

Research Report:

International legal framework of cross-border oil and gas pipelines:

Current and Future Trends

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Executive Summary:

Nowadays, one of the main challenges of all states, regardless of their level of development, is energy supply. In order to solve this challenge, energy sources need to be transported from producing state to international markets by different ways including cross-border pipelines. As international (cross-border) pipelines traverse territories of at least two countries, those need to be governed by international rules. Depending on the route, there are two different kinds of international pipelines; submarine and on-land pipelines. In regard to submarine pipelines, there are relatively adequate international rules in the context of UNCLOS 1982. By contrast, there is no uniform legal framework for on-land pipelines. Only some general rules are applicable. The ECT and its transit protocol, a multinational agreement that deals directly with energy transit regardless of the pass route, aims to create and regulate a free market for energy products without providing coherent set of rules about pipelines, particularly on-lands pipelines. The various regional legal arrangements and multilateral instruments about different aspects of cross-border pipelines, leave many legal issues to be solved by international law. Since cross-border pipelines are an efficient and common method for transport of oil and gas over long distances, the efficiency and feasibility of the existing legal system should be increased in both normative and institutional aspects.

Background and Objectives:

Various researches have been done related to international legal regime of oil and gas pipelines. Those mostly indicate that there are not sufficient instruments and arrangements that deal specifically with transport of oil and gas by pipelines. As countries involved in pipeline projects do not tend to follow the same international instruments, every pipeline has its own legal regime and these arrangements vary considerably. Due to a lack of unified regulatory arrangements, the existing legal system of construction and operation of international pipelines is not coherent and efficient. It is not adequate for the rapidly growing energy sector. The literature shows that in the light of current trend of development of pipelines, international legal framework of pipelines is becoming more diverse day by day.

The main purpose of my research is to identify the reasons for this diversity and offering solutions for it. For reaching this purpose, firstly, it is essential to find out which gaps and shortcomings prevent the countries involved from creating unified and coherent set of rules governing cross-border pipelines. Secondly, to make the current legal regimes less diverse, it will be analyzed and discussed how the shortcomings can be removed and how the obvious gaps can be filled. Thirdly, it will be discussed what developments could make the existing legal system comprehensive and more efficient.

Conclusion and Recommendation:

As the number of pipelines is growing at present, it is expected that international law governing cross-border on-land pipelines will evolve over the next decades. In practice, several causes prevent this development. Some of those, like the strategic nature of oil and gas are unpreventable. Other causes, including conflict of national jurisdictions and non-uniform agreements between states and private companies, can be relatively easily adjusted by adoption of model agreements. However, if international law is supposed to play a crucial role in the evolution of the legal framework, the development should take place in a normative and an institutional aspect.

- Normative aspect: According to article 1 of UN charter, this UN should take serious and effective steps to draft an international convention related to cross-border pipelines.

- Institutional aspect: The establishment of an international organization which can gather all states and monitor transportation of oil and gas by pipelines is necessary. This organization should benefit all states involved in pipelines projects and encourage cooperation and correlation among states, unlike IEA, OPEC and GECF, which just benefit certain states.

Contribution of Utrecht University

My research should result in a chapter of a book titled “ Gas Exporting Countries Forum (GECF) and it’s future”. I decided to do research in the Netherlands, as a non-middle East–Russia observer state, to better understand the current and future trends in the international gas trade. The Utrecht Centre for Water, Oceans and Sustainability Law of Utrecht University provided me with access to Utrecht library during my stay in Utrecht. I almost finished the main parts of my research project in the library during my visit to Utrecht University.