



SPECIAL STUDY

EvD Evaluation of the Legal Transition Programme

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Abbreviations

ASB	Advice for Small Business
CGAP	Corporate Governance Action Plans
CoO	Country of Operation
CSO	Civil Society Organisation
CSEU	Civil Society Engagement Unit, EBRD
EBRD	European Bank for Reconstruction and Development
EPG	Economics, Policy & Governance, EBRD
EvD	Evaluation Department
GPA	Governance and Political Affairs, EBRD
ICGI	Investment Climate and Governance Initiative
IDLO	International Development Law Organisation
IDR	Insolvency and Debt Restructuring
IFC	International Finance Corporation
LTP	Legal Transition Programme
LTT	Legal Transition Team, EBRD
MDA	Multi-Donor Account
MDB	Multilateral Development Bank
MoU	Memorandum of Understanding
OCCO	Office of the Chief Compliance Officer, EBRD
OCSE	Organization for Security and Co-operation in Europe
OECD	Organisation for Economic Co-operation and Development
OGC	Office of the General Counsel, EBRD
PP	Public Procurement
PPD	Private Public Dialogue
PPP	Public Private Partnership
SME F&D	SME Finance & Development, EBRD
SSF	Shareholder Special Fund
TC	Technical Cooperation
UNCITRAL	United Nations Commission on International Trade Law
VP3	Vice Presidency on Policy and Partnerships, EBRD
WB	World Bank
WTO GPA	World Trade Organisation Global Procurement Agreement

Executive Summary

The Legal Transition Programme (LTP) is the EBRD's flagship provider of legal and regulatory advisory work and technical assistance, combining it with investment activities to support legal reforms needed to strengthen investment climates and build markets. LTP activities are intended to provide and to demonstrate the critical links between the Bank's discrete investments and the wider systemic reforms and transition that it was created to help drive. LTP work touches every EBRD Country of Operation and virtually the full range of the Bank's lending and non-lending operations.

The Evaluation Department (EvD) was asked by the Board of Directors to evaluate the activities and performance of the LTP between 2011 and 2018, and to assess Management's implementation of recommendations made by EvD in its previous evaluation of the Programme (2012). This paper provides an overview of LTP operations over the period, identifies key findings and conclusions, and makes recommendations for consideration by Management and the Executive Board.

Key Findings – Substantial Positives

- The LTP is the Bank's single largest, highest profile, and probably most important advisory operation, providing analysis and hands-on input on a range of legal issues from the transaction level to the country level. Its four key work areas are: international legal standards and best practices; country legal assessments and diagnostics; support for legal reforms and building the institutional capacity; outreach and knowledge sharing.
- LTP work, which is primarily demand-driven, is highly appreciated by external clients and sought-after by internal Bank teams; LTP is active in every COO and most sectors.
- By bundling highly-focussed legal support with mainstream operational work across 25 years the LTP has become a distinctive institutional asset for EBRD in its efforts to improve investment climate in the countries of operation. It is a key part of EBRD's unique institutional "offer" and a key differentiator versus other IFIs and private sector financiers.
- LTP activities contribute significantly to estimates of expected transition impact, especially under the 'well-governed' and 'competitive' Transition Qualities. A high intensity of LTP interventions, delivered in close partnership with other Bank departments, is associated with greater improvements.
- LTP's internal visibility has improved and it is one of the most active parts of the Bank in sharing knowledge products, though there is substantial need and unexploited potential for better knowledge management.
- LTP contributes to delivery of country strategic priorities and priority policy objectives (PPOs). Uptake of LTP reforms is significant in many countries and some achieved substantial break-through. Evidence suggests long-term engagement with multiple partners enhances reform prospects.

Key Findings – Areas for Focus and Improvement

- LTP's strategic importance and distinctiveness is not as effectively supported as it could be by organisational, managerial, strategic, resourcing tools and practices commensurate with its institutional role or with the strong claims made for its transition contributions.
- While the LTP is broadly aligned with EBRD strategic directions and priorities it appears to play no particular role in shaping them. Its demand-driven model has been pragmatic but lacks an articulated strategy of its own. Operational planning has largely disappeared even as activities have tripled.
- While it is possible to identify specific LTP contributions on a shorter-term or transactional basis, there is very little ability to describe longer term expected accomplishments or to substantiate them empirically. As is common in the Bank, LTP does not track project results beyond implementation and only occasionally tries to measure outcomes.

Special Study : Legal Transition Programme

- As a result there is a disconnection between demonstrable LTP's provision of specific legal solutions and its plausible "ownership" of the larger, longer-term change that is at the heart of transition.
- LTT engagement in high-level policy dialogue is largely reactive and often reliant on additional leverage from cooperation with other IFIs. Collaboration with other institutions on the ground, generally on a supporting basis, tends to be good but also largely ad hoc. There is scope for more planning and prioritisation when moving into new areas.
- LTP's management and operational processes share most of the missing features and design deficiencies of the EBRD's technical assistance and policy advisory work more broadly. Well covered elsewhere these include: lack of strategic planning; absence of results frameworks and clear success indicators; poor information and data management; limited extraction and re-application of accumulated knowledge and experience.
- The LTP portfolio tripled over the evaluation period, but funding and headcount remained essentially unchanged.
- LTP funding has been multi-source and highly variable, coming almost exclusively from outside the Bank's core budget. It has been difficult to set programme reform work that requires sustained engagement and predictable budget.
- A previous commitment (following EvD's 2012 evaluation) to integrate results frameworks and measurable objectives into LTP operational planning and reporting has not been delivered.

The following sections identify a number of more specific evaluation findings, followed by Recommendations

Operations and Resources

- LTP operations have never been funded from core budget resources; they rely heavily on the Shareholder Special Fund and multi-donor funds. There have been significant year-to-year variations in overall funding, creating a real obstacle to longer term planning and programmatic consistency.
- There is heavy reliance on local RO staff without legal expertise to track projects on a day-to-day basis. Intensive use of external consultants allows delivery of a large and diverse portfolio but can create apparent conflicts of interest and undermine confidence in LTP policy advice.

Strategy, Monitoring and Reporting

- Larger, Bank-wide changes have led to a proliferation of priority themes/ sectors and iterative changes in LTP themes and focus areas, on top of the realities of a demand-led approach. In the absence of a unifying LTP strategy or approach the wider strategic picture is confusing.
- LTP strategic planning and reporting has become less informative in recent years. Monitoring and reporting are short-term; reporting against a country accountability framework rarely goes beyond activities and outputs
- Departmental reports do not compare achievements with targets from OPs and do not provide consolidated reporting against transition qualities or PPOs. The best source of compact and coherent information on long-term results and impact, anecdotally, is LTP's annual edition of Law in Transition.
- There is no usable database of policy dialogue activities, including for the LTP; EvD had to construct its own for the purpose of this report.

Recommendations

EvD's assessment of LTP activities over much of the past decade confirms areas of substantial strength and institutional value. However, it also identifies significant need and opportunity for change. Specific concerns in some cases reiterate those identified in EvD's previous evaluation of nearly a decade ago. Others, such as with respect to strategic focus, results frameworks,

resourcing, and knowledge and data management track closely with wider institutional issues and could be addressed as part of a larger effort.

Specific recommendations are:

1. Management should complete a comprehensive review of LTP's institutional position, objectives, scope of work and funding model. The review should be part of and feed into the ongoing SCF 2021-2025 work on better integration of policy engagement and investment operations. This could be closely coordinated with Management's recently announced review of EBRD's Enhanced and Comprehensive Approach to Policy Reform Dialogue (EA). It would be valuable specifically to consider two scenarios:
 - (i) Integrate the LTP into Client Services Group within a single Policy Function under Vice Presidency for Policy and Partnerships, where its priorities and scope is defined by clearly operationalised Enhanced Approach to Policy Reform Dialogue, its mid-term planning, monitoring and evaluation is performed consistently and systemically;
 - (ii) Continue LTP as a stand-alone operation within OGC, but develop for Board review a detailed strategic plan, resource envelope, scorecard and reporting line to Client Services Group via Strategy and Policy Committee.
2. In any scenario LTP resources should be specifically estimated against strategic goals and the actual demand for TC projects and expertise in specific areas. LTT's on-the-ground presence should be enhanced in the countries with the greatest needs for legal and regulatory support. If the Bank is unable to increase LTP's core funding, resources should be prioritised on a limited number of sectors and countries with the greatest need.
3. LTP's planning and reporting for non-transactional policy engagement should be aligned with its long-term horizon, it should be based on well-defined results framework anchored to the Bank's transition qualities and connected to country-level objectives. Theory of Change prepared by the evaluation team could be used as a basis for developing the framework.
4. LTT's capacity to build results chains and provide evidence of its contribution to transition impact should be enhanced, along with the reporting and knowledge sharing standards.

Introduction

Introduced initially as an ad hoc technical assistance resource, the Legal Transition Programme (LTP) over the years has become the EBRD's key driver of legal reforms in its countries of operation (CoOs) across a wide range of sectors and strategic initiatives. It combines the Bank's own resources and dedicated donor funds to deliver a range of activities and tools with the ultimate objective of enhancing the investment climate in CoOs: *"The programme aims to reduce legal impediments to investments and to encourage the creation of legal rules and institutions necessary for a vibrant market economy"*.¹ Thus, LTP enables investors, including the Bank, to finance clients across a range of national policy contexts and regulatory regimes, while ensuring there are institutional, legal and expert capabilities to establish and maintain internationally accepted standards and practices.

Internally, the LTP plays an important role in driving forward policy reform dialogue in CoOs in close collaboration with other teams.² It achieves this through its active participation in preparing and delivering country strategies, country diagnostics and flagship initiatives aimed at improving governance standards and the rule of law, for example in the framework of the Green Transition and Investment Climate and Governance Initiative (ICGI). LTP's legal assessments for sectors and regions provide valuable evidence for defining the most challenging elements of legal and regulatory regimes that inhibit investments and growth. LTP's technical cooperation (TC) projects enable engagement with key decision makers to support necessary policy reforms and institutional changes. On the other hand, LTP provides crucial expertise for enabling and implementing the EBRD's individual investment operations by enhancing the standards of good governance and strengthening the specific technical and legal expertise of corporate and public sector clients.

This evaluation is one of the regular reviews of LTP's work – EvD previously evaluated the LTP's performance in 2001 and in 2012.³ The evaluation team has used the findings of the 2012 review as the baseline for measuring progress in the programme's delivery and results. The findings and recommendations from the 2012 review led to changes in the LTP's 2013-2015 operational plan. Validation of actual changes in LTP's delivery mechanisms and results management is one of the objectives of this evaluation. It also assesses the programme's strategic fit in light of the recent changes in the Bank's policies and strategies, particularly the CRR/SCF, the Enhanced Approach to Policy Dialogue, the 2016 Transition Concept update, and the new approach to country strategies as a key accountability framework. The current evaluation analyses the LTP portfolio of projects approved and implemented over the period 2011-2018, with a specific focus on the results of LTP's activities, their impact and sustainability.

This report provides an overview of the scope and methodology of the evaluation (Chapter 1), LTP's governance and accountability principles and practices (Chapter 2), the portfolio of projects and their immediate results (Chapter 3), long-term results and the impact achieved (Chapter 4). Annexes include three deep dive case studies in key LTP work sectors: Insolvency, Debt Restructuring and Enforcement; Public Procurement; and ICT & Knowledge Economy, as well as results of surveys and other relevant pieces of analysis and evidence.

1. Scope and methodology of the evaluation

- Following on from evaluations in 2001 and 2012, this study focuses on selected, strategically relevant elements of LTP work rather than review the entire LTP portfolio, which grew three-fold in the last eight years

¹ SGS15-065 Legal Transition Programme - Action Plan: 2013-2015 – Update Note

² OGC Departmental Scorecard 2018

³ PE11-537 Legal Transition Programme Review, 2012; PE01-178 Legal Transition Programme Mid-term Review, 2001

- The team identified several evaluation questions (EQs) that guided the analysis and shaped the findings and recommendations of this report
- They focus on prioritisation of resources, cooperation with other institutions, contribution to impact in terms of behaviour change and culture change both in countries of operation and within the Bank itself, and sustainability of impact
- As LTP does not have its results framework EvD has developed a Theory of Change (ToC) to capture the intended effects of the LTP on the ground in countries of operation. It recommends using it when going forward in planning future LTP activities and reporting their effects

1.1. Evaluation scope

This evaluation looked into the activities identified in the LTP's mid-term operational plans (OPs) covering the period 2011-2018, spanning four operational periods: 2010-2012 (SGS09-341), 2013-2015 (SGS12-252), 2016-2018 (SGS16-221(Add 1)) and 2017-2019 (SGS17-099 with updates in SGS18-055). The recommendations from EvD's 2012 evaluation were delivered in time for the preparation of the LTP 2013-15 OP, therefore the analysis of the 2011-2012 activities was limited to a portfolio "health check" and strategic analysis is focused on 2013-2018 period.

This study focuses on strategically relevant elements of LTP work in place of a detailed project-level performance review of the entire LTP portfolio. The portfolio has increased threefold in both volume and number of projects compared to the previous evaluation period (2001-2010), making a project-by-project review impractical. EvD did not request a self-evaluation from LTT, but relied on project level reports and semi-structured interviews with all LTP counsels.

EvD prepared deep dive case studies on three areas of LTP work: Insolvency, Debt Restructuring and Enforcement; Public Procurement; and ICT & Knowledge Economy (see annexes 6-8). For each of these three portfolios the evaluation team performed a review or validation (when feasible) of individual TC projects, presented in Annex 9. The evaluation team visited three countries: Serbia, Tunisia and Ukraine. To add value, the evaluation team used evidence from several recent relevant special evaluation studies, particularly Investment Climate Support Activities (2018) and EBRD-Ukraine Stabilisation and Sustainable Growth Multi-Donor Account (2020). It also took on board some key elements and messages from other evaluations (e.g. EBRD's Experience with Policy Dialogue in Ukraine (2014), EBRD Country Strategies (2019), SEMED Policy Dialogue (2020), etc).

1.2. Evaluation questions

The team identified several evaluation questions (EQs) that guided the analysis and shaped the findings and recommendations of this report. After more than 20 years of substantial contribution to delivering the Bank's mandate in CoOs the study does not focus on LTP's relevance, which is not in doubt.⁴ This issue has been extensively covered in two previous evaluations, and since the programme's rationale and context remain largely unchanged, this evaluation will focus elsewhere. The emphasis of the evaluation is on efficiency, effectiveness, impact, and sustainability, both externally (benefiting the country) and internally (benefiting the Bank's own policies and operations). In particular, the study provides inputs into EvD's ongoing strategic work to support a stronger results focus and architecture, strengthen the linkages between transactions, advisory work and wider transition objectives, and feed experience more effectively back into operational design and execution.

⁴ According to OECD DAC Criteria for evaluating development assistance, relevance is interpreted as the programme's suitability to the priorities and policies of the target group, particularly answering the questions (i) to what extent are the objectives of the programme still valid; (ii) are the activities and outputs of the programme consistent with the overall goal and the attainment of its objectives; (iii) are the activities and outputs of the programme consistent with the intended impacts and effects?

The evaluation questions, as identified in the Approach Paper, are:⁵

1. Has the evolution of LTP's approach to formulating priorities, selecting operations and deploying resources in the evaluation period been consistent with the Bank's strategic and operational changes and recommendations from EvD and others?

Influenced by EvD's 2012 Review recommendations, SCF 2016-2020, Enhanced Approach to Policy Reform Dialogue, Transition Concept 2016, new Country Strategy and Results Management frameworks.

2. How do the LTP's individual activities contribute to the delivery of systemic policy results in CoOs? Is sufficient evidence gathered, synthesised and shared across the Bank to support the LTP's strategic role in delivering the Bank's mandate?

Focussing on (i) mid-term outcomes of legal assessment and legal reform projects in CoOs, and (ii) their influence on the Bank's strategic priorities, Strategic initiatives and the operational approach to investments (through country strategies).

3. Can change be observed in the uptake of LTP recommendations in the countries of operation and inside the Bank? Do changes appear to be sustainable?

Focussing on long-term outcomes and impact in the countries of operation, with evidence gathered from Bank's own transition data and international rankings most relevant to LTP's core work streams.

4. What are the LTP's objectives for external collaboration with other institutions and how well has it performed?

Focussing on partnerships and co-ordination with other IFIs, donors, international organisations specialising in legal reform, its implementation and capacity building.

The questions guided the development of the **evaluation matrix** (Annex 1) that stipulates the judgement criteria, indicators and sources of information used in the analysis. A detailed methodology of the evaluation is presented in Annex 2.

1.3.Theory of Change

EvD has developed a **Theory of Change (ToC)** to capture the intended effects of the LTP on the ground in countries of operation as the LTP does not have one (see Annex 3). EvD developed the ToC both for use in this evaluation and as a possible contribution to future strategic planning for the programme. It was based on the Bank's strategic documents, including the Transition Concept, the Theory of Change for EBRD Transition Impact, the Compendium of indicators, and the LTP OPs over the evaluation period. Each case study followed the logic of the ToC and presents key facts and findings accordingly. It was also used to formulate the long-term results and impact discussed in Chapter 4. Highlighted elements of the ToC form the scope of evaluation:

- **Legal assessments and law reform projects** constitute the majority of LTP's activities. Analysing those, particularly in the three case studies, enabled EvD to answer questions regarding the LTP's efficiency, mobilisation and deployment of resources, and delivery mechanisms (based on project data, survey and interview data);
- **Mid-term outcomes:** the LTP reports and information in various databases focus on project level activities and results, thus limiting the evidence to outputs. The evaluation focuses its analysis and research on mid-term outcomes, as reported by the Bank, countries of operation and international indices/rankings (based on data from the Bank and external sources);

⁵ [Approach Paper](#)

- **Long-term outcomes contributing to the uptake of reforms:** identified elements are analysed to seek evidence of LTP’s contribution towards improving a country’s capacity to implement/enforce reform in relevant fields with a high intensity of LTP activities (based on CSDR data, annual transition indicators and data from external sources);
- **Long-term outcomes contributing to changed behaviour:** although the most difficult to measure, EvD has attempted to map the LTP’s footprint to changes in both external and internal perception/behaviour (based on survey, interview data and data from external sources).

