

Transnational Petroleum Transportation and Pipelines Legal Aspects of Transnational Pipelines

Aytan Teymurzade

*Master degree student of Maritime and Energy Law,
Law Faculty, Baku State University*

Although the world tries to change their energy resources from hydrocarbons to alternative energy resources which are more harmless and cheaper, it is obvious from statistical information that the world's need for hydrocarbons will last during the next decades. For example, according to the BP Statistical Review of World Energy for June 2015, consumption increased for all fuels, reaching record levels for every fuel type except nuclear power; production increased for all fuels except coal. Total world proved oil reserves reached 1700.1 billion barrels at the end of 2014, sufficient to meet 52.5 years of global production. Over the past decade, global proved reserves have increased by 24%, or more than 330 billion barrels. World proven natural gas reserves at end-2014 stood at 187.1 trillion cubic metres (tcm), sufficient to meet 54.1 years of global production. Proved reserves grew by 0.3% relative to end-2013. Growth in Russia (+0.4 tcm), Azerbaijan (+0.3 tcm) and the US (+0.2 tcm) accounted for all of the gross increase in global proved reserves in 2014. Iran (34.0 tcm) and Russia (32.6 tcm) hold the largest proved reserves. For this reason, dislocations in global supply and demand for hydrocarbons are becoming increasingly significant, thereby the petroleum transportation is also becoming of a great importance.

Transportation and storage in the oil and gas industry is the movement of crude oil from the oil fields (where oil has been discovered) to petroleum refineries (where the oil is further processed) to storage areas, where the petroleum products are stored for distribution and emergency reserves. In its raw state, petroleum is transported rail cars, trucks, tanker vessels, barges and through pipelines. What method is used to move this oil really depends on the amount they are moving and where they are

moving it to. Once the oil has been refined and separated from natural gas, pipelines transport the oil to another carrier or directly to a refinery. Petroleum products then travel from the refinery to market by tanker, truck, railroad car, or more pipelines. However, crude oil is transported by two primary modes: tankers, which travel interregional water routes, and pipelines where most of the oil moves through for at least part of the route:

Marine oil tankers can transport petroleum all around the world. These vessels are used because they can carry a lot of fuel, so the amount it costs per barrel to move this oil is very cheap. These tankers are also really the only way to move crude oil across the oceans. Usually the larger tankers are used to transport this fuel on a global scale, taking fuel from one continent to the other. There are various types of tankers: oil tanker, parcel tanker (chemical vessels), combination carrier (designed to carry oil or solid cargoes in bulk), and barges .

Barges. Another method of bulk liquid transportation is barges. Barges, which can carry on average about 15,000 barrels of oil, are primarily used on rivers and canals. For example, two barges were designed for grounding and floating operations in the Caspian Sea.

Railcars are another way to move crude oil across a landmass. The oil is loaded into the railcars, and are moved by a diesel train across the rails to the refinery or the trains planned destination. Trains can carry a mass amount of this oil by using of multiple tank cars. Though each rail car holds a lot less oil than a large marine tanker vessel, when multiple are used a lot of oil can be transported. Railcars are a common way to move this fuel a long distance to areas where they do not have pipelines set

up.

Tank trucks are used a lot like rail cars are, but they usually transport refined fuel to a fuel station, like a gas station. Trucks are usually used to carry smaller capacities of oil short distances. Like railcars these trucks can carry a whole bunch of different forms of this petroleum, but they do not really carry the petroleum in its crude oil form because it would take a lot of trucks to deliver the volume of crude that the refineries demand.

Pipelines are used to transport oil from the wells to refineries and storage facilities. Pipelines are viewed as the most cost efficient way to move oil on land. First the oil is collected at the wellhead, or some area where the oil is stored. From the wellhead it is pumped across the land through a pipe, and is discharged at its destination which typically is a refinery. Pipelines offer the most efficient mode of transporting this oil across a land mass.

In the last few years, there has been a marked increase in both interest and need for interstate or cross-border pipelines for hydrocarbons. This has been characterized by various factors, including the emergence of new energy markets and the wider policy objective of security of energy supply.

