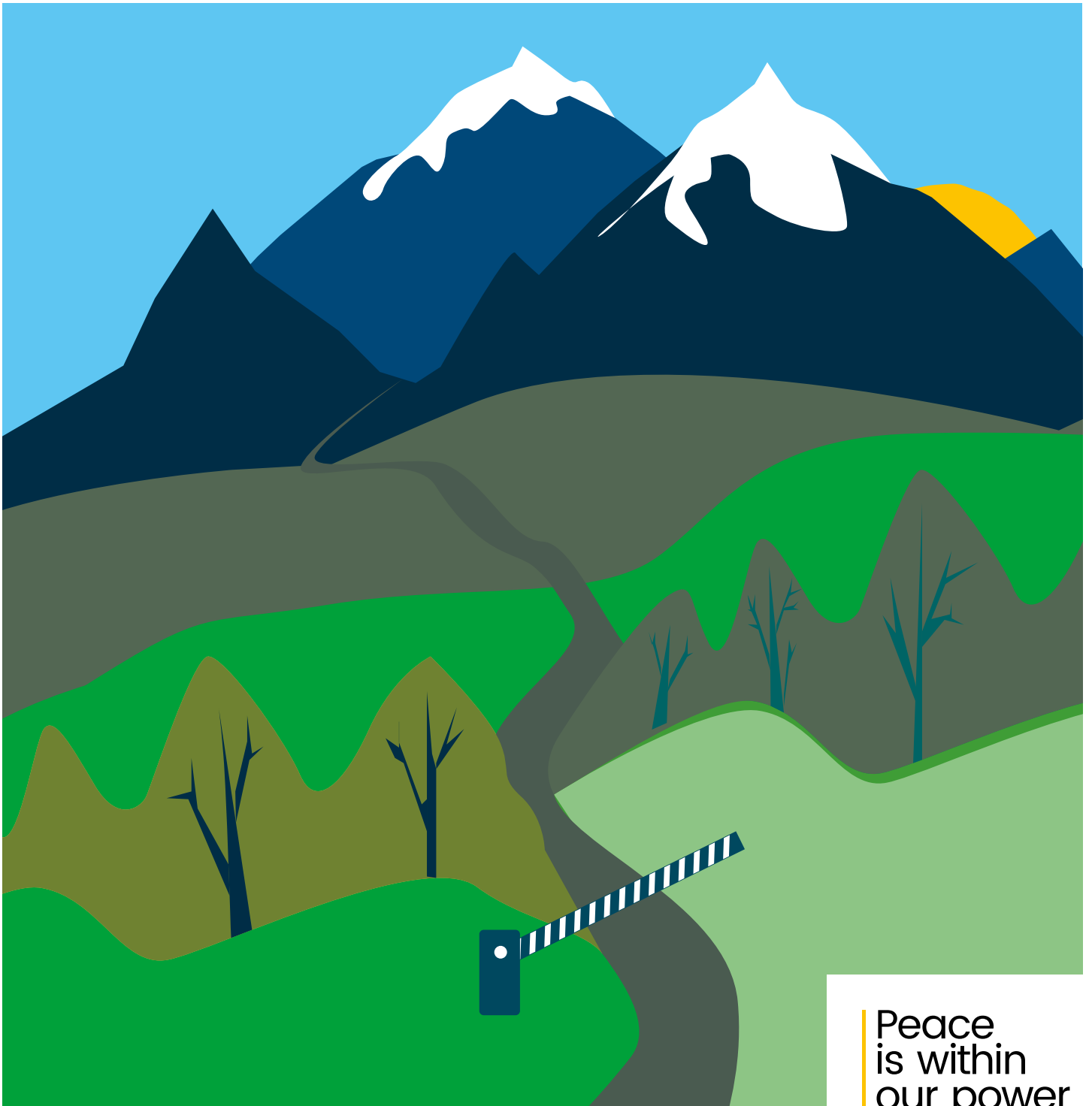




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# Opening the 'Ingur/i gate' for legal business

What conditions are needed for political acquiescence?



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# Opening the ‘Ingur/i gate’ for legal business

What conditions are needed for political acquiescence?

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**October 2018**

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## Map of region



# Executive summary

Business communities on the two sides of the Georgian-Abkhaz conflict are not uniform with regard to the assessment of the benefits of opening the 'Ingur/i gate' for legal business and demonstrate different degrees of preparedness to take the new opportunities should the 'gate' indeed open. However, no business actor showed readiness to lobby their political leadership for a temporary regulatory framework that would decriminalise business projects that transcend the conflict barrier and open new markets and destinations now, while the political and security impasse may not be resolved for decades. Political will is necessary, according to the business community.

This study outlines the conditions that are either conducive to or that would prevent consolidating political – and public – will to let business function both as an economic and a public diplomacy actor. Cases where the private sector made a difference in the peace process and when the economy triggered political shifts and encouraged major societal transformations show that political deadlock may be overcome if rapprochement happens in other areas of interaction essential for wellbeing and security on all sides. Clearly a certain degree of political will, however minimal, and public interest were necessarily present for such developments to serve as a driver of the peace process.