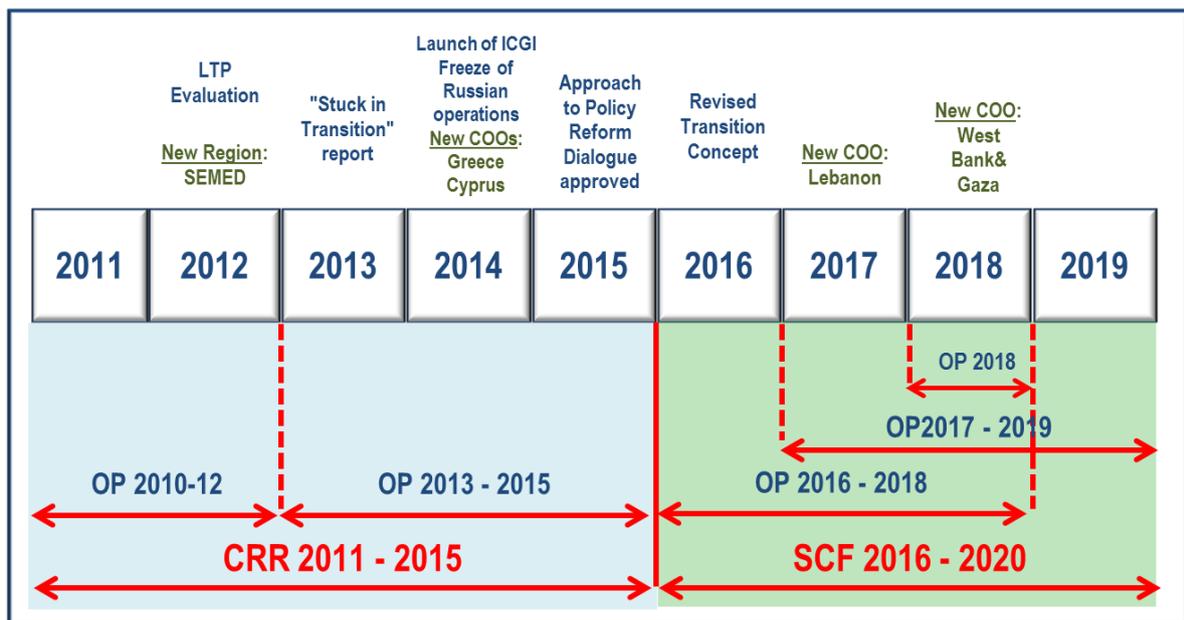
2. Governance and Accountability of LTP

2.1.Strategic Alignment

- LTP is aligned with all EBRD core strategic documents, but has no real role in shaping them
- It contributes along all six transition qualities, with a particular focus on ‘well-governed’ and ‘competitive’
- LTT is involved in design and delivery of all country strategies, and of some ICGI memoranda of understanding launched in 2014 to anchor the Bank’s investment climate work

During the evaluation period, the LTP’s OPs were strategically anchored to the Capital Resources Review 4 2011-2015 (CRR4) and the Strategic and Capital Framework 2016-2020 (SCF), as well as three-year rolling Strategy Implementation Plans (SIP) which define the programme’s priorities and areas of intervention. In CRR4, legal transition was referred to as an instrument for delivering the sound investment climate and strong institutions that are essential for functioning markets: *“A sound investment climate is based on a supportive and effective legal and regulatory framework, integrity and sound corporate governance, transparency and accountability of public administration, a firm stance against corrupt practices, fair and predictable taxation, and transparent accounting. The Bank will pursue clearly defined and achievable progress in these areas through project design, monitoring and through its work on legal transition.”*⁶

Chart 1. Timeline of evaluation period



Source: EvD own elaboration based on corporate documents

⁶ BDS10-020 (Rev 2) Capital Resources Review 4: 2011-2015; BDS15-013 (Final) Strategic and Capital Framework 2016-2020

Between 2015 and 2017 the Bank introduced the Enhanced Approach to Policy Reform Dialogue, the new Transition Impact Concept and the new approach to Country Strategies incorporating priority policy objectives. These were intended to create a new strategic framework for policy reform dialogue. Chart 1 above illustrates the key internal milestones during the evaluation period that affected both the thematic and geographic scope of LTP's activities analysed in the following chapters. According to various internal stakeholders and the team's own opinion, with very few exceptions LTT had no real role in shaping these documents, though they all refer to the Legal Transition Programme when describing the Bank's role in policy dialogue.

SCF 2016-2020 focused much more strongly on delivering structured policy reform dialogue and embedded six new transition qualities that define the scope of the Bank's investment and non-investment activities. Specifically, strengthening LTP delivery is mentioned as crucial for achieving the SCF's Resilience priority with the objective "[of strengthening] the resilience of reforms by promoting good governance institutions, inclusiveness and robust economic structures. To this end, the Bank will build a more structured policy dialogue capacity to foster transition, including through an ICGI targeting country-level frameworks and through further strengthening its toolkit such as the Legal Transition Programme".⁷

LTT contributes to improvements along all six of the new transition qualities (TQs) introduced in 2016, with a particular focus on 'well-governed' and 'competitive'. OP 2016-2018 included a schematic map for each of the six qualities, showing how the various LTP activities and initiatives contribute towards them. However, LTP's work is mainly focused on investment climate improvement and building stronger institutions supportive of open markets. The Investment Climate Support Activities Evaluation (2018)⁸ highlighted LTT's critical role in improving the investment climate in CoOs. Since the EBRD has no established "investment climate" strand of work per se, it is illustrated by a combination of activities along well-governed and competitive transition qualities. The well-governed transition quality is defined as "authority, decision-making and accountability in all domains. At its core, governance is about the quality of institutions and the process they support."⁹ Competitiveness is defined as the country's position in international trade, the interactions among firms in a market, the strength of a single firm or its capacity to generate value added.

There is no uniformity of opinion among LTT counsels on the impact on LTP of shifting from the previous Transition Impact system to six TQs. Some noted their contribution to prioritising LTP work. Others noted that the TQs are too broad and can be artificially applied, especially with a limit of 1-2 TQs per project; and that the new matrix in some ways eroded the basis of their work compared to the previous one, as it disperses activities across different TQs where it was previously concentrated on 'frameworks for markets'. Some reported no noticeable change. The latter opinion could, indeed, be the case, as LTT does not use transition qualities (TQs) at project level except to justify the project at concept stage. This is not unique to LTT; it is universal across the entire TC portfolio and it has been noted repeatedly.¹⁰

LTP is embedded in the Bank's Enhanced and Structured Approach to Policy Reform Dialogue (2015), where its model of policy reform engagement was distinguished as highly effective and recommended for replication. However, as revealed in the recent SEMED Policy Dialogue evaluation (2020), implementation of the Approach is slow and inconsistent, and the results are difficult to observe due to the lack of internal review procedures and inadequate information (collection, synthesis, storage, distribution and access). The Board approved the Enhanced Approach a few months after the SCF was adopted at the 2015 Annual Meeting; therefore it is not incorporated into the SCF.

As of 2017, the Bank's country strategies are defined as a key accountability framework for its activities, including for policy teams like LTT. A country's mid-term policy priorities are operationalised through annual priority policy objectives, where progress in implementation is monitored through annual country strategy delivery reviews (CSDR). For the moment,

⁷ BDS15-013 (Final) p. 14

⁸ SS15-086 EvD Special Study "The EBRD's Investment Climate Support Activities" (2018)

⁹ BDS16-181 Transition Concept Review, November 2016

¹⁰ EBRD-Ukraine MDA (2020), Evaluability of TQs (2020)

country strategies and CSDRs represent the only aggregated accountability framework with the ability to provide evidence on the achievement of policy and regulatory outcomes. A recent evaluation of country strategies states that *"The integration of policy priorities within country strategies and CSRFs is improved, and the importance of policy activities' contribution to transition has been elevated to equal importance with investments. However, they don't share the same level of transparency with respect to operationalisation and implementation. Specifically, it is not possible to get a comprehensive overview of ongoing policy engagements by country from current systems, including Board Online Information."* EvD analysed LTP's priorities and its portfolio through the prism of country strategies. **All of them** have at least one priority where EBRD's interventions include LTP's contribution, and in many cases these are multiple, reflecting wide sectoral coverage of the programme. The new format and processes are only recent, however EvD found little value in looking back into historical strategies.

In 2014 the EBRD launched a new strategic framework at the country level - MoUs in respect of cooperation to support the investment climate and governance. It is part of the EBRD's Investment Climate and Governance Initiative (ICGI) and includes a commitment from the partner government to address the greatest challenges to investment, taking the country strategy one level up in terms of mutual commitments and responsibilities. MoUs cover such areas as (i) strengthening public-private dialogue; (ii) building recourse mechanisms for private sector firms; (iii) building capacity in state institutions responsible for economic governance; and (iv) enhancing transparency in business reporting and streamlining business regulation. LTT takes part in the design and delivery of some of these MoUs - counsels mentioned being engaged in the development of the ICG MoU with Jordan, Albania and Belarus, and being involved in their delivery. In other cases there is knowledge but no evidence of material engagement.

2.2. Internal co-ordination and demand for LTP work

- LTT's work programming is based on extensive collaborative linkages with all key Bank departments.
- Coordination between Banking and LTP follows from the needs-based and demand-driven nature of the programme

LTT's work programming is based on extensive collaborative linkages with all key Bank departments. Strategic and stand-alone policy work is closely coordinated with other policy departments, such as EPG, LC2, E2C2, OCCO, CSEU, PPAD, DCF, as well as with in-country banking teams who are often the key initiators and drivers behind policy and regulatory projects. Banking teams form another significant cluster of main LTT counterparts – counsels maintain close links with the operation leaders (OLs) who request support in relation to specific transactions. The engagement is particularly strong with the Financial Institutions, Sustainable Infrastructure, ICT, Natural Resources, Industry, Corporate and Agriculture teams. Some teams have their own policy hubs (i.e. SI3P in Sustainable Infrastructure) and LTT counsels might have particularly close relations with the experts there. The work of corporate governance lawyers is integrated with that of all banking teams, as clients often require support in this area. The last comprehensive LTT annual report (2017) maps LTT's internal partnerships by team.

Coordination between Banking and LTP follows from the needs-based and demand-driven nature of the programme. As was noted in one of the interviews: *"We rarely do things just for the sake of doing. The bankers clearly identify the needs for the intervention – whether at the level of individual client (case of corporate governance) or at the level of sector or entire country (case of cross-cutting initiative)."*¹¹ It should be noted that some LTT positions have originated in other departments or were created at the particular request of specific banking or policy teams. This was the case with the public procurement practice, PPP and energy efficiency.

Coordination with country teams in Banking follows from demand-driven services provided by the LTT to partner governments – a written government request for intervention/assistance is an obligatory prerequisite for initiating a TC project/policy advice activity. Country directors/heads have a critical role in the process of formulating the internal request

¹¹ Interview with the legal expert for the Investment Climate Support evaluation (2018)

where a need exists, engaging with the local stakeholders to acquire written commitment, and often maintaining relationships when the project is being implemented. Their support is essential for getting the necessary donor funding.

LTT has multiple linkages with VP3, particularly the Economics, Policy and Governance (EPG) department. It is a core partner in developing country strategies (led by CSRМ), country diagnostics (led by country economists); and country legal practical guides (led by country lawyers). LTT is a crucial stakeholder in delivering the Bank's Investment Climate and Governance Initiative (ICGI), which is managed by the EPG's Governance team. It is part of the Steering Group that oversees the work of the investment councils supported by the EBRD.¹² It shares headcount position with SI3P (in PPP), and maintains very close links with the Vienna Initiative team based in EPG. There are close relations with the LC2 department, although both parties admitted that more coherence in actions and better sharing of information is needed for even greater synergy. In the last five years demand has grown for LTP's inputs in the SME and inclusion elements, particularly in relation to access to finance for disadvantaged population groups – therefore LTT works closely with SME F&D and Gender and Inclusion teams. Historically there is a strong connection between PPAD and public procurement practice at LTT, however the former focuses heavily on policy work related to the Bank's business model and investments (adherence to the Bank's procurement rules and procedures), while LTT's work is not related to transactions and concentrates solely on enhancing the capacity of partner government institutions to design, implement, enforce and oversee procurement policies that are congruent with international standards and best practices. PPP counsels engage closely with the Sustainable Infrastructure department, which has the majority of PPP and concession projects. Collaboration with OCCO is close in the areas of integrity and transparency – key elements of a corporate governance system – where LTT's individual case work could be scaled up to provide demonstration and training material for larger groups of companies and banks. Engagement with CSOs in a number of work streams – public procurement, natural resources, energy efficiency – is closely coordinated with the CSEU team. Due to its funding model, LTT has close links with the Donor Co-financing Team (DCF).

LTT has extensive linkages to other OGC teams, particularly country lawyers, as LTP's work has a strong country focus but its internal structure and expertise is traditionally arranged by sectors. LTT complements OGS's country legal work (including legal practical guides) with its strong sector expertise. Objectives in OGC's scorecard related to transition and policy dialogue are largely delivered by LTT.

2.3.Perceptions of LTP coordination and complementarity

- LTP tailors its work to individual country needs and environment much more successfully than it used to
- Its capacity for high-level policy dialogue is relatively weak, because of a lack of leverage; it is described as a “troubleshooter”
- Its complementarity and coordination are good but the Bank overall offers too many different “boutique” products which can confuse clients; there is a role for a stronger strategic overview of policy dialogue
- Its ability to offer a comprehensive package in focus areas is appreciated

EvD asked EBRD colleagues to assess the level of coordination with LTT during semi-structured interviews and through a survey where 28 respondents provided their opinions (see Annex 11 for survey details). More than half of survey respondents collaborate with LTT systematically, the majority for more than five years. Policy engagement is the single most frequent area of collaboration, followed by judicial training and capacity building as well as transactional collaboration. Twenty-six percent of colleagues collaborated in the sphere of corporate governance, followed by public procurement (18%), dispute resolution (15%) and access to finance (12%). Below are the key points that emerged:

¹² At the end of 2018 the EBRD supported investment council secretariats in Albania, Armenia, Georgia, Kyrgyz Republic, Moldova, Tajikistan, Ukraine.

- **Interviewees noted a shift in LTT's business proposition to a much more country tailored approach, rather than generating generic studies and taking model laws to multiple countries.** Usually there are *"two-way discussions where some issues are driven by LTT and others by bankers (with significant country expertise)"*. Some countries are not ready for model laws and require a simpler solution that can work in the local context, upon which further enhancements could be built at later stages – one example being Ukraine with Concessions legislation that is fit for the local framework and has already delivered two successful investment projects (jointly with IFC). At the same time, in countries where the EBRD has become active more recently (SEMED region) the opinion was expressed that LTT's engagement is not as strong as it was at the beginning and it is not very relevant for the countries' green and inclusive priorities. Most proposals were just repurposed from other CoOs, while other teams provide country-tailored solutions (i.e. Power and energy, Gender and inclusion).
- **LTT's ability to offer a comprehensive package in some sectors is appreciated:** *"I like how they build from a study, to legislation, then implementation/ capacity building"*. However, it is not possible on all occasions and in all sectors due to the above-mentioned workload per counsel: *"it's not enough to help to prepare good law - it's important to follow-up with implementation processes. But LTT doesn't have enough resources for implementation, so there is a gap and it's challenging (for country bankers)"*.
- **LTT's engagement in high-level policy dialogue was seen as not very effective and too reactive; the team's inability to influence decision making was noted.** The Bank's approach to policy dialogue has evolved considerably (since 2015), while LTT's delivery mode remains the same. Overall, there are *"too many boutique shops"* offered by the EBRD's different teams which *"confuses external partners"*. There is a need for a coherent business proposition and strategic framework in the areas of policy dialogue and investment climate, of which LTT should be a part, including institutionally.
- **EBRD colleagues rated LTT's complementarity/coordination highly.** When asked to rate the level of complementarity/coordination of LTP activities with the activities of other teams on a scale of 1 to 5, 50% respondents rated it in the higher range (4-5) with 36% giving a mid-range rating (3) and 14% a lower one (2). On the other hand, the quality of partnership with LTP was rated more highly – 86% gave it a score of 4 or 5, 11% - 3 and only 4% - 2. Five respondents mentioned coordination and integration with other teams as the weakest area – the same number mentioned capacity and resources as the team's weakness.
- **LTP was described by one interviewee as a "troubleshooter", an instrument operating reactively rather than proactively.** Although it is aligned with the Bank's strategic documents, it does not shape them. What LTP is good at is introducing new standards, models and practices that are used by bankers (and external stakeholders as discussed below).

LTT's own assessment of its partnership with other teams is positive and most of them noted progress in understanding the role and functions of LTP and the contributions it makes to delivering Bank's mandate. In their opinion, successful communications and internal outreach activities contributed to this. EvD notes that the scale of engagement also contributed – through a record level of projects delivered by the team annually, the range of partnerships is much wider than in was ten years ago. The Bank's high-level initiatives, such as Green Transition, Investment Climate and Governance, Inclusion and Gender Equality, enhanced the need for stronger legal and regulatory regimes, where LTT's expertise is essential. However, there is room for improvement as, for example, many bankers still don't know when they should/ could contact LTT for inputs, apart from the most evident areas such as corporate governance. There is competition with some other policy teams, particularly for resources, and it is not always positive. More details on LTP's internal impact are provided in Chapter 4.2

2.4. LTP institutional framework and operational planning

- LTT has no scorecard or results framework of its own; it is located in OGC and is integrated in OGC's scorecard
- Its operational planning has become more short-term and less visible over the evaluation period, with no operational plan for 2019 or 2020
- It has not delivered its previous commitment to integrate results frameworks and measurable objectives into operational plans, which only list activities and outputs
- Its plans contain a plethora of focus areas and priority themes changing from year to year in line with the Bank's changing priorities and initiatives, which do not form a basis for either prioritisation or reporting

TT is located in OGC and is integrated in OGC's scorecard. Introduced in 1991 as an ad hoc, donor-funded technical assistance resource, the Legal Transition Programme was institutionalised in 1995 as the Legal Transition and Knowledge Team, an integral part of the Office of General Counsel (OGC). Currently the LTT director reports directly to the General Counsel. The Legal Transition Programme (LTP) has no scorecard of its own. Its core corporate objective is integrated in the OGC's scorecard, which represents the accountability framework for the Programme: "...[engaging] in policy dialogue with countries of operation through the delivery of the Legal Transition Programme and [supporting] country diagnostics through advice on the legal framework relating to the investment climate".¹³

Its structural position inside OGC rather than VP3, which leads the EBRD's policy reform dialogue and partnership stream of activities, is a logical solution in terms of ensuring proper leadership and accountability for LTP's work. The question about propriety of such location has sometimes emerged in internal discussions during this evaluation. There are a number of other teams at the EBRD which do not belong to VP3, but are still heavily engaged in policy reform dialogue and delivering high-quality results in close collaboration with the banking and policy departments – for example OCCO, E2C2, and the recently created SI3P.

Until 2018 LTT's Action Plan was approved by the Strategy and Policy Management Committee (SPCom), which brings together the Bank's senior management under the leadership of Vice President Policy and Partnerships. Its departmental objectives and financing are approved by OGC and its TC funding is approved through the Grant Unit at DCF, where the process includes screening of the proposal by "consulted individuals" representing various departments. For example, the scope of the CSRF Director review is to ensure that the proposal "(i) is aligned with the relevant country strategy and (ii) the proposal complies with the Bank's standards and approaches for results-based project design and includes a credible results framework".¹⁴ The origination of project proposals is heavily dependent on the decisions of the country directors/heads and heads of the respective banking departments. This structure requires a comprehensive and constructive engagement with multiple Bank departments.

Until 2018 LTP operations were guided by three-year rolling action/operational plans (AP/OP), which included reports on activities from the previous period.¹⁵ OPs were prepared in consultation with the core partner teams (banking, EPG), approved by SPCom and endorsed by the ExCom, and were submitted annually to the Board for information only. Apart from a Board Information Session in 2016, the only Board- or Committee-level discussions scheduled on the Legal Transition Programme appear to have been in response to previous EvD evaluations. In 2018, LTT shifted to one-year action plans, combined with reports for the previous year. In 2019 and 2020, LTT only reported to the Board on its activities during the previous year, and did not provide an OP for the forthcoming year. The rationale for shifting to annual plans was the increasing

¹³ OGC Scorecard 2018

¹⁴ Grant Review Guidelines, February 2018

¹⁵ SGS18-055 LTP 2017 Report and 2018 Operational Plan; SGS17-099 LTP OP 2017-2019; SGS16-221/Add 1 Information Session: LTP 2016-2018 OP; SGS15-065 LTP AP 2013-2015

demand for a dynamic response to country and client priorities and needs. The reason for not preparing plans in 2019-2020 is unclear.

In shifting to a shorter planning timeframe, LTT has not followed its previous commitment to integrate results frameworks and measurable objectives into its OPs. Their lack is one of the reasons why the evaluation team has produced an LTP theory of change for the evaluation period, retrofitting it from the relevant strategic documents. The 2012 LTP evaluation recommended *“more precise and measurable objectives in [LTP’s] three-year action plans”* in order *“to improve monitoring and provide the potential for the implementation of these plans to be effectively evaluated”*. The 2013-2015 OP established three ‘pillars’ as a basis for LTT activities and stated: *“The third pillar will aim to develop a results framework and integrate the Programme into the Bank’s broader policy dialogue agenda.”* OP 2013-2015 update note states that LTT is *“an active participant in the development of the new TC results framework, which is now deployed within the Bank”*.¹⁶ OP 2016-2018 stated that LTP’s *“approach will be guided by the Bank’s Approach to Policy Reform Dialogue (SGS15-220 (Add1)), which will underpin policy work, including new tools for conducting diagnostics, managing and delivering policy advice and technical assistance, as well as for knowledge management and quality control... Results will be measured via the Country Strategy Results Framework and also at project (Investment and/or TC) level.”* However, OPs, when prepared, only included activities and output-level indicators, such as the number of TC projects to be delivered, corporate governance action plans (CGAPs) to be completed, events to be organised, etc. No intended outcomes or impact were specified, nor any results chain relating activities to the Bank’s policy dialogue agenda.