However, a prospective transnational pipeline project for the transportation of oil or gas raises a multitude of complex political, commercial, fiscal, environmental, technical and legal issues. The complexity of these issues frequently poses an unnecessary barrier to the realization of a much needed energy pipeline project. For instance, there is the issue of individual states with different political and economic interests, each with its own separate jurisdiction. There is also the issue of various entities, both public and private, taking part in the project. Furthermore, transnational pipeline projects are normally financed by both private and public financial institutions which require certain guarantees regarding the economic feasibility and the ultimate legal security of the prospective project.

Although all parties concerned may be genuinely interested in seeing a particular transnational pipeline project succeed, conflicting interests and the lack of compromise over some of the complex issues involved could result in long delays, enormous expense and even the failure of the project.

The international legal regime applicable to these transboundary pipelines is developing quickly to match the commercial practice. There are a number of existing international legal norms and treaties that deal with issues related to transboundary pipelines. Many of these sources of law arise from general public international law sources, and so are often not known to general commercial lawyers.

There are two basic models under public international law that can be used as the framework for a transboundary pipeline project: the Interconnector model and the Unified Project model. Which one is chosen can have significant legal implications for political and business relationships of the States and commercial players involved in such a project.

The Interconnector model is really two separate pipelines that are joined together at the common boundary between two States. Each State retains separate and distinct sovereignty over that part of the pipeline that lies within its territory. National laws on taxation, employment, health and safety and so on are applied separately by each country on "its" part of the pipeline. An analogy would be a highway that started in one country and continued into another country. The two interconnected pipelines are usually (but not necessarily) built by two separate entities. There is no requirement for an interstate agreement for an Interconnector model pipeline, although the commercial execution of such a project will be greatly simplified by a properly crafted agreement. The legal regime applicable will be the national laws of the relevant States, and any coordination can be accomplished by way of a host government agreement.

The Unified Project model is a true international pipeline. It is a single pipeline that straddles one or more boundaries. One single legal regime is created between the relevant States that applies to the entire length of the pipeline and all coordination problems (such as a common fiscal, safety and employment regime) are resolved by way of an IGA. This model has many other advantages for commercial actors and governments in simplifying the rules to be applied to the construction and maintenance of the pipeline.

The most significant difference between the two models revolves around the issue of national jurisdiction over the pipeline. In the

Interconnector model, there must be a prior agreement as to the location of the common boundary. Without that agreement, the delineation of sovereignty by virtue of control over a segment of the pipeline will in practice prejudice the territorial claims of the countries concerned. By way of contrast, the Unified Project model enables countries to by-pass sovereignty issues and isolate territorial and boundary disputes, without prejudicing a State's territorial or boundary claims. Because, the Interconnector model requires the two governments to agree on a physical separation of the pipeline into two national sectors, over which their separate national sovereignty and control would be exercised, to our knowledge, this model has never been used in situations where a pipeline would be required to traverse disputed territory.

Mostly as a result of the growing awareness from industry players of the relevance of public international law to their international business activities, and transboundary pipelines in particular, the past five years or so have witnessed an increase in the use of interstate agreements to facilitate pipeline projects regardless of the particular model used. In some instances, it may be possible to rely on the same international law principles that are applied to joint development zones.

If to sum up, whilst there are many and different types of petroleum transportation means, pipelines are the cheapest and most secure mean of transport. But, it is important both for sovereign states and private companies which are investors to negotiate all legal aspects in this regard by means for agreements. This will ensure security of this long term transborder relations.

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6. transmilli cinayət hüququ ixtisasının magistri
7. Əbilhəsənli Səməra Nurəddin qızı

Xülasə

Məqalədə hazırda dünyanın əsas enerji təchizatı hesab olunan neft və qaz məhsullarının beynəlxalq daşınma vasitələrindən, xüsusilə transmilli boru kəmərlərindən bəhs edilir. Məqalənin əsas müzakirə predmeti kimi transmilli boru kəmərlərinin hüquqi aspektləri, hüquqi rejimləri və s. bu kimi məsələlər çıxış edir.

Резюме

В статье говорится о средствах международных перевозок нефти и нефтепродуктов которые ныне считаются основным ресурсом энергии, в частности о транснациональных трубопроводов. В статье так же обсуждаются правовые аспекты, правовые режимы и другие смежные вопросы транснациональных трубопроводов.