.ru/en/partners/bulgaria

4 www.bgenh.bg/en/index.php

Officially, the tariffs for gas transit through Bulgaria remain confidential, although the text of the memorandum between Gazprom export and Bulgargaz regarding gas transit contracts have been leaked from unofficial sources. However, data on taxes and fees from the transit of natural gas could not be discerned from the taxes and fees from all other licensed activities of Bulgartransgaz. While the audited reports of Bulgartransgaz detailing company revenues from the transit of gas are available online, it is not possible to discern the exact amount of revenues that went to the state budget. Revenues from the transit of gas go directly to Bulgartransgaz which pays a 10% income tax to the state budget, after expenses. The remainder of the money goes to Bulgarian Energy Holding (BEH), which pays dividends and VAT on other revenue to the state budget. This way, the financial streams solely from gas transit cannot be separated from other BEH revenues. In this way, an exact estimation of state revenues from gas transit only cannot be done. Consequently, while the audited financial reports of Bulgargaz and Bulgartransgaz are publicly available online, simple calculations, such as the revenues from gas transit to the state's consolidated budgets, cannot be deduced. Moreover, oversight of gas transit from the European Commission proved to be limited, as it does not possess any official data on revenues.

Access to information regulations

Access to information is guaranteed by the law, via the Bulgarian Access to Public Information Act (APIA), which was adopted in 2000. Its latest amendment, from 2008, promotes the "proactive publication of information online."[5] In accordance to the Act, public access to information is denied in cases when the requested information is classified or represents a trade secret, as its release would lead to unfair competition.[6] In the latter case, the interests of a third party are affected, thus requiring the third party's "explicit written consent for the disclosure of the requested public information, unless there is overriding public interest."[7] In the case of refusal of access to information, legal and factual grounds must be provided. Moreover, a refusal of access to information on the grounds of unfair competition necessitates a description of the exact circumstances, which would lead to such unfair competition among business persons.[8]

The Bulgarian Statistics Act also pertains to the disclosure of information. Article 25 of the Act prohibits the disclosure of "individual data" stipulating that "statistical authorities may not disclose or provide individual statistical

5 Published in the Official Gazette, Issue # 104, of December 5, 2008.
6 APIA, Article 37(1), www.aip-bg.org/library/laws/apia.htm
7 APIA, Section III, Article 37(1).
8 APIA , Section II, Article 17(3).

data … [or] data which can be matched in a way that enables the identification of a specific statistical unit."[9] The latter was the most cited reason for non-disclosure of gas transit information (and more specifically, transit revenues).[10]

Analysis of the information availability on hydrocarbon transit

As envisaged in the project methodology, information sought was standard to all countries and related to the volumes of transited gas, transit tariffs, and the revenues to the consolidated state budget and payments during each of the following three years: 2008, 2009, and 2010. In order to assess the availability of gas transit information in Bulgaria, a handful of tools were used. First, information was sought on the websites of all relevant government agencies and private companies.

The following websites have been explored:

a) Ministry of Finance www.minfin.bg - contains no information on volumes, tariffs and revenues.
b) Ministry of Economy, Energy and Tourism www.mee.government.bg - contains no information on volumes, tariffs and revenues
c) Bulgarian Energy Holding www.bgenh.bg - contains no information on volumes, tariffs and revenues.
d) Gazprom www.gazpromexport.ru - contains no information on volumes, tariffs and revenues.
e) National Statistical Institute www.nsi.bg - contains no information on volumes, tariffs and revenues.
f) Bulgartransgaz www.bulgartransgaz.bg - Includes information only on volumes (as well as capacities, audited financial reports which were not relevant to research purposes).
g) Bulgartransgaz www.bulgargaz.bg -Includes information only on volumes (as well as tariffs but only for gas for internal consumption and not transit).
h) State Energy and Water Regulatory Commission www.dker.bg - contains no information on volumes, tariffs and revenues.

In cases when the required information was not publicly available online, official requests for information were sent to the respective organizations, followed by a phone call to establish their receipt. Organizations contacted include:

9 Statistics Act, Article 25(1) and (2), www.nsi.bg/img/uplf_e/StatisticsAct_en.pdf

10 E.g., in the course of the current project, both the National Statistical Institute and the Ministry of Finance cited the Statistics Act as a reason for non-disclosure.

a) Ministry of Economy, Energy and Tourism- replied adequately.
b) Ministry of Finance- no specific answers, called to explain they do not have these data.
c) Bulgarian Energy Holding (BEH) - no reply.
d) State Energy and Water Regulatory Commission (SEWRC) - no reply.
e) National Statistical Institute (NSI)-no specific answers, as per confidentiality concerns.
f) Bulgargaz - no specific answers, referred us to Bulgartransgaz.
g) Bulgartransgaz - no specific answers.
h) Gazprom- no reply.
i) DG Energy-replied adequately.

In addition, DG Energy was contacted in an attempt to assess the current level of gas transit information disclosure to the EU.

The bulk of the requested information on gas transit through the country (i.e. tariffs, taxes, fees, and revenues, payments) is not publicly available online. This holds true for both government and private companies' websites. The tariffs for transmission, distribution and storage[11], however, are regularly published online.[12] The decision of the Bulgarian government to leave the transit fee with Bulgartransgaz EAD discourages transparency in gas transit revenues. It prevents the state authorities and the taxpayers from controlling what part of the payments go to the company for transportation of the gas and what to the state for using its territory for transit. It reduces independent oversight over gas transit revenues and blurs the performance efficiency of the transiting company.

The data collected in this research does not distinguish taxes and fees from the transit of natural gas from the taxes and fees from all other licensed activities of Bulgartransgaz. Gas transit revenues (published online in audited reports) go to Bulgartransgaz, which then, after excluding its expenses from its revenues, pays 10% income tax to the state budget. The rest of the money goes to BEH, which pays dividends and VAT to the state budget (for gas transit together with other revenues). This way, the financial streams from gas transit alone cannot be separated from other BEH revenues. Consequently, simple calculations, such as the revenues from gas transit to the state's budgets, cannot be deduced.

11 A draft contract for gas storage, including the technical specifications of the gas stored and a sample scheme for calculating the price for stored gas is available, www.bulgartransgaz.bg/UserFiles/File/Dog_sahranenie.pdf. In addition, there is a database of public procurement procedures dating back to 2008, and information on licenses owned and compliance procedures followed.

12 In line with price updates that according to delivery contracts should occur every three months, www.bulgartransgaz.bg/UserFiles/File/data/price_bg.pdf

The release of information on transit volumes presents an interesting case. It seems that most of the information on volumes of natural gas transited through Bulgaria (data on technical, contracted, and available capacity at cross-border entry and exit points) has been made public, yet, SEWRC's Decision No P-118 dated 18.08.2010 approved the limited publication of data for certain key gas entry and exit points. SEWRC's decision followed a request by Bulgartransgaz to limit public information for the transit system entry point Nergu Voda 2&3 and the three exit points on the grounds that such information is a breach of trade secrets and would present an obstacle in the creation of a competitive internal gas market. SEWRC based its decision on Article 6 (par. 3&5) of Regulation (EC) №1775/2005[13] and confidentiality clauses in contracts between Gazprom export and Bulgargaz. As a result, and in line with Regulation (EC) №1775/2005, currently available online information includes the capacity used at entry point NerguVoda 2&3 in 2008-2010 (the gas transit pipeline) and the available capacity for 2011, but not the technical and contracted capacity. Similarly, data on used and available capacity is also available for the three cross-border exit points; however, technical and contracted capacity information is limited for two out of the three exit points.[14] Thus, while following EC's requirements on publicizing the available capacity, this information remains inaccessible to third parties, likely due to the existing contractual obligations between Gazprom and Bulgargaz.

