

**DOCUMENT OF THE EUROPEAN BANK
FOR RECONSTRUCTION AND DEVELOPMENT**

**STRATEGY FOR TURKMENISTAN
REPORT ON THE INVITATION TO THE PUBLIC
TO COMMENT**

1. INTRODUCTION

Considering the sensitivities related to the Country Strategy for Turkmenistan, the Bank has taken a proactive approach to the public consultation process, beyond the standard practice and Public Information Policy requirements. The main elements of the consultation process included the following:

- A number of meetings were held with various branches of the national and local authorities of Turkmenistan in September 2009 by the Regional Director, the Political Counsellor and the Head of Office, soliciting their participation in the commenting process. All of the comments received during the consultations prior to the Board Workshop on 10th December were taken into account in preparing the draft Country Strategy. In addition, the views expressed by Directors at the Board Workshop resulted in some further changes to the Country Strategy.
- Following the Board Workshop, local NGOs were invited to meetings in Ashgabat in February 2010 for the draft Strategy to be outlined and to invite them to voice their comments on the draft Strategy.
- The draft Strategy was forwarded to NGOs, Embassies of the Bank's Member Countries with representation in Ashgabat, and the IFI and Donor representative offices in Turkmenistan, encouraging them to provide further comments.
- The Strategy was posted on the Bank's website for 45 days along with an invitation to the public to comment.
- In accordance with the EBRD Public Information Policy (PIP), which has been in effect since 1 September 2006, an invitation to comment on the new Strategy for Turkmenistan, along with a Management Note on the issues to be addressed in the strategy, were posted on the Bank's website on 14 January 2010. The public was invited to submit comments, based on the draft strategy no later than 1 March 2010.

In addition to the web invitation for comments, stipulated in the Bank's Public Information Policy, the Ashgabat Resident Office and the NGO Relations Unit in EBRD London also organised a consultation workshop on 23 February 2010 at the EBRD's Representative Office in Ashgabat. The purpose of the workshop was to provide Turkmen civil society an additional opportunity to learn about and discuss EBRD's new draft country strategy. The workshop was attended by the representatives of local NGOs. Prior to the workshop, going beyond PIP requirements, the Bank had provided local NGOs with an unofficial Russian translation of the draft Country Strategy to enable easier understanding of the text.

Also, the Bank organised a dedicated meeting for international NGOs on 1 March at the HQ in London to provide an additional opportunity for discussion.

Discussions were held during February with government stakeholders organised by the RO in conjunction with the Central Bank of Turkmenistan and the EBRD Governors office. The process has elicited comments from the CBT, Economy and Development

Ministry and State Owned Commercial Banks and the Turkmen Institute for Democracy and Human Rights and the Ministry of Foreign Affairs.

As of 1 March, comments were received from several international NGOs, from local NGOs, diplomatic missions in Ashgabat and an International Oil Company. A list of these organisations is attached in Annex A.

As required by the PIP, these comments were examined by the relevant Banking teams and Management and responses have been provided in Staff Responses to Public Comments on Turkmenistan Strategy which becomes an addendum to the Strategy. The relevant issues expressed in these concerns have been extracted and summarised in this document.

2. COMMENTS RECEIVED AND STAFF RESPONSES

There are several comments from international NGOs regarding the issue of compliance with Article 1 of the Agreement Establishing the Bank. The commentators stress that progress in the area of human rights was not genuine/systematic/credible and, thus, not sufficient to comply with the requirements specified in Article 1. Further, the EBRD is urged to continue suspension of public sector investment in Turkmenistan with possible exceptions for projects that directly affect the health, education and well-being of the general population.

A detailed account of human rights concerns, contained in the submissions from a number of NGOs, is accurate. Importantly, we agree with most comments made by them and the draft strategy clearly acknowledges the fact that *“the overall progress on implementation of the adopted laws, the rule of law and respect for human rights remains a serious concern, as assessed by specialised human rights organisations”*.