- **Both sides are worlds apart on political acceptability (including conditionality and sequencing) and the expediency of doing business across the conflict divide**

Overall, the dominant approach in the assessment of the political expediency and economic utility of opening legal ways for business across the current divide by politicians, officials and opinion-makers in Abkhazia is that this idea is premature at best, and not a priority given that Russian recognition helped Abkhaz entrepreneurs escape from isolation. Georgia's signing of the declaration of non-use of force is a minimal political condition for the start of any talks about charting rules of business engagement. It is thought that any steps that could possibly signal concessions to Georgia would be rejected by the public as treason, a situation that no politician in Abkhazia is ready to face.

With few exceptions, the Georgian political class shows support for cooperative relations between Georgian and Abkhaz companies and consumers, which conforms to the current general mood in Georgian politics. The belief that restoration of humanity and inter-personal relations between the two peoples is the way to peace is widely shared. The specific political formula of a Georgian–Abkhaz shared space is not at the core of public and political discussion, but instead a process of the restoration of human relations and social ties is seen as a priority. Political efforts are aimed at broad international mobilisation to put pressure on Russia to withdraw its military forces from the territories in question and to prevent Russia-sponsored recognition of Abkhazia by UN member states.

- **The Ingur/i hydropower station model of cross-conflict economic cooperation may no longer be so relevant**

The commonly cited example of cooperation outside the political arena, the Ingur/i hydropower plant, may not be regarded positively in the nearest future by either side. The sustainability of this model is increasingly regarded as unfair and at the expense of the population on the Georgian side, while the Abkhaz are uncomfortable with complete dependency on the power plant and with having no viable energy supply alternatives due to the lack of investment in the necessary infrastructure. Verbal and undocumented agreements between the two sides – a compromise to enable daily operation and avoid touching upon the status of the territory and titles of the signatories – raises concerns among the population and opens the door to political manipulation. The key lesson from the Ingur/i power station model is that a publicly important arrangement cannot be sustained in the long run against a background of deep political mistrust and social estrangement across the conflict line if it is non-transparent, lacks clear troubleshooting and adjustment algorithms that can be credibly communicated to the public, and when the cost-benefit balance is not the same on both sides.

- **Different framing and levels of support on each side for the idea of special normative regulation of business through the Ingur/i gate**

The two sides are not willing to discuss the details of a hypothetical normative framework first and foremost because the current political obstacles seem to be a key stumbling block for looking ahead. The sequence of steps that are necessary for any political dialogue on the norms of business-to-business relations is regarded differently by the two sides: Georgians regard Russia's consent as a key condition for starting a dialogue with the Abkhaz side, while the Abkhaz emphasise that Georgia should sign the agreement on non-use of force with Abkhazia in view of demonstrating its commitment to the non-resumption of armed hostilities and acceptance of Abkhazia as an equal side.

No rules or insignia that would implicitly 'reintegrate' Abkhazia into Georgia were acceptable for the Abkhaz. Likewise, any insignia such as seals, letterheads or titles that put forward Abkhazia as a state independent of Georgia were unacceptable for the Georgians. However, the idea of electronic instead of paper processing of cargo movement was received rather favourably on both sides. The proposal on a special economic zone was met with sceptical remarks by both sides.

Strong encouragement by an influential external actor supported by clear and tangible economic benefits may motivate the two sides to open up to the possibility of engaging in a bilateral or multilateral dialogue mediated by a trusted third party. If the sides fail to come up with an acceptable country or organisation, an option of trusted and authoritative individuals as mediators may work.

- **Diametrically opposing views on either side regarding transit**

The Abkhaz consider transit to be the most suitable form of business relations between the sides – given that the political preconditions are in place – because in this case interaction between the two sides is minimal. For the Georgians, on the contrary, transit through Abkhazia is perceived as a highly risky operation due to lack of access and the lack of security there as well as regional security considerations.

- **Neither side hopeful of political progress at the Geneva International Discussions, yet no alternative to them envisaged**

Opening an economic track within or outside the Geneva International Discussions may be supported as a supplement to or a catalyst for the stagnant political process.

- **Both sides agree on the need to revise or abolish the Georgian Law on Occupied Territories to facilitate business across the conflict divide**

The law does not have any significant impact on Abkhaz businesses because there is the possibility to conduct international business via Russia. Even so, the Abkhaz resist the term 'occupied territory' and insist it is not based on the reality on the ground and degrades them as a secondary actor in the conflict. Therefore, the very existence of the Law on Occupied Territories discourages them from any constructive discussion with the Georgians.

Georgia is ready to revise or even abolish the Law on Occupied Territories as a political step demonstrating their ability to correct past mistakes. At the same time, a space for discussion on guaranteeing respect for the 'red lines' and moving forward may emerge. Many admit that the adoption of this law was a wrong move that various European and American partners had cautioned against.