According to the OPs, LTT delivers projects along four key work streams that form a “virtuous circle of legal reform”:

- contribution to setting international legal standards and best practices (in collaboration with key international organisations);
- conducting comprehensive country legal assessments and diagnostics;
- support in developing and implementing legal reforms in CoOs, building the institutional capacity of domestic institutions (jointly with internal and external stakeholders); and
- outreach and knowledge sharing activities (events and publications, e.g. the Law in Transition Journal).

While analysing the evolution of LTP objectives over the 2011-2018 period EvD found **that the priority themes/ sectors are too numerous to constitute any kind of strategic plan.** Furthermore, the iterative changes in themes and focus areas, while necessitated by Bank-wide changes, produce a confusing picture and do not seem to add up to an overall strategy. No formal priorities are identified except in OP 2013-2015, which included three pillars: (i) support EBRD operational activities; (ii) selectively address cross-cutting problems in the business environment; and (iii) integrate the Programme into the Bank’s broader policy dialogue agenda and develop a results framework. These pillars were discontinued in subsequent OPs. In 2013-2015 the priority themes/sectors included: (1) SEMED expansion; (2) food security; (3) local capital market development; (4) knowledge economy; (5) energy efficiency; (6) private sector funding for infrastructure; (7) corporate governance; (8) SME development; (9) rescuing distressed businesses; (10) public procurement; and (11) insolvency systems and judiciary. In 2016-2018 the sectors remained largely the same (there is no explicit reference to PPP or public procurement), however they were regrouped to match new transition qualities and identified country strategic themes: (1) private sector competitiveness; (2) entrepreneurship and SMEs; (3) innovation and knowledge economy; (4) resilient and effective financial systems; (5) local currency and capital markets; (6) economic inclusion and gender equality; (7) good governance; (8) integration and trade; (9) infrastructure service and energy security; (10) green economy transition. In 2017-2019 plan LTP’s activities were anchored to the priority policy objectives of the individual country strategies. Annex 4 provides details on the evolution of LTP objectives over the 2011-2018 period.

¹⁶ SGS15-065 LTP Action Plan 2013-2015 – Update Note

2.5. Staffing and Resources

- LTP's core budget and headcount have barely changed since 2010, while the number and volume of its operations have trebled. It retains a sectoral/thematic structure though with additional country coordination responsibilities
- It is a heavy user of donor funds for its project work and some staff positions; most project work is conducted on the ground by consultants. LTT's capacity to administer and supervise this work adequately is strained
- Reliance on donor funds causes discontinuities in policy dialogue where a consistent, long-term approach is required
- In some smaller countries, use of consultants for both transactional work and policy dialogue has eroded trust in the independence of the Bank's policy advice; clients would like to hear from LTP core staff more often

Despite the Bank's move to using country strategies as the main 'unit of account' in assessing results, LTT's structure and staff expertise remains sectoral and thematic, though country coordination responsibilities have recently been introduced, based on the tried and proven set-up of the LC2 team. LTT has one specialist unit, the Financial Law Unit, with seven lawyers led by a Chief Counsel; all other policy areas are led by individual legal counsels based in London HQ. Specialists in the Financial Law Unit handle access to finance, insolvency and debt restructuring, and corporate governance. Counsels outside that unit specialise in infrastructure regulation (including ICT and natural resources), public procurement, public-private partnerships, power and energy, resource efficiency, and dispute resolution. Since the beginning of 2019 LTT has had country leads. Each lawyer is responsible for one or two countries of operation and ensures coordination with the respective country teams and other policy teams. This contributes towards LTT's greater engagement in country-specific dialogues, initiatives and strategies which represent the Bank's core accountability framework. Some more details on LTT staff is provided in Box 1 and Annex 14.

Box 1. LTT staff

At the beginning of 2020 LTT's actual core legal cadre headcount was the same as in 2010, staff cost increased by 10%, while the size of the portfolio had increased threefold.¹⁷ As of December 2019, LTT had 20 operational staff members, including 11 regular, four fixed term, one short term, and four external employees.¹⁸ All operational staff are located in HQ, although in recent years (2016-2018) there were fixed-term consultant (CCT) positions in Kyiv and Cairo RO. There are 13 counsels, four analytical staff and three administrative support staff. The team composition is quite stable (average length of service is 10.5 years). Staff costs (headcount) also remain stable – increasing in 2011 from €1.8 million in to €2 million, but unchanged since then until 2017, the latest year for which EvD had data. The per capita ratio of (cumulative) projects has reached 21, compared to eight in 2001-2010.

Changes in programme priorities and expansion into new focus areas have not led to significant changes in internal structure or resource allocation. The latest organisational chart most closely matches the 'sectoral focus areas' of LTP's 2010-2012 Action Plan and 'pillar 1' of the 2013-2015 OP: supporting operational initiatives. The nature of LTP's work is often innovative and existing legal counsels need to expand into new areas and new geographies. Besides the new country responsibilities, in the last five years these have included knowledge economy (expanding the traditional ICT portfolio with the ICT banking team), Fintech (with the FI banking team and LC2), e-governance (with EPG), and crowdfunding (with SME Finance and Development). The high level of expertise of LTT counsels was noted universally by internal and external counterparts, but, some acknowledged a very tight link between the expertise of an individual and the correspondingly high impact in a particular area, which potentially makes success unsustainable. There is an open question as to what would happen to that area of work should the lead counsel leave.

¹⁷ As of January 2020, two of the 13 counsels are on long-term leave, leaving a core staff of 11 counsels.

¹⁸ There were six non-operational staff – two regular (on long-term leave) and four external. Data provided by LTT, See annex 14 for details

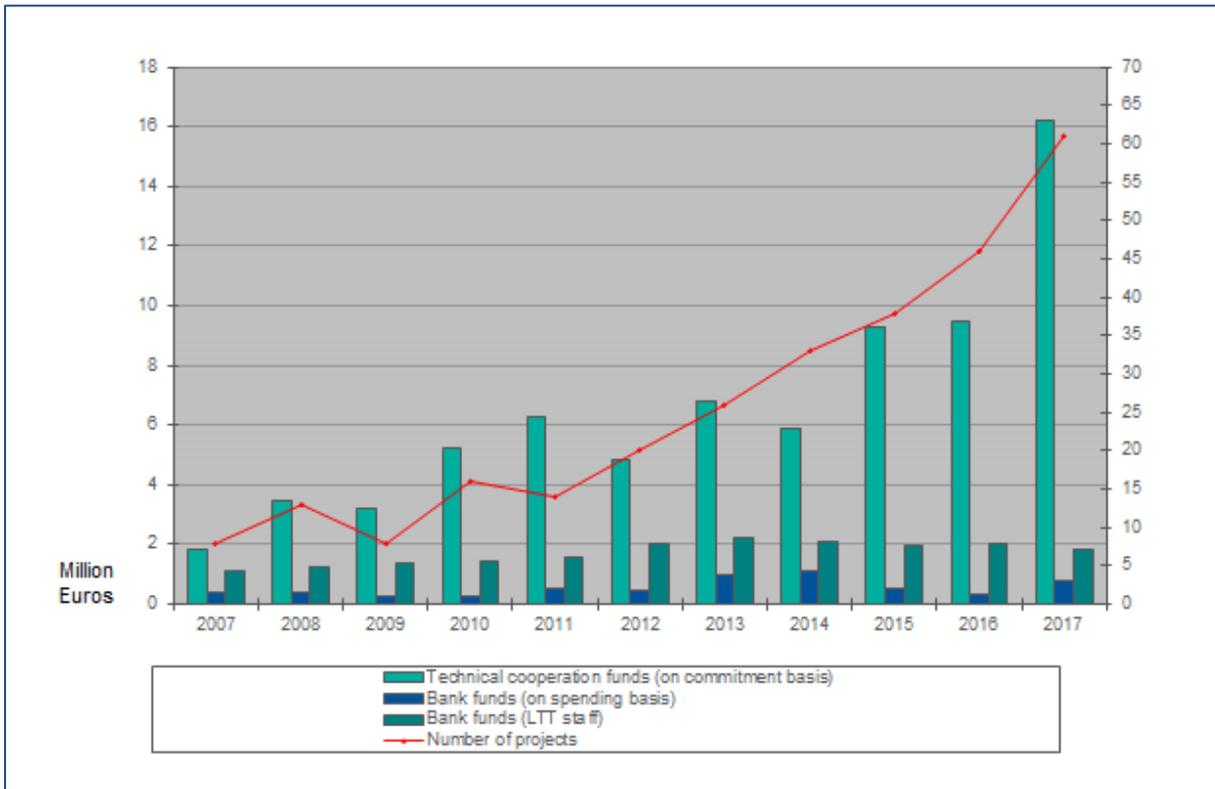
Resources are reported as insufficient to meet transaction-related demand and ensure continuity of non-transactional programmes, with requests for additional resources not met, or met only in part. In some sectors, multiple stakeholders expressed the opinion that LTT's resources are insufficient for the existing needs. Strategic- and transaction-driven requests are not always coordinated. Each lead counsel has an approximately equal annual budget with which to manage their respective portfolios and report that in some cases "the loudest" EBRD internal clients do win. Resources are roughly aligned with the strategies, but EvD found examples where budget requests are not met. For example, in corporate governance or public procurement the project portfolio demands additional staff; but budget increase requests are not approved or approved only partially (at 50%). A two year LTT position was funded in Kyiv in 2016-2018, but could not be extended for lack of budget, with implications for continuity of work. The team relies on in-country governance and economist cadres, who often coordinate ICGI actions. As a rule, when there is a dedicated governance expert at the RO, collaboration with local stakeholders improves.

LTT projects are largely donor-funded and implemented in-country by local consultants. A relatively small proportion of LTT's work that is very closely linked to transactions is funded from the Banking Department budget – between €200,000 - €1 million per annum in 2011-2017. Most transactional work, all policy work and even some staff positions are dependent on donor funds. Chart 2 below illustrates a steep annual rise in the LTP project portfolio (from 14 in 2011 to 61 in 2017) and the dramatic increase in the committed TC funds managed by the team (from €6.1 million to €16.1 million in 2011-2017).

LTP relies heavily on the Shareholder Special Fund and multi-donor funds. The share of the SSF in overall donor funding has increased and reached a record €11.65 million in 2016, although has reduced to €4.67 million in 2018 (Chart 3, on approval basis). Multi-donor accounts provided a total of €19.7 million funding in 2011-2018. The largest contributions were from KyrSEFF IFCA, SEMED MDA, Municipal and Climate Fund, Ukraine MDA, and EU Structural Reform Support Programme. The largest bilateral funders were Luxembourg and Slovak Republic (see Annex 5). Funding from all donor sources increased significantly between 2014 and 2015. Overall, in eight years LTT secured €41.5 million of SSF funding and €36.6 million from donors (Chart 3 below shows donor funding for projects approved in the relevant year, not by year of commitment. Please see chapter 3.1 for more detail on discrepancies between the timing of LTP assignments/projects and commitment/approval of donor funding.)

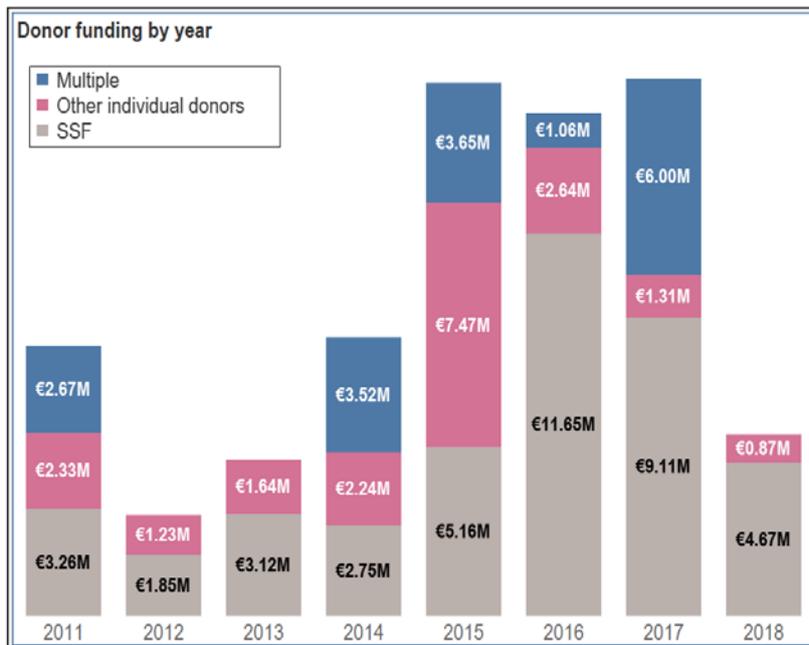
Special Study : Legal Transition Programme

Chart 2. LTP's number of projects and type of funding, 2007-2017.



Source: LTP 2017 Report and 2018 Operational Programme

Chart 3. Sources of LTP funding, 2011-2018*



*Multiple donors represent a group of donors funding the same project/framework
Source: TCRS

Achieving transition impact often requires serial projects over several years and consistent relationships with host government agencies, themselves often subject to disruptive staff changes. **Unreliable funding is a major block to this.** LTT staff report that the SSF in particular offers the possibility of taking a longer-term view not dependent on the availability of funds from

specific donors. For the most part, work undertaken depends both on the identification of useful and viable projects and the ability to attract interest from TC donors.

The large increase in donor-funded work strains LTT's capacity to manage consultants and oversee projects. Managing the work of consultants requires resources and time, including administrative support. Lead counsels often have to deal with these issues as LTT's administrative capacity is relatively modest, causing delays in the main areas of their work. A survey of external stakeholders revealed that delays in implementation and inadequate administrative support are among the very few deficiencies of LTT operations. Infrequent field visits is another weakness related to the high project per capita ratio; on average, counsels visit a country for a specific project mission once a year. Day-to-day coordination, when required, is led by country teams, mostly RO bankers in the respective sector.

A drawback of the heavy reliance on external consultants with limited capacity for engagement by LTT staff is that government institutions in some countries of operations have concerns about trusting the EBRD as a policy advisor. It is mostly the case in smaller countries, with relatively small legal services markets. The same legal firm may provide legal services to clients as well as offering policy and regulatory advice on behalf of EBRD, often without regular LTT or even RO staff present. Government or National Bank officials may meet the same lawyers wearing "different hats", undermining trust in the EBRD's impartial and balanced advice.¹⁹ In this situation consultants are unable to deliver a message as strongly as the Bank, which emphasises the existence of strict Chinese walls between its investment operations and its policy advice. Also, in some cases consultants' views are presented as the Bank's views.

2.6. Monitoring and reporting

- Project-level reporting through TCRS is comprehensive but mostly with very little information on longer-term outcomes and impacts. It is not geared towards aggregate reporting against country, sector or strategic priorities or transition qualities and the ability to extract aggregate data from Bank systems is poor
- Departmental reporting has become less detailed and informative over the evaluation period and does not compare performance against objectives in operational plans or Bank strategies
- While much of LTT's work is long-term, monitoring and reporting are short-term and do not distinguish between demand-led, short-term transactional work and strategic work. Its sectoral structure makes reporting against a country accountability framework challenging
- More robust self-assessments do exist but are not used in departmental reporting; they appear as case studies in LTP literature including the Law in Transition journal

Project level monitoring and reporting

The majority of LTT achievements remain off the radar at the higher level, as there are no synthetic stories and in-depth sector dives to provide a comprehensive picture. Internal report formats do not capture this element of LTP work well. LTT delivers project-level reporting on donor-funded and SSF-funded assignments through the Bank's regular TC monitoring and reporting systems (TCRS). Project approval data including expected outputs and outcomes feed into the reporting system and the operation leader prepares a Project Completion Report (PCR) after completion of the contract. If a contract extends longer than the regular annual reporting cycle, the operation leader prepares one or more interim Project Progress Reports. The system is managed by the Bank's Donor Co-financing team (DCF). In most cases (but not all) the evaluation team could access evidence at the activity level (outputs and short-term outcomes).

¹⁹ In one of the CoOs, representatives of the National Bank expressed this concern clearly and it was confirmed by a number of other external stakeholders

Reporting takes place on the minority of projects that are funded by core Bank funds. These are directly transaction-related projects and performance is reported, if at all, in the related transaction's monitoring reports, especially TIMS reports. **This is not detailed reporting on outputs and outcomes**, but at best simply whether the TC as a whole contributed as expected to a particular transition benchmark, or whether weaknesses in investment project performance derived from poor performance of the TC. This is not unique to LTP but normal Bank practice.

Projects approved since the introduction of TCRS identify multiple outputs and one outcome; older projects did not. The migration of the dataset of older projects to the "new" TCRS system did not result in a review of objectives; therefore only the most recent projects have the new structure, and are rated accordingly. For example, in the Insolvency and Debt Restructuring (IDR) case, out of the 19 projects analysed only 12 had a results matrix with identified outputs and outcome and respective achievement ratings. Similarly, older projects have not been mapped retrospectively to the new transition qualities.

Each project has one expected outcome which delivery is monitored through a range of outcome indicators. However, **outputs (immediate results) are often mis-labelled as outcome indicators (mid-term results), with the project not identifying any higher level results beyond the immediate consultant deliverables.** Current format of TCRS results framework and reports envisages definition of one mid-term outcome with a number of outcome indicators and multiple outputs presented without indicators. Therefore rating of project achievement is done for different categories. In many cases stated outcome indicators are an exact copy of the outputs (short-term results), or represent different outputs but still immediate, rather than mid-term, results. A detailed review of all project self-assessments (final or progress report) in three deep-dive cases is presented in Annex 9. In each case the outcome indicators for a substantial share of the projects had been copied and pasted, or were wrongly defined. This relates to the OL's ability to identify the correct results matrix ex-ante, with the help of specialist departments like DCF and CSRF. This issue was recently identified in the Ukraine MDA special study and Management prepared an action plan aimed at enhancing the skills and knowledge of OLs managing TC projects in this and similar funds, including LTT.

Project-level reporting of donor-funded projects is not geared towards aggregate reporting against country, sector or strategic priorities or transition qualities. The reports are tailored towards DCF's regular reporting to donors on the individual assignments they have funded, and contribute both performance ratings and lessons to that process. Current forms for planning (ToR) and reporting allow the formulation of project objectives, their outputs and outcomes and text on "strategic fit"; the PCR allows space to comment on "strategic alignment" and "sustainability of achieved results"; but there is no strong, specific tie to delivering a specific TQ, or to priorities/ PPOs defined in country strategies or LTPs operational plans. When an LTP project is transaction-related, it may contribute to delivering a specific transition objective of the related transaction, which is anchored to a defined TQ. Most of these cases relate to corporate governance, power and energy, resource efficiency, ICT, with either competitive or well-governed TQ.

EvD again encountered well-known problems extracting information from TCRS on the LTP portfolio. In this area, EvD finds that **TCRS is actually worse than its predecessor.** It is not possible to produce a consolidated list of TC projects in a given sector or country, total amounts provided by individual donors, or aggregate performance ratings for completed TC projects and assignments.

Departmental reporting

LTP's departmental reporting exhibits many weaknesses that are common to the Bank and have been highlighted in EvD evaluations of other programmes and sectors. The 2012 evaluation of LTP recommended integrating data on project results in LTP annual reports. While there is some information on activities and immediate outputs, the evaluation team did not observe any progressive improvement in recent years; the opposite in some areas.

The reporting framework has become less detailed and informative over the evaluation period. As the team shifted from three-year OPs to annual plans and finally no plan, the departmental report has changed as well. It became annual as

of 2018 and from a detailed word format evolved into a PowerPoint presentation showing projects implemented and activities performed during the calendar year, with some illustrative cases. There are highlights in terms of the list of laws approved, trainings organised, CGAPs prepared/reviewed, events and publications. Reporting provides no logical flow from inputs (TC and core funding mobilised, staff time) to activities to results and impacts. This form of presentation serves badly at substantiating the use of (insufficient) resources to deliver an ever-increasing portfolio.