While transit volumes were available online on companies' websites, the government provided this information by a formal request only. Formal requests for information were sent to all relevant stakeholders (i.e. ministries, state-owned and private companies, and other government structures, as outlined in the methodology section above). Out of nine formal requests for information sent to government and private organizations, six resulted in a formal response. The Tables below summarize the information available to the public and indicate the data source (i.e. via the web or a formal written request). As shown, current data on transit volumes is publicly accessible, either online, or through a formal request, while data on transit tariffs, revenues, taxes and fees are not publicly available using either means. Neither the government nor private organizations were able to provide the requested information on revenues from gas transit to the state budget. A commonly cited reason for non-disclosure of the requested information was the Statistics Act, which does not permit the disclosure of separate company's data[15]. A suspicion responsibilities were being passed was also evident, as the ministries rerouted data requests to BEH and Bulgartransgaz, who in turn, advised that these inquiries should be addressed to the ministries.

13 The non-disclosure of information is based on the fact that transit capacity is currently contracted to less than three companies

14 www.bulgartransgaz.bg/index.php?page=13&sid=29

15 Both the Ministry of Finance and the NSI cited the Act as a reason for non-disclosure.

Table I BULGARIA				
Gas transit information from Government (Incl. state-owned companies)				
Benefit Streams	**2008**	**2009**	**2010**	**Source of information***
Volumes				
Total volume of gas transit* (mcm)	16,682	12,313	12,169	Official letter
Transit Tariff				
Gas transit tariff	n.a	n.a	n.a	none
Transit Revenues				
Total revenues from gas transit	n.a	n.a	n.a	none

Notes: Data on volumes are in million cubic meters (mcm); data on revenues are in local currency (BGN).

* (a) Internet; (b) Formal Request for Information (official letter);
(c)none - if information is not available through any of these two sources.

Table II BULGARIA				
Gas transit information from Private Companies				
Benefit Streams	**2008**	**2009**	**2010**	**Source of information***
Volumes				
Total volume of gas transit* (mcm)	16,682	12,313	12,169	Internet
Transit Tariff				
Gas transit tariff	n.a	n.a	n.a	none
Transit Payments				
Total payments for gas transit	n.a	n.a	n.a	none

Notes: Data on volumes are in million cubic meters (mcm); data on revenues are in local currency (BGN).

* (a) Internet; (b) Formal Request for Information (official letter);
(c)none - if information is not available through any of these two sources.

2.2 GEORGIA

Country Summary

Neither state agencies nor private companies responded to any inquiries. The only response project team received was from BP which contained information on transit tariffs, volumes and payments for all BP operated pipelines.

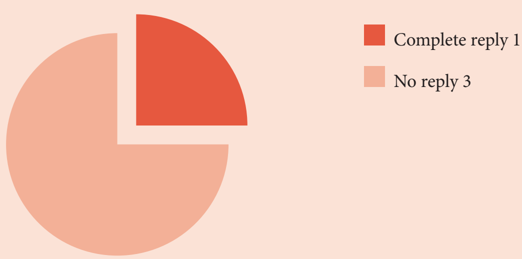
Georgia is quickly rediscovering its "Silk Road" heritage as gas and oil from the Caspian basin flow across its territory. The Georgian government's Eurasia corridor policy required substantial investment, most of which was allocated by international oil and gas leaders. Currently key transit pipelines across Georgia (BTC and WREP for oil and SCP for gas) are operated by British Petroleum (BP). BP and its partners have invested more than $5 billion over the last 10 years while State benefits from transit arrangements are in excess of $50 million a year.

Despite a significant engagement of the non-governmental sector in energy related activities, information regarding the proceeds of such transit arrangements is still unavailable to the general public. The requested information on volumes, tariffs, budget revenues and payments from oil and gas transit was not available.

Neither the state agencies nor private companies responded to any inquiries. The only official response the project team received was from BP. The letter included information on transit tariffs, volumes and payments for all BP operated pipelines (2008, 2009, and 2010). However neither BP, nor Statoil had any public data in the public domain pertaining to their payments to the government of Georgia for conducting transit activities in the country. The published financial statements were in full compliance with western practices and business standards, however, they lacked the disaggregate listing of financial contributions to the State for the revenue generating operation and services.

Analysis of the requested information on Hydrocarbon Transit from Governmental Agencies and Private Companies

GEORGIA



Overview of the hydrocarbon transit sector

Georgia is well-located between the largest producer and consumer states of the region. By allowing international transit of hydrocarbons from Russia to the south and from the Caspian region to the west to Europe, it effectively forms a bridge between the source countries and markets and ensures energy security through diversification of supply sources and routes; considerations that have gained increased significance in Europe today. Energy projects play a decisive role in Georgia's strategic calculations. The development of the East-West energy corridor has been perceived as the foundation of serious foreign investment in Georgia's economy. Apart from the economic benefits, pipeline politics are expected to change the whole security of the environment in the region. This chapter will focus on Georgia's pipeline transit only and the availability of information related to it.

The territory of Georgia is now crisscrossed with a network of hydrocarbon transportation networks: the Baku-Supsa Oil Pipeline, Baku-Tbilisi-Ceyhan Oil Pipeline, North-South and Baku-Tbilisi-Erzurum Gas Pipelines.

The Baku-Tbilisi-Ceyhan Oil Pipeline is owned by the BTC Consortium and operated by BP.[1] On behalf of the consortium, the operating company pays a minimal tax return into the state budget, which corresponds to certain per barrel amount of the crude volumes in transit. The pipeline has a projected lifespan of 40 years and is capable of transporting up to 1.2 million barrels of oil per day. For the lifetime of the project, some moderate transit fees are expected to accrue to Georgia and substantial transit fees to Turkey. For Georgia, transit fees are expected to produce an average of US$ 60 million per year.

The West Route Export Pipeline (WREP), otherwise known as Baku-Supsa Early Oil Pipeline, is the first BP-led project in Georgia and has been successfully and safely operating since 1999. The owner of the pipeline is Georgian Oil and Gas Corporation[2] (GOGC) and is operated by BP on behalf of the Azerbaijan International Oil Consortium[3] (AIOC), based on a long term lease agreement.

1 Consortium shareholders are: BP (30.1%); AzBTC (25.00%); Chevron (8.90%); Statoil (8.71%); TPAO (6.53%); ENI (5.00%); Total (5.00%), Itochu (3.40%); INPEX (2.50%), ConocoPhillips (2.50%) and Hess (2.36%).

2 The Georgian Oil & Gas Corporation (GOGC) is a 100% state owned Joint Stock Company that runs the high pressure gas pipeline system of Georgia with the total length of 1940 km. GOGC is responsible for the main natural gas supply network of the country, security of gas supply and diversification of such supply routes. GOGC represents the Government of Georgia in all Caspian oil and gas transportation projects passing through the territory of Georgia.

3 Azerbaijan International Oil Consortium (AIOC) represents the Azeri Chirag Guneshli field owner consortium with the following shareholder distribution: ACG participating interests are: BP (operator – 37.4%), Chevron (11.3%), SOCAR (10%), INPEX (11%), Statoil (8.6%), ExxonMobil (8%), TPAO (6.7%), ITOCHU (4.3%), Hess (2.7%).

The AIOC pays the rent in lieu of tariff per barrel amount on the transported crude and assumes full operation liability (technical maintenance, upgrade and construction of facilities) of the pipeline on the territory of Georgia. The Georgian government is the sole shareholder of GOGC at the moment and is capable of extracting the WREP transit revenue from the company in the form of a shareholder dividend. The capacity of the pipeline is 140,000 barrels per day (bbl/d) with an upgrade potential of up to 220,000 bbl/d.