Moreover, after recognising that the situation with the implementation of the adopted laws and with upholding the rule of law and respect for human rights remains a serious concern, the draft summarising these concerns as follows: *“In particular, as assessed by specialised human rights organisations, the priority areas requiring urgent attention include the release of all political prisoners, free access of the International Committee of the Red Cross (ICRC) to places of detention, lifting the remaining restrictions on foreign travel, freedom for the media and free functioning of the civil society groups”*.

With regard to the compliance with Article 1 based on insufficient progress on human rights, it should be remembered that Article 1 is wider than just human rights. The article does not mention human rights as such, although the importance of civil and political rights for transition to the rule of law, pluralism and a market economy cannot be over-estimated.

The broader assessment of political transition (as including multiparty democracy and pluralism) is also frank and explicit in the draft document: *“Notwithstanding these changes and future democratisation plans, Turkmenistan remains a one-party state which is lacking in genuine political pluralism. Continued absence of new political parties registering in Turkmenistan, controlled media and weak civil society contribute to the environment, which is not conducive to expressing dissenting views”*.

Cumulative assessment of compliance with Article 1 also includes economic dimension, where more positive elements have been registered and acknowledged.

It is absolutely crucial to realise that a “calibrated strategic approach” applied in the draft strategy does not imply that Turkmenistan ceased to have concerns related to Article 1. The draft document sends a clear signal that, in keeping with its mandate, EBRD is not conducting “business as usual”. In other words, a modified strategic approach does not resume “normal” operations, insofar as the operating environment remains difficult and there are gaps with respect to Article 1 compliance. At the same time the modified approach allows to have operational priorities to be highly selective and tailored to specific challenges.

Political and economic benchmarks, contained in the strategy, will be actively monitored to measure progress on the political and economic dimensions of transition. The monitoring would be done at least annually in the context of a Country Strategy Update for Turkmenistan. As a result of the monitoring the strategy will be adjusted respectively depending on progress/regress achieved. The main advantage of such a calibrated approach is increased flexibility that would allow the Bank to match operational responses to changes in the economic, business and political environment.

i) Comment: EBRD Involvement in oil and gas sector should be linked evidence of increased transparency in the management of oil and gas revenues and the budget in general:

ii) Comment: EBRD should support “demand security” in the energy sector by financing projects which diversify export routes for oil, gas and electricity. This would also have a positive impact on regional security and cooperation in the Caspian and Central Asia.

Response:

The Strategy is intended to encourage environmentally sustainable investments and environmental best practice in the oil and gas sector. Recent budget reforms, and the work of UNDP and European Commission programmes in this area have demonstrated some commitment from government to a more transparent use of hydro-carbon revenues. Specifically, the Turkmen authorities have completed a draft budget code with EU assistance, ongoing work on reforming the budgetary process has started to improve the transparency of budget operations. An important step was the closure of several extra-budgetary accounts and the establishment of a stabilisation fund under the supervision of the Ministry of Finance. Since October 2008 foreign exchange revenues have been transferred into this new fund. In the short term the fund will be used to counterbalance the limited effects of the global financial crisis. Ultimately it is intended that the fund should be used to make long-term investments targeted at infrastructure, education and health. The authorities aim to model this fund on similar funds in Norway and Russia, but explicit investment rules have yet to be published.

Reports on IMF Article IV consultation missions and staff and board visits ¹ have recognised these reform efforts. However these reforms are still at their very earliest stages and the government still a long way to go in introducing international best practice. Engagement with the Turkmen Authorities is essential to ensure this process is successful.

