

Annex 3.4
Amendment To The Land Acquisition Strategy For
Private Land Of The BTC Crude Oil Pipeline Project
In Turkey

1.0 Introduction

The purpose of this paper is to evaluate the initial acquisition strategy for private land presented in the RAP which was disclosed in Turkey in 12th December 2002, with particular attention to the application of the expropriation law (Article 10 and Article 27 for immediate expropriation).

In view of the analysis of land negotiation meeting results, a revised strategy for the acquisition of private land shall be introduced as the future way forward for the acquisition of private land for the remaining portion of the pipeline route. Land acquisition activities¹ in the first 100 kms per each Lot (Lot A: Ardahan-Posof, Hanak, Kars-Selim, Erzurum-^aenkaya districts, Lot B:Erzincan-Refahiye and Sivas-Ýmranlý districts and Lot C: Adana-Ceyhan, Osmaniye, Kahramanmara^o-Andýrýn) are completed and land delivered to the EPC contractors by 15th April 2003. Statistical data derived from the completed 300km (331 km) section are analysed to substantiate the presented conclusions.

In October 2002 the Designated State Authority (DSA) entered into the final phase for the acquisition of land for the BTC Project in Turkey. For all landownership types, such as forest, public land, customary owned land (zilyet) and private land the required processes were initiated in order to secure the temporary usage rights in the construction corridor (20 m) as well as permanent usage rights (forest & public land), and ownership rights (zilyet & private land) in the 8m wide pipeline corridor.

In parallel the contractors for the construction of the pipeline and main stations were partially mobilised and consolidated their schedules and timeline diagrams (construction march charts) specifying the timely requirements for “access to land” for their construction activities. For the construction of the pipeline land will be delivered sequentially recognising district boundaries, and allowing the scheduled progressing of the main construction speeds.

The acquisition of forest, public and customary owned land (zilyet) is carried out in a pre-determined sequence of official proceedings in compliance with Turkish law and project requirements and shall therefore not be subject to further discussed in this document.

¹ The main land acquisition activities are address/owner/user identification, notification of owners/users, negotiation meetings (this was conducted twice per settlement in the first 100 kms), registration of land rights, court process, crop/asset payments etc.

For the acquisition of private land a program of landowner identification, notification and negotiation has been followed. In October 2002 a total of 6217 private parcels (with 33403 shareholders) were identified within the pipeline construction corridor and the areas required for pipeline stations and other facilities. In accordance with the required delivery sequence the acquisition of the first 100km of each construction lot (A, B, C) including relevant pipeline stations and facilities has now been finalised.

2.0 The Initial Land Acquisition Program

In preparation for the acquisition of land (temporary and permanent acquisition) for the BTC project in Turkey, expropriation plans for 291 villages including 6217 private parcels were completed.

For all private parcels the official title deed records were researched in order to identify the rightful owners (shareholders) as well as their contact details (mailing address and telephone numbers). Additional investigations were carried out in order to identify heirs to deceased owners and any changes in the registered mailing addresses. As a result a total of 33403 shareholders to the concerned private parcels were identified. During this process it became clear that, due to the high number of shareholders and the often poorly maintained cadastral records, in many cases court proceedings would have to be initiated in order complete the legal land acquisition and registration formalities. In addition, BTC Co. conducted a sample mailing exercise for the absentee owners in 12th June 2002.², which confirmed that, in a substantial number of cases, records of current shareholders addresses had not been properly updated in the cadastral records.

In order to receive an accurate status for all private land parcels of the project, it was decided to commence notification of all 33403 identified shareholders in October 2002, announcing the initiation of negotiations four weeks later. These negotiations were completed in January 2003.

² In order to inform and receive feedback from absentee owners, community pamphlets, (which included key RAP issues), were mailed to 510 absentee owners. A short questionnaire and a stamped addressed envelope were included among the materials sent to absentee owners both to receive additional feedback and to confirm the accuracy of the absentee owners' addresses.

It was then planned to initiate court proceedings in accordance with the Turkish land acquisition law (law 2942) for all cases where no agreement (for the temporary usage or purchase) with all shareholders of a land parcel could be reached. Thereby ensuring the completion of the acquisition process in accordance with the overall project time schedule.

3.0 The Evaluation of First Negotiation Results

The first negotiations were carried in an attempt to negotiate with all 33403 initially identified shareholders of the 6217 private parcels. The following results were obtained:

- For 70% of all private parcels at least one shareholder was present during the scheduled negotiation meetings.
- 40% of the initially identified shareholders attended the meetings.
- For approximately 30% of all private parcels an agreement could be reached with all shareholders and Title Deeds could be transferred at the Land Registration Office.
- In 40% of the private land parcels at least one shareholder was present during the negotiations but agreements and title deed transfer for the entire parcel could not be reached due to absence of the fellow shareholders of the attending owner(s).
- For 30% of the land parcels no shareholder was present at all.
- 60% of the initially identified shareholders did not attend the negotiations.