Reports aggregate data by key streams of LTP activities and do not compare achievements directly with OGC scorecard or LTP OP objectives. They report on the “key activity streams” mentioned in OPs (see section 2.3 above), plus corporate governance and training and capacity building. They make no direct reference to the relevant OP or the OGC scorecard, do not reports against declared objectives, so any comparison of planned and implemented activities must be compiled manually. The presentation of achievements is not always consistent with the list of annual targets identified in the OP.

While much of LTT’s work is long-term, monitoring and reporting are short-term. Transactional and non-transactional LTP activities demand different types of reporting. Simple aggregation of activities may be adequate to report on LTP’s work in enabling specific transactions, where the associated impact derives from the investment operation overall. Where LTT undertakes stand-alone projects on systemic, institutional issues, independent of specific transactions, this calls for LTT to monitor and report on the longer-term effects of its activities. One-year reports do not allow LTP to present mid-term results and impacts, which are numerous (179 ongoing projects in 2019), given the programme’s nature and the length of its engagement with many stakeholders (often exceeding five years). **There is no mechanism for longer-term monitoring or retrospective analysis of the sum of achievements in a particular area over a period of time**, even where there have been serial LTP projects in a specific country and sector. It cannot be expected that a country’s improved global ranking in certain areas is solely dependent on LTP work, however when there is a concentrated work stream in a specific segment for a considerable number of years, it is fair to expect a material contribution.

The internal structure of LTT which is based on sectors does not match the Bank’s country-based approach, making country-level reporting more complex though not impossible. LTP departmental monitoring and reporting does not provide comprehensive data on contribution to PPOs, TQs or country-level impact. The new strategic accountability framework adopted by the Bank in 2017 is based on country strategies as the primary lens through which the EBRD assesses its effectiveness in supporting transition. Country strategies make it possible to anchor investment, TC and policy engagement activities to specific country PPOs. The team uses PPOs in its reporting in more general terms (numbers) rather than specifying them for each country and linking them to the sector-specific activities (see box 2 below). The format of the project reports also means that LTT is unable to aggregate project data and demonstrate quantifiable portfolio achievements per TQ without performing an extensive, manual data-sorting exercise. Recent annual reports do not do this, providing only case study projects with identification of relevant TQ and SDGs. Although there are a number of questions related to recording achievements across the years, particularly when initiatives take a long time to implement and where results might only be visible long after the completion of TC intervention, it is important to integrate PPOs systemically and consistently in the results framework for LTP activities. The linkages between the inputs invested and activities performed vis-à-vis long-term results in the policy, regulatory and institutional spheres should be demonstrated.

Box 2. Reporting on progress towards PPOs

The evaluation team compared LTP OPs and annual reports against specified PPOs. OP2016-2018 includes a “summary of policy dialogue activities” for the previous operational period 2013-2015. This is a list of activities and their immediate results only, with nothing on mid-term results and contribution to impact. The 2017 report states that *“the Programme contributes to the Bank’s annual priority policy objectives and shares a coordinated work programme with other teams.”* EvD did not have access to 2017 PPO data. The 2018 and 2019 LTT reports do not specify which PPOs were targeted at all, and the 2019 report uses TQs and SDGs framework as the main lens through which LTT’s contributions are analysed. They present some examples of achievement of PPOs for one or two countries, selected at LTT’s discretion. Some LTP annual reports specify the number of PPOs that were delivered by the team (completed or ongoing), but not their content.

According to EPG’s PPO database, in 2018 LTP delivered 21 out of a total of 71 PPOs (including three led by other teams, in which LTT participated), although this information was not in the report. The 2019 LTT report states that the team worked on 11 PPOs with seven being fully achieved, three partly achieved and one not achieved. EvD’s analysis shows ten LTP-led PPOs and five to which the team contributed. However, **without a target for the 2019 OP it is impossible to assess the success rate, even formalistically.**

The evaluation team reviewed policy objectives for the three years 2018-2020 that are available on the intranet (2017 was not available) and identified the PPOs that are led by LTT counsels or where they provide a significant contribution (see Annex 12). The achievement status for 2018 was not available in most cases, while the 2020 PPOs are too early to assess. Results from 2019 demonstrated that nine relevant PPOs were fully achieved, five partly achieved, and one not achieved. Most of the achievements were in the following sectors: corporate governance of SOEs and SOBs; energy and capital markets; banking.

More robust self-assessments do exist, however these are presented mainly in the detailed case studies and special reports published in LTP literature and the regular publication “Law in Transition”, not as a consolidated assessment of performance. LTP has expanded its range of knowledge products internally and externally. Internally, there is a solid stream of materials and events in various areas of corporate governance, aimed at enhancing bankers’ knowledge and skills to integrate robust and realistic covenants, expectations and action plans that are suitable for the clients. LTT lawyers are regular contributors to the Bank’s Policy Academy and Community of Practices that are aimed at enhancing the Bank’s internal capacity, particularly in political economy. Several LTT counsels confirmed their participation in these activities, however some noted their limited effectiveness and impact, as they are ad hoc events with no clear final goal.

Implementation of the recommendations from the 2012 evaluation

EvD completed an evaluation of LTP in 2012. Table 1 below summarises recommendations from that evaluation and progress in their implementation. Most of the recommendations have not been implemented in full.

Table 1. Implementation of Recommendations from 2012 Evaluation of LTP

Recommendation	Implementation description
Undertake a strategic review of the LTP's priorities, core areas, resource allocations, and modes of engagement	Partly implemented. The team undertook a review in preparation for its 2013-15 action plan, but resource constraints limited its flexibility to pursue specific priorities. Some incremental core resources have been allocated to priority areas, but the basic departmental structure and <i>modus operandi</i> remain unchanged. Core funding is not activity-based. Most operational funding is sourced from donors which brings a degree of opportunism and discontinuities to work prioritisation.
Continue LTP's highly successful work on legal assessments and standards	Implemented. This work has continued, though it is not fully integrated into country diagnostics.
Sharpen focus on supporting legal reform processes, institutional capacity building and training for judges and officials	Implemented. LTP has placed greater emphasis on training and capacity building.
Set more precise and measurable objectives in LTP action plans	Not implemented. The plans included intended activities and outputs, but not higher level results. As of 2019 LTT does not disclose (does not prepare?) action plans.
Report on outcomes and impacts of legal reform projects	Partly implemented. At project level, there is some assessment of outcomes through the TCRS results framework approach; quality varies by project. For the most part, impacts are not assessed. There is no assessment of outcomes or impacts beyond the project level (e.g. by priority area, TQ or country).
Better structure collaboration with other organisations, including specific objectives and plans	Partly implemented. On the ground, collaboration with other organisations is generally good where circumstances permit (i.e. where other institutions are willing to cooperate) and where possible joint action plans are prepared (e.g. Tunisia). But consistency is lacking and cooperation is often ad hoc. EBRD standard-setting activities are built on existing international standards where available (e.g. UNCITRAL). At the institutional level there are framework agreements with key international agencies that implement a number of projects, including with UNCITRAL (2011), WTO GPA (2014), IDLO (2017).
Increase efforts in developing local capital markets	Implemented. LC2 was created as a separate department, with ex-LTT and other staff.

Source: Special Study on the Legal Transition Programme Review (PE11-537/SGS12-152); Legal Transition Programme – Action Plan: 2013-2015 (SGS12-252) and staff interviews

3. LTP Activities and Short-term Results

3.1. Project Portfolio in 2011-2018

- In 2011-2018 LTP delivered 232 TC projects totalling €78.2 million, reaching all countries of operations and most sectors. A third of operations are regional, while the rest are heavily concentrated in EEC (25%) and Central Asia (19%); SEMED share represents 9% of total
- LTP projects focus on specific and often tightly-contained issues based on country need, in contrast to other IFIs that take a broader, top-down approach

The evaluation team could not find a consolidated database of LTP projects as a basis for its portfolio analysis. It combined data from the following sources: (i) the list of Legal Reform projects (1996-2017) published by OGC on the external website; (ii) the OGC current list in Livelink; (iii) the TCRS system. Many projects include several assignments, the approval and implementation of which is spread over a number of years. In the LTT portfolio especially, it is crucial to look at the assignment level, as often it involves activities in different countries (in regional projects) or on different subject areas (large TC projects with the same client). There are several large multi-annual framework projects involving multiple countries and areas, often involving formal engagement with external partners (i.e. WTO). The evaluation team manually mapped the list of Legal Reform projects to data from the TCRS system. It should also be noted that donor funding evolves over the life of the projects and assignments included in the study portfolio, with additional funding added in some cases after the year of approval.

The LTP portfolio in the 2011-2018 evaluation sample includes 232 projects totalling €78.2 million. For comparison, in the previous evaluation period (2001-2010) there were 87 projects for a total of €26 million. Over the last ten years the number and volume of LTP projects has increased threefold, while net cumulative bank investment (NCBI) in this period has increased by 13% – from €48.9 billion (2001-2010) to €55.6 billion (2011-October 2018) – with the number of investment operations decreasing from 2,263 to 2,214 respectively. LTP is active in every country of operation and in the majority of sectors of the Bank's activities, which is illustrated by the data below and in Annex 5.

The geographic structure of the LTP portfolio does not mirror the geographic structure of the Bank's investments. This is partly due to the fact that some countries have now developed a relatively advanced legal and regulatory regime and built an investment friendly business environment. For example, in the CEB region LTP's interventions are currently less necessary, compared with EEC or Central Asia where the challenges of the investment climate warrant a disproportionately higher number of TC projects vis-à-vis the investment projects. In some countries legal support is needed, but engagement is limited for other reasons. SEMED is a good illustration, where interviews suggested that the existing LTP expertise does not quite match the needs of the countries and other policy or banking teams are better equipped to provide support, particularly along green and inclusive transition dimensions. A language barrier was noted in the case of Tunisia, where LTT's limited capability to work consistently in French – the dominant official language – constrains its exposure.

Just over a third of LTP assignments covered more than one region. The next largest regions were EEC and CA (27% and 18% of volume respectively), SEE (11%) and SEMED (7%). In terms of number of projects, the majority are regional (32%) followed by EEC (28%) and CA (13%) (Table 2). At country level, Ukraine has the top number in terms of volume and number, at both project and assignment level (11%, 10%, 14% and 15% respectively). Other countries featuring in the top five in each category (project/assignment/volume/number) are Kyrgyz Republic, Georgia, Mongolia, Serbia, Moldova and Tunisia.

Table 2. Geographic distribution of projects and assignments (cumulative portfolio from 2011-2018)

COUNTRY	Projects				Assignments				NCBI	
	Volume, € mil	% of volume	#	% of #	Volume, € mil	% of volume	#	% of #	Volume, € mil	#
REGIONAL	25.91	33%	43	19%	23.26	34%	149	32%	6,846	228
EEC	19.19	25%	65	28%	18.51	27%	131	28%	8,676	493
CA	15.22	19%	34	15%	12.18	18%	61	13%	5,407	430
SEE	7.32	9%	46	20%	7.31	11%	55	12%	9,376	401
SEMED	6.84	9%	22	9%	4.69	7%	50	11%	8,478	213
CEB	1.82	2%	13	6%	1.82	3%	15	3%	7,028	213
RUSSIA	1.33	2%	6	3%	0.90	1%	7	1%	4,256	140
TURKEY	0.63	1%	3	1%	0.63	1%	4	1%	9,887	234

Source: TCRS

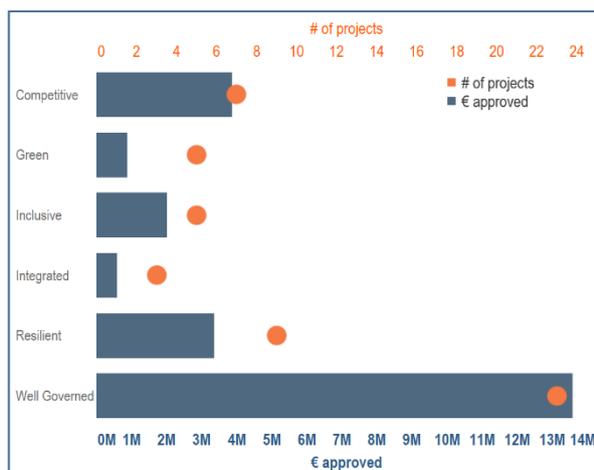
Project approvals increased significantly in 2015, almost doubling in terms of volume, but not so much in number. In 2017 there was a dramatic increase in assignment approvals, where approximately €14.8 million is accounted for by 2017 project approvals, but the balance of approvals is from projects dating back to 2014. In 2012 compared to 2011 the average project and assignment size dropped by 71% and 30% respectively. However, thereafter the average project size climbed back steadily, peaking at €455,979 in 2017. Assignment sizes were more variable, peaking in 2017 (€207,285). Charts in Annex 5 provide information on this dynamic, as well as that of project approvals by region and year.

Of the 32% of projects categorised by transition quality, majority was aligned to 'well-governed'. 'Competitive' and 'resilient' were the other common TQs, though all six TQs were addressed by some projects. TCRS showed 30% of projects

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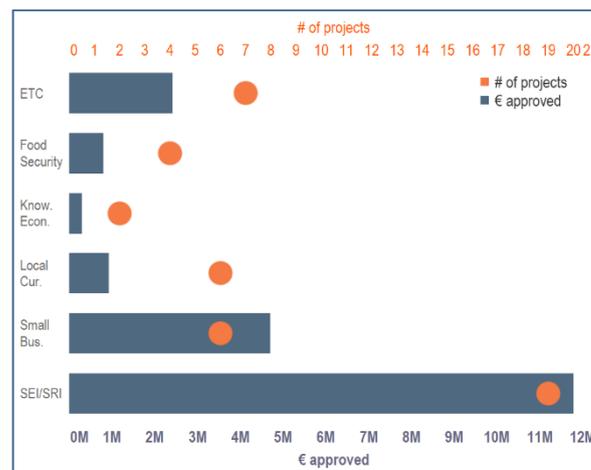
aligned to one of the Bank’s strategic initiatives, shown in chart 5 below. Older project data in the TCRS system has not been brought into line with the new transition qualities, making a full breakdown by TQ impossible.

Chart 4. LTP’s portfolio by transition qualities as identified in TCRS, 2011-2018, # of projects and € millions



Source : TCRS

Chart 5. LTP’s portfolio by Strategic initiative as identified in TCRS, 2011-2018, # of projects and millions



TC projects focus on specific and often tightly-contained issues, depending on country need and the degree of sophistication of the legal and regulatory system. The work is always grounded in a thorough review of the country legal and regulatory systems and recommendations emanating from these reviews. The specificity of LTP’s activities arises partly from its limited resources, but it distinguishes EBRD from other MDBs such as the World Bank which tend to tackle broader issues with a top-down approach. Chart 6 presents various instruments from the LTP’s toolkit, where majority of activities are: legal reviews; consultations to government and other partners; capacity building; preparing draft legislation and regulations.

Chart 6. LTT’s toolkit

Legal assessment	Functional reviews	Review of legal frameworks, standards and practices
Consultations to government / judiciary / other partners	Capacity building and trainings	New institutions established
New standards and practices approximated to international	Draft legislation / regulations	Publications
Events for co-ordination	Events for dissemination	Collaboration with other international organisations

Source: EvD’s elaboration based on available LTP documents

3.2. Legal assessments and standard setting

- LTP legal assessments play important role in identifying country gaps and designing new support packages, but usually cannot be used as a basis for measuring progress because they are usually not repeated regularly
- Legal assessments sometimes strengthen the EBRD’s role as a recognised leader in a specific area of expertise

LTT performs a significant amount of work in relation to setting international standards and assessing country-level gaps. Standard setting is often done in collaboration with other teams, for example with EPG on NPL and insolvency, sustainable infrastructure on PPP, PPAD on public procurement etc. The contribution to the development of these common standards is then taken to the next stages of LTT’s “virtuous cycle”: legal assessments help to define the gaps between the practices/standards of the CoOs and those of the developed countries (usually OECD); legal support projects provide

resources and expertise to prepare/amend legislation and regulations, establish institutional frameworks and support implementation/enforcement capabilities; training and capacity building activities address the gaps in human capital and are intended to advance local knowledge and expertise to the appropriate level.

In recent years LTT has tried to set more limited standards suited to local capacity, leading to slower progress but fewer setbacks and greater sustainability. Experience of providing legal support and assisting with implementation has illustrated that, often, international standards are too advanced for the local context. The laws on the books may be of a high standard, but they are challenging to enforce. PPP/Concession legislation in Ukraine and Tunisia were good examples of a more balanced approach. Both bankers and local stakeholders were highly complimentary about LTT's efforts to deliver legislation that would function in the existing system. The recent adoption of the Concession law in Ukraine (2019) has already resulted in two new infrastructure investment projects (jointly with IFC), while in Tunisia cooperation with the PPP Authority resulted in the approval of a PPP law and regulations that are opening up new investment opportunities in the infrastructure and energy sectors. Another example is corporate governance, where OECD standards are challenging to implement even in the most advanced countries. A more flexible approach, based on core principles, contributed to a significant reform of corporate governance in state owned companies and banks in Ukraine and Albania, among other countries.

Annual reports contain information about the standard setting work performed each year. It is counterproductive to list them all, however the most crucial contributions during the evaluation period include: (i) Revised WTO Agreement on Government Procurement (2014); (ii) UNECE People-First Model PPP Law (2019); (iii) Open Contracting Data Standards.

LTT usually conducts two or three legal assessments per year, reaching a total of 18 over the evaluation period. LTP's assessments and diagnostics are used regularly in the EBRD's annual Transition Reports, country and sector strategies and integrated approaches to illustrate the level of development and transition gaps in certain areas, requiring further support from the EBRD and other IFIs. Annex 5 lists the legal assessments conducted in 2011 to 2018.

LTT counsels use their sector expertise to direct and inform country assessments in-house, but the bulk of fieldwork is outsourced to external consultants. Assessments help to define legal gaps and minimum requirements essential for smooth functioning of the legal system. Additionally, LTT's experts participate in assessments performed by other EBRD teams, particularly EPG, including the semi-annual NPL assessments in the CESEE region on behalf of the founders of the NPL Initiative and Knowledge Economy Index. All these assessments are used by wider industry professionals and other IFIs as sources of objective and reliable country-level evidence. Likewise, the EBRD uses data and evidence produced by other international specialist organisations to get a complete picture of the specific country challenges and needs and consequently identify the scope of its own portfolio. Company level assessments in the area of corporate governance are usually done in-house.

The assessments sometimes strengthen the EBRD's role as a recognised leader in a specific area of expertise. For example, the Bank's first-of-its-kind assessment of insolvency office holders (IOHs) in 2012-2014 was essential for establishing the EBRD's reputation in this area. It resulted in a build-up of demand from country stakeholders and a solid portfolio of TC projects (see Annex 6 for more information). Interviews with external stakeholders and the survey results confirmed the Bank's and LTT's strong reputation in this area.

Legal assessments are only rarely repeated at regular intervals, so there is often no basis to assess changes over time. There are some exceptions, for example in the PPP and corporate governance sectors. The Knowledge Economy Index, an EPG product, allowed a comparison between the situation in 2011 and 2018 which the evaluation team was able to use in the case study. Chapter 4 below provides an illustration of PPP legal assessments.

3.3.Outreach and publications

- LTT is one of the greatest producers of knowledge products in the Bank, where external demand often exceeds internal.
- While LTT participates in the communities of practice and training activities such as the Policy Academy, there is unexploited potential for LTP's experience to be used more consistently in internal training and knowledge sharing

LTT organises a wide range of events in the CoOs and in London HQ, as well as publishing various products to communicate the results of its assessments, its work on legal and regulatory reform, and capacity building. It makes effective use of the EBRD's intranet and external EBRD website to deliver updates on projects and major areas of intervention. The Legal Transition page on the EBRD's website contains all the relevant, publicly available information on its studies and projects, and there are a number of spin-off websites dedicated to specific streams of work or initiatives. For example, there are dedicated websites to present the results of the 2017/2018 PPP Assessment²⁰, an electronic version of Law in Transition,²¹ and the activities of the EBRD-UNCITRAL Initiative (dormant from 2017).²² These activities contribute to the transparency of the Bank's work, which until recently only scored "fair" in the Global Aid Transparency Index (2018) but improved to "good" in 2020.²³

LTT is one of the main sources of knowledge products within the Bank, striving to enhance the exchange of ideas. It is a core contributor to a number of the Bank's communities of practice (i.e. State Owned Enterprises) and the Policy Academy. It delivers its own training proposition to bankers on the issues of corporate governance. The uptake of these is covered in Chapter 4.