¹ <http://www.imf.org/external/np/sec/pr/2009/pr09452.htm>
<http://www.imf.org/external/np/sec/pr/2009/pr09345.htm>
<http://www.imf.org/external/np/sec/pr/2009/pr09164.htm>

The Bank may consider selective private oil and gas sector projects with high transition impact and significant environmental gains as well as technology transfer such as gas flaring reduction projects and pipeline rehabilitation projects if, with regard to FERF and the stabilisation fund, the principles of their institutional functioning and management are disclosed and well-understood. In this case, Bank will mainly focus on reputable foreign companies or joint ventures, with proper bidding process, transparent revenues and procurement arrangements, with international best practice in environment and those following EITI principles.

Such criteria would also be applied to investments in “demand security” in the energy sector as a whole. While demand security is not proposed as specific strategic orientation, EBRD recognises the importance of this issue for national economic development and regional security, and will ensure that any EBRD investments in this sector seek to advance this.

iii) Comment: EBRD’s proposed expansion into infrastructure finance and state owned enterprises will strengthen a corrupt and un-democratic regime.

Response:

EBRD investment in the infrastructure sector will be based on a transition programme which will include the introduction of specific reform measures. The emphasis will be on introducing commercial principles in such operations, including movement towards cost recovery.

Investment in infrastructure will be predicated upon effective policy dialogue on sector reform particularly focusing on: advancing the commercialization and eventual private sector role in these sectors; enabling independent market participants’ access to the infrastructure; compliance with internationally accepted standards for addressing the environmental impact of new facilities.

Any engagement by the Bank will require high corporate standards, transparent financial statements, adequacy of management and viable operations. The Bank will consider supporting exceptionally good projects which have a strong potential for success and a high transition impact. Project-specific quantifiable targets and deadlines would be set including in the respect of competitive tendering and transparency of the process. Any projects in the infrastructure sector must contain provision for accelerating the bank’s exit from the investment if compliance of government agencies with the accepted conditions are not met within a reasonable time frame.

The draft strategy makes specific reference to the Turkmenbashi Port rehabilitation as a potential investment during the next strategy period. This has been highlighted in comments received as a potential source of regional destabilisation. We do not agree with this assessment and conclude that a well run commercial port facility will increase Turkmenistan’s interaction with its natural trading partners and will enhance regional cooperation.

iv) Comment: EBRD should refrain from any project in the state sector and in the oil and gas sector in general until there is a significant improvement in human rights:

Response:

EBRD shares the concern of the NGO community with regard to the Human Rights record of Turkmenistan. The Bank will continue to monitor the human rights situation in the country and in particular will be looking, through policy dialogue to progress toward genuine political pluralism and meaningful political accountability, including the strengthening of checks and balances in the political system, removal of impediments to registration and free functioning of NGOs and even-handed application of the rule of law. Substantial progress is required in increasing media freedom and freedom of expression and further significant progress in improving the country's human rights record. We firmly believe that our engagement in Turkmenistan is the best way to make a contribution to further progress in the significant challenges facing the country for the development of a pluralist society.

v) Comment: EBRD should focus on increasing access to finance for SME, improving the business climate and training of Turkmen entrepreneurs.

Response:

Support to SMEs and the development of the private sector remains the key goal of EBRD operations under the proposed country strategy. Currently EBRD supports small and medium sized enterprises (SMEs) through the direct lending and direct investment facilities for debt and equity financing respectively. EBRD is currently conducting a feasibility study for a privately owned Micro and SME finance bank together with the Turkmen Union of Entrepreneurs and is working with two local commercial banks on developing SME credit lines. All of these activities are designed to increase access to finance for the burgeoning private sector.

The government has a goal of diversifying the economy by developing the private sector to account for at least 70% of non gas GDP. The government accepted several recommendations made by EBRD in the drafting of the new SME support law which was ratified by parliament in August 2010. In addition to grass roots businesses the government has recently announced small scale privatisation of some state owned food producers and retailers. This is an important moment in the economic and political development of Turkmenistan and continued engagement with the government is essential to ensure maximum transition impact.

vi) Comment: the participation of Turkmen public in the discussion of the strategy is not efficient due to the lack of a Russian version of the document which has significantly restricted the number of participants who can participate in the discussion. However, in accordance with the Public Information Policy (PIP), only the final version of the strategy is translated. This requirement significantly limits the public's efficient participation in the decision making process at an early stage. That is why we would like to emphasize the necessity to introduce appropriate changes into the Bank's PIP. A Russian translation of the strategy should be provided to NGOs to get more parties involved in the discussion.