As a positive result it was recorded that less than 6% of the represented parcels and less than 4% of represented shareholders objected to the acquisition of the land. This indicated that there were no major problems in terms of the principle acceptance of the project and the offered indemnification prices, by the vast majority of land owners.

4.0 Program for additional Owner Identification, Notification and Negotiation

During the village negotiation meetings new data was obtained for changed addresses of initially identified shareholders. In addition a substantial number of initially identified shareholders had passed away resulting to new shareholders in the form of heirs to the deceased initial landowner.

In order to account for these observations and to increase the number of notified shareholders (who may then also attend the negotiation meetings) an additional program for owner and address investigation was initiated.

For the first 100km of each construction Lot (A, B, C) this program was carried out for all private parcels where after the first negotiations no agreement with all shareholders of a concerned parcel had been reached, with the following results:

- In 30% of the investigated cases the initial shareholder addresses were confirmed.
- In 70% of the cases new shareholder addresses could be found.
- The number of shareholders increased by approximately 50% due to the tracing of non-registered heirs to deceased initial owners.

For all of the above cases new notification letters (invitations) were sent and negotiations with the shareholders were scheduled. This additional investigation was established in order to ensure that all shareholders/heirs many of whom are absentee owners are also taken into account as committed in the RAP. Despite the huge effort, which had been undertaken for the identification of new addresses of initially identified shareholders and the heirs to deceased shareholders, the attendance to the second negotiation meetings was disappointing:

- Only 30% of parcels versus 70% during the first negotiations were represented
- Only 8% of shareholders were present during second negotiations versus 40% of shareholders, who attended first negotiations.

Main reasons for not attending the second negotiation meetings are as follows;

- majority of the shareholders do not have connection to their lands: due to high rate of out migration from rural to urban areas in Turkey, most of the shareholders live outside of the village and have no connection to their lands. As explained in detail below due to the traditional land usage system only one or more of the shareholders are using the land in many cases without any title deed registration. Most of those shareholders who have remained in the villages have already been reached during the first negotiation meetings
- due to multiple ownership issue the amount of compensation payment per person is not high although very small number of land owners rejected the compensation value determined per parcel

In addition a considerable number of participants during the second negotiations had already participated during first negotiations without being able to reach a title deed transfer for the entire parcel due to the absence of their fellow shareholders.

Consequently in less than 9% of the parcels, which were scheduled for the second negotiations an agreement with all shareholders could be reached versus 30% during first negotiations.

Note:

As stated in the Introduction section the presented statistical data refers to the evaluation of the first 100 kms in each Contract Lot, in order to allow the presentation of conclusive figures for all conducted processes.

5.0 Land Registration and Traditional Land Usage in Turkey

The current land registration system was enacted in 1923 together with the establishment of the Republic of Turkey. The system mandates that land shares of a deceased owner are distributed to all legal heirs in accordance to their inheritance entitlements.

The land parcel itself is not subdivided but the rightful ownership is held by the entire group of shareholders. In order to agree on a land purchase or temporary usage, all shareholders have to express their consent by signing an agreement protocol and in the case of a land purchase also title deed documents at the land registration office.

Statistically every private land parcel considered in the land acquisition for the BTC project is owned by more than 6 shareholders, with a tendency for a rapid increase in the number of shareholders due to the aforesaid principle of share distribution among all legal heirs to a deceased owner. (In one case approximately 500 shareholders have been traced to one individual land parcel). In principle the high (and rapidly increasing) number of shareholders to a land parcel, leads to a situation where land parcel shares are so small that viable agricultural land usage is not possible any more.

Therefore the actual usage of land in Turkey is “regulated” by a traditional system. On one hand, one or more of the shareholders that have remained in the village are cultivating the land, without sharing the profits with the other shareholders. On the other hand the other, distant shareholders who are “disconnected” from the land do not follow up on their title deed registration and thereby do not become tax liable for their land share. In other cases where initial shareholders died and none of their decedents have remained in the village, land users (in most cases without written tenancy agreement) are cultivating the land, based on a verbal agreement with some of the owners or the consent of the village community.

In these circumstances the land expropriation and registration by the order of the court preserves the stability of the “traditional “ land usage system, because the court only orders the registration of the expropriated portion of the land parcel in the name of the expropriation agency. The registration of all shareholders to the remaining portion of the land parcel is not pursued, which is in favour of the aforementioned balance in traditional land usage. It prevents the “non benefiting” shareholders from becoming tax liable for their land share and may save the actual land user from claims by the then registered and tax liable other shareholders.