The South Caucasus Gas Pipeline[4] (SCP) is a natural gas pipeline owned by SCP Consortium. Statoil and BP are the biggest shareholders, each with a share of 25.5%[5]. BP is the designated technical operator while Statoil theis the Chairman of the Shah Deniz Gas Commercial Committee. Statoil pays the transit fee for transporting natural gas from the Shah Deniz gas field in the Azerbaijan sector of the Caspian Sea to Turkey to the Georgian state budget. The 42 inch (1,070 mm) diameter gas pipeline mostly runs in the same corridor as the BTC Pipeline. The initial capacity of the pipeline is 8.8 billion cubic meters of gas per year, and after 2012 its capacity could be expanded to 21 bcm per year. As a transit country, Georgia has an arrangement with the SCP consortium that allows the benefit, equivalent to the 5% raise off in-kind volumes from the annual gas flow through the pipeline. The Georgian Oil and Gas Corporation is also allowed to purchase certain amounts of natural gas at a special discounted commercial price every year for the duration of the intergovernmental agreement. The North South Gas Pipeline was commissioned during the Soviet era but underwent significant rehabilitation and a major overhaul of the facilities in recent years. Currently owned by GOGC and operated by Georgian Gas Transportation Company (GGTC), the pipeline provides sustainable and mainstream supply of Russian gas to the entire Republic of Armenia. In its role of the National TSO, GGTC imposes an in-kind fee of up to 10% of the transported gas for international transit.

The development of the East-West Energy Corridor is becoming one of the main engines for Georgia's economic development and political stability. Although the pipeline projects themselves are not considered to be a panacea for the region, they are establishing a strong base for sustainable economic growth. Georgia and the whole region are gaining benefits from the project that mainly derive from western interest in the region, which is important for diversification of global supplies of oil.

4 South Caucasus Pipeline Company (SCPC) is responsible for the ownership and operation of the whole gas transport pipeline that starts in Baku and terminates in Erzurum. Government of Georgia provides the right of way and facilitates sustainable operation of this pipeline. SCPC is an incorporated joint venture company made up of 7 shareholders and operated by BP and Statoil, its largest shareholders.

5 The remaining Shareholder distribution is as follows: Lukoil 10%, Socar 10%, NICO 10%. Total 10%, Turkish Petroleum 9%.

The much desired and discussed Trans-Caspian pipeline in combination with Nabucco, the Interconnector Turkey-Greece-Italy (ITGI) or the Trans Adriatic Pipeline (TAP) will increase supplier diversity for EU customers. It will also provide increased stability in the European market, which could soon face a dramatic supply gap from Russia's export dominance in the future. But challenges remain - more work needs to be done in the areas of resource and infrastructure transparency, export and transit policy, and increasing efficiency in domestic energy consumption throughout the entire region.

Access to information regulations

The hydrocarbon transportation industry in Georgia is primarily regulated by the Law of the Natural Resources, the Law on Oil and Gas, the Law on Electricity and Gas, the General Tax Code, several regulations, and international treaties. The Law of Georgia on Oil and Gas and a parliamentary resolution gave the Independent Regulatory Commission of Georgia a special role in energy regulation. The resolution states that for efficient energy management, deregulation of energy production and supply should take place; however the Law is silent in regards to transit arrangements of oil and gas on the territory of Georgia.
The new Georgian Tax Code took effect on January 1, 2011 and introduced significant novelties that generally conform to the reform policies of the government. Amendments were made in parts pertaining to small and medium businesses and importers. One of the government's strategic initiatives is to develop Georgia's trade-transit function by taking advantage of its location between the Caspian and Black Sea Basins for further development of Central Asian transport routes that bypass Russia. The government has established a framework that allows investors to conduct the transit of goods without being subject to Georgian taxes.[6]

Article 230[7] of the Tax Code (paragraph k.) clearly excludes transit goods from imposed tax and refers BTC and SCP projects to their corresponding International Treaties: *"transit, re-import, temporary entry of goods onto the customs territory of Georgia. Upon temporary entry of goods in the customs territory of Georgia (unless temporary entry of goods, ships and airline vehicles defined by article 231, temporary entry of goods defined by Article 42.4 of the Customs Code of Georgia and temporary entry of goods for fulfillment of liabilities under international treaties signed by Georgia (construction of Baku-Tbilisi-Ceyhan and Baku-Tbilisi-Erzurum pipelines)"*

6 PWC summary commentary re the 2011 Tax amendments
7 Article 33: Tax Exemptions, as well as Article 265.Tax Exemptions (the unofficial English Version of the Tax code was supplied by the USAID Georgia Fiscal Reform Project)

However, up to now there had not been any particular legislation in the country that specifically dealt with revenue disclosure requirements. There is only sparse reference in some intergovernmental agreements that may not be specifically relevant to revenue transparency and disclosure requirements.

Analysis of the information availability on hydrocarbon transit

As in all project countries, the information project team requested was the following: information on annual volumes in transit for 2008, 2009, 2010, information on tariffs, information on budget revenues and payments for 2008, 2009, 2010.

The following websites have been explored:

a) Ministry of Energy and Natural Resources www.minenergy.gov.ge - contains no information on volumes, tariffs and revenues
b) Ministry of Finance www.mof.ge - contains no information on volumes, tariffs and revenues
c) Ministry of finance/Revenue Service www.www.rs.ge – Information is in highly aggregate form. Impossible to derive pertinent data from the available resources online.
d) Georgian Oil and Gas Corporation www.gogc.ge Only contains information regarding volumes. Data is presented in visual graphs rather than figures, thus all the info is relative and lacks preciseness.
e) Georgian Gas Transportation Company www.ggtc.ge – Has no data resources available online.
f) National Bank of Georgia www.nbg.ge No pertinent information
g) BP www.bpgeorgia.ge –Does not have readily available data online, however BP Caspian's website contains annual reports with some pertinent data. BP Georgia's website also features the "Enquiry Centre" section, through which a visitor can address the company with an inquiry.

There were significant challenges in collecting the available data for the project. GOGC and GGTC websites offered considerable amounts of data and general information such as news, shareholding structure and ongoing tendering activities, but lacked systemic information such as commercial and financial reports and documentation, corporate agreements and contracts, reports on financial compliance, international audits, and statistics. Most surprisingly, GOGC, being the second largest state owned company in Georgia, had no indication of any formal disclosure by means of corporate publications, such as quarterly and annual reports and financial statements. BP, the leading international company in hydrocarbon transit in Georgia[8], had much

8 BP Georgia as a registered entity factually and legally represents International consortiums for BTC, SCP and WREP in Georgia

more user-friendly and accessible data on their website. Legal documentation such as intergovernmental and host governmental agreements, as well as relevant production sharing agreements where appropriately formatted and available to download from the corporate website. However, neither BP or Statoil had any public data in the public domain pertaining to their payments to Government of Georgia for conducting transit activities in the country. The financial statements as published were in full compliance with western practices and business standards, however they lacked the disaggregate listing of financial contributions to the State for the revenue generating operation and services.

To obtain the necessary basis for judgment and data analysis, official information request letters were sent out to the pertaining state agencies and private companies involved in hydrocarbon transit on the territory of Georgia:

a) Georgian Oil and Gas Corporation – no response.
b) Georgian Gas Transportation Company – no response.
c) Statoil Azerbaijan - no response.
d) BP Georgia letter sent on 06.06.11 – reply received 26.09.11 Information included volumes, tariffs and payments.

The written communication was supplemented by phone calls with specific requests to provide responses in writing. Although phone interaction proved useful in obtaining status updates, official responses were still absent for any of the referred requests, except for the written response from BP Georgia, which was:

- The value of the tariff paid by BP for Baku Supsa Pipeline and Baku-Tbilisi-Ceyhan Pipeline in 2008-2010.
- The amount of oil transported by BP through Baku-Supsa Pipeline and Baku-Tbilisi-Ceyhan Pipeline in 2008-2010.

Information regarding gas transit was not provided. The team was advised to refer to Statoil for pertinent inquiries. The official information request letter to Statoil was left unanswered.

The State budget, as approved and amended, had a very poor understanding of specific revenue sources, making it impossible to distinguish between tax basis and payments for such. In order to assess the current level of gas and oil transit information disclosure to authorities and the public at large, the project team requested companies and the government to provide systematized throughput capacity data. Such information from various sources exists and is in possession of the team. Written communication was to ascertain particular assessments and provide a matching verification for the disclosed revenues to the budget against the factual transported volumes of hydrocarbons.