Response: These comments are noted. The Bank's Public Information Policy does not, at present, provide for translation of country strategies into local languages prior to approval by the Board however an unofficial translation was made available locally. The final Country Strategies approved by the Board of Directors are translated into official languages. The Bank will take the NGOs view on the subject into consideration.

Annex A

Organizations which provided their comments during the consultation process on the EBRD Strategy for Turkmenistan:

- 1) Human Rights Watch
- 2) Crude Accountability
- 3) Global Witness
- 4) CIVICUS: World Alliance for Citizen Participation
- 5) CEE Bankwatch Network
- 6) Shell
- 7) Open Society Institute
- 8) Turkmen civil society activists
- 9) Local NGO #1 (Turkmenistan)
- 10) Local NGO #2 (Turkmenistan)
- 11) Initial comment on Russian version from: Kazakhstan Human Rights and Law Enforcement International Bureau (Kazakhstan), «Taraqqiet» (Tajikistan), Ecology Right Center “Armon” (Uzbekistan), «EcoMuseum» (Kazakhstan), Crude Accountability (Kazakhstan), «Green Salvation» (Kazakhstan)
- 12) NGO letter signed by:
 1. Andrey Zatoka, Member of International Social-Ecological Union, former prisoner of conscience
 2. Farid Tukhbatullin, Turkmen Initiative for Human Rights, Vienna, Austria
 3. Igor Golubenkov, Saving Taman!, Taman, Russia
 4. Vitalii Ponamarev, Memorial, Moscow, Russia
 5. Mika Minio-Paluello, Platform, London, United Kingdom
 6. Susie Crate, George Mason University, Fairfax, Virginia, USA
 7. Adina Matisoff, Friends of the Earth, US
 8. Sukhrobjon Ismoilov, Rapid Response Group, Uzbekistan
 9. Julia Kalmykova, Karaganda Ecological Museum, Kazakhstan
 10. Rustam Murzakhanov, NGO Environmental Law Center, “Armon,” Tashkent, Uzbekistan
 11. Huub Scheele, Both ENDS, the Netherlands
 12. Regine Richter, Urgewald, Germany
 13. Inga Zarafyan, Ecolur, Armenia
 14. Bakhadyr Namazov, Committee to Free Prisoners of Conscience, Uzbekistan
 15. Inessa Shlapak, Journalist, Kazakhstan
 16. Elena Gerebizza, Campaign for the Reform of the World Bank, Italy
 17. Nino Gujariadze, Association Green Alternative, Georgia
 18. Klara Sutlovicova, Centre for Transport and Energy, Czech Republic
 19. Svet Zabelin, Co-chairman of the Council, International Socio-Ecological Union
 20. Nick Hildyard, The Corner House, United Kingdom
 21. Molly Clinehens, International Accountability Project, USA
 22. Andrey Yurov, Moscow Helsinki group, International Youth Human Rights Movement, Russia
 23. Dmitri Makarov, International Youth Human Rights Movement, Russia
 24. Viktoria Gromova, International Youth Human Rights Movement, Russia
 25. Maria Gordeeva, "Free University", Russia

26. Anastasia Nikitina, Public Movement "Young Europe", Russia
27. Anna Dobrovolskaya, International Youth Resource Center "Human Rights and Civic Actions",
Ukraine

- 13) Embassy of the USA
- 14) Embassy of the United Kingdom
- 15) Embassy of Belarus
- 16) Embassy of Turkey
- 17) Embassy of Romania