# 1. Introduction

The *Opening the 'Ingur/i gate' for legal business: views from Georgian and Abkhaz private companies* study<sup>1</sup> that was published in spring 2018 highlighted general attitudes, business calculations, and the views of private Georgian and Abkhaz companies with respect to a hypothetical set of rules acceptable for both sides aimed at the facilitation of commercial activities across the 'Ingur/i gate'. The study aimed to test whether private businesspeople on the two sides regard decriminalisation and normative facilitation of business projects and transactions – currently blocked due to the political and security impasse – as favourable for their business, for the economy in general, and for the invigoration of the political peace process.

One of the study's main conclusions was that politics overrides business imperatives. Some business sectors demonstrated greater interest in the opportunity to legally transcend current restrictions on movement of goods, including transit, supply chains and access to markets, than others, but invariably regarded these opportunities as abstract and requiring political will on both sides in order to materialise. Engaging in illegal business was considered unethical, as carrying reputational risks, and simply dangerous. Some said they would take the opportunity to do business legally should it present itself, and believed that business contacts help build trust. Others stated that they would continue objecting to this option as politically inappropriate and morally reproachable. However, in neither case did entrepreneurs signal their readiness to advocate a more facilitative approach before their political leaders given that alternatives are available and that the opening of the 'Ingur/i gate', although it creates new business opportunities, is not a matter of survival. Besides, business communities on both sides prefer to stay away from politics.

In order to elicit the contextual, attitudinal and experiential factors required for the necessary political will to open an economic diplomacy track<sup>2</sup> as a useful supplement to or a catalyst for the deadlocked political process, a follow-up study was launched. In particular, the conditions under which a political class and civil society would support or deny support to a model that creates the legal possibility for cross-conflict business in view of building trust through experience and fostering norms-based relationships without touching upon the sides' 'red lines' were analysed.

By legal possibility, we mean an agreement between conflict sides that states provisional, special and negotiated rules of doing business across the line of conflict before a final solution to the conflict is reached.

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1 N. Mirimanova, *Opening the 'Ingur/i gate' for legal business: Views from Georgian and Abkhaz private companies*, London: International Alert, 2018, [https://www.international-alert.org/sites/default/files/Caucasus\\_OpeningInguriGateForLegalBusiness\\_EN\\_2018.pdf](https://www.international-alert.org/sites/default/files/Caucasus_OpeningInguriGateForLegalBusiness_EN_2018.pdf)

2 J. McDonald and L. Diamond, *Multi-track diplomacy: A systems approach to peace*, Virginia: Kumarian Press, 1996



## 2. Research framework and methodology

Respondents were asked to provide their views on the following:

- Political acceptability and expediency of business-to-business relations with the opposite side in the absence of a final political agreement
- Legality and acceptability of business relations between Georgian and Abkhaz companies if one or both are registered in Russia or a third country
- Georgian companies engaging in business with Russian companies (for Georgian respondents)
- The idea of creating a provisional set of procedures and norms that enable private business from both sides of the conflict to extend their business via the 'Ingur/i gate'
- Economic cooperation case of the Ingur/i hydropower plant
- Modalities of a normative and procedural model for business relations, such as the process of its design, negotiations and implementation, its enforcement mechanism, compatibility with the legal and political reality of the two sides, as well as taxation, security, control and communication
- Transit through the two territories
- Progress in the Geneva International Discussions
- Impact of the 2008 Georgian Law on Occupied Territories on the incentives and practice of business-to-business interaction across the 'Ingur/i gate'

In-depth structured interviews with current and former politicians, public officials, opinion-makers and civil society experts from various relevant segments, including tax, law enforcement, labour, education, healthcare, economy, energy, and business were carried out in June and July 2018. Fifteen people were surveyed on each side. Some of the interlocutors on the Abkhaz side were also active businesspeople, but were interviewed in their capacity as civil society experts.

The qualitative data obtained enable us to analyse why people think or feel a certain way, but do not allow for generalisation and inferring how many people share a particular position, value or emotion. Face-to-face interviews are a valuable method that allow people to make reasoned arguments, deliberate and be honest. Given the political sensitivity of the subject, the confidentiality and anonymity of respondents was guaranteed.

The interview data was cross-referenced with media publications and government documents.

## 3. Main findings

### Both sides are worlds apart on political acceptability (including conditionality and sequencing) and the expediency of doing business across the conflict divide

Both sides agree that peace has not been achieved.

However, Georgian and Abkhaz interlocutors demonstrated a stark difference in their views on the trajectory and the current phase of the conflict as well as the composition and hierarchy of the parties to the conflict.