LTT organises a schedule of 15-20 public events per year to either launch large studies and publications, or present the results of LTP's activities. LTT is a regular speaker at international fora in specific policy areas, often in collaboration with other IFIs (WB, IFC, ADB) and specialist international organisations (OECD, UNCITRAL) – these events are organised for each of LTT's sectors. They convene multiple actors from both the private and public sector, as well as EBRD colleagues from resident offices and HQ. For example, in 2018 fifteen events were organised, including two dedicated to the launch of LTT's Fintech products produced jointly with Clifford Chance – on crowdfunding and smart contracts.²⁴ The launch of new products and the effective communication of the results from legal assessments usually generates a new pipeline of work and enhances the Bank's standing in particular area. This was the case for the PPP/Concessions Assessment (See Chapter 4.1). The annual reports provide a detailed account of LTT events and this evaluation will not add value by repeating those.

The team disseminates its experience via their annual Law in Transition journal, which often has a "flagship" topic and a number of other themes covered in the selection of articles. These are mainly prepared by LTT experts, as well as EBRD colleagues from other policy teams and OGC. Annex 5 contains more detail on themes covered in Law in Transition in the period 2011-2020, as well as download statistics which is considerable, although was on downturn trend in 2019. LTT lawyers regularly contribute to the trade press and academic journals in respective disciplines, to the publications of international organisations (including case studies) and to CSOs and not-for-profit organisations (i.e. Transparency International or Open Contracting Partnership). Evaluation team found LiT articles and articles published in the open sources as a valuable source of information on long-term results and impact of LTP's activities – more so than Bank's internal documents.

²⁰ <https://ppp-ebd.com/>

²¹ <https://2020.lit-ebd.com/>

²² <http://www.ppi-ebd-uncitral.com/>

²³ <https://www.publishwhatyoufund.org/the-index/2018/>

²⁴ EBRD and Clifford Chance "Smart Contracts: Legal Framework and Proposed Guidelines for Lawmakers", 2018; EBRD and Clifford Chance "Regulating Investment- and Lending-Based Crowdfunding: Best Practices", 2018

3.4. Contribution to Bank strategies

- LTP contributes directly to the formulation of sector strategies and country strategies, and less so of other Bank strategic documents. In some departments with limited policy and TC capacity LTT counsels play “gap filling” role.
- LTT does not influence the formulation of country priorities or PPOs, however delivers a significant share of those each year.

LTT takes an active part in the preparation of country strategies (CS) and country diagnostics, providing in-depth sector insights from its assessments, standards and legal reform work. Country diagnostics are led by economists and governance experts in EPG, while legal diagnostics are performed by OGC country lawyers. Under the old format country strategies, LTT prepared a dedicated annex on legal transition; this information is now integrated in the overall diagnostics. LTT does not really have any influence on the formulation of country priorities or PPOs – they receive them as a *fait accompli* and there is little knowledge among the team members of how the process is structured.

LTT contributes to the development and implementation of sector strategies, most prominently through its sector assessments and country gap analysis, which define the legal and regulatory challenges to expanding the portfolio and increasing the levels of investment. Sometimes, LTT counsels take part in the working groups that draft the documents. However, it is less clear how this contribution is monitored and assessed, as the EBRD does not treat sector strategies as accountability frameworks, and they lack any measurable and specific target indicators that would help to monitor their progress.²⁵ Sector strategies do not really define the workload of the specialist counsels, mostly indicating the “direction of travel”.

The intensity of involvement varies by sector and is not planned; LTT ‘fills a gap’ where the Banking team lacks its own TC/policy expertise. For example, counsels specialising in ICT and the Knowledge Economy are involved more closely in the strategic planning and delivery of core-funded TC and the policy dialogue of ICT banking team as, unlike some other teams, it has no dedicated TC/policy expertise of its own. Therefore, LTT was closely engaged in the process of developing the Knowledge Economy Initiative launched in 2014, particularly in shaping the innovative economy and policy stream. LTT was involved in the development of the two most recent EBRD Energy Strategies, and particularly noted its close and streamlined engagement in the process of preparing the 2019-2023 Strategy.

3.5. Training and capacity building

- LTP has increased focus on training and capacity building activities in the countries of operation, often in collaboration with specialised international organisations
- LTT is not able to report on the outcomes and impact of these activities; an effort to survey participants after a delay was so far unsuccessful and LTP does not try to measure behavioural changes objectively

LTP increased its focus on training and capacity building in line with the recommendation of the 2012 evaluation. According to EvD’s analysis based on LTP’s reports, over the period of 2011-2018 LTP trained more than six thousand specialists across most of countries of operation (with the exception of CEB). Training covered all areas of LTT’s activities, with the greatest share delivered to judges and court officials, procurement specialists and bailiffs. Training activities are either included as an element of legal support TC projects, or are stand-alone activities, particularly in the area of increasing the skills and capacity of judges, mediators, insolvency and enforcement professionals. In many instances LTT includes a ‘training for trainers’ module, as well as drafting the relevant materials, in the form of either a hard copy or electronic manual. Sometimes e-courses are prepared, with the assumption that these will be integrated by local Judicial Academies and others into

²⁵ See more details in EvD evaluation reports on EBRD Energy Strategy and EBRD Transport Strategy

comprehensive courses. In several instances, however, the institutions were unable to launch the courses, due to technical or financial limitations. Nevertheless, training of trainers and the tangible training materials and guides available online provide the strongest contribution to the sustainability of training activities. The impact in terms of court decisions (numbers, quality, speed) is usually difficult to prove due to limited access to data.

Training is often delivered by specialist international organisations, such as IDLO²⁶, in the framework of multi-year MoU/cooperation agreements (see Annex 13 for more details). Training activities are mostly concentrated in EEC, CA, SEMED and SEE regions. Annex 5 contains a full list and details of training conducted in 2011-18.

EvD found cases where the LTT tried to measure outcomes and impacts of training, but with limited success. A judicial training assignment in Tunisia sought to measure results through follow-up questionnaires several months later to the judges who had been trained. However, only a minority of participants completed the questionnaire, while the second phase of training had not been completed before this evaluation took place. Information on results is therefore limited to the number of participants and the content of questionnaires completed at the end of the training sessions.

There is no consolidated reporting on results. EvD could only review selected examples of the medium-term outcomes of training activities in specific legal fields and sectors. These are based on LTT information, as well as interviews with external stakeholders who were either beneficiaries of a training programme (government and judiciary institutions), or delivered them (consultants, legal companies, chambers of commerce, CSOs) (see Box 3).

Box 3. Mid-term results of selected training and capacity building activities

In **Serbia** the successful launch of mediation training (including training for trainers) together with the development of a case administration system for the Serbian Chamber of Commerce and Industry and awareness raising events across the country, resulted in much greater use of mediation as an alternative dispute resolution tool. After the project was launched in 2016 the number of mediation procedures increased from 270 in 2016 to 650 in 2017, and then slightly decreased in 2018 to 570. Local beneficiaries at the Chamber were very positive about the collaboration and achievements, although there were a number of institutional reforms towards the end of the project that prevented it from achieving its maximum capacity;

In **Moldova** support for mediation led to the launch of the (previously non-existent) instrument in 2013. By 2017 there were 169 cases of commercial mediation, and 372 in 2018.

In **Ukraine** a series of seminars for legal professionals contributed to the establishment of a mechanism for out-of-court debt restructuring (Kyiv Approach) launched in 2017. It was characterised as extremely useful by a number of beneficiaries, although it was noted that producing and disseminating cases (success stories) could improve the perception of restructuring among bankers (traditionally sceptical). The effect of the mechanism in action was the reduction of in the NPL ratio from 58 to 52.2% (2017-2019) and the financial effect totalling UAH 27.5 billion in completed procedures (mostly in state owned banks, mid-2019).

In **Tunisia** LTT organised 36 seminars for 3,000 participants across all regions to enhance knowledge about the country's e-procurement system TUNEPS, and to support the local implementation agency HAICOP in raising awareness about public procurement opportunities among the private sector, especially SMEs. Additionally, participants were offered an opportunity to obtain an e-signature (free of charge) during the seminar, which allows participation in public e-tenders. It was first collaboration between HAICOP and the private sector, and it improved competition for public tenders, with offers per bid increasing from 2 to 17 (2017-2019).

Source: LTP documents, external public sources and interviews conducted during missions to Serbia, Tunisia and Ukraine in 2019

3.6. External cooperation

- Driven by the need of additionality and limited leverage, LTP has extensive and productive collaboration links with international organisations, MDBs and civil society organisations at country level and globally
- Compared to other IFI programmes, LTP is seen as more efficient and responsive, with strong in-house expertise

²⁶ Established as an intergovernmental organisation in 1988 and with United Nations Observer Status since 2001, IDLO is an intergovernmental organisation exclusively devoted to promoting the rule of law and sustainable development

From the onset LTP's philosophy was to be additional to the efforts of other international institutions and realistic in balancing scope of activities and limited resources available. EBRD was a relative latecomer in some regions (SEMED) and sectors of legal support (public procurement, Fintech), where other MDBs and international development agencies have a substantial track record and large portfolio of systemic policy-oriented activities. It was essential to define the niche areas where LTP work could be additional and relevant for local stakeholders. EBRD's predominantly (but not exclusively) private sector investment experience offers a valuable different perspective, although it is combined with a limited leverage on the partner governments, as unlike other MDBs, Bank has well-focused policy exposure.

The need to carefully craft the assistance that is relevant and complementary prompted LTP to establish extensive collaboration and partnership links with various stakeholders. Among them are: international organisations that set standards and frameworks (i.e. UNCITRAL, WTO, OECD, EU, SIGMA); other IFIs and development organisations; civil society organisations (i.e. Transparency International, Open Contracting Partnership); philanthropist organisations and impact investors (i.e. Luminate, Western NIS Enterprise Fund) etc.

LTT interacts with other IFIs, donors and NGOs across its countries of operation, both in-country and at higher levels. Interactions include coordination of activities and policy dialogue in specific areas, building LTT efforts on the leverage and standards of other institutions, and combining EBRD TC funds with expertise from other organisations, such as IDLO or Transparency International, to implement projects. Cooperation takes place on the ground on specific topics in individual countries, and through LTP participation in international gatherings, conferences and working groups.

The 2012 evaluation repeatedly highlighted the importance of cooperation with other international actors. While it was not an overall recommendation of the study, two of the sector case studies recommended increasing cooperative initiatives with other leading IFIs and organisations, identifying the potential for increased leverage and efficiency.

Information on external cooperation is partial because of system limitations. These kinds of linkages are not always captured by the Bank's information systems; the TCRS database contains a data field for cooperation with IFIs, MDBs and Agencies to be recorded, but EvD found that this captured non-contractual arrangements inconsistently. Cases of non-project international partnerships are usually present in online materials (internal and external), LTT's own Law in Transition journal, as well as in anecdotal evidence from the interviews. For example, in a couple of instances it was noted, that several well-written and well-co-ordinated with other donors/IFIs letters and meetings with the government representatives contributed to a significant progress, which could not always be achieved through stand-alone TC projects. Therefore it was not possible to produce a complete overview of collaboration without looking into every individual engagement in greater depth than was possible within the time-frame allowed. The evaluation has most information on the situation in deep dive countries: Serbia, Tunisia and Ukraine, though in some cases interviewees did not distinguish between LTP work and EBRD's activities more broadly. Additional information on other countries came from interviews with LTT staff. Box 4 contains an overview of some areas of cooperation, with a more complete description and examples of in-country cooperation in Annex 13.

The survey of external contacts indicated that LTP is widely perceived as coordinating well with other donors and MDBs. 81% of respondents to the external survey gave a positive (35%) or highly positive (46%) rating to the complementarity and coordination of LTP activities with the activities of other international financial institutions and donors. This included all but one of the respondents from international organisations, and all but one of the respondents from ministries and other local public sector organisations receiving support from multiple international agencies. International organisations familiar with LTP's work also all gave positive responses to the question, "Please characterise the quality of your partnership with LTP".

The evaluation team received mixed messages in its interviews with partner organisations and beneficiaries. Broadly, interviewees felt that it was the role of the national government to co-ordinate the activities of partners and donors, but that in many cases the government lacked capacity to do so effectively. In each of the countries visited, individual government ministries or agencies reported that they were co-ordinating the otherwise conflicting work of the IFIs, while interviewees from business associations, law firms and IFIs mostly felt that any co-ordination was undertaken by the IFIs and donors themselves.

The overall impression was that donors and IFIs enter a “new” country of operations (such as Tunisia, for the EBRD) or a country with a renewed emphasis on policy dialogue (Ukraine) in a rather chaotic and competitive fashion, before settling into a more co-operative *modus operandi* in particular fields, governed by personal contacts or working groups. These are convened variously by a lead IFI or government department to co-ordinate efforts in a specific area of activity. One positive example of EBRD leading was on procurement and SOE/SOB corporate governance in Ukraine. In Tunisia, the RO was working on completing matrix of activities following a joint high-level visit by the EBRD and EU in 2019, which seems to offer the prospect of greater co-ordination across multiple work streams. An IFI representative in Tunisia noted that different IFIs had particularly good relationships with specific government departments and institutions – EBRD having especially good relations with the Central Bank. They suggested building on this for a coordinated approach with one focal point or lead IFI per ministry, representing the coordinated views of the IFI community.

Box 4. Selected LTP cooperation with other MDBs and donors

Partnerships:

- EBRD and the United Nations Commission on International Trade Law (UNCITRAL) have worked together since 2011 to align the public procurement legislation in the CIS countries, Mongolia and SEMED with the 2011 UNCITRAL Model Law on Public Procurement.
- Since 2014, the LTP has assisted multiple countries pursuing accession to the World Trade Organization’s 1994 Agreement on Government Procurement (GPA). The EBRD GPA TC Facility has provided the framework for structured cooperation with both UNCITRAL and the WTO GPA Secretariat.
- The LTT has contracted the International Development Law Organization (IDLO) to undertake legal reform projects on the ground, leading to 13 assignments in multiple countries. The evaluation team was able to look particularly at the work in Ukraine, which is discussed briefly in Annex 6.
- LTT worked closely with Transparency International in Ukraine on implementation of the e-procurement system Prozorro intended to increase transparency and reduce corruption in public procurement. Following this successful cooperation, LTT has sought to cooperate with Transparency International and Open Contracting Partnership to extend the open source and OCDS solutions to several other countries.
- Many of the LTT’s projects in the natural resources sector are directed towards achieving Extractive Industries Transparency Initiative (EITI) standards of good governance and transparency over beneficial ownership. EITI, based in Norway, is an initiative supported by the G7, IFIs (including EBRD), civil society groups and major companies.
- LTT jointly with Agribusiness Advisory, E2C2 and EPG collaborates with FAO on food waste prevention and reduction at supply and retail levels through better regulations and industry guidance
- LTT jointly with banking and E2C2 contributed to development of Joint Policy Guidelines on Competitive Selection and Support for Renewable Energy together with Energy Community Secretariat and International Renewable Energy Agency

High-level cooperation with other MDBs:

- The Vienna Initiative (co-ordinated by EBRD) is an important forum for cooperation in **insolvency** work.
- In the field of **public procurement**, the Bank has co-hosted several meetings of the Europe & Asia Public Procurement Knowledge Exchange Platform in cooperation with other MDBs. It also participates in an annual donor coordination meeting on public procurement each January, with membership including the World Bank, EU SIGMA and USAID.
- EBRD was a co-founder of the DFI **corporate governance** group which is led by IFC and includes all the IFIs.
- The World Bank and IMF are leading the **Fintech** agenda; EBRD works closely with them in several areas and is trying to avoid overlap.
- A **secured transactions** network of IFIs holds an annual conference to help to improve coordination

Co-operation among IFIs was particularly strong in Ukraine, where interviewees reported the success of donor co-ordination meetings to ensure complementarity and unified messaging, and prevent donors being played off against each other. The IFC, World Bank and IMF described Ukraine as one of the best cases of donor co-ordination.

Co-operation was reported as particularly weak with the World Bank in Serbia and the Western Balkans generally. EBRD RO staff reported a lack of cooperation and attempts to move belatedly into areas in which EBRD was already engaged. One LTT staff member reported that where the World Bank has regional offices, there are large teams whose presence “needs to be justified”, leading them to push into areas already occupied by other IFIs. In addition, there was a different assessment

of the issues in state-owned enterprises: the World Bank recommended improving managerial skills, while EBRD's assessment identified higher level problems in governance. By contrast, co-operation with the IFC and especially the IMF in Serbia is positive – as confirmed by those organisations as well as EBRD staff. A similar problem with the World Bank was reported in SEMED, based on a poor relationship with WB staff at the Dubai hub, though interactions with staff on the ground are more positive. Staff reported that the World Bank Dubai hub was uncooperative and the LTP had to pick specific areas of work where the World Bank was not engaged. This clash was attributed to personalities rather than any conceptual difference, with better cooperation reported with individual staff in other countries. LTT noted that many international organisations are represented on the ground by law firms, which have their own need to capture particular areas of work, and this can be the cause of some of the “turf wars” in individual countries.

The Bank can benefit from the greater leverage of other international bodies. Where there is an IMF programme or EU accession agenda, these provide an overarching framework within which EBRD can work. The EU or IMF conditionalities provide a stimulus for the implementation of specific LTP programmes. In Tunisia, the World Bank reportedly linked its funding to the implementation and use of the TUNEPS public procurement project. In Ukraine, IMF leverage was used to push legislation on non-performing loans through the Parliament, after which the World Bank and EBRD cooperated on the implementation. In Serbia, interviewees emphasised the importance of IMF conditionality in pushing the reform agenda. In south-east Europe more generally, the Vienna Initiative was important in bringing together powerful decision-makers and providing a “strategic anchor” for reforms in the financial sector, particularly on non-performing loans where the EBRD worked closely with the IMF and IFC.

Feedback from interviewees was that the EBRD is more efficient, moves more quickly and has greater in-house expertise than other IFIs. LTP experts get into the details of projects and, in cooperation with RO staff and consultants, provide a continuous engagement that is lacking from other IFIs, which often “fly in” at intervals to provide high-level policy advice. EBRD allows the client to be involved in consultant selection and has continuous discussions about the plan of work, rather than doing a scoping mission and then returning some months later with a fully worked-out plan and consultant selected without client involvement. The World Bank and, especially, IMF tend to work at a much higher, strategic level, but have the necessary “weight” to push reforms through while EBRD focuses on the technical detail. EBRD's procurement system and team are user-friendly compared with other institutions, and the quality of EBRD consultants is high. EBRD also has local knowledge through its ROs, investment operations and experience from similar countries, whereas other IFIs take a year or two to get up to speed on the local situation. EBRD local presence also provides more continuity to keep projects moving forward. In Ukraine, one partner described EBRD as an “intellectual heavyweight” with dynamic, opinionated experts and up-to-date analysis. An official at a Ukrainian state-owned enterprise benefiting from assistance on reform described EBRD as a more reliable partner, sharing information more than the World Bank, and the only IFI that was actively trying to find solutions to complicated issues, while others were passive and responded to events.

4. Long-term results and impact of LTP activities

4.1. Long-term results

- With the absence of systemic capture of LTP's long-term results and impacts at the department level EvD defined those on the basis of three deep dive cases, three country visits and Theory of Change it produced.
- LTP projects are normally well implemented and successful in terms of achieving specific outputs and immediate outcomes
- There is less information on longer-term results because LTT does not monitor this, but EvD found specific examples, particularly in the areas of improved institutions, skills transfer, reform of SOEs and SOBs and new e-procurement platforms

EvD could not always verify long-term results of the projects, even when reports are available, due to their formal and limited focus on long-term result chains. Bank monitoring and reporting provided information on achievements at the level of project outputs and some mid-term effects (outcomes). EvD's own project validations extended the result chain further and suggested the expected mid-term and long-term outcomes of the various projects, based on the ToC prepared for this study and modified for each of the case study. Often LTP work follows the cycle, when the short-term results of one project (membership in WTO GPA or compliance with UNCITRAL principles) become pre-conditions for launching new one that takes system one step further (launching e-procurement system, automated risk identification systems, business participation in international procurement markets), thus delivering a chain of results. So usually it is easy to identify long-term outcomes, however these could not always be verified. Mostly it could be done through the interviews, surveys and country visits. Other outcomes lack evidence, as identified in section 2.5 above.