TABLE I GEORGIA				
GAS transit information from the Government (including state-owned companies)				
Benefit Streams	**2008**	**2009**	**2010**	**Source of information***
Volumes				
Total volume of gas transit (mcm)	6,5	6	5,6	Internet (GOGC website)
Transit Tariff				
Gas transit tariff	n.a	n.a	n.a	none
Transit Revenues				
Total revenues from gas transit	n.a	n.a	n.a	none

* (a) Internet; (b) Formal Request for Information (official letter);
(c)none - if information is not available through any of these two sources.

TABLE II GEORGIA				
Gas transit information from Private Companies				
Benefit Streams	**2008**	**2009**	**2010**	**Source of information***
Volumes				
Total volume of gas transit	n.a	n.a	n.a	none
Transit Tariff				
Gas transit tariff	n.a	n.a	n.a	none
Transit Revenues				
Total payments from gas transit	n.a	n.a	n.a	none

* (a) Internet; (b) Formal Request for Information (official letter);
(c)none - if information is not available through any of these two sources.

TABLE III GEORGIA				
Oil transit information from the government (incl. state-owned companies)				
Benefit Streams	**2008**	**2009**	**2010**	**Source of information***
Volumes				
Total volume of oil transit (in mln MTAs)	30	41	40	Internet (GOGC website)
Transit Tariff				
Oil transit tariff	n.a	n.a	n.a	none
Transit Revenues				
Total revenues from oil transit	n.a	n.a	n.a	none

* (a) Internet; (b) Formal Request for Information (official letter);
(c)none - if information is not available through any of these two sources.

TABLE IV GEORGIA				
Oil transit information from Private Companies Baku Supsa Pipeline*				
Benefit Streams	**2008**	**2009**	**2010**	**Source of information***
Volumes				
Total volume of oil transit (in barrels)	5,548,000	31,407,000	29,575,000	Official letter from BP
Transit Tariff				
Oil transit tariff (in USD per barrel)	0,22	0,23	0,23	Official letter from BP
Transit Payments				
Total payments from oil transit (in USD)	1,221,000	7,224,000	6,802,000	Official letter from BP

Notes: Data on volumes are in barrels; data on revenues are in US Dollar
Includes only information provided by BP on Volumes, tariffs and payments for BP operated Baku-Supsa (WREP) Oil Pipeline

* (a) Internet; (b) Formal Request for Information (official letter);
(c)none - if information is not available through any of these two sources.

TABLE V GEORGIA				
OIL transit information from Private Companies (Baku Tbilisi Ceyhan Pipeline)				
Benefit Streams	**2008**	**2009**	**2010**	**Source of information***
Volumes				
Total volume of oil transit (in barrels)	246,666,000	285,782,000	286,319,000	Official letter from BP
Transit Tariff				
Oil transit tariff (in USD per barrel)	0,12	0,12	0,12	Official letter from BP
Transit Payments				
Total payments from oil transit (in USD)	29,600,000	34,294,000	34,358,000	Official letter from BP

Includes only information provided by BP on Volumes, tariffs and payments for BP operated BTC Oil Pipeline

* (a) Internet; (b) Formal Request for Information (official letter);
(c)none - if information is not available through any of these two sources.

2.3 TURKEY

Country summary

Information on tariffs, payments and revenues from oil and gas transit is not publicly available

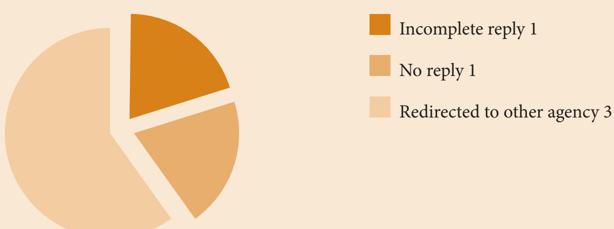
Turkey buys almost all its oil and gas from abroad, and its fast-growing economy is sure to require ever larger volumes of imports over the next decade. At the same time, it lies at the crossroads of the supply routes that connect Russian, Caspian and central Asian producers with consumers in western, eastern and southern Europe.

All oil and gas pipelines in Turkey are either operated by the state owned pipeline company - BOTAŞ, or by one of its subsidiaries. Only BOTAŞ is responsible for revealing information on hydrocarbon transit. All information requests sent out to other state institutions during the research were transferred to BOTAŞ for this reason. Therefore, there was no way to compare private company records against government records.

The BOTAŞ website contains information on the volume of oil and gas transit but information on tariffs, taxes, fees, and revenues is not publicly available online. This information is not available on governmental agency websites either. Transit tariffs for the BTC pipeline are available in the BTC contract on the BP website. There is no Turkish official website with any documents on the contracts of the pipeline.

Analysis of the requested information on Hydrocarbon Transit from Governmental Agencies and Private Companies

TURKEY



Overview of the hydrocarbon transit sector

With a young and quickly expanding urbanizing population, Turkey is considered to be one of the fastest growing medium to long term consumers in energy among western countries.[1] Securing and maintaining a sufficient energy supply for the growing economy and the increasing population of Turkey is therefore one of the most vital policy aims of the government. Turkey imports nearly all of its natural gas and oil consumption from its neighboring countries; namely Azerbaijan, Iraq, Iran and Russia. According to the 2009 statistics of the Ministry of Energy and Natural Resources, Turkey's energy imports totaled 9.9 billion USD for natural gas, and 6.4 billion USD for crude oil.[2]

Until the market reform of 2001, based on the *Natural Gas Market Law*, the state-owned pipeline company BOTAŞ enjoyed a monopoly over the control of the natural gas market in Turkey. According to the new law, BOTAŞ had to decrease its market share to 20 %. While BOTAŞ has a similar position for crude oil imports from the Iraq-Turkey pipeline, the BTC pipeline is operated by BOTAŞ International Ltd (BIL) (99 % owned by BOTAŞ).

The key stakeholders in Turkey's energy sector are:

- Petroleum Pipeline Corporation (BOTAŞ): state owned pipeline company focusing on trade and gas transportation.
- Turkish Petroleum Corporation (TPAO): state owned petroleum company, focusing on exploration and production.
- Ministry of Energy and Natural Resources: produces and implements energy policies in collaboration with affiliated institutions and relevant public and private entities.
- Energy Market Regulatory Authority (EPDK):established initially as an independent authority to regulate the electricity market, however its powers were extended to the entire energy sectors following the enactment of Natural Gas Market Law (2001) and Petroleum Market Law (2003).

BOTAŞ currently holds contracts for the following gas and crude oil pipelines, with the exception of BTC which is operated by the BOTAŞ affiliate BIL.[3]

1 Turkey 2009 Review, International Energy www.iea.org/textbase/nppdf/free/2009/turkey2009.pdf
2 "Turkey's natural gas imports total $9.9 billion", Hurriyet Daily News, March 30, 2010 www.hurriyetdailynews.com/n.php?n=turkeys-natural-gas-cost-9.9-billlion-2010-03-30
3 All information related to other pipelines have been compiled from the 2009 Activity Report of BOTAŞ

The main hydrocarbon transportation routes in Turkey are:

Oil pipelines:

- Iraq-Turkey Pipeline: Agreement between the government of Turkey and the government of Iraq on 27.08.1973 to transport Iraqi petrol from Kirkuk to Ceyhan (Yumurtalik) in Turkey. Those parts of the pipeline that fall under Turkish borders are operated by BOTAŞ. Contract not available.
- Baku-Tbilisi-Ceyhan Pipeline (BTC): Operated by BOTAŞ affiliate BOTAŞ International Ltd (BIL) where BIL is the only operator and BOTAŞ holds client status. Contract available on BP website.