Abkhaz<sup>3</sup> interlocutors consider the status of a sovereign state – affirmed by five UN member states (Russia, Venezuela, Nicaragua, Nauru and Syria) – as irreversible and hope for more acts of recognition in the future. For them, transition towards the desired self-determination was completed in 2008, with recognition by Russia being regarded as a long overdue act of political acknowledgement of 1993's hard-won victory and the 1994 referendum on independence. The status dispute with Georgia has been resolved, according to the Abkhaz side, while the only obstacle to lasting peace is Georgia's refusal to formally commit itself to the non-use of force and show that it is prepared to recognise Abkhazia's independence. For the Abkhaz, the 1992–3 war is the defining moment in history that marked a point of no return with regard to sharing the same state with Georgia.<sup>4</sup> Businesspeople, politicians, officials and civil society activists approach the question of the status of Abkhazia in a 'take it or leave it' manner. This finding corroborates the conclusion about the high legitimacy of the independent statehood project in Abkhazia that may coincide with the diminished legitimacy of the government.<sup>5</sup> In other words, while the Abkhaz may be highly critical of the government's performance, this should not be taken as undermining the cause of independence.

The 2008 war with Russia and recognition of Abkhazia and South Ossetia marked a new reality for Georgia as well: the discourse of nationalist secession was largely replaced by the discourse of occupation by an external power. Since then, the superordinate goal of de-occupation has superseded – but does not cancel out – the goal of reintegrating Abkhazia and South Ossetia. The Russian military presence and patronage politics towards Abkhazia since 2008 are believed to be the main, if not the sole, obstacle to cooperative relationships between various societal clusters and individuals on both sides of the conflict.

As a result, the Abkhaz and Georgian people hold very different views on what needs to be done, by whom, the timeframe for bringing about lasting peace, and whether and where facilitation of cross-conflict business relations fits into the political agenda.

The Abkhaz prioritise a specific sequence of acts by Georgia that would provide security and political guarantees, after which the process of building relationships and charting rules of engagement may begin. With few exceptions, Abkhaz political and public figures decisively oppose any contacts with Georgians before the latter commit themselves to the non-use of force as a minimal condition. They believe that Tbilisi extends economic preferences to Abkhaz businesses in an attempt to entice them with benefits and buy them up. Some even fear that Georgians are gathering intelligence under the guise of moving goods across the Ingur/i.

3 Entrepreneurs residing in the Gal/i district on the Abkhaz side where ethnic Georgians are the majority often avoid explicitly stating their preference with regard to the status of Abkhazia and instead focus on the need to build peace and establish clear rules with regard to bilateral relations. Therefore the reference here is only to explicit statements with regard to Abkhazia's status.

4 Federation, confederation and common state as well as regional South Caucasus framework models were put forward at different times before 2008 by the sides and by external experts, but none were deemed agreeable by both sides.

5 K. Bakke, A., Linke, J. O'Loughlin, and G. Toal, External patrons, violence, and internal legitimacy in *de facto* states, Paper presented at the FLACSO-ISA Joint International Conference, Buenos Aires, 23–25 July 2014, <http://web.isanet.org/Web/Conferences/FLACSO-ISA%20BuenosAires%202014/Archive/837185f4-5672-4886-b0b6-016c374a8f88.pdf>

The economic expediency of extending support to a provisional legalisation of business across the Ingur/i is considered by Abkhaz politicians, officials and civil society as highly questionable and certainly not a decisive argument in favour of the facilitation of such business interactions.

Russia's recognition of Abkhazia and South Ossetia as independent states in 2008 created new legal opportunities for Abkhaz entrepreneurs to bypass Georgia's non-recognition policy and break free from economic isolation. Opponents of doing business with Georgian businesses or via Georgian territory argue that Abkhaz businesses can reach out to various markets and get supplies via Russia or by registering a company in Russia, and that all these things are legal, while the risks associated with doing business via Georgia are certainly not justified.

In reality, relations with Russia are more complex than many would like to think, but few will voice their concerns over the serious vulnerabilities that such an alliance may create for Abkhaz businesses. Reliance on Russia as a security provider, investor, market, and business dealer satisfies their present business ambitions and matches capacity: after two decades of nearly complete isolation, poverty and the grey economy, the openings provided by Russia created a sense of endless opportunities. However, this dependency makes Abkhazia vulnerable both politically and economically given the volatility of contemporary geopolitics. For example, in spite of a well-developed successful model of cooperation between Abkhaz and Turkish fishing businesses, Abkhazia, which does not have its own fishing fleet, had to join Russia in its sanctions against Turkey in 2015 and refuse to charter the Turkish fishing fleet. Russia provided a fleet that substituted only part of the vessels needed, which rendered fish processing factories in Abkhazia unprofitable because their minimal commercially viable daily capacity could not be reached.<sup>6</sup> Unilateral and arbitrary restrictions on the export of citrus fruits or hazelnuts imposed by Russia are not uncommon coupled with stories of crime in Abkhazia which are blown out of proportion by the Russian media, especially in the tourist season. This raises concerns among the few exporters as well as other entrepreneurs; however, no-one is going to voice their discontent with the patron-client relationship with Russia publicly.

