

**AGREEMENT ON BAKHMARO RESORT ZONE FOREST  
RECOVERY AND REFORESTATION PROGRAM AND ECO-  
AWARDS PROGRAM  
(GRANT AGREEMENT)**

**BETWEEN THE GOVERNMENT OF GEORGIA  
AND  
BTC Co and SCP Co**

**18 OCTOBER 2010**

*Nº 24*

This Agreement on **Bakhmaro Resort Zone Forest Recovery and Reforestation Program And Eco-Awards Program** (the "Grant Agreement") is entered into on \_\_\_\_\_, 2010 between The Baku Tbilisi Ceyhan Pipeline Company ("BTC Co") and the South Caucasus Pipeline Company ("SCP Co"), both registered to do business in Georgia (collectively "Pipeline Companies") and The Government of Georgia, represented by the Ministry of Environment Protection and Natural Resources of Georgia (the "Government"). In this Grant Agreement, the Pipeline Companies and the Government are referred to individually as a "Party", and collectively as "Parties".

### **Preliminary Statement**

WHEREAS, Pipeline Companies and their shareholders are committed to working with the Government to promote economic and social development in Georgia and improve the health, safety and welfare of the Georgian people;

WHEREAS, the Government recognizes and confirms that the BTC and SCP pipeline projects (the "Pipeline Projects") are of vital strategic importance for Georgia and reaffirms its commitment to working with the Pipeline Companies so that, amongst other things, the Pipeline Projects' benefits can begin to accrue for the people of Georgia;

WHEREAS, Pipeline Companies are committed to fulfill their obligations under the BTC HGA and SCP HGA and respective Government-approved Environmental and Social Impact Assessments (ESIA)

WHEREAS, Pipeline Companies while having implemented activities in restoration of vegetation cover and erosion reduction, have further committed to enhance the habitat diversity on the BTC/SCP pipeline Right of Way, subject to operational restrictions.

WHEREAS, Pipeline Companies have agreed to implement Environmental Investment Program (EIP) directed to the conservation of biodiversity, in accordance with the themes and criteria defined in the ESIA; and that the Pipeline Companies have implemented number of EIP projects, organized biodiversity competitions (years 2002-07) and eco-awards program (years 2008-10), with a total expenditure of over 3,5 million USD and supporting tens of very important small and medium scale environmental projects.

WHEREAS, the Government recognizes the significance and special importance of Bakhmaro Forests ( belonging to a resort and green zone in the classification of forests according to the Paragraph 41 of the Forest Code of Georgia for its climatic and biodiversity peculiarities) and urgency of the rehabilitation and recovery work to be conducted there as recommended under the conclusion by the special multilateral commission formed under the decree of 3 August, 2009 by the Head of the Forest Department to study the sanitary and pathogenic situation of Bakhmaro resort zone forests, and as further asserted by an independent study of an expert group from L. Khanchaveli Institute of Plant Protection.

WHEREAS, Parties had number of meetings, exchange of correspondence and as a result concluded, that the most efficient way to direct efforts and resources available, is to support implementation of Bakhmaro Resort Zone Forest Recovery and Reforestation Program and Eco-Awards Program (collectively called as Grant Project), as those are described in the Annex 1 and Annex 2. The Parties have further determined and agreed the grant amount to be equal to ONE MILLION TWO HUNDRED FIFTY THOUSAND US DOLLARS (US 1,250,000 \$) (the Grant Amount).

WHEREAS, the Pipeline Companies and the Government have agreed the Grant Amount to be fully used for the Bakhmaro Resort Zone Forest Recovery and Reforestation Program and Eco-Awards Program

WHEREAS, Government agree that the Pipeline Companies having fulfilled the obligations under the Agreement, shall have no further obligations: a) to fund, implement or support otherwise BTC/SCP pipeline Right of Way (ROW) planting stipulated in the Biorestation Specification Plan, (revision U03, submitted to the Government on December 19th 2007, letter No BTC/OUT/2940/07), with the exception of ROW maintenance seeding of erosion prone areas; b) to fund, implement or support otherwise any EIP projects as they are envisaged under the BTC/SCP ESIA.

and

NOW, THEREFORE, the Parties hereby agree as follows:

**Article 1: Commitment by the Pipeline Companies**

PIPELINE COMPANIES hereby agree to allocate ONE MILLION TWO HUNDRED FIFTY THOUSAND US DOLLARS (US 1,250,000 \$) for the implementation of Grant Project. The Grant Amount will be paid in two installments: the first FIVE HUNDRED THOUSAND (US 500,000 \$) installment during year 2010 and second SEVEN HUNDRED FIFTY THOUSAND (US 750,000 \$) installment in 2011. Subject to Article 4 below, the payments shall be made pursuant to the following schedule:

Payment	BTC Co. Amount	SCP Co. Amount	Plan/Report Due Date	Allocation Date
First	USD 250,000	USD 250,000	n/a	30 calendar days from the signing of the Agreement
Second	USD 375,000	USD 375,000	Report By January 15, 2011	February 15, 2011

## **Article 2: Receipt and Use of Grant Amount**

The Government agrees that part of the Grant Amount, NINE HUNDRED FIFTY THOUSAND US DOLLARS ( US 950,000 \$) will be used by the Forestry Agency of the Ministry of Environment Protection and Natural Resources of Georgia (the "Project Implementer") solely for the purpose of the Bakhmaro Resort Zone Forest Recovery and Reforestation Program in accordance with the implementation plan more fully described in Annex 1 of this Grant Agreement.

The Government agrees that the part of the Grant Amount, THREE HUNDRED THOUSAND US DOLLARS (US 300,000 \$) will be used for the implementation of Eco-Awards Program planned for 2012-14, in accordance with the terms more fully described in Annex 2 of this Grant Agreement.

The Grant Amount made pursuant to this Grant Agreement shall be recorded in the State budget receipts.

No Grant Amount shall be used by the Government in a manner that violates Georgian law, is inconsistent with the principles contained in the United States Foreign Corrupt Practices Act, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the United Nations Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights, or is inconsistent with the Joint Statement on the BTC Pipeline Project. No Grant Amount may be used by the Government to fund any political activities, including without limitation political campaigning, lobbying and political party activities.

## **Article 3: Transparency and Audit**

The Parties are committed to the principles of transparency and accountability in implementation of the Grant Agreement. Accordingly, this Grant Agreement will be made publicly available by the Parties in English and Georgian promptly following its execution, including by way of posting by the Pipeline Companies of the text of the agreement to a public internet site.

The Government shall prepare and maintain reporting on a cash basis showing its funding meeting the criteria of Article 2. The Government shall keep detailed and verifiable records of all items of expenditure.

Pipeline Companies will transfer the relevant Grant Amount to the treasury's foreign currency account on or before the due date, subject to the requirements of Article 4 below. The Grant Amount payment will be afterwards converted into Georgian Lari and transferred to the Treasury Single Account.

Pipeline Companies shall have the right to engage, at their sole expense, an independent third party firm of auditors of international reputation (the "Auditor") to review the use of Grant Amount made under this Grant Agreement to verify that the Grant Amount have been used in compliance with the terms of this Grant Agreement. Pipeline Companies will provide a copy of the terms of reference of the Auditor to the Government prior to the first audit. The Government agrees to provide all information and assistance, including access to records and individuals, to the Auditor as required for the Auditor to review and confirm each Report and

to verify that the Grant Amount have been used in compliance with the terms of this Grant Agreement. The Auditor shall report its findings to the Parties promptly following the completion of each audit and an executive summary of such report (in English and Georgian) shall be made publicly available by the Pipeline Companies.

#### **Article 4: Conditions to Payments**

Pipeline Companies shall have no obligation to pay Grant Amount installment and may give the Government Notice if at the time Grant Amount installment is due:

- (1) The Government is then not in compliance with the terms of this Grant Agreement or has repudiated its obligations under this Grant Agreement;
- (2) The Auditor has determined that Grant Amount were used for purposes other than the Offset Project set out in this Grant Agreement;
- (3) The Report specified in Article 1 has not been provided;

Within 30 calendar days after the signing of this Grant Agreement, the Pipeline Companies shall provide the first payment identified in Article 1. Thereafter, the Pipeline Companies will make subsequent second payment only if the Government has prepared and provided Pipeline Companies with the Report (In English and Georgian) specified in Article 1 showing the progress Government has made pursuant to its Plan, and that all Grant Amount payments made pursuant to this Grant Agreement have been spent for their intended purpose.