Gas pipelines:

- Russian Federation-Turkey Pipeline: Agreement between BOTAŞ and Gazprom (former Soyuzgaz export of the USSR) on 14.02.1986 to transport 6 billion m3/year of Russian gas to Turkey for a period of 25 years. Contract is not available.
- Eastern Anatolia Pipeline: Agreement between Government of Turkey and Government of Iran on 08.08.1996 to transport a maximum of 10 billion m3/year of Iranian and other Eastern-sourced gas to Turkey. Contract is not available.
- Samsun-Ankara Pipeline (Blue Stream): Agreement between BOTAŞ and Gazprom (formerly known as Gazexport) on 15.12.1997 to transport a maximum of 16 billion m3/year of Russian gas to Turkey through the Black Sea for a period of 25 years. Contract is not available.
- Russian Federation-Black Sea-Turkey pipeline: The parts of the pipeline that are included within the Turkish borders are operated by BOTAŞ, and those inside Russian borders are operated by Gazprom. The pipeline was officially taken into operation by BOTAŞ in 2003 and started functioning in 2005.
- Turkey-Greece pipeline: Agreement between BOTAŞ and DEPA (Greece) on 23.02.2003 to transport a maximum of 750 million m3/year gas to Greece.
- Baku-Tbilisi-Erzurum Pipeline (Shahdeniz): Agreement between BOTAŞ and SOCAR (Azerbaijan) on 12.03.2001 to purchase and transport Azeri gas to Turkey through Georgia.

Access to information regulations

The Right to Information Act pertains to the right to acquire the information in every field of public administration, however, just as in any other Right to Information Act in other countries; this right also has its exceptions. Some of these restrictions that also concerns the purposes of this study are: State secrets, information and documents on the economic interests of a country and commercial secrets.

However, although the Law stipulates the restrictions on Right to Information, it does not make any conceptual clarification as to what such terms refer to. For instance, there is no explanation as to what a state secret is or what an information or document on intelligence entails. There is no supplementary bylaw that clarifies these principles either. There is no separate law on State Secrets or Commercial Secrets.

Because of a lack of such clarifications, the contours of the Right to Information also remain very much ambiguous. The downside of this ambiguity is that the public administration can make use of this definitional ambiguity to withhold information from applicants. However, even in cases where the public authority in question does not reveal any information, it has to provide a reason and explain the means and the time needed to object to this situation. The public authorities are also obliged to reply to information requests within 15 working days from the day the application was made.

Analysis of the information availability on hydrocarbon transit

Before making any information requests, online research was carried out by the team from the websites of relevant institutions. The only available information found was the volumes of oil and gas transported through transit pipelines in Turkey.

a) BTC Project Directorate www.btc.com.tr -included information on transit tariffs for the BTC pipeline.
b) BP Legal Agreements Section www.bp.com -included information on transit tariffs for the BTC pipeline.
c) BOTAŞ www.botas.gov.tr -included information only on volumes
d) Energy Regulatory Authority www.epdk.gov.tr – no information on volumes, tariffs and revenues.
e) Ministry of Energy www.enerji.gov.tr -no information on volumes, tariffs and revenues.
f) Treasury www.treasury.gov.tr - no information on volumes, tariffs and revenues.

At the second stage, information requests were filed to relevant public authorities. The institutions were:

a) Ministry of Energy - transferred request to BOTAŞ
b) Energy Market Regulatory Authority -recommended to send our request to Ministry of Energy
c) Treasury - transferred to Ministry of Energy
d) BOTAŞ- BOTAŞ sent its Activity Report
e) BTC Project Directorate– no reply

The only private sector actor that was solicited was BOTAŞ International Limited, the private enterprise (99 % owned by BOTAŞ, the state company) that is operating Baku-Tbilisi-Ceyhan.

In two weeks' time, the research team called the relevant authorities to monitor the progress. Having observed that some of the applications were not properly addressed, a second round of applications was made on the 21st of June, 2011 to some of these institutions.

An answer was received from every public institution applied. However, the Ministry of Energy and Energy Regulatory Authority and Treasury replied by saying this information is in the possession of BOTAŞ. BOTAŞ replied to our request with a letter saying that within the confines of the right to information, the only information it could provide was their Activity Report pertaining to 2009. BOTAŞ was not explicit about why it would not provide the requested information. The activity report does not reveal any of the data required in the template except for the volumes of gas transported through the Turkey-Greece gas pipeline which is mentioned in the Activity Report in passing (under the graph that shows the total gas exports to Greece) rather than a conscious effort to reply to our information request.

As all oil and gas pipelines are either operated by BOTAŞ, or by one of its subsidiaries, it is in fact only BOTAŞ which is responsible for revealing the information requested. All the information requests sent out to other ministries or public bodies were transferred to BOTAŞ for this reason. Therefore, there is no way of comparing private company records against government records.[4]

With regards to contractual transparency, there is no official disclosure of contracts by the Turkish state in any of the websites of the related public bodies. However, since the Turkish government signs the contracts with other stake-

4 The only exception is subsidiaries which were set up by BOTAŞ and the consortium members to run large scale transit pipelines. For instance, BIL is the subsidiary of BOTAŞ (99 % owned by the company) to run BTC oil pipeline.

holders including private companies, some of the transit pipeline contracts are made public due to disclosure policies of these private companies.[5]

The internet research on BOTAŞ website only reveals the volume of oil and gas transits.[6] The bulk of the requested information on oil and gas transit through the country (i.e. tariffs, taxes, fees, and revenues) is not publicly available online.

Since there is no cross checking mechanism to compare what government data fares compared to company data, the quality and the quantity of information revealed is only dependent on the approach of BOTAŞ. Apparently, even the Treasury is not qualified to reveal how much energy specific revenue is generated for state coffers from transit pipelines. For this reason, the transparency of BOTAŞ becomes crucial to make any healthy analysis on the topic.

There are media leaks on the tariff rates and tax revenues with regards to the BTC oil pipeline because of the controversies over the losses of BOTAŞ International Limited in operating the Turkish portion of the pipeline.[7] The same is true for gas purchase agreements between Turkey and Russia. However, no official information was obtained on these matters.[8]

While the activity report of the company reveals a detailed account of the audited final accounts of BOTAŞ, there is no way to discern how much of the revenues were generated through transit pipelines. There is also no information as to how much of this revenue goes to the state budget. There is again no information as to how much of the money generated by BOTAŞ International Limited or other affiliates goes to both the BOTAŞ budget and the state budget.

The following figures reveal how much of the information related to oil and gas transit specific revenues are open to public scrutiny.

5 BTC oil pipeline agreement can be accessed through BP website www.bp.com/sectiongenericarticle.do?categoryId=9029334&contentId=7053632

6 For oil transit volumes, please check: www.botas.gov.tr/index.asp. For gas transit volumes, please check page 7 of : www.enerji.gov.tr/yayinlar_raporlar/Sektor_Raporu_BOTAS_2010.pdf. The volumes refer to purchase amounts from different countries. None of the gas transited through a certain pipeline is sold into other countries, since none of the gas transit pipelines go into a third country. For this reason, the amount purchased equals the number transited through that gas pipeline.

7 www.ekonomi.haberturk.com/makro-ekonomi/haber/619866-baku-tiflis-ceyhan-borc-hatti

8 www.turksam.org/tr/yazdir627.html

TABLE I TURKEY				
Oil Transit Information from Government, (state-owned company) Turkey-Iraq Oil Pipeline				
Benefit Streams	**2008**	**2009**	**2010**	**Source of information***
Volumes				
Total volume of oil transit (thousand barrels)	135.522	167.6	132.278	internet
Transit Tariff				
Transit tariff for oil transit	n.a	n.a	n.a	none
Transit Revenues				
Total revenues from oil transit	n.a	n.a	n.a	none

Notes: Data on volumes are in million cubic meters (mcm); data on revenues are in local currency (BGN).

* (a) Internet; (b) Formal Request for Information (official letter);
(c)none - if information is not available through any of these two sources.

TABLE II TURKEY				
Oil Transit Information from Government, (state-owned company)Baku-Tbilisi-Ceylan Oil Pipeline				
Benefit Streams	**2008**	**2009**	**2010**	**Source of information***
Volumes				
Total volume of oil transit (thousand barrels)	264.092	285.492	288.173	internet
Transit Tariff				
Transit tariff for oil transit	$0.55	$0.55	$0.55	(from the contract on BP website)
Transit Revenues				
Total revenues from oil transit	n.a	n.a	n.a	none

Notes: Data on volumes are in million cubic meters (mcm); data on revenues are in local currency (Turkish lira)

* (a) Internet; (b) Formal Request for Information (official letter);
(c)none - if information is not available through any of these two sources.