Some interlocutors questioned the business rationale of engaging in commerce with Georgian counterparts. They say that Abkhaz consumers are likely to treat Georgian produce with suspicion or boycott Georgian goods, which would make such business unprofitable, in their view. Others acknowledge that even at present a sizeable portion of agricultural and other products comes from Georgia anyway, but is not marked as such, which takes the moral pressure off consumers. An opportunity to access Turkey and the Middle East, taking advantage of transit via Georgian territory, was assessed by some as potentially beneficial, but not risk-free: lack of scrutiny and careful analysis may lead adventurous or greedy entrepreneurs and even entire sectors of the Abkhaz economy into a trap of dependency on Georgia. Protectionists are convinced that fully opening the Abkhaz market to Georgian products may undermine the emerging local agriculture and related industry, and prefer quotas, while proponents of a liberal economy think that the market is the only possible regulator. For example, if the origin of goods is clearly marked, consumers will be able to make a choice based on several criteria, including quality, price and political convictions.

Those that see positive aspects in making illicit trans-Ingur/i business relations orderly and legal, such as filling the Abkhaz budget, combating crime and corruption, advancing the rule of law and possibly reducing aggression and building trust in bilateral interaction, always admit that their opinion is not popular and that no politician in Abkhazia would dare to put forward such a proposal due to fears of provoking public outrage.

Georgians prioritise the process, incremental steps towards human and social rapprochement and confidence-building between individuals on the two sides, and most importantly between individual Abkhaz<sup>7</sup> people and the Georgian state, by turning themselves into an attractive political and economic alternative to Russia. In Georgia,

6 Российские рыбаки приступают к ловле рыбы в акватории Абхазии [Russian fishermen start fishing in Abkhazian waters], Caucasian Knot, 25 December 2015, <http://www.kavkaz-uzel.eu/articles/275022/>

7 Other ethnic groups with the exception of ethnic Georgians largely consider themselves to be an integral part of the Abkhaz political space, therefore the reference here is not ethnic, but socio-political

popular and political attention is focused on getting rid of Russia's military presence in the two entities, which is regarded as an imminent threat to the country's security and sovereignty, and preventing further recognition of Abkhazia by other UN member states sponsored by Russia. Reintegration of the breakaway republics is regarded as a long-term process with no clear benchmarks or vision of the endpoint. Russia is believed to be the decisive actor that currently objects to any direct relationships between the Georgians and the Abkhaz.

Georgian IDPs within Georgia's political and expert circles are an interesting category of opinion-makers. They are not homogenous in their views on the political acceptability and expedience of business interaction between Georgians and the Abkhaz. Some oppose such cooperation because in their opinion, it is a one-way street. Georgia is offering the Abkhaz privileges, such as education abroad or free healthcare, while there is not a single sign of reciprocal steps being made on the Abkhaz side, for example, in the way that ethnic Georgian residents of Abkhazia are treated. Preferences extended to the Abkhaz do not encourage them to seek closer ties with Georgia, hence the prospects of reintegration and the return of evicted people remain bleak. Other IDP politicians and officials, on the contrary, see themselves as intermediaries, identify with both societies and do not let bitterness over their lost homeland define their views on the past and future of Georgian–Abkhaz relations. They reject bellicose rhetoric and prioritise the unconditional humanisation of relationships.

The Georgian view of business links with Russian companies and catering to the Russian market deserves special attention. In the current political paradigm in Georgia, it is Russia that is the adversary, but business ties with Russia are not, by and large, rejected as inappropriate. There are companies that would not engage with Russian businesses or enter the Russian market on principle, but the dominant attitude is that business is business and that Russia, as a business counterpart, is no different from Turkey, Iran or any other country. This is the liberal economy paradigm where the market decides, rather than politics, and it is quite popular in Georgia. Georgia is one of the most business-friendly countries in the world and cherishes its reputation. Fair and even-handed treatment of all investors and business partners is Georgia's way to gain an internationally acknowledged advantage over Russia – which used political leverage in its business relations with Georgia and later with Ukraine and which violated prior agreements and WTO commitments. For the sake of fairness, it is worth stressing that Russia has long lost its dominant or privileged position among Georgian trading partners.<sup>8</sup>

The Georgian political class, public officials and opinion-makers approach the concept and practice of doing business with Russia and Abkhazia differently. Russia is the occupying force, an adversary, while doing business with Russian companies is legal and profitable. The Abkhaz population are not enemies, but relatives, while doing business with Abkhaz companies is illegal and unprofitable. The objective of doing business with Russia, then, is profit-making, while doing business with Abkhazia is a matter of changing the political climate between the two societies from mistrust and alienation to confidence and cooperation.

### **The Ingur/i hydropower station model of cross-conflict economic cooperation may no longer be so relevant**

In view of the development of a model enabling economic cooperation by private business, the only existing economic partnership case, the Ingur/i hydropower plant, deserves special attention. Though it is unique and sustained on the basis that there is no option *not* to cooperate, so not a truly profit-driven project, it nevertheless provides some important lessons for the prospects of business links across the conflict divide.

