

A. Question to Armenia

1. In the context of the present submission brought by Armenia before the Implementation Committee, why does Armenia, in the annex to its Note Verbale of 15 June 2012, mention that "... a new Shah-Deniz 2 project is underway, with possible trans-border implications"?

We would like to express our deep gratitude to the Committee for objectively considering the submission by Armenia expressing concerns about compliance by Azerbaijan with its obligations under the Convention in the Committee's 26th session (November 26-28).

Further to the question given to the Armenian Party related to the transboundary effect of new project Shah-Deniz 2, taking into account the impossibility of being informed by Azerbaijan due to the latter's information blockade towards Armenia, the information on the mentioned project has been acquired from an open source, particularly, the website of British Petroleum (www.bp.com). Therefore, all the information presented in Armenia's submission comes from open sources, mainly from the press publications.

Particularly, the mention about "Shah-Deniz 2" in the Note Verbale dated 15 June, 2012 refers to Shah Deniz stage 2 project, the next development phase at Shah Deniz in the Azerbaijan sector of the Caspian Sea¹, which is expected to add a further 16 billion cubic meters per year (bcma) of gas production to the approximately 9 bcma from Shah Deniz Stage 1². This is the latest Azerbaijani project, which transboundary impact is undeniable.

The new gas pipeline TANAP will use the Shah Deniz 2 off-shore gas field as a source. It is planned to extract additional 16 bcma gas. For this purpose 26 additional drillings are planned, the construction of two new bridges connecting the platforms to the coast, construction of 500 km of underground pipelines, expansion of the Sangachali terminal and the significant enlargement of the capacity of the BTC gas pipeline are planned (project SD 2 Shah Deniz Stage 2).

The Gas pipeline TANAP will become the continuation of the already existing South Caucasian gas pipeline, which is, according to the new project SD 2, currently under reconstruction, and passes very close to the border with Armenia and transboundary National Park Arpi. The point of connection of the two pipelines near the city of Erzurum (Turkey) is also next to the Armenian border.

¹ Shah Deniz 2 raises Caspian profile, 5 October, 2012.

<http://www.oilonline.com/default.asp?id=259&nid=38103&name=Shah+Deniz+2+raises+Caspian+profile>

² Shah Deniz Stage 2 Project enters the Next Phase of Development, 17 April 2012.

<http://www.bp.com/genericarticle.do?categoryId=2012968&contentId=7074309>

Gas output of BP-led Shah Deniz 2 may beat target-Azeri minister, Tom Bergin, Sep 18, 2012.

<http://www.reuters.com/article/2012/09/18/bp-azerbaijan-idUSL5E8KIKXX20120918>

Industrial production of oil and gas in such huge amounts in the closed water basins and seismic active zones shouldn't be considered otherwise than a serious threat to the environmental security and to further increase of seismic risks for the region.

Despite this, Armenia has never been notified about it.

In the framework of implementation of the Convention on Environmental Impact Assessment in a Transboundary Context (hereinafter referred to as the Espoo Convention), Azerbaijan has always disregarded the negative implications of its environmentally hazardous activities on its neighbors. Particularly, without due consideration of the scope of applicability of the Espoo Convention and its obligations as a party to it, Azerbaijan has failed to notify Armenia about any type of activity it planned to undertake in its territory. As a justification for its behavior, Azerbaijan adopts different approaches, ranging from vague arguments on "a number of reasons", "political motives" to evidently untrustworthy statements on "Armenia's geographical position" or "lack of bilateral and multilateral agreement with neighboring states" (disregarding the Espoo Convention). Moreover, Azerbaijan has catalogued Armenia's submission against it as "a serious abuse of the Convention by Armenia." This is said by a country, which is itself breaching each time the Convention when it refuses to cooperate with the Affected parties.

Particularly, by saying cooperation, it is meant that according to Article 3 of the Espoo Convention (Notification), when an activity listed in Appendix I is likely to cause a significant adverse trans-boundary impact, the Party of origin shall notify any party, which it considers may be an affected Party as early as possible and no later than informing its own public about the proposed activity. Therefore, the Article clearly states that the Party undertaking the activity is obliged to notify the Party/ies, which may be adversely affected by its actions.

Azerbaijan's activities relate to the category of "large-diameter oil and gas pipelines", one of the items of the List of Activities, provided by Appendix I to the Espoo Convention.

Manifestly Azerbaijan's mentioned activities have a transboundary effect on Armenia. The latter falls under the characterization of affected Party provided by the Convention, being 'the Contracting Party or Parties likely to be affected by the transboundary impact of a proposed activity'.

Additionally, according to the Espoo Convention, the affected Party, at the Notification stage does not have the duty of requesting information on activities, which the Party of origin is planning to undertake. In other words, the responsibility to notify and involve affected Parties in the process of environmental impact assessment depends solely on the Party of origin and it's the latter's obligation under the Convention.

In this context, if Espoo Convention was applied in conformity to its letter, Azerbaijan, as a Party of origin, should have been Armenia's primary source of information on the projects it was planning to undertake. By that, affected Party would not have been excluded from the corresponding procedures under the Convention, and, thus, more efficient transboundary impact assessment would be implemented. Unfortunately, this has never been the case, and

Armenia, as an affected Party, has always learned about Azerbaijan's activities merely from information disseminated by the press.

It appears that Azerbaijan has unilaterally decided that Armenia cannot be an affected Party under the Espoo Convention neither in the present case, nor in general.

Additionally, the Parties to the Convention should have attentively and responsibly approached to their decision on acceding to the Espoo Convention, since it entails close cooperation and assistance, exchange of information between the Parties without any discrimination towards any party.

In other words, despite the fact that both Azerbaijan and Armenia are parties to the Espoo Convention, Azerbaijan acts in breach of its obligations under the Convention by preventing Armenia's participation in environmental impact assessment procedures, which may affect the latter. This pattern of behavior seems not to change for the near future, Shah-Deniz 2 project comes to prove that.