TABLE III TURKEY				
Gas Transit Information from Government (state-owned company), Russia-Turkey(including Samsun-Ankara, Russian Federation-Black Sea-Turkey and Russian Federation-Turkey Gas Pipelines)				
Benefit Streams	**2008**	**2009**	**2010**	**Source of information***
Volumes				
Total volume of gas transit (mcm)	22962	17207	14535	internet
Transit Tariff				
Transit tariff for gas transit	n.a	n.a	n.a	none
Transit Payments				
Total payments for gas transit	n.a	n.a	n.a	none

Notes: Data on volumes are in million cubic meters (mcm); data on revenues are in local currency (Turkish lira)

* (a) Internet; (b) Formal Request for Information (official letter);
(c)none - if information is not available through any of these two sources.

TABLE IV TURKEY				
Gas Transit Information from Government, (state-owned company), SCP (Shahdeniz) Gas Pipeline				
Benefit Streams	**2008**	**2009**	**2010**	**Source of information***
Volumes				
Total volume of gas transit (mcm)	4580	4959	4521	internet
Transit Tariff				
Transit tariff for gas transit	n.a	n.a	n.a	none
Transit Payments				
Total payments for gas transit	n.a	n.a	n.a	none

Notes: Data on volumes are in million cubic meters (mcm); data on revenues are in local currency (Turkish lira)

* (a) Internet; (b) Formal Request for Information (official letter);
(c)none - if information is not available through any of these two sources.

TABLE V TURKEY				
Gas Transit Information from Government, (state-owned company), Turkey-Greece Gas Pipeline				
Benefit Streams	**2008**	**2009**	**2010**	**Source of information***
Volumes				
Total volume of gas transit (mcm)	436	709	n.a	FoI
Transit Tariff				
Transit tariff for gas transit	n.a	n.a	n.a	none
Transit Payments				
Total payments for gas transit	n.a	n.a	n.a	none

Notes: Data on volumes are in million cubic meters (mcm); data on revenues are in local currency (Turkish lira).

* (a) Internet; (b) Formal Request for Information (official letter);
(c)none - if information is not available through any of these two sources.

TABLE VI TURKEY				
Gas Transit Information from Government, (state-owned company), Turkey-Iran Gas Pipeline				
Benefit Streams	**2008**	**2009**	**2010**	**Source of information***
Volumes				
Total volume of gas transit (mcm)	4113	5252	7765	internet
Transit Tariff				
Transit tariff for gas transit	n.a	n.a	n.a	none
Transit Payments				
Total payments for gas transit	n.a	n.a	n.a	none

Notes: Data on volumes are in million cubic meters (mcm); data on revenues are in local currency (Turkish lira).

* (a) Internet; (b) Formal Request for Information (official letter);
(c)none - if information is not available through any of these two sources.

2.4 UKRAINE

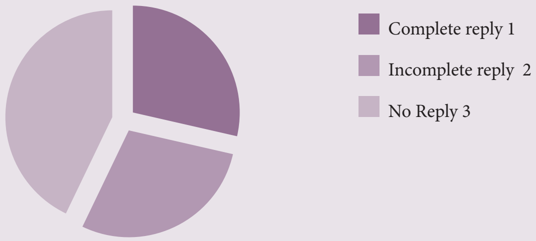
Country Summary

The EU's dependence on hydrocarbons from Russian increases the Ukraine's importance to ensure the energy security of Europe. Trunk pipeline systems hosted by Ukraine are used in combination with underground gas storage facilities to balance gas consumption in Europe during peak periods. The 2009 Gas Crisis in Europe brought the vulnerability of these arrangements to light: Non-transparent and obscure transit arrangements provide grounds for various interpretations between involved parties, including conflicts.

Among the hydrocarbon transportation system, the transit of natural is the most incomprehensible. No data in the public domain is readily available, even when relevant laws and regulations officially authorize such access to information. In this study some minor information (e.g. some tariff-related information) was collected off the web sites of respective entities involved in transit in addition to other open resources.

Analysis of the requested information on hydrocarbon transit from governmental agencies and Private companies

UKRAINE



Overview of the hydrocarbon transit sector

Ukraine possesses Europe's longest gas transmission system (GTS), which provides transit to 19 countries west of Ukraine (the EU, the Balkan Region, Switzerland, and Turkey).

The Ukraine GTS is operated by the national joint stock company (NJSC) NaftoGaz Ukrainy, fully owned by the State. NaftoGaz Ukrainy is managed by the Ministry of Energy and Coal Industry of Ukraine. Gas transportation, transit and storage, including underground gas storage facilities (UGSF), is effectively executed by UkrTransGaz SE; and by ChernomorNefteGaz, PJSC, which ensures gas transportation and storage (without transit) within the Crimean Peninsula.

Gas transit pipelines in Ukraine are:

Urengoy – Uzhgorod
Progress
Yelets-Kremenchuk-Ananyev
Soyuz
Urengoy – Novopskov
Torzhok-Dolina
Dolina-Uzhgorod-State border IIn
Ananyev-Tiraspol-Izmail
Komarno-Drozdovichi In + IIn
Ivatsevichi-Dolina In + IIn
Khust-Satu-Mare
Offtake for Beregovo In + IIn
Ananyev-Chernovtsy-Bogorodchany (AChB)

Commercial terms and conditions for gas transit across the territory of Ukraine are regulated by the Contract on Volumes and Terms of Russian Natural Gas Transit through the Territory of Ukraine for the period of 2009 - 2019, executed by NaftoGazUkrainy, NJSC and Gazprom on November 19, 2009. While the contract is confidential, its text was nevertheless published in the media (though it could not be deemed an official publication).

There are a number of international agreements on the use of the GTS of Ukraine concluded between Ukraine and the Russian Federation (intergovernment agreements of 18 February 1994, 22 December 2000 and 04 October 2001). However, the mentioned Ukrainian-Russian intergovernmental treaties, while still formally in force, have been in reality in default since January 2006. Starting from January 2006, foreign-economic relations in the area of natural gas transit through the territory of Ukraine have been regulated only at the level of commercial entities (more specifically, NaftoGazUkrainy and Gazprom).

UkrTransGaz currently uses the GTS of Ukraine for transit and underground storage of predominantly Russian gas. In recent years, Russia has reduced the volume of gas transported through the Ukrainian GTS due to a slump in the demand for Russian gas in Europe (Annex 3). This has provided Ukraine with a possibility to offer free transit and UGSF storage capacities to third parties in accordance with its commitments as a result of Ukraine's accession to the European Energy Community. A practical implementation of the provision that assures equal access of all parties concerned to the GTS of Ukraine may be possible - provided additional regulations are adopted, inter alia, by relevant public authorities (Ministry of Energy and Coal Industry, NERC).

The oil transmission system of Ukraine is comprised of 19 main oil pipelines with a total length of 4,766.1 km. The most significant are:

Dolina Drogobich Pipeline
Mozir-Brody-Uzhgorod (Druzhba) pipeline
Glinskoi-Rozbichevskoe-Kremenchug Pipeline
Kremenchug-Herson-Odessa Pipeline
Odessa- Brody Pipeline

In total, Ukraine transports crude Russian oil in excess of 110 million metric tons a year. UkrTransNafta uses Ukraine's oil transmission system to transport Russian and Kazakh crude to domestic oil refineries and also to some EU Member States, such as the Slovakia and Hungary. The oil extracted in Ukraine is transported to oil refineries in the western part of the country. The available infrastructure also allows for the transmission of Azerbaijan crude oil into Ukraine and to third countries (Belarus). Russia has reduced the volume of its oil transported through the oil transmission system of Ukraine in recent years. A further substantial decrease in crude oil transportation through the territory of Ukraine is expected, following the Russian Federation's commissioning of its BTS-2 in 2012. Thus, an increase in oil transport volumes is only possible through the development of the Odessa – Brody Project.