The long-standing image of the Ingur/i hydropower plant as a unique instance in which the Georgians and Abkhaz have managed to put politics aside and join forces on a practical matter of great significance and mutual interest for the two populations may expire in the foreseeable future. Although many saw this case as an example of

8 National Statistics Office of Georgia, External merchandise trade in Georgia 2017, 22 January 2018, <http://www.geostat.ge/index.php?action=news&lang=eng&npid=1245>, accessed 2 October 2018

'where there is a will there is a way', critical views were expressed by both Abkhaz and Georgian interlocutors. Reasons for the criticism are different on both sides.

The discourse on the value of preserving the current *modus operandi* of the Ingur/i plant is becoming increasingly less convincing for Georgians. The principle of fairness and reciprocity is violated in an arrangement that is increasingly regarded as charity at the expense of the Georgian consumer paying in good faith.

The verbal agreement on a 40/60 ratio in energy supplies from the plant to Abkhazia and Georgia, respectively, that was reached by the two sides in 1997–8, has been breached more than once in recent years by the Abkhaz side because the level of electricity consumption in Abkhazia has risen sharply. The Chernomorenergo company, the Abkhaz side in the Ingur/i operational scheme, is unable to collect electricity bills in full and the Abkhaz population's debt is so high that the company is chronically unprofitable. Free electricity does not incentivise energy saving. Besides, the transmission infrastructure on the Abkhaz side is so outdated that energy losses are massive.<sup>9</sup> Apart from generous domestic use, changes in the political and economic landscape of Abkhazia since 2008 have caused a sharp increase in electricity consumption, mainly due to renovation and construction, the summer influx of tourists that, according to the Abkhaz data, outnumber the local population 3–4 times and deployment of a significant Russian military contingent, which is not regarded favourably by the Georgian side. As a result, the agreed 40% electricity quota in reality rises to 50% and even to 95% at times.<sup>10</sup>

The Georgian side has to import electricity from Russia in order to cover its own resulting deficit. Georgia also co-funds the supply of electricity from Russia to Abkhazia: Russia subsidises 9/10, while Georgia covers 1/10 of the price of 1 kW transmitted to Abkhazia.<sup>11</sup> Given that the electricity tariff in Abkhazia is 0.6 cents for the population and 0.9 cents for public sector enterprises, including the Russian Ministry of Defence and the Federal Security Service,<sup>12</sup> while Georgian households must pay 5–9 cents,<sup>13</sup> the sustainability of the image of the Ingur/i hydropower plant as an example of cooperation may be challenged on socio-economic grounds by the Georgian constituency.

Apart from economic grievances, the operation of the Ingur/i plant generates political concerns in Georgia. Some experts suggest that the current increase in the consumption of electricity in Abkhazia and violation of the quote agreement can be regarded as a national security threat since this situation forces Georgia to depend more on energy imported from Russia and Azerbaijan.<sup>14</sup> The dramatic rise in energy use on the territory of the Abkhaz side threatens the sustainability of the water supply from the reservoir because the station stops working if a certain minimal level of water is reached.

The 'constructive ambiguity' status quo does not seem to be a fully acceptable or sustainable state of affairs for the Abkhaz side either. In 2015, after the Chernomorenergo company announced negotiations about the division

9 Басария о переходе на электричество из России: тарифы не изменятся [Basaria on the transition to electricity from Russia: the tariffs won't change], Sputnik, 31 January 2017, <https://sputnik-abkhazia.ru/radio/20170131/1020329235/basariya-o-perexode-na-elektrichestvo-iz-rossii-tarif-y-ne-izmenyatsya.html>; Абхазия стала полностью обеспечиваться электроэнергией [Abkhazia starts to be fully supplied with electricity], Eurasia Daily, 16 February 2016, <https://eadaily.com/ru/news/2016/02/16/abhaziya-stala-polnostyu-obespechivatsya-elektoenergiy>

10 I. Oragvelidze, Абхазию ждут три месяца без Ингурской ГЭС и помощи грузинской стороны [Abkhazia will live for three months without the Inguri hydropower plant or the Georgian side's assistance], Echo of the Caucasus (Radio Free Europe/Radio Liberty), 18 April 2018, <https://www.ekhokavkaza.com/a/29175184.html>

11 G. Dvali, V. Dzaguto, P. Tarasenko, T. Dyatel, Абхазии грозит энергодифицит [Abkhazia under threat of energy shortage], Kommersant, 23 April 2018, <https://www.kommersant.ru/doc/3612218>

12 Тарифы на электроэнергию в Республике Абхазия [Electricity tariffs in the Republic of Abkhazia], Chernomorenergo, <http://chernomorenergo.info/ru/tarify/>, accessed 18 September 2018

13 Потребительские тарифы электроэнергии [Consumer tariffs for electricity], Telasi, <http://www.telasi.ge/ru/customers/tariffs>, accessed 18 September 2018

14 M. Margvelashvili, ენგურის ელექტროსადგამის და აფხაზეთის ენერგომომხმარებელთა – ენერგეტიკული და ეროვნული უსაფრთხოების გამოწვევა [The Inguri hydropower plant and Abkhazia's energy consumption – an energy and national security challenge], 2017, <http://weg.ge/sites/default/files/abkhazia-final-1.pdf>

of property rights to the Ingur/i hydropower plant, the Georgian Ministry of Energy<sup>15</sup> explicitly reminded everyone of the 'red lines': the power plant is the property of the Georgian government and the Georgian government funds it fully in order to supply its citizens, including those living in territories that are currently outside its control. Abkhaz leaders have consistently disagreed, claiming the plant is Abkhaz state property.<sup>16</sup> In reality, 100% of the plant's shares are retained by the Republic of Georgia. These shares are a rather symbolic asset, though, because they cannot be cashed in or used in any transaction due to the deadlock in the dispute over the ownership.