Deep dives showed that LTP's projects are normally well implemented and successful in terms of achieving specific outputs and mid-term outcomes. Annexes 7, 8 and 9 summarise the findings of the three case studies – insolvency, debt restructuring (IDR) and enforcement; ICT and knowledge economy; and public procurement – which are based on self-assessments in project completion and progress reports, and supplemented (when available) by information from internal and external interviews. The evaluation team was not able to independently validate the results of all the individual projects. A significant majority of projects for which data is available achieved their intended outputs (or deliverables) and are rated as excellent in the self-assessments. IDR is the only area where there were unsatisfactory output and outcome ratings (around 30%), mostly because some components of larger projects didn't progress, due to the lack of local commitment/ change of government agenda. In other two cases self-evaluations had no unsatisfactory rated outputs and outcome ratings, although they did have a significant number of results that were "too early to report", at least 2-3 years ago as there were no more recent reports available.

Achieved short-term outputs and mid-term outcomes are too numerous to list here (but are provided in the case annexes), therefore the summary below includes long-term outcomes in three deep-dive sectors for which evidence of achievement is available.

Insolvency, debt restructuring (IDR) and enforcement

The study identified three types of immediate project results, intended to lead to long-term outcomes in this sector, although they can't always be verified.

Training and capacity building activities:

- Critical mass of judges, IOHs, conciliators and other legal professionals have sufficient skills and knowledge to review court cases dealing with insolvency matters (Armenia, Tunisia).
- Motivation of IOHs has improved, supervision of their activities has been strengthened, and the bias towards liquidation has been removed, due to enhanced capacity and amended IOHs payment schemes (Tunisia, Croatia, Cyprus, Greece).
- The quality and speed of insolvency resolution has improved, which enhances trust in the system among market operators and prompts behavioural changes in the rule of law (Bulgaria, Croatia, Cyprus, Greece, Serbia, Kosovo, North Macedonia, Tunisia).
- An institutional setup for continuous improvement of skills and oversight over the quality of court decisions has been established. An administration system for case management has been established and functions effectively (Armenia).
- Effective functioning of the bailiff service has led to greater compliance with court decisions and enhanced investors' trust in the legal enforcement system (Tajikistan, Mongolia, Ukraine); it combines both public and private components (Ukraine).
- Increased uptake of enforcement reforms across institutions (Ukraine).

Reports and action plans produced:

- Reduced information asymmetry and objective characteristic of challenges in NPL resolution has prompted the development of relevant legislation and regulatory acts to remove the impediments. Changed behaviour of key stakeholders (Hungary, Serbia).
- Viable institutional platform for effective out-of-court NPL resolutions (Corporate Debt Restructuring Committee) has been established and is functioning effectively and sustainably (Mongolia).
- Insolvency framework has been improved through the removal of the existing legal impediments and enhanced implementation practices/standards (Croatia, Armenia).

New institutions created:

- New institutional capabilities for voluntary mediation-based out-of-court financial restructuring procedures are used more widely for NPL resolution, reducing the burden on courts. This contributes to higher standards of corporate governance in banks and companies, and positively affects the behaviour/level of trust of key stakeholders who have greater access to information and instruments aimed at restructuring problem debt (Serbia, Ukraine).
- Direct financial effect of the work of the Secretariat for Financial Restructuring and Arbitration Committee – UAH 27.5 billion (EUR 1 billion) in 25 completed financial restructuring procedures (2019) (Ukraine).
- Well-functioning enforcement system for court decisions that includes clear legislation; implementation tools and administrative capacity of the leading agency (Mongolia).

These definitions are similar to formulations of the country's priority policy objectives (PPOs), that have been formulated for each country since 2018. For example, one of PPOs for Armenia in 2018 was "Improve the efficiency of the Armenian insolvency and restructuring frameworks through the enhancement and reform of the Bankruptcy Law and the Tax Code".²⁷ Unfortunately, the timeline of this evaluation does not allow the use of PPOs for validation purposes, but it is important to highlight, that PPOs and the priorities of EBRD country strategies could and should be used by LTT explicitly in building full project results-chain.

ICT and Knowledge economy

LTP activities in this sector during the period under evaluation were intended to contribute to several of the mid-term outcomes:

- *Improved matrix for benchmarking and comparisons:* contribution to development of the KE index; comparative assessment of the ICT sector in countries of operations in 2012 and 2016.
- *Data for measuring progress in ICT:* detailed broadband market assessments (Armenia, Cyprus and Serbia).
- *New/improved laws and legal acts:* national broadband plans (Armenia, Cyprus and Serbia); legislative action plan (Georgia); draft laws and regulations (Armenia and Georgia).
- *Improved institutional capabilities:* skills transfer in tendering, procurement and public information (Georgia); officials trained and mentored at the regulatory agency (Armenia, Kosovo).
- *Improved capacity/skills/knowledge of legal experts:* training and mentoring of judges in Tunisia.

Achievement of outcomes was varied. Georgia showed the best results, with a series of LTP interventions enabling the country to launch its digital TV switchover ahead of time. A project in Kosovo was satisfactorily implemented but there was limited information on outcomes. In Armenia and Serbia, projects did not proceed beyond the immediate outputs and outcomes because of a lack of practical support from the Government.

The evaluation team visited **Serbia** as part of its fieldwork. The client reported that the consultants' work was "above expectations", providing tools such as a customised profitability model that could be adapted and used for different regions, as well as helping the client with its application for support to the EU WBIF. The client reported skills transfer from both the

²⁷ EPG's database of PPOs available on intranet

consultant and EBRD; in particular the LTP lead helped the local project manager develop skills in managing consultants and engaging effectively. The project helped to integrate the digital and broadband agenda in a national strategy and programme of reforms for 2018-20 and 2019-21, but the Ministry lacked finance for implementation.

Public procurement

This area contains a significant number of long-term initiatives – most of 27 projects in the sample are ongoing with only six being completed. Also EvD had access to information about expected and actual outputs and outcomes for only half of the portfolio (14). Therefore for only some areas and some countries the evidence of long-term results is available along four main streams of work:

(1) A country's PP legal and regulatory framework is compliant with international standards and models; their implementation is largely in line with best practices; gaps are identified and are being addressed.

- Compliance with the UNCITRAL model law and clearly identified gaps unlocked public procurement reforms with clear priorities to build (i) competitive; (ii) well-governed; (iii) transparent PP markets with (iv) offering greater value for money and lower corruption risks to (v) wide group of market operators, including in the SME segment and women's businesses. Countries: Armenia, Kyrgyz Republic, Tajikistan, Mongolia and Tunisia.
- Membership in WTO GPA opened new international markets for Montenegro, Ukraine, Moldova, Armenia, although businesses need more support to harness those opportunities. In Ukraine international suppliers from 40 countries are registered with ProZorro system.
- **In Ukraine** LTT, jointly with PPD, has worked on multiple strands of public procurement reform in Ukraine since 2010 (seven TC projects in total). Substantial donor assistance and advice were provided by multiple other donors, international organisations, philanthropic and civil society organisations. The EBRD's support included identification of gaps and benchmarking of Ukrainian PP system vis-à-vis best practices; assistance in developing new legislation and regulations (Public Procurement Law) in line with the UNCITRAL Model Law principles and that ensured compliance with the WTO GPA standards and requirements; amending legislation in several instances to absorb new changes and opportunities provided by revamped procurement systems; conducting accession negotiations (to WTO GPA); developing implementation tools; preparing a reporting mechanism to comply with best international practice etc.
- **In Moldova** LTT has delivered/is delivering five projects. As in Ukraine, the country benefited from the full cycle of assistance, starting with identifying the gaps and helping to match international standards (UNCITRAL, EU 2-14 PP Directives) and acquiring membership in international organisation (WTO GPA); revision of legislation and regulatory base, creation/turnaround of existing policy institutions, implementation and review bodies; launch of the MTender e-procurement system which is a similar hybrid model based on open Application Programming Interface (API) and compliant with OCDS. Particular progress has been achieved since 2015.

(2) New e-procurement platforms are created; efficiency and effectiveness of existing platforms are enhanced; data is generated and is accessible for enhancing decision making and control over PP.

- Many CoOs are compliant with open government standards and OCDS, using open access software and publicly accessible single databases, with API-enabled integration of various modules that provide real-time data for potential bidders. Efficient feedback loops enable refinement of PP legislation and regulations, tools and control mechanisms, enabling further innovations.
- **In Ukraine** Building upon the achievements of the new Public Procurement Law (2014), the EBRD extended its support to developing and piloting large-scale use of the e-procurement system ProZorro.²⁸ Triggered by high demand for increased transparency and reduced corruption, a coalition of Ukrainian CSOs (led by Transparency International), businesses and Government launched ProZorro, a hybrid system that uses a centralised database

²⁸ This initiative was funded by the Ukraine MDA along other donors, namely WNISEF (US\$ 290,000) and GIZ (US\$ 423,000). TI is the lead partner in this initiative and in fact is the guardian of the "electronic" keys to the ProZorro platform (so the Government could not interfere in the system). Sources: <http://www.ebrd.com/documents/ogc/public-procurement-in-ukraine-a-system-transformed.pdf>, <https://www.open-contracting.org/2018/01/12/learning-insights-latest-impacts-emerging-ukraines-prozorro-reforms/>, <https://joinup.ec.europa.eu/document/ProZorro-public-procurement-platform-spreads-its-wings-ProZorro>, "Law in Transition Journal" 2017, Public Procurement in Ukraine – a system transformed.

with multiple trading platforms (often pre-existing) for procuring public goods, works and services. Starting from a handful of organisations and large-sum procurement, the system is now universal and mandatory for all public institutions, local governments, SOEs, in small or large-scale purchases. It is based on open-source software and compliant with OCDS ensuring full proactive disclosure of information, which is publicly available for everyone to monitor and analyse. It is one of the most advanced e-procurement platforms based on block chain technology and OCDS. ProZorro received a number of international awards, including the 2016 World Procurement Award, the 2016 and 2017 Davos Awards, and the 2016 Open Government Award.

- **ProZorro has saved US\$3.8 billion (UAH100 billion) in public funds in 2015-2019**, which is substantial given a total public procurement market of €20 billion.²⁹ In 2019 the number of registered suppliers reached 50,000. The share of procured value through competitive procedures increased from 25% to 70%; the number of new bidders reached 31,000 in 2018 and the number of online platforms participating in ProZorro increased from 0 to 20.
 - **In Moldova** the MTender system development and launch faced many challenges, mostly due to political changes and lack of consistent willpower for reforms on the government side, although the role of a strong business-civic reform coalition was crucial. MTender is being launched in stages since 2018 (in 2019 it was 60% ready) with 97% of all public agencies and SOEs using it and 4,700 suppliers registered. In first 15 months of its work it saved €29.9 million or 14% on competitive tenders. There was a 30% increase in the number of new participants in public tenders.³⁰
- (3) **New institutions are created or existing institutions have major improvements in their capacity to plan, implement, monitor, review and enforce newly approved PP policies and legal acts.**
- Moldova, Tunisia, Ukraine, Kyrgyz Republic, Georgia have or are in the process of having better skilled and organisationally more efficient PP review bodies independent in their function. Streamlined and electronically enabled complaint and dispute resolution systems are integrated with the procurement platforms, reducing the speed of process and enhancing its quality.
 - In Ukraine the capacity building of independent monitoring and oversight experts through the DoZorro community created a new M&E culture in public procurement. A large cohort of CSOs (25) and individual volunteers (1,000) across all regions of Ukraine are now fluent in the public procurement system and can identify risks/corruption cases, report them, and follow enforcement actions. In 2018 alone the DoZorro network revealed violations in circa 12,000 tenders on ProZorro. In 2016-2018 it initiated reviews of 2,000 tenders that resulted in the removal of unfair conditions, and cancellation of dubious procedures.
 - Created as a start-up, Ukraine's procurement institution was later reintegrated in the structure of MEDT as a highly professional policy making department, while an independent state-owned enterprise was established to manage ProZorro. Ukraine launched the Central Procurement Body (as arm-length state enterprise) which is responsible for streamlining large-scale low-specification purchases through framework agreements and eCatalogues (ProZorro Market).
 - Moldova had a similar model of "start-up" reintegrated in the government, while Kyrgyz Republic and Tunisia are performing institutional improvements "in situ", although with lesser degree of public disclosure and transparency compared to Ukraine and Moldova.
- (4) **New opportunities for local companies are created through enhancing SME access to PP systems**
- A greater number of local SMEs are participating in PP in countries that delivered streamlined, transparent and effective e-procurement systems and new instruments for small value purchases and under-threshold procurement: Kyrgyz Republic, Ukraine, Moldova
 - **In Ukraine** there was a substantial increase in the share of SMEs having access to public procurement – 80% of all bidders are SMEs and 75% of them won at least one tender. In 2015-2018, 200,000 companies, many of which are local SMEs, participated in procurement through the platform, ensuring an average 2.3 participants per tender. The average number of goods/service providers per single public institution increased from 3.4 to 5.9 (2015-2018). There were three million total procurement transactions for a total amount of UAH 1.7 trillion.

²⁹ Ukrainian Ministry of Economic Development and Trade

³⁰ MTender <https://mtender.gov.md/ru>

- In 2019 Transparency International Ukraine conducted a survey of companies using ProZorro which demonstrated the largely positive effects of the system.³¹ 80% of respondents were satisfied with their work on the platform. 41% of users said they never encountered corruption in ProZorro, although the share of those who did was 24%. Overall the share of users who never experienced corruption in PP increased by 9% since the launch of the system. In Moldova the Joint EBRD/MTender survey of procuring entities and vendors demonstrated a positive change in perception: 72% respondents said it was easier to take part in PP and the same share said MTender helps to save money and time.³²
- **In Tunisia** Thanks to the enhanced accessibility of public procurement system to SMEs through the e-procurement system the share of SMEs taking part in the tenders increased; the number of offers per PP bid increased from 2 to 17 in 2017-2019. The EBRD project enabled productive contacts between the state agency responsible for public procurement (HAICOP) and private sector companies. In the words of HAICOP leadership, it was the first contact of this sort and opened the way to a range of productive interactions.

Box 5. Market effects of Ukraine's new procurement system

- **ProZorro has saved US\$3.8 billion (UAH100 billion) in public funds in 2015-2019**, which is substantial given a total public procurement market of €20 billion.³³ In 2019 number of registered suppliers reached 50,000. The share of procured value through competitive procedures increased from 25% to 70%; the number of new bidders reached 31,000 in 2018 and the number of online platforms participating in ProZorro increased from 0 to 20.
- **SME access:** there was a substantial increase in the share of SMEs having access to public procurement – 80% of all bidders are SMEs and 75% of them won at least one tender. In 2015-2018, 200,000 companies, many of which are local SMEs, participated in procurement through the platform, ensuring an average 2.3 participants per tender. The average number of goods/service providers per single public institution increased from 3.4 to 5.9 (2015-2018). There were three million total procurement transactions for a total amount of UAH 1.7 trillion.
- **Business perceptions:** In 2019 Transparency International conducted a survey of companies using ProZorro which demonstrated largely positive effects of the system.³⁴ 80% of respondents were satisfied with their work on the platform. 41% of users said they never encountered corruption in ProZorro, although the share of those who did was 24%. Overall the share of users who never experienced corruption in PP decreased by 9% since the launch of the system.
- **Due to WTO GPA membership** Ukraine can take advantage of global access to public procurement. International suppliers from 40 countries are registered at ProZorro. Ukrainian local businesses are yet to harness the opportunities of international public procurement tenders, due to limited capacity and knowledge. Ukraine is taking open data and contracting standards to the global level with its leadership in the respective WTO working group.
- **The model has a strong demonstration effect and its principles are being applied elsewhere.** A similar online platform, ProZorro.Sale, was launched in 2017 for selling state and communal property and assets, NPLs, mineral extraction rights, rail car lease etc. In 2017-2019 ProZorro.Sale delivered UAH 21 billion (US\$840 million) income through 241,000 auctions on 50 market places.
- **EBRD is now using ProZorro as an e-procurement standard** and supports replication of its principles and elements in a number of countries, including Moldova, the Kyrgyz Republic, Tunisia and others.

³¹ Transparency International Ukraine (2019) "The Other Side of ProZorro: Does Ukrainian Business Trust Public Procurement?" Survey of 599 procurement participants in ProZorro. <https://ti-ukraine.org/en/news/80-of-public-procurement-participants-are-satisfied-with-prozorro-electronic-platforms/>

³² Open Contracting <https://www.open-contracting.org/2019/12/11/opening-up-moldovas-contracts-progress-and-challenges/#:~:text=MTender%20has%20allowed%20Moldova%20to,mandatory%20for%20all%20public%20procurement.&text=Moldova%20is%20one%20of%20the,landlocked%20between%20Ukraine%20and%20Romania>

³³ Ukrainian Ministry of Economic Development and Trade

³⁴ Transparency International Ukraine (2019) "The Other Side of ProZorro: Does Ukrainian Business Trust Public Procurement?" Survey of 599 procurement participants in ProZorro. <https://ti-ukraine.org/en/news/80-of-public-procurement-participants-are-satisfied-with-prozorro-electronic-platforms/>

4.2.LTP's Impact: Enabling reforms in countries of operations

- Evidence of impact on the ground varies but it illustrates improvements in governance in EEC region, reductions in NPLs in south-east Europe and e-governance in countries where LTP has been active
- LTP's work contributes to achievement of a significant number of country strategic priorities and priority policy objectives - this should be used explicitly in building a full project results chain
- Uptake of reforms supported through LTP is significant in many countries and some achieved substantial breakthroughs. Changes in the behaviour of local stakeholders are more challenging to capture, however empirical evidence suggests that long-term engagement with multiple partners enhances reform coalitions that can sustain pressure for reforms.
- However the governance gap with the developed economies remains significant, and while regulatory regimes are much stronger across the geographies, judiciary independence and corruption levels remain high.
- Ability to achieve impact and sustainability depends heavily on LTP's involvement in the implementation phase after the adoption of new legislation and regulation

The evaluation looked at the external and internal impact of LTP activities. External impact encompasses both non-transactional work, helping to establish a framework and develop the climate for investment in countries of operations, and transactional work to support the resulting investments more directly. Internal impact is visible in changes to the Bank's model of operation and delivery tools, and in internal recognition and uptake of the services provided by LTP.

Sources of information on impact

This report has already noted that LTP departmental monitoring and reporting does not provide comprehensive data on contribution to PPOs, TQs or country-level impact. A lack of direct comparisons between reported activities and programme planning or strategic objectives; LTT's internal structure and aggregation of information by activity stream rather than country; lack of any results chain linking outputs to outcomes or impacts; absence of on-the-ground monitoring; and a short-term (annual) approach to reporting on long-term interventions – these are not unique to LTP but all mean that the evaluation cannot draw on LTP information to assess the impact of its activities.

LTP's legal assessments are a significant element of its portfolio, however since they are not always repeated regularly they offer few opportunities to measure progress. The areas with regular assessments include PPP/concessions and corporate governance. Assessments play an important role in ex-ante evaluation of country needs and providing baseline data for designing interventions.

EvD's theory of change identified two transition qualities primarily targeted by LTP: well-governed and competitive. Therefore performance is assessed through progress towards (1) open and competitive markets and (2) well-governed economies and firms.

EvD assessed country-level data through the prism of its theory of change, while recognising the problems of attributing country-level changes to specific activities or their collections. The assessment draws on country data from EBRD transition reports and other external measures together with the results of its interviews and surveys for an overview of developments at country level. The Annual Report on Transition Performance, Country Strategy Delivery Reports and PPO achievement dashboards also provide evidence for measuring impact. The three case studies also identified objective sources of data relevant to the specific sectors: the World Bank Doing Business Survey and the EBRD's Knowledge Economy Index, which compared the situation in 2011 and 2018, Transparency International Corruption Perception Index, OECD SME Policy Index, UN's e-government development index and e-participation index.