Tariffs on crude oil transportation through main pipelines to customers in Ukraine are established by NERC in accordance with Cabinet of Ministers of Ukraine Resolution No. 1548, of 25.12.1996. At the same time, the issue of tariffs on crude oil transit through main pipelines has not been legislatively regulated and is independently resolved by transport companies in their foreign-economic contracts.

Access to information regulations

In 13.01.2011, the Law of Ukraine on Access to Public Information was adopted. This Law established the procedure for providing and exercising everyone's right to information on possessions of governmental institutions and other public information managers, as well to information of public concern.

Under Par. 1, Art. 13 of this Law, public information managers include, *inter alia*, commercial entities that have dominant positions in the market, or those bestowed with special or exclusive titles, or those being natural monopolies in respect to the information on terms and conditions of the supply of goods and services or their prices. NaftoGazUkrainy represented by UkrTransGaz and UkrTransNafta are also information managers (within the meaning of the Law of Ukraine on Access to Public Information) and must provide requested information about terms, conditions and prices for the delivery of natural gas and crude oil storage and transportation through main pipelines.

Moreover, commercial entities must also provide additional information whenever such information is of public interest (publicly demandable information). Currently, the legislation of Ukraine does not contain an exhaustive list of publicly demandable information, therefore, whenever an applicant specifically requests this type of public information, he must also include specific reasons to substantiate the need for the public disclosure of such information in his inquiry.

NaftoGazUkrainy and UkrTransGaz as public joint-stock companies have to publish their annual financial reports and reporting documents submitted to relevant public agencies. As of January 1st, 2012, their annual financial reports and annual consolidated reports must be prepared in compliance with international standards, complete with an audit report.

Analysis of the information availability on hydrocarbon transit

Information on the performance of Ukrainian gas and oil transmission systems was obtained through website research and respective inquiries to governmental authorities. The following websites have been monitored:

a) Ministry of Energy and Coal Industry www.mpe.kmu.gov.ua -included information on oil and gas transit volumes.
b) Naftogaz - www.naftogaz.com–information on volumes.
c) Ukrtransgaz www.utg.ua - contains only information on gas transit volumes.
d) Ukrtnansnafta - www.ukrtransnafta.com - included information on oil transit volumes for 2009 year.
e) Blackseagas - www.blackseagas.com - contains only information on gas transportation tariffs.
f) National Electricity Regulatory Commission www.nerc.gov.ua - contains information on oil, gas transportation tariffs.
g) National Bank of Ukraine - www.bank.gov.ua – no information on volumes, revenues and tariffs.

The following state and private agencies have been sent formal information request letters:

a) The Ministry of Energy and Coal Industry of Ukraine – no reply
b) State Customs Service – complete reply
c) State Tax Administration- no reply
d) NaftoGazUkrainy, NJSC- complete reply
e) UkrTransGaz, SE – incomplete reply including only tariffs without any information on volumes or payment;
f) UkrTransNafta, PJSC - incomplete reply including only tariffs without any information on volumes or payment
g) ChernomorNaftoGaz, PJSC – no reply

Because information following the primary inquiry was incomplete, appeals to the management of UkrTransGaz, SE and UkrTransNafta, PJSC were filed under the laws in force. Additional information (e.g. some of the tariff-related information) was collected from official web sites of the commercial entities concerned, as well as from other open resources.

Information on Gas

The Ministry of Energy and Coal Industry of Ukraine and the State Tax Administration of Ukraine did not respond to our inquiries. The State Customs Service of Ukraine and NaftoGazUkrainy furnished information on the gas transport sector available to them. UkrTransGaz only provided information on tariffs on gas transportation to domestic customers that are established by NERC, which must be published. The company did not furnish further information (on transit tariffs, revenues earned, taxes paid), referring to its classified status. The appeal to the company management for a request for the missing information was rejected due to the corporate interpretation of the applicable legislation in force in Ukraine. They specifically mentioned the company's right to independently classify information and decide whether the requested information really falls within the "publicly demandable" category.

The position taken by UkrTransGaz is unwarranted. In particular, the laws of Ukraine do not contain an exhaustive list of publicly obtainable information. Besides, the Cabinet of Ministers of Ukraine's Resolution No. 611, of 09.08.1993, directly stipulates that data necessary for tax verification purposes and related documents on their payment do not constitute a "commercial secret". The position of UkrTransGaz in respect of non-disclosure of the requested basic information (that is disclosed by any public corporation keen to respect at least a minimum of transparency standards of its operation) shows this company is not ready for corporatization, IPO (Iinitial Public Offering) placement or operation on terms and conditions universally accepted on the European gas market.

The tariffs of natural gas transit are currently set by commercial entities concerned with their commercial contracts without supervision by the market regulator (NERC) and are regarded confidential. Such an approach breaches the principle of equal access to the GTS and renders it impossible to conduct non-discriminatory tariff policies in respect of gas transit.

Different respondents presented differing quantitative indicators of gas transit (see Tables below). It should be noted that even UkrTransGaz, SE's website quotes two indicators for 2010: (155 billion cu m on the main page and 148.5 billion cu m, in the Performance Indicators Section). Gas transit volume figures show considerably lesser discrepancies. It is no less remarkable that the block with 2009 data on Ministry of Energy and Coal Industry's web site has two gas transit indicators presented as y/y comparison for 2010 and 2009. Certain material discrepancy in transit volume figures can be found in the materials presented by the State Customs Service and NaftoGazUkrainy.

Proceeds from gas transportation were only showed by NaftoGazUkrainy and this factually excludes any possibility of comparing the figures with information from other respondents.

Information on Oil

UkrTransNafta refused to furnish the requested information, referring to an ungrounded interpretation of the legislation. The Ministry of Energy and Coal Industry of Ukraine and the State Tax Administration of Ukraine did not respond at all to inquiries.

The State Customs Service of Ukraine and NaftoGazUkrainy furnished information on the crude oil transport sector available to them. UkrTransNafta only released information on tariffs on crude oil transportation to domestic customers that are established by NCER and which must be published. The company did not furnish other information (on transit tariffs, revenues earned, taxes paid) referring to its classified status.

Quantitative indicators on crude oil transport and transit show no material discrepancies in responses from various respondents. It was not possible to find crude oil transit tariffs through respondent's responses or on their websites. When establishing transit tariffs, the company bases its decision on the provisions of the Law of Ukraine on Prices and Pricing. Therefore the approach for determining transit tariffs is regulated less by clear legislative provisions, than by the party concerned (UkrTransNafta) at its sole discretion. As financial proceeds from crude oil transportation were presented only by NaftoGazUkrainy, it effectively ruled out any possibility to compare these to indicators from other respondents.

TABLE I Ukraine				
Gas transit information from Government				
Benefit Streams	**2008**	**2009**	**2010**	**Source of information***
Volumes				
Total volume of gas transit (mcm)	119 900	95 200	98 600	Internet (Ministry of Energy and Coal Industry of Ukraine)
Transit Tariff				
Transit tariff for gas transit	n.a	n.a	n.a	none
Transit Revenues				
Total revenues from gas transit	n.a	n.a	n.a	none

* (a) Internet; (b) Formal Request for Information (official letter); (c)none - if information is not available through any of these two sources.

TABLE II Ukraine				
Gas transit information from companies				
Benefit Streams	**2008**	**2009**	**2010**	**Source of information***
Volumes				
Total volume of gas transit (mcm)	119 600	95 800	98 600	Official letter NaftoGazUkrainy, NJSC
Transit Tariff				
Transit tariff for gas transit	n.a	n.a	n.a	none
Transit Revenues				
Total revenues from gas transit	n.a	n.a	n.a	none

* (a) Internet; (b) Formal Request for Information (official letter); (c)none - if information is not available through any of these two sources.

TABLE III Ukraine				
Oil transit information from Government				
Benefit Streams	**2008**	**2009**	**2010**	**Source of information***
Volumes				
Total volume of oil transit (mt)	32.8	29.1	20.1	Internet (Ministry of Energy and Coal Industry of Ukraine)
Transit Tariff				
Transit tariff for oil transit	n.a	n.a	n.a	none
Transit Revenues				
Total revenues from oil transit	n.a	n.a	n.a	none

* (a) Internet; (b) Formal Request for Information (official letter); (c)none - if information is not available through any of these two sources.