#### **Article 5: Taxes**

The Government agrees and confirms that no Tax of any kind shall be charged to or paid by Pipeline Companies, any Project Participant or by any of their affiliates or shareholders in connection with this Grant Agreement or the transfer of the Grant Amount to the Government. No part of the Grant Amount will be applied to pay any value added tax or other tax or meet any tax liability. In no circumstances will any amounts in excess of ONE MILLION TWO HUNDRED FIFTY THOUSAND US DOLLARS (US 1,250,000 \$) be payable by Pipeline Companies as a result of deduction or withholding of Georgian taxes from the Grant Amount.

#### **Article 6: Representations and Warranties**

Each Party represents, warrants and agrees that:

1. The entry into and performance by it of its obligations under this Grant Agreement has been duly authorized in accordance with applicable law;
2. This Grant Agreement is its legally binding obligation, enforceable against it in accordance with its terms, subject in the case of Pipeline Companies to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles;
3. The person executing this Grant Agreement on its behalf is entitled and authorized in accordance with applicable law to do so; and

## Article 10: General

- (1) This Grant Agreement shall take effect upon its signing by the Parties and shall remain in force until all Grant Amount paid in accordance with the procedure specified in Articles 1, 2 and 3 shall have been used, a Report covering the use of such Grant Amount has been provided and in case Auditor is engaged the Auditor has completed its audit and issued its final report in accordance with Article 3, unless at any time one of the conditions set forth in Article 4 occurs, in which case Pipeline Companies shall have the right to suspend disbursement of the payments, until the Government has cured the deficiency. In the event that the Government fails to cure a condition capable of being cured for a period of two years from the date Pipeline Companies notifies the Government of a suspension, then Pipeline Companies shall have the right to suspend future payments and their obligations under this Grant Agreement shall be considered fulfilled;
- (2) The Parties shall consult regarding any official public statements (e.g. press release) made or issued by them regarding this Grant Agreement or matters arising hereunder prior to such statements being made or issued. No amendment or addition to this Grant Agreement shall be valid unless made in writing and executed by the Parties;
- (3) This Grant Agreement constitutes the entire agreement between the Parties and supersedes all previous agreements, arrangements or understandings between them, whether oral or in writing, relating to the matters contained in this Grant Agreement. This Grant Agreement does not amend, modify, waive or affect in any respect the HGAs or any other Project Agreement entered into pursuant thereto. This Grant Agreement constitutes a Project Agreement for purposes of the BTC and SCP HGAs;
- (4) Neither Party shall be liable for breach of any term of this Grant Agreement which is the result of any cause beyond the reasonable control of the Party in breach; (Force Majeure.)
- (5) Capitalized terms used but not defined in this Grant Agreement have the meanings assigned in the HGAs;
- (6) If and for so long as any provision of this Grant Agreement shall be deemed or judged to be invalid or unenforceable for any reason whatsoever, such invalidity or unenforceability shall not affect the validity, enforceability or operation of any other provision of this Grant Agreement, and any such invalid or unenforceable provision shall be deemed severed from this Grant Agreement without affecting the validity of the rest of the Grant Agreement;
- (7) The Grant Agreement is executed by the duly authorized representatives of the Parties in Tbilisi in two copies in the English and Georgian languages. In the event of any conflicting interpretations of any provisions of this Grant Agreement as between the English and Georgian language versions, the English language version shall prevail.

4. The entry into and performance by it of its obligations under this Grant Agreement will not violate any applicable law or contract to which it is a party.

#### **Article 7: Liabilities and General Release**

Pipeline Companies shall have no liability under this Grant Agreement other than the obligation to make Grant Amount payments in accordance with this Grant Agreement.

By this Grant Agreement, the Government does hereby release and discharge Pipeline Companies and their shareholders, affiliates, employees and agents from all claims related to a) BTC/SCP pipeline ROW planting obligation undertaken in Biorestitution Specification Plan, b) funding any EIP projects, as they are envisaged under the BTC/SCP ESIA.

#### **Article 8: Communication**

The following addresses shall be used for any communication in connection with the Grant Agreement:

BTC Co or SCP Co

Forestry Agency of Ministry of Environment  
Protection and Natural Resources of Georgia

Point of contact: Gia Gvaladze

Point of contact: Papuna Khachidze

Address: 38 Saburtalo Street, Tbilisi

Tel.: +99532 59 34 00

E-mail: gvaladzg@bp.com

Address: 6 Gulua Street, Tbilisi

Tel/Fax.: +99532 727282E-mail:

pkhachidze@Forestry.gov.ge

Any notice to be served on a Party shall be sent by pre-paid recorded delivery or registered post or delivered by hand to the above addresses and shall be effective once received.