Abkhaz respondents do not question the Ingur/i power plant's operational model and are satisfied with the result: they have an uninterrupted electricity supply. Few are interested in the details and acknowledge the 'where there is a will there is a way' approach as a solution in this particular case. However, the Abkhaz political class feels a degree of political discomfort. They believe that Abkhazia is destined to build its own electricity generation and distribution facilities and that Russia is the natural and sole source of hope with regard to financing this project, just as some believe it is Russia that currently covers the electricity deficit.

Abkhazia is significantly more vulnerable to disruption of the Ingur/i power plant operation because the latter is the sole source of electricity there and the consequences of interrupted generation would be catastrophic. The prospects of investment in the construction of small hydropower plants or alternative energy systems are slim. Russian government funding covers only a small part of the transmission infrastructure's repair and modernisation needs, while other investors are hard to attract. Yet there are no funds available for renovation of the transmission systems or the introduction of water meters to make consumption more economical. A hypothetical external investment in the transmission system on the Abkhaz side would naturally lead to an increase in electricity prices for consumers, or if electricity tariffs are not collected, then this would put pressure on the Abkhaz budget, which may become a serious challenge for the incumbent political leadership. Therefore, stimulating external investors may even backfire. Thus, the vicious circle of the looming electricity crisis in Abkhazia closes.

The following lessons can be derived from the story of cooperation over the Ingur/i hydropower plant. First, creative and cooperative arrangements that enable cross-conflict business should be transparent. Given the degree of mistrust between the conflict's two sides, often coupled with mistrust towards their own authorities, rumours and political machinations may kill the cooperative spirit. Second, the original model cannot be sustained forever because the needs of the two sides may change, intentionally or not. Alternative sources of energy, new infrastructure, landscape changes due to natural processes or human activity or a political U-turn of some sort may diminish the importance of maintaining this arrangement. At the same time, reopening negotiations may be a risky undertaking, especially when the political peace process has failed, stagnates or has never started. Third, if asymmetry is ingrained in such an arrangement – by fair means or foul – and the asymmetry is perceived as unjustified by one of the sides, economic decline, a rise in energy prices or yet more political machinations may stir up public outrage and put an end to the previous scheme.

### **Different framing and levels of support on each side for the idea of special normative regulation of business through the Ingur/i gate**

By and large, Georgian politicians, officials and experts support the idea of transparent and lawful private business transactions across the Ingur/i and welcome the idea of creating a special set of rules to facilitate such business links. Some think this measure is long overdue and would be easily accepted by the government and society. However, others suggest that an internal Georgian political struggle between the two major parties and radical IDP organisations is likely to be a spoiler. A popular opinion is that Russia is a key potential spoiler, on the one hand, and has unlimited power over decision-making in Abkhazia, on the other. Therefore, before starting a

15 From 2018 the Ministry of Energy was abolished and its functions transferred to the Ministry of Economy and Sustainable Development

16 N. Akhmeteli, Как Грузия и Абхазия делят Ингурскую ГЭС [How Georgia and Abkhazia are dividing up the Ingur hydropower station], BBC Russian Service, 9 March 2017, <https://www.bbc.com/ukrainian/features-russian-39224152>

discussion on the facilitation of cross-conflict business, Russia's non-objection should be secured.

Few interlocutors opposed the idea of formalising business transactions across the disputed border. They believe that discreet support to grassroots small-scale business activities that serve the needs of local and mainly borderland communities inhabited by ethnic Georgians is the way forward. Thanks to the small business support projects for the conflict-affected population implemented by humanitarian organisations, this is legally and politically non-objectionable both for the Georgian and the Abkhaz authorities, although in Abkhazia, international assistance is not widely publicised. Another way to help cross-conflict business, in their view, is to simply let people engage in business relations at their own risk. From the purely legal standpoint, turning a blind eye to this unregistered commercial activity de facto violates the Law on Occupied Territories. On the other hand, fostering business contacts is in line with the engagement policy of the Georgian government. Legal vagueness and the marginal significance of these transactions for the Georgian population helps keep trans-Ingur/i business afloat. On the Abkhaz side, it is the market that defines the scale and direction of the illicit flow of goods. Since trans-Ingur/i trade is the main, if not the only, option for generating income for ethnic Georgian residents of the Gal/i district, any changes in the status quo may be primarily harmful to them. Besides, the confidential nature of such business ties may be encouraging for some ethnic Abkhaz entrepreneurs that are interested in taking advantage of this opportunity. Georgian opponents of transparent and regulated trans-Ingur/i business are concerned that few, if any, Abkhaz businesspeople would publicly engage in business with Georgians.

