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6 POLICY, LEGAL AND ADMINISTRATIVE FRAMEWORK

6.1 Introduction

This chapter provides a high-level description of key elements of the regulatory framework of the SCPX Project, which is also applicable to the Project design updates. The legal regime applying to SCPX is complicated, so this chapter seeks to highlight high-level regulatory context for the proposed Project; it does not provide an exhaustive analysis of all requirements that may be applicable to the SCPX Project and is not a definitive analysis of those provisions that are considered below.

The chapter considers the following:

- National legislation (the Constitution of Georgia, the Agreement between Georgia and the Azerbaijan Republic relating to the Transit, Transportation and Sale of Natural Gas in and beyond the Territories of Georgia and the Azerbaijan Republic through the South Caucasus Pipeline System ("Inter Government Agreement, IGA") and host government agreement between and among the Government of Georgia and the SCP Participants ("HGA")
- Selected international and regional conventions
- Selected international standards, practice and guidance, including International Finance Corporation (IFC) policies
- BP corporate policies.

Cross-reference is made to information contained within Chapter 6 of the SCPX Final ESIA to avoid repetition of information.

Please note that the descriptions of the HGA and other laws and documents included below are high-level summaries only and are qualified by reference to the full text of the HGA and other documents.

6.2 National Legislation

6.2.1 The Constitution

The ‘Constitution of Georgia’ (1995, last amended on 15 December 2010) prevails over other national legislation and international agreements. It states the basic rights of people to live in a healthy environment (Article 37 Part 3). It assures that the state shall protect the environment and foster sustainable development (Article 37 Part 4). It establishes a legal framework that guarantees public access to information about the condition of the environment (Article 37 Part 5, Article 41 Part 1).

6.2.2 Legal Framework Applicable to SCPX Project

The SCPX Project is being implemented within the framework of the IGA and the HGA. The IGA constitutes binding international law as between the contracting States and the HGA constitutes the controlling domestic, or national, law of Georgia governing the SCPX Project.

6.2.3 The IGA

Article IV of the IGA states that:

“Each State shall cooperate and coordinate with the others and the applicable Project Investors in the formulation and establishment of uniform technical, safety and environmental standards for the ... capacity expansion (including by way of additional pipeline loopings) ... in accordance with international standards and practices within the Natural Gas pipeline industry (which standards and practices shall be set forth in
the applicable Host Government Agreement) and such other requirements as set forth in the relevant Project Agreements, which shall apply notwithstanding any standards and practices otherwise applicable under the domestic law of the respective State.”

It has to be noted that the IGA does not create any direct rights or obligations for SCP Participants or SCPC.

6.2.4 The HGA

In 2001 the HGA was ratified by the parliament of Georgia and it became effective as the prevailing legal regime for SCP (and the SCPX Project) in Georgia. The provisions of the HGA override any inconsistent provisions in national legislation, with the exception of the provisions in the ‘Constitution of Georgia’.

The HGA sets out the obligation for the Project participants to implement certain standards when designing and operating the pipelines. As well as requiring the operator to act as a “prudent operator”, the HGA details the applicable environmental, health and safety standards and practices, the main principles of which include:

- An agreement to implement the environmental, health and safety social standards and practices set forth in Appendix 4 notwithstanding conflicting national standards and practices
- If a release of natural gas occurs, the SCPX participants will take all necessary action to remedy harm and restore land and other harmed matters to their prior condition regardless of fault or causation as set forth in Appendix 4.

Environmental standards

Appendix 4 of the HGA defines the ‘environmental standards’ applicable to the construction and operation of the Project. These state that the pipeline and facilities shall:

- “conform to the World Bank environmental standards and practices (such standards and practices to be described in the EIA) and those standards and practices set forth in this Appendix 4,
- as well as those generally observed by the international community with respect to Natural Gas pipeline projects comparable to the Project,

Provided that in no event shall such standards be less than those applicable in the United Kingdom.”

Social standards

The HGA states that the Project:

- “must use its best endeavours to minimise potential disturbances to surrounding communities and the property of the inhabitants
- must also complete a social impact assessment of its activities. The impact assessment shall be in general conformance with World Bank standards (excluding the prescribed time periods for review and consultation).”