TABLE IV Ukraine				
Oil transit information from from companies				
Benefit Streams	**2008**	**2009**	**2010**	**Source of information***
Volumes				
Total volume of oil transit (mt)	32.8	29.1	20.1	Official Letter (Naf-toGazUkrainy, NJSC)
Transit Tariff				
Transit tariff for oil transit	n.a	n.a	n.a	none
Transit Revenues				
Total revenues from oil transit	n.a	n.a	n.a	none

* (a) Internet; (b) Formal Request for Information (official letter); (c)none - if information is not available through any of these two sources.

3 CONCLUSIONS

Information on transit tariffs and state budget revenues from transited oil and gas is not publicly available in Bulgaria, Georgia, Ukraine and Turkey

This study is the first attempt to assess the transparency of the hydrocarbon transit environment in Bulgaria, Georgia, Ukraine and Turkey and to compare existing tariff schemes and budget revenue contributions across the sample of the countries that are essential from their energy transit potential standpoint.

The major conclusion of the report is that there are challenges in getting information on tariffs for oil and gas transit as well as state budget revenues from transit operations in Bulgaria, Georgia, Ukraine and Turkey. Websites of relevant state authorities does not include information on state budget revenues and tariffs for transited oil and gas, and this information is also not available upon request. The information on volumes of transited oil and gas is available in aggregated form in all of those countries.

Each country in this report represents an actor with strong civil society presence and aspirations towards the principles and values of the greater European family. Yet, there is an ample room for the improvement of the hydrocarbon transit transparency sector. This project is an effort to deal with such transparency challenges in this vital economic sector on a comprehensive level.

Interregional arrangements for hydrocarbon transport and reliability of transit is becoming ever more important with the increase in energy trade and the growing integration of energy markets. The increasing volume of hydrocarbon trade among the states of different geographic regions often involves transportation over large distances and multiple national borders. Transit conditions for natural gas and crude oil have therefore become a topic of great interest, not only for the parties affiliated with the commercial processes itself, but for the stakeholders at large. The general interest of such arrangements is underscored by the fact that large-scale interregional projects of hydrocarbon transportation are usually accompanied with a variety of anticipations from the stakeholders or the general public. Undoubtedly, such projects are typically coupled with significant and undisputed economic benefits, but a precise definition of what these benefits correspond to is usually left behind the curtain. Needless to say - there exists an apparent shortage of choice of instruments that duly address such disclosure challenges.

In many recent instances, there were cases when transit conditions in any given country were a major issue. There are a number of cases where an evaluation of forthcoming projects is underway and a constituency's opinion is on the agenda of a decision-making panel. In tariff-based transport arrangements and hydrocarbon transport in particular, where any project potentially triggers broader implications for the public at large, an assessment of governance is usually made at an early stage and disclosure of information as a means to manage governance risks is appropriate. Accordingly, subject to applicable legal restrictions, sector -specific initiatives should be welcomed on various levels to specifically tackle the disclosure of project-related information, in addition to the disclosure of specific tax payments and revenue contributions of a different kind.

When considering the development of large scale infrastructure projects, coupled with significant transportation arrangements (those expected to account for about one percent or more of government revenues), anticipated net benefits to the state budget, as well as project value for general stakeholders, should be reviewed well in advance of project commencement. Whether the balance of benefits and project risks (such as environmental or social risk) is acceptable or not, it is a critical aspect of project evaluation and often turns into a public debate. Therefore, it is extremely important to have mechanisms in place that will allow and promote transparency of transit revenue payments to host governments. However, it is extremely difficult to establish a totally new general framework within which energy companies will be required to publicly disclose their material project payments for transit to the host government (in most cases such payments occur in the form of taxes, royalties or intricate benefit sharing), and the relevant terms of key agreements that are of public concern (in most cases – Host Government Agreements and Intergovernmental Agreements).

Governments and private companies operating in transit industries should implement EITI Transit as an already tested mechanism to solve transparency related shortcomings.

The major recommendation for governments and private companies operating in transit industries is to launch and implement EITI Transit in Bulgaria, Georgia, Ukraine and Turkey as it is an already tested mechanism to solve transparency related shortcomings. Basic principles of EITI can be transformed into the EITI Transit unchanged, once transit countries and private companies involved in transit operations announce their readiness to disclose revenues and payments for transit operations, thereby enhancing wider accountability and transparency in the sector.

Recommendations for the Host Governments

Developing certain requirements on transparency, such as EITI Transit, will benefit and generally help create a competitive business environment. By implementing EITI Transit, host countries will create the foundation of an investor-friendly and competitive national energy market and establish the country as an important junction of energy transit and connecting routes.

In those states that host and international transit project, the implementation of EITI Transit would constitute public disclosure of material project payments to the host government (such as taxes, royalties, benefit sharing etc.) as a baseline revenue transparency requirement and where applicable, adherence to specific disclosure requirements in certain cases will be necessary. Receipts to the budget are reconciled with declared payments from energy companies by independent third party auditors, with active engagement of civil society, thereby enhancing wider accountability and transparency in the country.
National state champions in the midstream business (vertically integrated state-owned companies such as Turkey's) that effectively control key oil and gas transportation arrangements are quite hard to tell apart from the State itself. As duly noted in the report, this represents a real challenge in the revenue disclosure process. In such cases, it is extremely difficult to observe transparent revenue management, particularly in terms of accountability for revenue flows between state-owned corporations and the state.

Recommendations for Private Companies

Energy companies would benefit from a uniform reporting requirement, such as EITI Transit, which would apply to domestic and foreign firms doing business on the territory of an EITI implementing country - one that mandates revenue transparency reporting for their operations.

The situation was different with international oil and gas principals. It is a general rule of thumb that international oil companies and companies that are publicly listed on US and European stock markets are much more prudent and discreet than leaders wholly owned by states. Nevertheless, the project team found it extremely difficult to single out budget revenue streams from the highly aggregated financial information that was made available through direct communication by international principals. In most cases, Information disclosed by international energy companies is for the benefit of shareholders and does not match a country-by-country profile, suitable for the purposes of EITI Transit.

By imposing EITI Transit as a tool for adherence to international transparency, best governance and revenue management standards in projects for transportation of hydrocarbons, companies and host governments may inadvertently be subjected to certain extra costs and resource spending. Most certainly, significant differences of opinion exist regarding added costs or intangible benefits of such disclosure obligations. Direct costs related to reporting compliance are minimal and negligible in most cases, since most of the companies concerned are already compliant with the best western principles and standards of doing business. However, in the most common scenarios, objection from the company to comply with such reporting schemes is attributed to the fear of losing the competitive advantage amongst industry peers. Disclosure of various budget payments by companies inadvertently exposes their commercial settings and business particularities. All this is very similar to the environment where companies are obligated to publicly disclose standards and procedures governing their political activity. In most cases, companies do not disclose their political contributions or various payments that are used for political purposes, thus shying away from unnecessary attention and undesired publicity. As a result, the company's management typically hesitates to make principle decisions on whether to accept or reject public disclosure/reporting obligation. This is mostly due to the difficulty of isolating and assessing the impact of transit revenue disclosure requirements on the general operation of the company.

Additional energy imports to Europe are needed and it is in Europe's strategic interest to maintain the development of additional hydrocarbon supplies in the most diversified and optimal manner, obviously by taking good care of the transparency aspects of forthcoming energy projects.

This is consistent with the recently adopted EU Energy Council conclusions on the Third Strategic Energy Review. The EU needs to act effectively to deliver sustainable, secure and competitive energy. A balance must be struck between "the economic viability of the projects, their contribution to energy security, and their openness and commercial intelligibility". The latter is critical for establishing sustainable and workable structures that would withstand abundant crisis, trust-related tensions and other disturbances. To achieve these, transparent mechanisms of checks and control – such as EITI Transit must be employed.