#### **Article 9: Dispute Resolution**

- (1) The Parties shall endeavor to resolve any dispute, disagreement or claim (together, a "Dispute") that may arise between the Parties in connection with this Grant Agreement through amicable good faith negotiations between the Parties;
- (2) Should the Parties fail to reach agreement within 60 (sixty) calendar days following first notice by either Party of a Dispute, the Dispute may be referred by either Party to arbitration. Parties hereby consent to arbitrate any dispute pursuant to the ICSID Convention and the ICSID Arbitration Rules in accordance with Article 17 of the BTC HGA, which is hereby incorporated in and will apply, *mutatis mutandis*, to this Grant Agreement.
- (3) This Grant Agreement shall be governed by and construed in accordance with Law of England.



## Annex 1

### Programme Schedule

Bakhmaro Resort Zone Forest Recovery and Rehabilitation												
#	Activities	Implementation Schedule										Indicators by years
		2010	2011				2012		2013			
		IV	I	II	III	IV	I, II	III,IV	I, II	III,IV		
	Preparatory work											
1	Bakhmaro Forest Recovery Plan											Bakhmaro Forest Recovery Plan developed.
2	Site evaluation- Estimation and marking of the volume to be cut											2011 II - All diseased and over-mature trees to be cut are marked.
	Total preparatory work											
	Tending											
3	Improvement (salvage and sanitation) cutting (approx. 1700 ha)											2010 –“ Forrester” purchased, All marked trees are cut and removed (2011 -20%, 2012 - 40%,2013 -40%)
	Fees of manual workers and machine operators											
	Procurement of technology											
	Other operational costs											
4	Removing dead or damaged trees from the stand											1700 ha cleaned from dead and damaged trees; 2011 III,IV - 50%; 2012 -50%
	Total Tending											
	Rehabilitation/Recovery											
5	Seed production											12000 kg spruce and fir seed produced
6	Reconstruction of stands (Fostering natural regeneration)											All areas identified by Bakhmaro Forest Recovery Plan are fenced
7	Nursery											1 ha nursery arranged

8	Planting									200 samplings per ha (1700 ha) planted
	<b>Total Rehabilitation:</b>									
	<b>Research</b>									
9	Recreational zoning of the resort area									Recreational zones identified
10	Studying Ponto Oak (Quercus Pontica) phenomenon in the area									A study identifying the distribution area and peculiarities of Ponto Oak in the Bakhmaro Forests produced

### Reporting

MoE will produce program narrative and financial reports to BP on an annual bases.

## Annex 2

### Eco-Awards Program

**Duration : 3 years (2012- 2014)**

**Total Budget: 300, 000 USD**

#### **Overall goal of the program**

The program aims at promoting the responsible use of natural resources through projects that conserve the environment while sustaining the well-being of local people. Specific objective for the program should be indentified during the stakeholder consultation process and agreed with BP.

The Government, in conjunction with BP, inter alia shall be responsible:

- Appoint the program coordinator/s
- Design the awards program
- Elaborate the criteria for selection of successful projects
- Communicate widely the existence of the program
- Managing the application process
- Evaluation and shortlist applications
- Organising the PR aspects of the award programme (i.e. launch event, follow-up communication)
- Produce auditable accounts every six months
- Recognize BP and its partners' logos on all program materials
- Agree all public communications with BP

#### **Reporting**

MoE will produce program narrative and financial reports to BP on an annual bases.

#### **Budget and split**

The total budget available to the award programme to be managed by the MoE is US\$ 300,000 for the years 2012-2014.

Budget per year: 100,000 USD

Awards –90,000 US\$

Management/Overhead, Outreach and Communication – 10,000 US\$

#### **Project duration and eligible funding**

The project duration can range from 6 month to 18 months. The lower limit of grant funding is USD 10,000 and the upper limit is USD 50,000. Fund leveraging from other organizations is encouraged.

#### **Eligible organizations**

The competition will be open to both Tbilisi-based and regional NGOs.

#### **Evaluation of proposals**

Advisory panel comprising with MoE, BP representatives and relevant international organizations as well as independent environmental experts will review the proposals and define final shortlist based on the consensus. The final decision will be made by MoE and BP.