Health and safety standards

The HGA states that the Project should:

- “conform to the standards and practices generally observed by the international community with respect to Natural Gas pipeline projects comparable to the Project provided that in no event shall such standards be less than those applicable in the United Kingdom.”
**Environmental strategy product**

The HGA also sets out requirements for:

Commissioning a recognised independent international environmental consulting firm to prepare an environmental strategy product, which must be in accordance with the environmental standards above, comprising:

- A scoping study and environmental risk assessment before selection of the general location of the facilities
- A baseline study including:
  - A desk study review of the relevant and available information
  - A field survey to audit relevant existing operations and practices and collect relevant environmental data from the areas surrounding the location of the facilities
- An environmental impact assessment in accordance with the principles of EU Directive 85/337/EEC (as amended by EC Directive 97/11/EC)
- An emergency response plan
- Consultation between the international environmental consultant preparing the environmental strategy product and the government’s official and technical representatives during the preparation of the baseline study, environmental impact assessment and emergency response plan
- Making the draft EIA available in a public place for a maximum of 60 days for review and comments
- Submitting a final EIA for official approval
- Implementing mitigation measures and a monitoring programme that is updated as required.

The HGA is supplemented by Presidential Decree No. 151 (24 April 2001) that appoints the Georgian International Oil Corporation (GIOC) as the sole authorised representative of the Georgian state in oil and gas transportation projects from the Caspian Sea. GIOC has signing authority on behalf of the Georgian state for all agreements, contracts and other documents related to implementation of oil and gas transportation projects. GIOC has since been renamed the Georgian Oil and Gas Corporation (GOGC).

**Additional requirements**

The HGA also sets forth the overall framework for the Government granting exclusive and unrestricted rights to the SCPX participants in respect of state land, and the power to enter into private arrangements and compensation agreements to use, possess, control and construct upon non-state land, and the terms under which SCPX can expropriate non-state land. It also requires SCPX to maintain means of access and construct temporary crossings that may be reasonably required by affected landowners and occupiers, and to reinstate private roads and footpaths to their original condition after construction.

The HGA requires that employees hired in connection with the Project will have written employment contracts that specify the hours of work required of the employees and the compensation and benefits to be paid. All employment practices (e.g. hours of work, leave, remuneration, fringe benefits and occupational health and safety standards) applicable to citizens of Georgia must be at least as stringent as the requirements provided for in Georgian labour legislation. SCPX participants and contractors shall give preference to Georgian suppliers of services, equipment, materials, machinery and tools, vehicles, spare parts, goods and supplies, where they are of the same price, quality and availability as those offered by other suppliers.

The HGA also specifies a variety of technical standards that the Project must apply to the pipeline and facility design.
6.3 **International Standards and Guidelines**

The HGA requires the SCPX participants to:

Create the environmental strategy product and implement the environmental strategy reflected therein in accordance with:

- World Bank environmental standards and practices
- Standards and practices generally observed by the international natural gas pipeline industry for comparable projects.

The combination of World Bank and international standards and practices shall be no less stringent than those applied in the United Kingdom.

**World Bank standards**

The SCPX Project has reviewed the following sources of information as representative of World Bank (WB) standards to assist with defining potential Project impacts and mitigation measures:

- International Finance Corporation (IFC)\(^1\) Performance Standards (2012) and Environmental, Health and Safety (EHS) Guidelines.

Selected IFC Performance Standards and General EHS and Sector Guidelines, which the Project considers as having some relevance, are listed in Section 6.3 of the SCPX Final ESIA.

**International industry standards and practices**

SCPX has also undertaken a review of a range of potentially useful international standards and practices relating to the international gas pipeline industry, including:

- World Health Organisation (WHO) guidelines
- Guidance issued by oil and gas industry associations
- Practice and standards in the UK and other European Union jurisdictions
- General industry practice.

**UK standards and practices**

As per the HGA requirements the Project also reviewed standards and practices in the UK and EU (as representative of UK requirements) to help determine whether the standards and practices being proposed were considered no less stringent than those applied in the UK.

6.4 **International and Regional Conventions**

International conventions come into effect through national legislation and therefore do not directly apply to SCPX, which is only obliged to comply with the terms of the HGA.

SCPX has considered the provisions of selected conventions, not specific to the oil and gas sector, on major environmental issues during development of the Project and preparation of the ESIA, taking into account whether they may contain useful guidance, including regarding potential mitigation measures and international practice.