Overall progress and LTP contribution

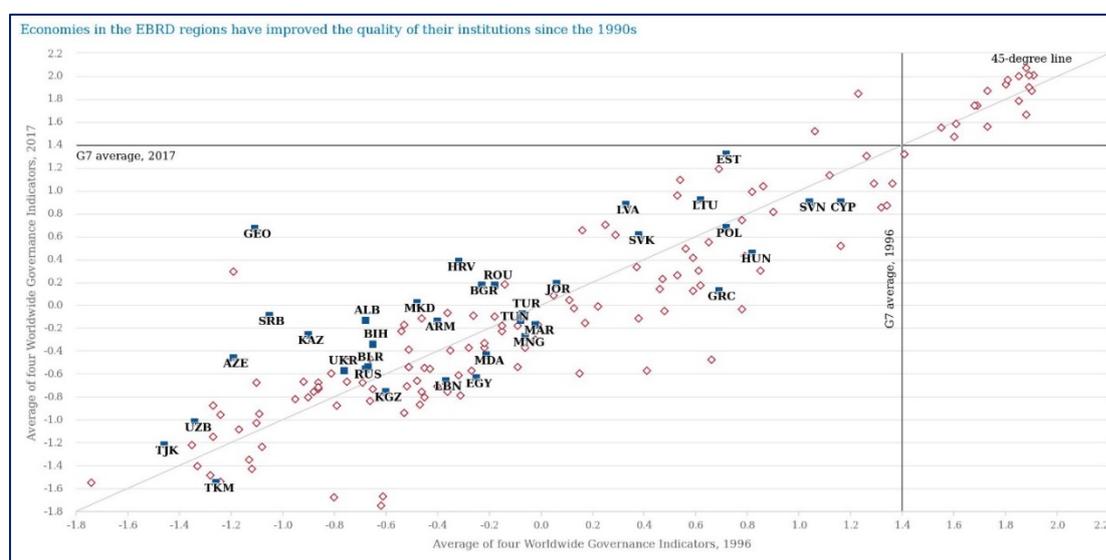
Informed observers believe that LTP contributes to the Bank's achievements, particularly in the regulatory and corporate governance fields. Of respondents to an internal survey 93% agreed that LTP's role is crucial in delivering Bank's mandate; 70% of internal respondents and 83% of external respondents agreed it is very relevant to COO needs. Interviewees were invited to specify where LTP made its strongest contribution to investment climate improvement:

- (i) functioning of the judiciary (10 external respondents);
- (ii) regulatory (10 internal and 6 external respondents);
- (iii) corporate governance (7 internal and 5 external respondents);
- (iv) public procurement (5 internal and 5 external respondents);
- (v) sector reforms (3 internal respondents);
- (vi) ICT and knowledge economy (5 external respondents);
- (vii) insolvency and debt restructuring (IDR) (5 external respondents);

Only external stakeholders highlighted functioning of the judiciary as the top area with LTP's contribution, and ICT/knowledge economy and IDR as significant. This might be partly due to the composition of the group (external consultants, beneficiaries and international partners), however it illustrates that very few Bank colleagues see those as key contributing factors, or that Bank staff are not aware of LTP activities outside their own area of business. On the other hand, sector reforms were noted by three EBRD respondents as important. Regulatory issues, corporate governance and public procurement were highlighted by both groups.

EBRD's own transition assessment suggests that countries of operations have progressed significantly in building economic institutions compared to mid-1990s but governance gap remains large (Box 6). This is illustrated in charts 7 and 8.

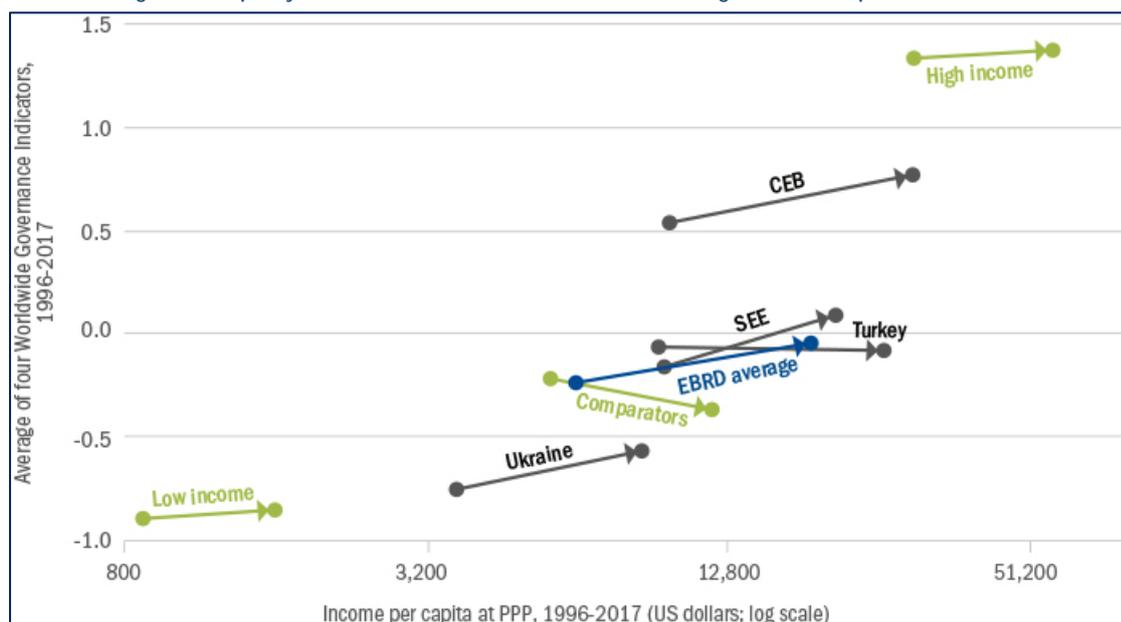
Chart 7. Quality of institutions in EBRD CoOs, 1996-2017



SOURCE: World Bank and EBRD calculations.

NOTE: The quality of economic institutions is captured by a simple average of the Worldwide Governance Indicators for control of corruption, the rule of law, regulatory quality and government effectiveness.

Chart 8. Changes in the quality of institutions and income levels in EBRD regions and comparator countries, 1996-2017



SOURCE: IMF, World Bank and EBRD calculations.

NOTE: "Low-income" economies are those with per capita incomes below the lowest value observed in the EBRD regions in 2017; "high-income" economies are those with per capita incomes above the highest value observed in the EBRD regions. Gross domestic product (GDP) per capita in comparator economies lies between the lowest and highest values observed in the EBRD regions. "CEB" denotes central Europe and the Baltic states; "SEE" refers to south-eastern Europe.

Box 6. Progress in governance in EBRD's countries of operation

The Transition Report 2019-2020 "Better Governance, Better Economies" focuses on the dividends of good governance for economic growth and wellbeing and provides a valuable context for assessing the EBRD's work in the area of rule of law and improving investment climate in its countries of operation. "On balance, the EBRD regions' governance gap relative to advanced economies remains large today, despite the income gap having narrowed considerably. The economies of the EBRD regions have achieved the greatest improvements in the area of regulatory quality, making somewhat less progress as regards control of corruption, the rule of law and government effectiveness."³⁵

The Transition Report 2018-19 on "Work in Transition" observes uneven progress on governance. It comments: "Progress in respect of selected indicators of good governance was uneven over the period 2010-2017. Although the perceived regulatory burden declined in many of the economies where the EBRD invests, the perceived transparency of government policymaking didn't generally improve (with the exception of certain specific countries, such as Kazakhstan, Romania and Ukraine). Moreover, judicial independence and the availability of frameworks for challenging regulation were assessed as having weakened in some countries. Major obstacles remain as regards frameworks for challenging regulation, the protection of property rights, the transparency of government policymaking and the efficiency of legal frameworks for settling disputes."³⁶

The report observes that: "Improvements in the area of good governance have been concentrated primarily in the EEC region, with progress being observed in Armenia, Azerbaijan, Belarus, Moldova and Ukraine. Increases in these countries' scores have been driven by marginal improvements in the perceived quality of governance practices and standards in key areas, including the protection of private property and the availability of the adequate frameworks for challenging regulations. A number of changes – both positive and negative – have been observed in the perceived transparency of government policymaking. Scores have tended to be revised downwards overall, with notable declines being seen in Egypt, Latvia and Mongolia, but improvements have been observed in Hungary and Ukraine. Increases in the perceived regulatory burden have also been seen in a number of countries, particularly in Jordan, Kazakhstan and Latvia, while some improvements have been observed in Azerbaijan, Hungary and Morocco."³⁷ LTT has high concentration of initiatives and projects in the evaluation period in most of countries that achieved meaningful improvements: Armenia, Azerbaijan, Moldova and Ukraine. Although, Mongolia that also has a significant number of LTT projects has seen some regress.

³⁵ Transition Report 2019-2020 "Better Governance, Better Economies", p.15

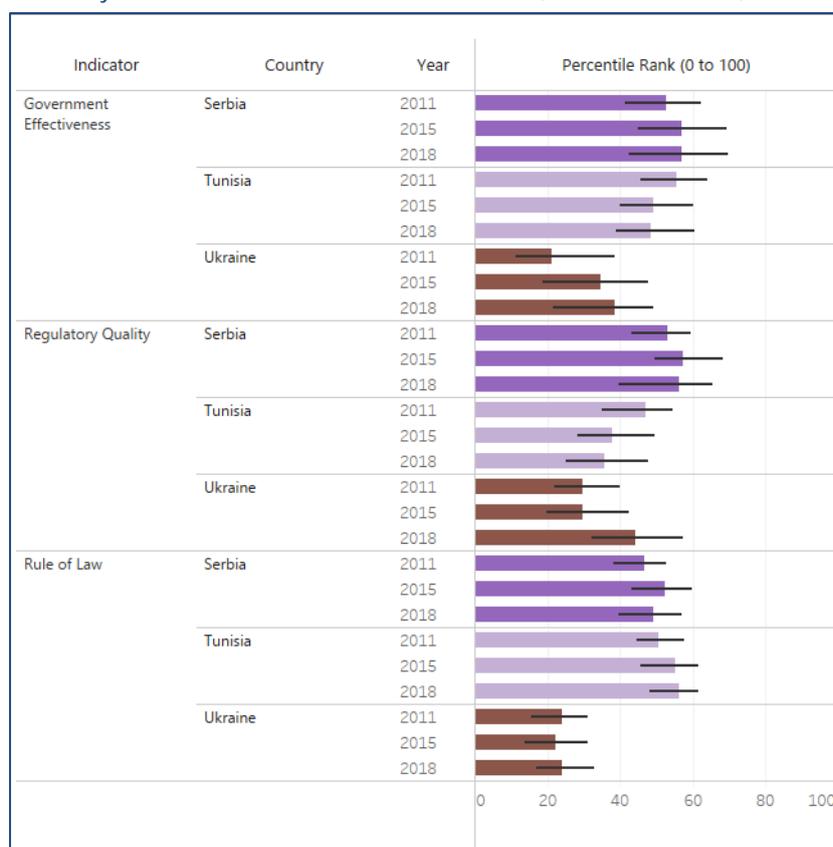
³⁶ Transition Report 2018-19 "Work in Transition" p.112 – Multi-year analysis of transition scores

³⁷ Ditto, p.110 – Well-governed

In the three countries where the evaluation team did an in-depth analysis, improvement was not uniform even in the regulatory area (Chart 9). Ukraine progressed the most, albeit from a lower start, Serbia achieved some progress while Tunisia regressed. The same dynamics are observed in the government effectiveness sub-index, while in rule of law all three countries progressed somewhat, with the biggest dynamics observed in Tunisia. As noted above, the perception of internal and external stakeholders suggests that LTP's strongest contribution was in the area of regulatory quality.

Although only recently launched, country transition qualities scores illustrate progress in specific areas, where the EBRD's support was consistent and continuous. There is observable improvement in the well-governed score in three countries: in Serbia from 4.39 to 5.52, in Tunisia from 3.94 to 4.88, and in Ukraine from 3.58 to 4.87. The positive dynamic related to the competitive TQ score was the least prominent: it increased from 4.94 to 5.36 in Serbia, from 4.68 to 4.77 in Ukraine, and did not change in Tunisia (3.93).³⁸

Chart 9. Dynamics in WB's Governance Indices in Serbia, Tunisia and Ukraine, 2011-2018



Source: World Bank, Worldwide Governance Indicators database

Interviews and surveys revealed that the scope of impact and the sustainability of achieved results depends greatly on the ability of LTP to perform the implementation phase after the phase of drafting legislation and regulation, training and capacity building. And in different sectors and segments of LTP's work the experiences are different. While in some areas the Bank "finishes and packs up" after the law is adopted, in others the opposite is true. In cases when the EBRD's legal advice work finishes when the specific law is approved, the link between LTT's "pre-work" and EBRD investments is often loose. LTT colleagues were candid in admitting that in many instances they are unsure of the Bank's current ability to track the effectiveness of their work ex-post, especially when there is a gap "in action" between LTP's interventions and investments.³⁹

³⁸ Ditto. Scores range from 1 to 10. Some methodological changes affect compatibility of data.

³⁹ These observations were also made in the Recent Evaluation of the EBRD's Investment Climate Support Activities (2018)

Insolvency and Debt Restructuring (IDR)

The evaluation team identified assumed intended impacts for a cluster of IDR projects and used a number of indicators to assess progress. These are:

- Open and competitive markets: reduced share of NPLs; increased recovery rates; reduced length of IDR procedures
- Well-governed economies: improved DB insolvency ranking and score

Some countries where LTT was consistently engaged in improving the Insolvency Law Regime achieved significant progress in reducing the rate of NPLs (2015-2019), particularly Serbia, Bulgaria, Hungary, Cyprus and Croatia, as well as Kosovo and North Macedonia. In Hungary the NPL volume reduced from €5.9 billion to €1.1 billion between 2015-2019, and in Serbia from €3.6 billion to €1 billion. Others saw deterioration, for example Ukraine and Greece, as both faced substantial economic crises in this period. However, the volume and share of NPLs is gradually decreasing in Ukraine and in 2019 alone it fell from 52.9% to 48.4% of total loan portfolio, with the biggest drop in the state-owned banks segment, from 55% to 49.3%, who mostly use the EBRD-supported financial restructuring mechanism. The National Bank of Ukraine highlighted that out-of-court settlement was one of the biggest contributing factors.⁴⁰

Scores and ranking in the World Bank's Doing Business Insolvency rating improved significantly for some countries: Serbia, Bulgaria, Croatia, Kosovo, North Macedonia, as well as Ukraine and Greece. Hungary's progress was less prominent, while Tunisia, Tajikistan and Mongolia have worsened their positions. For example, recent analysis of situation in Mongolia suggests that *"there has been limited progress on modernizing insolvency laws and industry best practices. The same goes for inefficiencies in how repayments of debt are enforced and the government's debt restructuring mechanisms."*⁴¹ The EBRD's Transition Report 2019-2020 noted that in June 2019 NPLs in Mongolia reached 10.5% of total loans and implementation of the NPL Resolution Strategy remains one of the main priorities for 2020.⁴²

Very few countries managed to reduce the period for resolution, which remains above the OECD average (1.7 years), significantly in some cases (3.5 years in Greece, 3.3 in Bulgaria and 3.1 in Croatia), although Tunisia has very healthy period of 1.5 years. Recovery rates increased in some countries (Hungary, Croatia, North Macedonia, Kosovo), and decreased in others (Greece, Mongolia, Tajikistan and Tunisia). Cyprus has the highest level of recovery at 73.8%, while Ukraine has the lowest rate at 9% in 2020.

ICT and Knowledge Economy

The impact of the projects was measured with reference to the Knowledge Economy Index. Country assessments were conducted in 2011 and 2018, allowing a comparison to be made which largely matches the period covered by this study.

While COOs showed improvements in ICT availability and infrastructure this was not matched in all cases by improvements in institutions, governance and regulatory quality. Among the countries in which LTP projects were initiated, the improvement was smallest in Kosovo (1.75 to 2.32) and greatest in Georgia (1.65 to 5.31). In several countries, improved infrastructure came about despite a deterioration in the institutional framework. Georgia and Serbia are the only two of the countries with LTP projects to show improved regulatory quality, and both also showed particularly large improvements in ICT availability. Georgia was the country with the largest cluster of LTP projects and the most positive reported results at output and outcome level. Although further progress in Serbia was blocked by a lack of authorisation of funds, the client had received the project enthusiastically and reported improved skills and processes from the experience. The impact measures seem to reflect the reported project results reasonably well.

⁴⁰ National Bank of Ukraine press release, 10 February 2020 - https://bank.gov.ua/news/all/u-2019-rotsi-chastka-nepratsyuyuchih-kreditiv-u-bankah-vpershe-za-ostanni-roki-znizilasya-nijche-50?fbclid=IwAR3dyuuuyp7wLVWCcZYy-OC4dIK69FbxI5p7OYTPbGvxVg_OEeKb4fJhBeM

⁴¹ EUROMONEY, December 2019 <https://www.euromoney.com/article/b1jhzzc8xqjff/financial-sector-threatens-mongolias-recovery>

⁴² EBRD Transition Report 2019-2020, Mongolia country profile

Public Procurement

For a cluster of public procurement projects the following assumed intended impacts were identified:

- Open and competitive public procurement markets
- Well-governed economies: public procurement frameworks are of high standards, predictable and transparent

Unfortunately, it remains challenging to measure and compare performance of national PP systems in a consistent way.⁴³ Unlike in other areas, there are no easy comparable datasets/ranking that would offer a uniform picture of the performance of public procurement markets and national systems. It is true even for the most advanced countries, and even for the most advanced electronic elements of the procurement systems.⁴⁴ PP achievements often recorded through certain milestones in national legislation and implementation practices. With the acknowledged limitation of reliable and chronologically comparable data on the national PP systems, the evaluation team used a number of available international indicators that are illustrative, if not of the entire system, at least some of its crucial elements. These are:

- **Transparency International Corruption Perception Index (TI CPI) (2014-2019)** is the most widely used corruption measure. It scores countries based on how corrupt a country's public sector is perceived to be by experts and business executives. As PP is one of the core elements of the public sector and represents a significant share of public spending, it is a relevant measure.

Among 17 countries with PP operations seven have improved their score in 2014-2019, including one case of substantial improvement – Belarus by 14 points. These are all in EEC and CA regions, plus Tunisia. Some countries regressed, such as Turkey, Egypt, Mongolia and Moldova.

- **OECD SME Policy Index** is a benchmarking tool used for assessing SME policy frameworks in emerging economies against 10 principles of the Small Business Act for Europe (SBA) and to monitor progress in policy implementation over time.⁴⁵ The Public Procurement sub-index could be a proxy for measuring the changes in SME's access to PP.

Unfortunately it is not measured consistently for all countries in the same years, and not always repeated, therefore intra-regional comparisons are most suitable, although available only for EU's Eastern Neighbourhood countries (EEC). Analysis of 2016-2020 scores illustrates a consistent positive trend in SMEs' access to PP in all countries, with the greatest improvement observed in Moldova, Ukraine and Azerbaijan, which matches the map of intensive LTT PP efforts.

- **UN's E-Government Development Index (EGDI) (2010-2020)** is a composite measure of three important dimensions of e-government, namely: provision of online services, telecommunication connectivity and human capacity. It incorporates the access characteristics, such as infrastructure and educational levels, to reflect how a country is using information technologies to promote access and inclusion of its people. With increasing trends of digitalisation of public procurement, the index could be used as a proxy for assessing a government's technical capabilities to provide e-services, including in the PP area.

All countries have positive trend in EDGI in 2010-2020, with notable progress achieved in EEC (Armenia, Azerbaijan, Georgia), Central Asia, Turkey and Tunisia.

- **UN's E-participation index (EPI) (2010-2020)** is derived as a supplementary index to EGDI and focuses on the use of online services to facilitate provision of information by governments to citizens ("e-information sharing"), interaction with stakeholders ("e-consultation"), and engagement in decision-making processes ("e-decision making"). It is a good proxy for the oversight function in procurement and SME access to PP.

