

**Gas Interstate Transportation. Institutional Tools.  
The approach of EU financed programs – INOGATE and  
TRACECA**

Ladies and Gentlemen,  
Dear Friends,

Let me briefly present to you some of our experiences within EU initiated and financed INOGATE and TRACECA Programs.

The INOGATE Program aims to facilitate the oil and gas transportation from Caspian basin to Europe and, as far as institutional aspects are concerned, by strengthening interstate cooperation between landlocked producing countries with transit and consumer countries.(fully in line with the United Nations Millennium Declaration on the landlocked and transit developing countries)

The TRACECA Program aims to assist and facilitate the recreation of the historical “Greatest Silk Road”, which includes any type of transportation from Asia to Europe via Caucasus and the international markets.

Both programs had a parallel life during the last decade and, besides of the numerous technical assistance projects for the rehabilitation of existing infrastructures, serving any type of transportation including energy products and gas transportation, they had important results:

- a) The Basic Multilateral Agreement on International Transport for development of the Europe-the Caucasus-Asia Corridor (the MLA), which was signed in 1998 in Baky by the heads of 13 states of Central Asia, The Caucasus and the Black Sea area. The MLA provides legal basis also for oil and gas pipe-line transportation;
- b) The INOGATE Umbrella Agreement, which was signed in 1999 in Kiev by the heads of 12 states, followed by another 9 acceding countries.

Whilst during the first 10 years of their lives INOGATE and TRACECA programs have been predominantly institution-oriented, the

next decade is expected to be issue-oriented. That means that specific issues arising out of any type of transportation including investments in infrastructure facilities, trade facilitation and increase of flow of transported goods shall be the focus of their efforts.

Which tools do we have today in INOGATE and TRACECA in order to solve potential problems for the gas transportation from Central Asia and Caucasus to Europe that could directly serve to the security of energy supply to Europe? (Green Paper for the Security of Energy Supplies of the European Commission November 2000). Basically, there are institutional tools within the existing structures of INOGATE and TRACECA. But, we have to think of how to exploit, how to use them, combining them with all other existing tools elaborated under the auspices of various international organizations, structures and fora.

I have to highlight the work, which has been done already from all of you, placing special emphasis to the efforts and the initiatives of the Energy Charter Secretariat. Their transit model contracts in connection with Energy Charter Treaty, as well as the under creation Industrial Advisory Panel to the Energy Charter process could be very useful for the creation of inter-state gas transportation systems or rehabilitation of existing ones.

No need to take more of your time by making references to institutional tools which you know better than me. But I will try to highlight few other institutional tools that, combined with existing ones, could be helpful for the creation of new gas interstate transportation systems.

Under the INOGATE Umbrella Agreement we signed lately, following an initiative of Commissioner Christopher Patten to invite the at then ministers of foreign affairs of Turkey and Greece, Mr. Ismail Jem and George Papandreou, to cooperate in the framework of INOGATE, the first basic steps of a very important agreement between the two countries for the implementation of a gas transportation system linking the Caspian basin resources with the consuming countries of South-Eastern Europe and South Europe have been taken. The prompt political respond to this great initiative, as you know, has been followed by the reaction of the industry: BOTAS, the Turkish energy operating company

and DEPA, the Greek gas operating company, are already working together, in view of the implementation of the so-called “South-European Gas Ring”.

Of course, it is still pending, the method of implementing this major project, in all other countries that could participate in it, such as Turkmenistan, Iran, Russia, Azerbaijan, Georgia, etc. In the mean time, with the very active involvement of Azerbaijan, Turkey and Russia, the Blue Stream pipeline and the Baky – Tbilisi – Erzurum pipeline are under implementation.

It is still in question: how to reduce or mitigate risks of any type simultaneously in all these countries? How to create the necessary feeling of security in order to attract foreign and local investors? In other words we have to address the three main requirements for any international financing: legality, security and profitability.

**Legality.** It is already addressed through the Energy Charter Treaty, the INOGATE Umbrella Agreement, the TRACECA Basic Multilateral Agreement and their respective protocols and technical annexes, some of which have been adopted and others being in the final stage of negotiation.

**Security.** Could be addressed through state and inter-state guarantees (of non-financial nature), as it is explicitly incorporated in the INOGATE Umbrella Agreement, and the Investment Technical Annex of TRACECA MLA ( which is currently under finalization). Such type of guarantees, in conjunction with an efficient Settlement of Disputes Mechanism, such as the Energy Charter Settlement of Disputes Procedure, or the MLA TRACECA Settlement of Disputes Mechanism could lead to a sufficient level of security in order to attract investors for the implementation of such major gas transportation projects.

**Profitability.** It is clearly a business decision based on calculated costs and risks: as long as the legality and the security have been properly addressed and non-calculated risks have been sufficiently mitigated, it is up to investors (local and international) to make up their minds as to whether they wish to participate in such a major project.

It is our conviction that such a business decision requires sophisticated structures, especially by taking into consideration the project complexity which creates the existence of various facilities (existing gas pipelines from the Soviet time) under operation from state-owned companies.

The existing facilities complicate the estimation of the fair distribution of the expected profits of such a gas transportation system given that such a transportation system requires investments for its rehabilitation, as well as for the new facilities and pipelines which must be constructed from zero.

Taking into consideration that :

- the difficulty of this type of interstate negotiation in connection with the presence of private interests and international financial institutions;
- the complexity of bureaucratic procedures for this type of projects and the active involvement of various ministries and administrative bodies in every country;
- the gained international experience (especially in the Eurasian continent) of the various problems that could appear either during the construction, or during the operation of such gas transportation system;

The above mentioned international treaties (Energy Charter Treaty, the MLA, the INOGATE Umbrella Agreement) combined with

- a) a clear Settlement of Disputes Mechanism concerning the conduct of reconciliation in case of major differences in implementation of such gas transportation system amongst the actors involved into its creation and operation;
- b) a Guarantee Trust Fund that could be envisaged as a mechanism covering any non-calculated risks that might emerge during the implementation and operation of such

projects, especially those risks covered under the MIGA Convention. A Guarantee Trust Fund could further enhance the legality component and the investment-friendly nature of such structured gas interstate transportation project through the reduction of non-calculated risks. For instance, similar Guarantee Trust Funds have been successfully used in investments of Gaza Strip in Bosnia;

- c) TRACECA Economic Interest Grouping, being a light structure of joint venture similar to the existing one for the EU countries European Economic Interest Grouping.

We believe that these combined institutional tools could considerably enhance legality, security and fair participation structures with direct reference to an answer to the question: who bears the risk, every time that it occurs.

As long as non-calculated risks are properly addressed, this type of gas interstate transportation project with such a level of complexity and huge political impact to the peace and stability in South-Eastern Europe and the Caucasus could be much more attractive for investors and consequently for their efficient, and less time-consuming implementation. Hopefully, with such an approach of using, without prejudice, all of the existing instruments and institutional tools already elaborated between the INOGATE and TRACECA countries, the implementation of such an interstate gas transportation system could be easier achieved.

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