Some of the key conventions on air quality and climate change, biodiversity and protection of ecology and habitats, cultural heritage, public consultation and waste management are

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\(^1\) The IFC is the private lending arm of the World Bank Group.
listed in Section 6.4 of the SCPX Final ESIA, together with a note, for information only, on whether the Georgian government has signed, acceded or ratified\textsuperscript{2} them.

6.5 National Legal and Administrative Framework

Georgia is divided into nine regions, which are subdivided into administrative districts. There are also two autonomous republics (Adjara and breakaway Abkhazia) and the breakaway autonomous district of Akhalgori that were established during the soviet regime. All central government bodies, except the Constitutional Court and National Commission on Energy Regulation, are located in Tbilisi, Georgia’s capital city. The local executive bodies perform the main administrative functions in each district.

A variety of government bodies share responsibility for environmental and social issues. The following organisations are particularly relevant to the SCPX Project:

- Ministry of Economy and Sustainable Development (MoESD), which is in charge of issuing construction permits
- Ministry of Environment and Natural Resources Protection (MENR), which is in charge of issuing environment impact permits and the conduct of ecological expertise
- Ministry of Energy (MoE), which is responsible for issuing the non-objection letter to the National Agency of State Property for purposes of granting the rights to land
- Ministry of Culture and Monument Protection (MoC), the National Agency for Cultural Heritage, which is in charge of issuing permits for archaeological excavations and provides expert opinion on cultural heritage issues.

6.5.1 National Legislation and Permitting Requirements

National laws are not strictly applicable to the SCPX Project as it is governed by the HGA, which supersedes national regulatory requirements. Pursuant to Article 12.1 of the HGA the applicable environmental, health, safety and social standards and practices for the Project shall be as set forth in Appendix 4 attached hereto and shall be applicable notwithstanding any conflicting standards and practices otherwise required or approved by national legislation.

The environmental standards and practices described in the HGA and its Appendix 4, however, do not include the regulatory administrative structure or procedures (including those for licensing, permitting and regulatory approvals) and for those the Project shall refer to national legislation. The Project also intends to apply the following national legislation on environmental impact assessment, it being understood that such national legislation on environmental impact assessment and the relevant permitting processes stated below shall apply to the extent they do not conflict with the HGA requirements and the Project environmental standards that have been defined in accordance with the HGA.

6.5.2 Environmental Impact Assessment

The Georgian Law requirements and procedures for EIA are set out in the Law of Georgia on Environmental Impact Permits (EIP) 2007 (as amended) and the Environmental Impact Regulations 2013.

The 2007 EIP Law defines the list of activities subject to ecological expertise, which includes oil and gas pipelines (Chapter II, Article 4, Paragraph 1e). The Law requires developers to develop and submit an EIA document along with other documentation, which is then subject to state ‘ecological expertise’ (examination). Assuming the state review is favourable, a permit is issued by the Ministry of Environment Protection. This is an essential pre-requisite for issue of a construction permit (described below).

\textsuperscript{2} Signing expresses an intention in principle to become a party to a convention; ratification or accession legally obliges the ratifying state to apply the convention.
6.5.3 Permit Requirements

The SCPX Project will also be required to obtain a number of permits and consents, of which the main permits and the implementing national legislation are described in Table 6-1. The Law on Licences and Permits governs the issue of all permits and consents. Subject to satisfaction of application requirements, all the permits are issued within 30 days from application submission.

Construction permit

The Law on Licences and Permits defines protocols for the issue, amendment and withdrawal of permits. For projects such as the SCPX Project, a construction permit is needed. The responsible authority (the Ministry for Economy and Sustainable Development) must receive the following approvals before it will grant a construction permit:

- Geological conclusions to be issued by National Environmental Agency
- Cultural heritage clearance to be issued by National Agency of Cultural Heritage
- ESIA approval (ecological expertise) to be issued by MENR
- Project design approval to be issued by MoESD
- Project’s registered rights to land

The conclusion of the ecological assessment (i.e. MENR expert examination of the EIA) is a part of the construction permit and its recommendations are compulsory for the developer.