Georgian interlocutors presented a variety of ideas with regard to who should initiate the discussion on the regulatory model, including the Georgian government, the Abkhaz authorities, both Chambers of Commerce, and international organisations, preferably the European Union, Germany or universally trusted authoritative individuals, such as Nobel Peace Prize laureates.

Abkhaz politicians, officials and opinion-makers generally oppose the very idea of business or other contacts with Georgians, either in principle or before Georgia commits itself to the non-use of force in its relations with Abkhazia. Although they emphasise that speculation is rather premature, some did provide their views on the modalities of a hypothetical model. The initiative should come from Russia or Georgia, according to some, but the model should be developed by experts from all sides and in the process of dialogue assisted by an external mediator, preferably Russia or another trusted party. Others insist that it should be the Abkhaz government that takes the initiative after establishing proper customs control at the Ingur/i border and starting to process exports and imports without paying attention to Georgia's reaction. All Abkhaz respondents emphasise that any dialogue about the model has to be based on the principle of equality.

The proposal regarding a special economic zone was not met with enthusiasm. Some think it is unrealistic, as proven by previous failed attempts, while others prefer clear rules that would enable direct transactions. Those who oppose any cooperation automatically reject any special interface zones.

Respondents on both sides were not keen on discussing technical details of the possible regulatory model, such as taxation, and did not elaborate their views beyond setting political conditions, risks and 'red lines'. Some may have felt that engaging in a discussion on the details of the possible model may create an impression of them transgressing the urgent problems of their nation or downplaying the gravity of the current security and political challenges in favour of a snap judgement about cooperation.

### **Diametrically opposing views on either side regarding transit**

The issue of transit via the currently locked territories was relatively clear compared to other aspects of the hypothetical business through the 'Ingur/i gate'. Assessment of risks and utility of transit were diametrically opposite on the two sides. Those in Abkhazia who were ready to engage in theoretical discussions on economic relations considered transit as a good starting point and the least politically demanding issue, posing fewer security challenges compared to other forms of cross-conflict business operations. Some suggested that transit defuses pressure over state insignnia since the sender and the receiver are third countries, and what matters is their proper stamps and documentation, while the transit procedure may be less bureaucratic. Others saw transit as clearly more profitable and bringing tangible contributions to the budget. However, Abkhaz interlocutors stressed that the condition for transit would be either no stamps from the transit entities, or separate stamps and documents issued by Georgia and Abkhazia as two transit countries. The Georgian political class regards transit as highly risky because of both the lack of security, especially if cargo moves from Russia to Armenia, and the challenge of accessing the cargo if there is a problem with it, due to bureaucracy and corruption in Abkhazia and Russia. Yet another important argument against transit was a potential objection by Azerbaijan, which would not want Armenia to find a cheap, short route to Russia. Azerbaijan is one of Georgia's top investors and its only security ally in the region, and Georgia would not jeopardise these relationships in favour of transit via the territory of Abkhazia.

So transit is regarded more favourably by the Abkhaz side, but not without conditionality. Equal status of a transit territory with Georgia is put forward as an enabling factor. For Georgians, transit via the territory of Abkhazia is a security challenge and represents a potential weakening of close ties with Azerbaijan, a key counterweight to Russia in the supply of hydrocarbons and a security partner.

### **Neither side hopeful of political progress at the Geneva International Discussions, yet no alternative to them envisaged**

Overall, Georgian and Abkhaz politicians, officials and civil society consider the Geneva International Discussions as lacking progress, but nevertheless necessary, since there are no other platforms for formal direct communication. Abkhaz interlocutors tend to blame the Georgians for consistently blocking GID progress, while the Georgians see Russia as the main obstacle to the effective direct communication with the Abkhaz. All are aware that GID was not designed to solve problems, but this does not mean there should not be another platform or process devoted to a specific theme or problem.

Some Abkhaz interlocutors referred to the idea of opening a track for discussing economic matters or creating an economics working group within the GID format, but the idea died out for reasons unknown. They think that an economic track could serve a purpose.

### **Both sides consider the revision or abolishment of the Georgian Law on Occupied Territories as necessary for the facilitation of business across the conflict divide**

Georgians, particularly those who are in favour of cooperation with the Abkhaz, regard this law as outdated and irrelevant to present-day realities, and in need of serious revision. Some consider it harmful and a political mistake that has pushed the Abkhaz further into Russia's tight embrace. Article 6 of the law, which criminalises business activities with or in the 'occupied territories', should be abolished according to all interlocutors.



In Abkhazia, few care about the substance of this law because they reject the very notion of 'occupied territory'. Abkhaz politicians, officials and opinion-makers think that Georgia should abolish the law altogether. It has not harmed business in Abkhazia, but instead has alienated the Abkhaz for good. Some suggested that abolishing this law would send a signal that Georgia is prepared to turn swords into ploughshares and talk to Abkhazia as an equal.





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