⁴³ World Bank in its "Benchmarking Public Procurement: 2017. Assessing Public Procurement Regulatory Systems in 180 economies" notes "Despite its importance and the greater attention being paid to public procurement, global information about the public procurement market is still scarce

⁴⁴ OECD in its "Government at a Glance 2019" noted "only 30% of OECD countries established key performance indicators measuring outcomes of procurement processes versus set targets... many OECD countries analyse public procurement data and indicators in a decentralised, non-systemic fashion". And "even though e-procurement systems are major drivers of efficiency in public procurement, only a minority of OECD countries measure said efficiencies"

⁴⁵ Index was developed in 2016 by OECD in partnership with the European Commission, EBRD, and European Training Foundation

Progress in EPI in the same period of time was more dramatic, which also illustrates the penetration of digital technologies and access to the internet across wide groups of population in all the EBRD's CoOs. Notable progress is observed in Georgia, Armenia, Tajikistan, Turkey; the least notable – in Jordan, Mongolia and Kazakhstan.

Public Private Partnerships

PPP is one of very few LTP policy areas where two legal assessments were conducted in 2011 and 2017 with compatible methodologies. Therefore they provide evidence of not only ex-ante challenges and gaps, but also progress achieved in the course of eight years (see Table 2). LTT's legal assessments of PPP included a legal framework assessment of compliance (LFA) and a legal indicators survey on effectiveness (LIS). The latter was conducted in twelve countries in 2017 and was based on interviews with the informed stakeholders.⁴⁶

The higher quality of laws on the books has not yet been converted into high quality implementation structures and procedures. The average LFA score changed by only one point to 70 between 2011 and 2017, while the LIS score increased by 12 points to 58. The gap between legal framework and effectiveness illustrates poor bankability of projects. The largest progress was achieved in Serbia, which is now a very high achiever alongside Mongolia. Interviews with government officials and private sector representatives conducted by the evaluation team in country confirmed the EBRD's critical role in preparing a country's PPP legal framework and supporting its implementation. The high achievers group includes 21 countries, with the greatest progress observed in Morocco and Romania. Ukraine has regressed from the high to the medium group, which now includes 11 countries. There are only three countries in the low group, although Georgia, which remains there, achieved notable progress in the legal sphere. The effectiveness score for PPP is significantly lower across all regions. Slovenia is the only "very high" achiever and there are 10 high achievers, where Western Balkans countries – Serbia, Montenegro and North Macedonia – demonstrated the greatest progress from the low group. The medium group includes 15 countries, the low group – 7, and the very low

Country	2011 LFA result		2017 LFA Results		2011 LIS result		2017 LIS Results	
Albania	86	high	77	high	55	medium	62	medium
Armenia	33	low	58	medium	20	very low	54	medium
Azerbaijan	***		65	medium	***		19	very low
Belarus	57	medium	66	medium	6	very low	37	low
Bosnia and Herzegovina	***		61	medium	***		40	medium
Bulgaria	***		79	high	***		68	medium
Croatia	74	high	75	high	69	medium	75	high
Cyprus	***		65	medium	***		53	medium
Czech Republic	67	medium	64	medium	47	low	64	medium
Egypt	76	high	74	high	64	medium	59	medium
Estonia	75	high	70	high	44	low	36	low
Georgia	35	low	48	low	24	very low	37	low
Greece	***		82	high	***		87	high
Hungary	72	high	72	high	39	low	58	medium
Jordan	61	medium	72	high	64	med	60	medium
Kazakhstan	64	medium	71	high	56	med	56	medium
Kosovo	85	high	79	high	72	high	88	high
Kyrgyz Republic	82	high	64	medium	31	low	48	low
Latvia	84	high	81	high	46	low	52	medium
Lebanon	***		0	***	***		0	***
Lithuania	84	high	78	high	68	medium	80	high
FYR Macedonia	75	high	71	high	34	low	70	high
Moldova	72	high	71	high	33	low	55	medium
Mongolia	94	very high	90	very high	71	high	76	high
Montenegro	73	high	77	high	46	low	74	high
Morocco	58	med	72	high	52	med	40	low
West Bank and Gaza	***		0	***	***		0	***
Poland	67	medium	70	high	53	medium	87	high
Romania	64	med	79	high	45	low	63	medium
Russia	74	high	71	high	59	med	64	medium
Serbia	57	med	90	very high	37	low	76	high
Slovenia	85	high	75	high	65	med	94	very high
Slovak Republic	***		64	medium	***		46	low
Tajikistan	***		65	medium	***		57	medium
Tunisia	71	high	70	high	45	medium	33	low
Turkmenistan	38	low	35	low	5	very low	27	very low
Turkey	***		65	medium	***		88	high
Ukraine	72	high	69	med	25	very low	26	very low
Uzbekistan	***		43	low	***		26	very low
Average	69	medium	70	high	46	low	58	medium

– 5. Notable progress was achieved in Armenia, Moldova, Poland, Hungary and Czech Republic. These results in some instances are correlated with the concentrated work LTP on PPPs in CIS countries, Serbia, Georgia and Tunisia.

⁴⁶ EBRD Public-Private Partnership Assessment 2011 and 2017-2018

4.3.LTP's Impact: Enabling changes in the Bank

- LTP's work often enables Bank projects and other FDI in countries of operation, but bankers are rarely aware of this
- Colleagues' awareness of LTP's transactional work has improved but is often limited to its activities in a specific area such as corporate governance
- Other areas where its work is visible and appreciated include gender diversity on corporate boards; legislation on movable assets in Turkey; EITI principles in natural resources especially in Mongolia; Fintech and regulatory sandbox work jointly with LC2; and public procurement

Previous evaluations have raised concerns about LTP's visibility and uptake of its advice. EvD's 2012 evaluation of LTP noted *"a recurring internal view [...] that the LTP should more pro-actively promote its work to the banking department, while liaising more closely with staff from other support units keeping them informed about its operational priorities"*.⁴⁷ The Special Study on Investment Climate Support Activities in 2018 also noted that *"there is a persistent concern about the internal take up of the advice and recommendations that LTT delivers in its reports and documents."* The evaluation team has analysed whether the same perceptions of the programme (with a 25-year track record) and its staff persists and if not, what has changed, and in what way.

LTP lacks data to trace its influence on Bank policies, strategies, practices and new behaviours. EvD has therefore based its assessment on semi-structured interviews with LTT colleagues and other Bank staff, and an internal survey to which 28 staff responded. This approach captured specific examples of influence but could not provide a full overview.

Interviews and a survey suggest that there is a good understanding of LTP's transactional activities. There is a need for its operations and contributions towards achieving Bank's mandate. One country banker noted: *"I am well aware of LTT's activities as working closely on a number of initiatives, including preparation of a White Paper (on PPP)"*.

The Legal Transition team has the reputation of being highly skilled and highly committed, but over-stretched. Asked about LTT's strongest areas, survey respondents highlighted commitment and professionalism (9 out of 28 respondents) and expertise (7). The weakest points⁴⁸ of LTP were identified as insufficient resources and capacity; inadequate internal integration and co-ordination; administrative issues; use of consultants; and expertise/skills. There are doubts about the capability to deliver work on time and in close engagement with the local stakeholders – the HQ location, with only rare field visits, means that RO colleagues often have to step in. Local and international consultants deliver a large share of tasks, but this can lead to a lack of internal capacity and knowledge on the LTT side, sometimes creating an imbalance with the level of knowledge of local bankers. However, one RO interviewee noted that *"internal culture in the bank has changed, where experts from HQ are no longer parachuted to CoOs; they are more mindful of local context/local expert capacity EBRD has."*

There is less awareness of non-transactional activities contributing to improvements in a country's regulatory environment and investment climate. These activities are usually "off the radar" of EBRD colleagues, except for the small group of economists, governance advisers, SME and CSO co-ordination experts that collaborate with country stakeholders jointly with LTT. A good example is the public procurement stream of LTP's work, which is delivering direct positive effects in the CoOs, improving national legal and regulatory regimes, enforcement and oversight practices, and often implementation. However, *"it is not contributing to Bank's operations"* in one interviewee's words. RO staff were more aware than HQ staff of LTP influencing decision-making and use of the evidence produced by the programme for operations, having the opportunity to observe LTT interventions at first hand. Specifically there were references to PPP work in SEMED and EEC regions, where LTP's successful interventions on drafting/amending legislation and institutional capacity building had a positive effect on attracting investments in the infrastructure sector in general, and generating new projects financed by the EBRD in particular.

⁴⁷ EvD Special Study "LTP Review", 2012

LTP's work on corporate governance was visible to many respondents, probably because it is directly transaction-related and occurs across sectors. LTP's Governance Sector Assessments identify a country's greatest challenges and, when communicated intensively and through multiple channels, deliver a high level of problem recognition. This then translates into investment operations containing a number of covenants and provisions in the area of corporate governance that not only support the client in reforming its own CG structures, policies and procedures, but also create cases with very high demonstration effects that could be used across the entire market, and sometimes in other markets as well. Often these covenants push clients and industries towards closing some significant gaps that exist with the more developed economies. Alignment with international principles and indeed their coproduction (e.g. OECD/G20 Principles of Corporate Governance and DFIs' Corporate Governance Development Framework) make joint projects with other IFIs and DFIs easier to design and implement. EBRD bankers and partner IFI bankers in Ukraine and Tunisia had positive comments about it.

Staff turnover in Banking in recent years has created additional work for LTP in training new bankers on corporate governance. The team (which has one more counsel compared to the previous evaluation period, and two CCT positions which have now expired) relies heavily on banking OLs to implement and monitor projects. They need extensive training and, in some cases, a change to the perspective/cultural approach to corporate governance. LTT responded by preparing a wider range of training materials and products, including dedicated sessions for the Policy Academy and streams of work in communities of practice. Gradually, evidence of positive change is emerging.

Another area where LTT's push achieved some specific results is the gender diversity on corporate boards. The policies and practices across a range of banking sectors (including the SME sector) and geographies (including SEMED where gender inclusion has the greatest gap with the best standards and practices) are gradually improving. The EBRD's position as a significant institutional investor in many CoOs allows it to set up higher standards with regard to gender diversity, by stimulating clients to approve and implement nomination and recruitment policies that ensure gender balance.

Box 7. Some positive examples of internal impact

LTP's long-term and persistent work has enhanced bankers' and policy experts' understanding and take-up of initiatives for integrating them into the specific operations or related streams of work.

- Legislation on movable assets in Turkey. The bankers' initial scepticism dissipated after LTP delivered an in-country analysis, with recommendations that were communicated to Government officials. As a result, two out of five recommendations were implemented (as of mid-2019).
- Bankers working in the Mongolian mining sector have gradually appreciated the value of work related to promoting EITI principles in the country's most critical sector. EvD's recent Cluster Review of Mongolia's Mining Operations noted: *"technical assistance delivered through the Legal Transition team led to successful implementation of EITI at government level and a new draft mining law"*. It also noted that LTT's work contributed mostly to the improvement of the overall investment environment rather than specific investment projects.⁴⁸
- Fintech and regulatory sandbox work undertaken jointly with LC2 enhanced bankers' understanding of the opportunities it can bring to CoOs and the Bank's own business model. However, it was noted that without a strong corporate sponsor it is challenging to translate highly innovative ideas into specific investment deals.
- Several policy and banking teams are highly appreciative of LTT's work in the public procurement sector, specifically in the area of enhancing trade (EPG), SME participation in public procurement (SME F&D), civil society control over open government and open procurement systems (CSEU), opportunities to use e-procurement platforms for enhancing energy efficiency and renewables in multiple sectors through green contracts (E2C2).

Conclusions and Recommendations

The LTP plays a strong role in delivering the EBRD's mandate, punching above its weight in terms of delivering significant reforms across all geographies and almost all sectors. It contributes consistently and successfully to improving investment climate and rule of law in many of EBRD's countries of operation, which is evident from progress achieved in their

⁴⁸ EvD (2019) Cluster Review of Mining Operations in Mongolia, PE18-602

regulatory regimes and institutional capabilities. It is successful in operationalising policy dialogue, which is a challenge for the Bank generally. Widespread recognition of the quality of its work and expertise of its staff and consultants, among both clients and partners, is an asset to the Bank.

LTP is a great example of EBRD's effective engagement in policy dialogue. Many of the Bank's teams, including policy, would benefit from applying similar approach to operationalisation and delivery. Its historical position inside Office of Chief Counsel is logical in terms of the nature of its assistance, however persisting institutional silo contains positive synergetic and demonstration effects internally and externally. While reviewing effectiveness and efficiency of its Enhanced and Structured Approach to Policy Reform Dialogue and in order to increase its contribution to transition impact, the Bank should specifically look at institutional setup of LTP.

Its four key work streams constitute a sound and practical approach to legal reform, linking international standards, diagnostics, legal reform projects and outreach. Its increased focus on capacity building and tailoring projects to country context have improved the sustainability of its work and contributed to unlocking investment opportunities in many countries of operation. Its work on corporate governance has enhanced a large number of EBRD operations. This has benefited a wide group of investors, including the EBRD itself.

It achieved a great deal of success in practical policy engagement driven by demand (internal and external), however its high-level policy dialogue is seen as less effective. On the one hand, it is due to its strong focus on being additional to existing international initiatives, on the other hand, it is due to EBRD's private sector profile and lack of policy leverage, making cooperation with organisations such as the EU, IMF and World Bank essential. Best results were seen when LTP cooperated closely with other MDBs and international organisations, for example through the Vienna Initiative or in Ukraine. LTP was able to provide the technical expertise to address specific issues of direct relevance to business, while using the leverage of larger institutions and Bank's other departments to push through legislative and regulatory changes.

EBRD is unique among MDBs in having in-house expertise and a local presence which can be devoted to an issue over an extended period, rather than a top-down approach of a 'special purpose team' that appears once and is not seen again. Clients valued LTP experts for their coaching and trouble-shooting role throughout project implementation, as well as its ability to offer "Transition to Transition" opportunities, when countries can learn directly from their peers' practical experience. LTP is well integrated into international networks. Cooperation on the ground is good in most cases, with a few exceptions, but it is largely ad hoc and personality-led. There is a need for more planning and structure in this area when moving into new countries or areas of operation.

The LTT is under-resourced and spread too thin. While its TC-funded project load has increased threefold since 2001-2010, its core funding and staffing remains virtually unchanged. Individual counsels have a large degree of autonomy to manage their time and budget and pursue their chosen areas of focus. One of the few areas of criticism from both the external and internal surveys was over administrative delays while all clients agreed that LTP experts were spread too thinly. The heavy reliance on TC funding for project work creates a heavy administrative burden and leads to opportunism and discontinuities in funding of projects and staff. EvD found examples of successful projects not followed up and valuable temporary positions at ROs not renewed because of resource issues. Activities in Tunisia and possibly other countries were hampered by language barriers. Intensive use of external consultants while allows to deliver a large and diverse portfolio, has some negative effects. In some smaller countries, reliance on a small local consultant base can create apparent conflicts of interest and undermine the confidence of authorities in LTP's policy advice. Chinese walls between private investor role and policy advisor role could be blurred, while consultants' own opinions could be presented as the Bank's.

The need for counsels to focus on so many projects and countries at once, with limited administrative support in many cases, means they have to ration their country visits and the attention they can give to any one activity. In many case there is heavy reliance on local RO staff without legal expertise to track projects on a day-to-day basis.

Although it makes efforts to remain aligned to Bank priorities, LTT has not fully kept up with changes in the Bank's results architecture. Its staffing and internal Bank contacts remain mostly sector-based as the Bank has moved to the country strategy as the main unit of accountability. Its legal assessments contribute to the development of sector strategies but less to country strategies and priority policy objectives (PPOs). LTT staff see Bank strategies and priorities as arriving from outside with little input from LTP.

LTT has not followed its previous commitment to integrate results frameworks and measurable objectives into its operational planning and reporting. It has moved away from strategic planning, from three-year operational plans to annual plans, to no plans at all. Its operational plans showed a constant stream of changing priorities and focus areas - often 10 in one programme - with TQs, PPOs and SDGs imposed on top, leading to an incoherent strategy. Where OPs set targets, they have only measured activities and output-level indicators, such as the number of TC projects to be delivered, corporate governance action plans (CGAPs) to be completed, events to be organised, etc. Core funding is not activity based, but distributed among counsels to use on their areas of work. There is an unresolved conflict between demand-driven transactional support and longer-term strategic projects. At project-level, results frameworks often miscategorise outputs and outcomes, resulting from inadequate training on results management. In common with most of the Bank, LTP does not track the results of projects beyond implementation and only occasionally tries to measure outcomes. Short-term internal formats are used to report mostly long-term interventions. As a result, LTT is unable to report on results at outcome or impact level. Its departmental reports do not compare achievements with targets from OPs and do not provide consolidated reporting against transition qualities or PPOs. The best source of compact and coherent information on long-term results and impact, anecdotally, is LTP's annual edition of Law in Transition.

LTP's internal visibility has improved and it is one of the most active parts of the Bank in sharing knowledge products, but there is substantial unexploited potential for knowledge management. This would require synthesis of findings and a better organisation and searchability of materials on the intranet and internet. LTP contributes to the EBRD Policy Academy and communities of practice and produces a lot of material for external publication. EBRD staff are well aware of current LTP activities in their sector or country but often unaware of its wider activities, even when their investments are built on legal frameworks established with LTP assistance. Legal assessments provide a good basis for developing reform projects, but are rarely repeated to allow assessment of progress. LTP case studies could provide material for training for EBRD staff and clients. Training of new bankers on corporate governance should become a basic part of Banker's introductory training.

As in other evaluations, EvD encountered a lack of comprehensive data in many areas besides the lack of information on outcomes and impacts resulting from the lack of results-based reporting. The Bank's intended database of policy dialogue activities has not been implemented, so the only database capturing non-investment activities is the TCRS, whose weaknesses have been discussed in multiple EvD reports. This only covers TC, so Bank-funded technical assistance is effectively invisible. EvD had to construct its own consolidated database of LTP projects. Important documents such as consultant reports were stored in counsels' own files and shared using Huddle, because of problems uploading them to TCRS. TCRS did not consistently capture cooperation with other MDBs despite a data field for just this information. LTP does not track its internal impact in terms of contribution to policy and behavioural changes arising from its work.

Recommendations

EvD's assessment of LTP activities over much of the past decade confirms areas of substantial strength and institutional value. However, it also identifies significant need and opportunity for change. Specific concerns in some cases reiterate those identified in EvD's previous evaluation of nearly a decade ago. Others, such as with respect to strategic focus, results frameworks, resourcing, and knowledge and data management track closely with wider institutional issues and could be addressed as part of a larger effort.

Specific recommendations are:

Special Study : Legal Transition Programme

1. Management should complete a comprehensive review of LTP's institutional position, objectives, scope of work and funding model. The review should be part of and feed into the ongoing SCF 2021-2025 work on better integration of policy engagement and investment operations. This could be closely coordinated with Management's recently announced review of EBRD's Enhanced and Comprehensive Approach to Policy Reform Dialogue (EA). It would be valuable specifically to consider two scenarios:
 - (i) Integrate the LTP into Client Services Group within a single Policy Function under Vice Presidency for Policy and Partnerships, where its priorities and scope is defined by clearly operationalised Enhanced Approach to Policy Reform Dialogue, its mid-term planning, monitoring and evaluation is performed consistently and systemically;
 - (ii) Continue LTP as a stand-alone operation within OGC, but develop for Board review a detailed strategic plan, resource envelope, scorecard and reporting line to Client Services Group via Strategy and Policy Committee.
2. In any scenario LTP resources should be specifically estimated against strategic goals and the actual demand for TC projects and expertise in specific areas. LTT's on-the-ground presence should be enhanced in the countries with the greatest needs for legal and regulatory support. If the Bank is unable to increase LTP's core funding, resources should be prioritised on a limited number of sectors and countries with the greatest need.
3. LTP's planning and reporting for non-transactional policy engagement should be aligned with its long-term horizon, it should be based on well-defined results framework anchored to the Bank's transition qualities and connected to country-level objectives. Theory of Change prepared by the evaluation team could be used as a basis for developing the framework.
4. LTT's capacity to build results chains and provide evidence of its contribution to transition impact should be enhanced, along with the reporting and knowledge sharing standards.

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