Table 6-1: Permit Register

<table>
<thead>
<tr>
<th>Permit Required Activity</th>
<th>Permit Title</th>
<th>Issuing Authority</th>
<th>Application Requirements</th>
<th>Project Phase</th>
<th>Implementing Law</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction activities</td>
<td>Construction permit</td>
<td>Ministry of Economy and Sustainable Development</td>
<td>Geological conclusions; Cultural heritage clearance; Conclusion of local independent expertise on final design; ESIA approval; Final design; Rights to Land</td>
<td>Pre-construction</td>
<td>Law No.1775 on Licenses and Permits; Government Resolution N57 &quot;On Terms and Conditions of issuance of Construction Permit&quot;</td>
</tr>
<tr>
<td>Construction activities</td>
<td>ESIA approval</td>
<td>Ministry of Environment and Natural Resources Protection (MENR)</td>
<td>Baseline study approval; Public disclosure; Finalisation of ESIA by addressing public comments</td>
<td>Pre-construction</td>
<td>Law No.519 on Environmental Protection; Law No.5603 on Ecological Expertise; Order No.28 of Minister of Environmental Protection and Natural Resources on Rules of Conduction of Ecological Expertise</td>
</tr>
<tr>
<td>Permit Required Activity</td>
<td>Permit Title &amp; Authority</td>
<td>Application Requirements</td>
<td>Project Phase</td>
<td>Implementing Law</td>
<td></td>
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</tr>
<tr>
<td>Construction activities</td>
<td>Cultural heritage clearance</td>
<td>National Agency of Cultural Heritage</td>
<td>Desktop study; Archaeological survey; Monuments survey; archaeological excavations if required; Cultural heritage impact report</td>
<td>Pre-construction</td>
<td>Law No 4708 “On Cultural Heritage”</td>
</tr>
<tr>
<td>Construction activities</td>
<td>Visual geological-engineering conclusion</td>
<td>National Environmental Agency</td>
<td>Maps of construction sites</td>
<td>Pre-construction</td>
<td>Government Resolution N57 “On Terms and Conditions of issuance of Construction Permit”; Order N7 of the Minister of Environment Protection</td>
</tr>
<tr>
<td>Construction activities</td>
<td>Conclusion on mineral deposits</td>
<td>National Environmental Agency</td>
<td>Maps of construction sites</td>
<td>Pre-construction</td>
<td>Order N7 of the Minister of Environment and Natural Resources Protection</td>
</tr>
<tr>
<td>Construction activities</td>
<td>Conclusion of local independent expertise on final design</td>
<td>TBA</td>
<td>Final design and payment for expertise service</td>
<td>Pre-construction</td>
<td>Government Resolution N57 “On Terms and Conditions of issuance of Construction Permit”</td>
</tr>
<tr>
<td>Tree felling in state forest lands for ROW and permanent facilities</td>
<td>Forest use agreement</td>
<td>Ministry of Energy &amp; Natural Resources</td>
<td>Pre-entry survey by applicant and local forestry, detailed forest inventory report by applicant</td>
<td>Construction</td>
<td>Law No.2124 on Forestry Code of Georgia; Resolution No.242 of Government of Georgia on Approval of Rules for Forest Use and Resolution No.132 of Government of Georgia on Approval of Regulations on Rules and Conditions of Issuance of Forest Usage License</td>
</tr>
<tr>
<td>Permit Required Activity</td>
<td>Permit Title</td>
<td>Issuing Authority</td>
<td>Application Requirements</td>
<td>Project Phase</td>
<td>Implementing Law</td>
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</tr>
<tr>
<td>Tree felling in state forest lands for Temporary Facilities</td>
<td>Forest use agreement</td>
<td>Ministry of Energy &amp; Natural Resources</td>
<td>Pre-entry survey by applicant and local forestry, detailed forest inventory report by applicant</td>
<td>Construction</td>
<td>Resolution No.242 of Government of Georgia on Approval of Rules for Forest Use; Order N10/61 of the Chairman of State Department of Forestry</td>
</tr>
<tr>
<td>Construction material extraction from borrow pits</td>
<td>Mineral extraction licence</td>
<td>Ministry of Energy &amp; Natural Resources</td>
<td>Extraction project and payment for minerals without auction per fair market price</td>
<td>Construction</td>
<td>Decree of the Government of Georgia N136 of August 11, 2005; Law N 946 “On Fees for Use of Natural Resources”</td>
</tr>
<tr>
<td>Underground water abstraction</td>
<td>Mineral extraction licence</td>
<td>Ministry of Energy &amp; Natural Resources</td>
<td>Extraction project and payment for minerals without auction per fair market price</td>
<td>Construction</td>