In case of legal expropriation the land compensation payment is deposited in the name of the determined shareholders to a bank account in a national bank. These funds can be directly accessed by the shareholders and in case of a deceased shareholder also by the heirs presenting the official inheritance documents.

In view of the above it becomes clear why title deed registrations are not followed through and title deed records are not maintained properly. Statistically, agreements with all shareholders of a land parcel are reached in cases where only a few shareholders (relation 1:3) are registered to a land parcel.

It may be added that during the previous implementation of similar linear infrastructure projects in Turkey, like roads, railways, pipelines and irrigation systems, courts have been engaged at large in order to process the registration of title deeds or servitude rights.

The acknowledgement of this “traditional” land usage system has also highlighted the importance of an independent identification and compensation of land users for their crops and assets. The project cannot rely on a mechanism where crop compensation payments are

paid to the rightful owners (shareholders) and then redistributed by these to the actual land user. In most case documented rental agreements (only 12 cases in the first 300km) are not existing and legally all shareholders would have to agree to such a redistribution of the crop compensation payment.

6.0 Mechanism for legal acquisition of land

The expropriation process is regulated by the Turkish Expropriation Law No.2942, modified on the 5th May 2001 and published in the Official Gazette 24393 on the 5th May 2002. The process can be either conducted in a standard (Article 10) or expedited manner (Article 27) depending on the needs and timeframe for the required expropriation.

During the standard process according to Article 10 of the expropriation law, the first court session is called within 30 days following the formal application to the court. After the first hearing the court orders a land appraisal by official experts, which may then followed by a maximum of two more sessions extending the maximum time frame in order to reach a final decision and complete the necessary procedures for payment and registration up to 18 weeks (4,5 months) after the expropriation case has been filed. Further delays may be encountered due to seasonal inaccessibility of the land as well as difficulties in establishing the shareholder structure and inheritance tables to deceased owners.

During the expedited process for "Immediate Expropriation" according to Article 27 of the Expropriation Law, the court land appraisal is ordered and conducted within seven days after the expropriation request has been filed and land access is obtained after the decision of the judge and upon deposition of the determined expropriation amount to a bank account in a national bank in the name of the initially determined shareholders. In case of discrepancies in the initial shareholder identification or if compensation values are challenged by the owner(s), court proceedings in accordance with Article 10 are continued with the only difference that the right of access to the land has already been granted to the expropriation agency.

During the application of Article 10 of the expropriation law, administrative difficulties or delays can be encountered at every stage of the official process, which involves district courts, birth registration offices and land registry offices. These difficulties may cause time

delays for the completion of the acquisition process, as well as delays for the accessibility of the compensation payment to the land shareholders.

Therefore the project proposed to process all court cases for the expropriation of private land in accordance with Article 27 for immediate expropriation. By this procedure the access of shareholders to land payments as well as the “access to land” for the project is independent from eventual administrative delays during the application of legal court proceedings in accordance with Article 10 of the expropriation law.

Due to the significant shorter time between the application to court and “access to land” during the application of Article 27, the initiation of court proceedings will be delayed in order to undertake an additional process for identification, notification and second negotiation with landowners.

Nevertheless the legal right of every shareholder to contest the amount of the offered indemnification payment is ensured by his right that court proceedings in accordance with Article 10 may proceed after Article 27 has been invoked.

7.0 Amended Land Acquisition Strategy

In order to achieve best results for the project-affected persons (shareholders and users) the project has adopted the following principle strategy.

	ACTION	STATUS	(Expected) Results/Advantages
1.	First Identification, Notification and Negotiation with all initially identified land shareholders	Completed	<ul style="list-style-type: none"> • For 30% of all private parcels agreements with all shareholders could be reached and title deed transfers were be completed • In 70% of all parcels at least on parcel shareholder was reached. • Need for additional owner and address identification program was identified. • Confirmation of principle acceptance of project and offered land compensation payments by the contacted landowners was received. • Importance of independent user identification and compensation confirmed.
2.	Additional Owner Identification, Notification and Negotiation conducted	Completed for first 300 km, progressing for remaining pipeline route	<ul style="list-style-type: none"> • 50% more shareholders (heirs) identified and notified. • In 60% of cases new address of shareholders found resulting in a very high percentage of shareholders being aware of the project and their entitlement for land compensation payment. • High percentage of shareholder notification did not result in high percentage of agreements and subsequent the title deed transfers due to non-attendance of shareholders with little interest in completion of legal formalities. • Necessity for court involvement in order to complete legal land access requirements was confirmed.
3a.	Principle application to court in order to process remaining land acquisition	See below	<ul style="list-style-type: none"> • No negative perception by the public in some cases the wish for court involvement was expressively stated in order to get expeditious access to land compensation payments. • All eligible shareholders will get access to compensation without interfering with traditional land usage and imposing registration and tax liabilities to distant shareholder, who are disconnected from the land. • Award of fair compensation payments will be cross-checked with legal system. • Stability of the “traditional” land usage system is maintained

