



Public Disclosure of Legal Agreements in EBRD Extractive Industry Projects

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In light of the European Bank for Reconstruction and Development (EBRD)'s new energy policy, the Bank Information Center conducted a study across extractive industry projects financed by the EBRD to assess legal agreement transparency. We selected 18 different projects being conducted in Eastern Europe and Central Asia. Specifically, the countries in question were Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Russia, and Ukraine.

The methodology we employed was first to look at the EBRD website's project summary document for each project to see if there were indications of legal agreement disclosure or links to the agreements themselves. Having found none, we searched the project sponsor company websites directly for links to the agreements. Finally, if those were not available, we located the project sponsor's contact information and sent them emails or called to inquire about whether or not they disclosed their legal agreements and if so, how to obtain them.

Only one company, British Petroleum, disclosed its Production Sharing Agreements (PSA), Host Government Agreements (HGA), and Intergovernmental Agreements (IGA) for three projects: the Shah Deniz Gas Condensate Development Field, the Baku-Tbilisi-Ceyhan Pipeline Project, and the Azeri-Chirag-Gunashli Project. Of the remaining 15 projects, we were not able to secure legal agreements from any of them. We sent emails to all but one company, Nations Energy (Moncrief Oil), which was contacted by phone. Only two replied electronically, Lukoil and Cascade Credit, and both informed us that the legal agreements for these projects were confidential and unavailable to the public. Lukoil even claimed that the loan agreement with the EBRD does not allow them to share this information with third parties. Cascade Credit said that it could not disclosure legal agreements without its partners' consent. Nations Energy gave a similar reply by phone; that the company is private and does not provide legal information to outside parties. The majority of the projects- 12 in total- gave no reply whatsoever.

Viewing the results of this study, a logical conclusion is that on the whole, these projects are no more transparent because of the EBRD's involvement. In fact, Lukoil even uses its involvement as cover for denying disclosure. In the unique case of British Petroleum, though it does disclose many legal agreements on their public website, it is clearly not the EBRD's credit. Both BTC and ACG Pipelines were deemed pilot projects by the World Bank in support of the Extractive Industries Transparency Initiative (EITI), which along with other information, required PSA, HGA, and IGA disclosure. The EBRD needs to

stand behind its word and do more in making these agreements transparent so that the legal agreements practices of these companies are not only available to an elite few, but to all whose interests are involved.

EBRD PROJECTS FOR LEGAL AGREEMENT STUDY

COUNTRY	PROJECT NAME	MAJOR SECTOR	PRIMARY ACTIVITY	FINANCING AMOUNT (million US \$)	BORROWER (CLIENT)	APPROVAL DATE	CONTRACT DISCLOSURE
Azerbaijan	LUKOIL Overseas- Shah Deniz Gas Condensate Field Development (Also involved SOCAR, BP)	Oil and Gas	Production	110	State company - Albanian Power Corporation (KESH)	25-Jul-06	BP discloses project PSA, HGAs (with Azerbaijan, Georgia), and Intergovernmental Agreements (Georgia, Turkey) on company site. Lukoil denied public access to agreements, claiming privacy because of the agreement with the EBRD. SOCAR gave no reply.
Azerbaijan	Azdres Power Plant Rehabilitation LUKOIL Overseas - South	Fossil-based power generation	Heavy fuel oil/natural gas	115	Cascade Credit CJSC	25-Apr-06	Public access to legal information was denied because the company would needs its partners' permission Lukoil denied public access to agreements, claiming privacy because of the agreement with the EBRD. SOCAR gave no reply.
Azerbaijan, Georgia, Turkey	Caucasus Gas Pipeline (Also: SOCAR)	Gas	Pipeline	70	Lukoil Overseas Shah Deniz Ltd (LSD)	28-Jun-04	Lukoil denied public access to agreements, claiming privacy because of the agreement with the EBRD. SOCAR gave no reply.
Georgia	Georgia Railways Ltd Oil Transit	Oil	Transportation	12	Bulgarian Private Banks/ Georgian Railways Ltd	17-May-2005	None, no reply to inquiry.

Kazakhstan	Bautino Atash Marine and Supply Base Project	Oil	Other Infrastructure	30	E.ON Energie	6-Sep-2005	None, no reply to inquiry.
Kazakhstan	Kenkiyak-Atyrau oil Pipeline	Oil	Pipeline	81.6	Georgian Railways Ltd (GRL)	25-Jan-2005	None, no reply to inquiry.
Kyrgyz Republic	Kyrgyzaltyn: Gold Pre Export Financing	Mining	Technical Assistance	12	Balykshy LLP	15-Sep-05 Board approved,	None, no reply to inquiry.
Russian Federation	Berezitovy Gold Project	Mining	Gold, Silver - Mine	25	State company - BOT Elektrownia Belchatów S.A.	Pending signing	None, no reply to inquiry.
Russian Federation	Project Arctic Sun	Gas	Privatization	40	State company - OAO HydroOGK	11-Jan-05 Passed structure review,	None, no reply to inquiry.
Ukraine	AEGas Terminal Debt Financing	Oil and gas	Other Infrastructure	21	Government	Pending final review	None, no reply to inquiry.
Ukraine	Galnaftogaz	Oil	Distribution	25	Government Amerada Hess (ACG) Limited, Amoco Caspian Sea Finance Limited, Statoil Apsheron a.s., Unocal Khazar,	4-Oct-05	None, no reply to inquiry.
Azerbaijan	Azer-Chirag-Gunashli Phase 1 (Also involved: BP)	Natural resources	Oil	61	Lt	11-Nov-03	BP discloses PSA in English and other languages on company website.

Azerbaijan, Georgia, Turkey	Baku-Tbilisi-Ceyhan (BTC) Pipeline (Also involved: BP)	Natural resources	Pipeline	250	BTC Finance BV Nations Energy of Calgary, Canada which acquired the assets and rights in 2001 and 2002 from the original EBRD client Moncrief Oil International, Texas, USA	11-Nov-03	BP discloses HGAs for Azerbaijan, Georgia, and Turkey on company website
Azerbaijan	Nations Energy/ Moncrief Oil	Natural resources	Onshore oil development	105		26-May-00	Public access to legal information was denied because "the company is private and such information is confidential"
Azerbaijan	Mingechaur Power Project	Power and Energy	Power plant infrastructure	21.65	Azerenerji	15-Oct-97	None, no reply to inquiry.
Kazakhstan	Tasbulat	Natural resources	Oil field development	60	Tasbulat Oil Corporation KEGOC (Kazakhstan Electricity Grid Operating Company)	20-Apr-04	None, no reply to inquiry.
Kazakhstan	KEGOC (Loan)	Power and Energy	Energy transmission	60	KEGOC (Kazakhstan Electricity Grid Operating Company)	25-Nov-03	None, no reply to inquiry.
Kazakhstan	KEGOC Power Transmission and Rehabilitation	Power and Energy	Energy transmission	45	KEGOC (Kazakhstan Electricity Grid Operating Company)	19-Oct-99	None, no reply to inquiry.