<td>Decree of the Government of Georgia N136 of August 11, 2005; Law N 946 “On Fees for Use of Natural Resources”</td>
</tr>
<tr>
<td>Water abstraction from river, lake</td>
<td>Surface water abstraction approval</td>
<td>MENR</td>
<td>Surface water abstraction project</td>
<td>Construction</td>
<td>Order of the Minister of Environment Protection &amp; Natural Resources N745; Order of the Minister of Environment and Natural Resources Protection N 16</td>
</tr>
<tr>
<td>Treated sewerage, hydro-test water etc. discharge into river, lake</td>
<td>Approval of liquid discharge into surface water body</td>
<td>MENR</td>
<td>Technical inventory report and project of discharge limits.</td>
<td>Construction</td>
<td>Order of the Minister of Environment Protection &amp; Natural Resources N745; Order of the Minister of Environment and Natural Resources Protection N 16</td>
</tr>
<tr>
<td>Exhaust from stationary sources</td>
<td>Air emission limit approval</td>
<td>MENR</td>
<td>Technical inventory report and project of emission limits</td>
<td>Construction</td>
<td>Order of the Minister of Environment Protection &amp; Natural Resources N745; Order N667 of the Minister of Environment Protection and Natural Resources; Law “On Ambient Air Protection”</td>
</tr>
<tr>
<td>Permit Required Activity</td>
<td>Permit Title</td>
<td>Issuing Authority</td>
<td>Application Requirements</td>
<td>Project Phase</td>
<td>Implementing Law</td>
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</tr>
<tr>
<td>Use of two-way radios, radio stations etc.</td>
<td>Allocation of radio frequencies</td>
<td>Georgian National Commission of Communications</td>
<td>Equipment specifications and coverage locations</td>
<td>Pre-construction/ Construction</td>
<td>Law No 1514 “On Electronic Communications”; Law No 1775 “On Licenses and Permits”; Regulations of International Telecommunication Union, Chapter 5; General Administrative Code</td>
</tr>
<tr>
<td>Construction or upgrade of access roads</td>
<td>Approval of construction or upgrade activities</td>
<td>Ministry of Infrastructure and local municipalities</td>
<td>Construction or upgrade project.</td>
<td>Pre-construction/ Construction</td>
<td>Government Resolution N57 “On Terms and Conditions of issuance of Construction Permit”</td>
</tr>
<tr>
<td>Transportation of oversized and overweight cargo</td>
<td>Transportation permit</td>
<td>Ministry of Internal Affairs (MoIA)</td>
<td>Contract with Security Police for escort service, consent from Georgia Railway Ltd for railway crossings, potential routes and list of transport and equipments</td>
<td>Pre-construction/ Construction</td>
<td>Joint Order N956/1-1/746 of the Minister of Internal Affairs and Minister of Economic Development; Law N 700 “On Road Transport”; Law “On Road Traffic”</td>
</tr>
<tr>
<td>Import of goods</td>
<td>Customs clearance</td>
<td>Ministry of Finance</td>
<td>Certificate of origin and specifications</td>
<td>All</td>
<td>Tax Code of Georgia; Decree of the Government of Georgia N420</td>
</tr>
<tr>
<td>Import of explosives</td>
<td>Permit to import explosives</td>
<td>MoIA</td>
<td>Certificate of origin and specifications, purpose, duration</td>
<td>Construction</td>
<td>Tax Code of Georgia; Decree of the Government of Georgia N420; Law N6157 “Code of Product Safety and Free Movement” Control of Technical Hazard”; Order N 1-1/2502 of the Minister of Economy and Sustainable Development</td>
</tr>
</tbody>
</table>
6.6 **Project Environmental Standards**

Project Environmental Standards described in Section 6.6 of the SCPX Final ESIA will be applied to activities covered by the scope of the ESIA Addendum.

6.7 **BP Corporate Policy**

BP is a partner in the SCP Company (consisting of a number of partner organisations) and is the technical operator of SCP (Statoil is the commercial operator). The SCPX Project will be built and operated in conformance with applicable BP corporate policies relating to health, safety, environmental and social matters.
BP’s five values\(^3\) express the company’s “shared understanding of what we believe, how we aim to behave and what we aspire to be as an organisation”. The five values are:

- Safety
- Respect
- Excellence
- Courage
- One Team.

These values are fulfilled throughout BP’s business through the application of various policies and requirements, relevant components of which are described in Sections 6.7.1–6.7.3 of the SCPX Final ESIA.

\(^3\) Further information on BP’s Values is available at http://www.bp.com/en/global/corporate/sustainability/our--people-and-values.html