**BTC PROJECT: RESETTLEMENT ACTION PLAN
TURKEY
FINAL REPORT**

	ACTION	STATUS	(Expected) Results/Advantages
3b.	Application to court in accordance with Article 27 for immediate expropriation	Completed for first 300 km progressing for remaining pipeline route	<ul style="list-style-type: none"> • Accessibility of land compensation payment and access to land at the beginning of the process (within two weeks, following land evaluation by appointed court expert). • Access to compensation payment for identified shareholders is not delayed due to slow administrative process. • The project gains additional time for additional address identification and notification because of initiation of court process can be delayed. • Timing for land access can be followed on a scheduled basis, disconnected from administrative shortcomings of the registration system. • Mitigation of risk that the project may be disrupted due to long lasting delays in pending administrative processes related to court land access decisions. • Right of shareholders are maintained because land expropriation commences according to Article 10 in case that expropriation values are challenged.
4	Independent study for user identification and compensation	Completed for first 300 km progressing for remaining pipeline route	<ul style="list-style-type: none"> • Relevant payment values and payment mechanisms are established by the project with the support of independent agriculture economists and compensation experts. The prices received from each District Agriculture Offices are adjusted according to the agreed compensation methodology. • User compensation will be disconnected from the “messy” registration system • Land users will receive direct compensation regardless of their legal status in relation to their land usage (no tenancy agreement) through the RAP Fund.
5	User compensation cash payments within weeks prior to land entry by the contractor	Completed for first 300 km progressing for remaining pipeline route	<ul style="list-style-type: none"> • Land users (including non-eligible users) receive cash payments without bureaucratic hurdles • Contact to most vulnerable group of project affected persons is maintained • Damages are compensated prior to occurrence

8.0 Summary and Conclusion

Following the initial identification, notification and negotiation process with all initially identified shareholders of private land, it was recorded that less than 6% of the represented parcels and less than 4% of represented shareholders objected to the acquisition of the land. This indicated that there were no major problems in terms of the principle acceptance of the project and the offered indemnification prices, by the vast majority of landowners.

Although for 70% of all parcels at least one shareholder had attended the negotiation meetings, only in 30% of the parcels an agreement with all shareholders could be concluded due to absence of shareholders.

The main problems in the acquisition of private land in Turkey were attributable to:

1. The general situation of multiple ownership to a land parcel.
2. The fact that title deed records are not well maintained and shareholders have not followed-up on the registration of their title deeds.
3. Delays in the application of administrative procedures.
4. Traditional land usage practices differ from legal requirements.

In order to overcome these problems the project will adopt the following principle amendments to the initial land acquisition strategy.

1. An additional program for owner identification, notification and negotiation was initiated in order to ensure that all project affected land shareholders (mainly heirs) were informed about the project, their rights and had the chance to participate in fair and transparent negotiations.
2. The initiation of court proceedings in the acquisition of private land will be delayed in favour of the above program for owner identification, notification and negotiation.
3. Only after the completion of the above court proceedings for the acquisition of private land acquisition shall be initiated in accordance with Article 27 for immediate expropriation, in order to disconnect the accessibility to land payments for shareholders and access to land for the project from a slow and in some cases overwhelmed administrative process.

In addition specific attention was given to the compensation of the most directly affected group of land users by identifying these persons directly in the field and installing a direct “cash payment” mechanism. This mechanism will also be available for “small” costs incurred by land shareholders related to registration, legal representation, transportation or others, which are not reimbursable in accordance with Turkish law will be paid through RAP Fund.

By application of the above, the project will:

1. Mitigate the shortcomings of the not accurately maintained Turkish land registry system.
2. Ensure timely access to land compensation payments for all shareholders and heirs to deceased owners.
3. Disconnect “Access to Land” for the project from potential delays in the application of administrative procedures.
4. Ensure the timely completion of all legal requirements for scheduled land access.
5. Maintain the balance of a traditional land usage system without enforcing the registration of non-expropriated portions of a land parcel.
6. Minimise the danger of project disruptions due to shortcomings or delays in the application administrative procedures.
7. Preserve all legal rights of each landowner to challenge project offered or court decided land compensation payments.
8. Ensure the provision of fair and transparent compensation to all affected persons in accordance with the principles of the Resettlement Action Plan as well as World Bank OD.4.30 Guidelines.

9.0 Attachment

4 pages Flow Chart “Land Acquisition Statistics for the first 300km”