DOCUMENT OF THE EUROPEAN BANK
FOR RECONSTRUCTION AND DEVELOPMENT

TRANSPORT OPERATIONS POLICY

2005-2008

PUBLIC COMMENTS
AND
STAFF RESPONSES

The Bank's response to comments on the Draft Transport Operations Policy arising from EBRD's public consultation process

Set out below are the main comments received in the course of public consultation for the draft Transport Operations Policy. In addition some communications were received, which did not have a direct bearing on the document. As a result of having received those comments, various changes were made throughout the document. The main comments were as follows.

- Conduct a Strategic Environmental Assessment (SEA) of the proposed EBRD transport policy, including its impact on climate change and biodiversity.

  The Transport Operations Policy does not attempt to map out a fixed programme of priorities, but presents a framework within which the Bank as a market-led institution expects to be responsive to the demands of the market. The consequences of the Bank's finance are closely tied in to the projects which it undertakes on demand-driven basis and, therefore, it is unlikely that a SEA of the policy document would give rise to meaningful results.

  EBRD acknowledges the importance and benefits of SEA as a key tool for sustainable development and for assessing the cumulative impacts of transport plans and programmes on the environment, including SEAs prepared according to the Protocol on Strategic Environmental Assessment (Kiev, 2003) to the Convention on Environmental Impact Assessment (EIA) in a Transboundary Context. Whereas the Bank does not have ownership of such plans and programmes, it will liaise with governments, regional bodies and those multilateral institutions most appropriately placed to use SEAs as a government decision making tool and will structure its transport activities in accordance with the conclusions of relevant SEAs, where available

- Include public transport investments under the Transport Policy, and clearly declare them to be priority areas for investment in the future.

  In the delineation of responsibilities within the EBRD, municipal transport investments fall within the area of responsibilities of the Municipal and Environmental Infrastructure Team and policies elaborated in respect of municipal transport are set out in the Municipal and Environmental Infrastructure Operations Policy. For illustrative purposes a summary of some of the salient points of Municipal and Environmental Infrastructure Operations Policy in respect of municipal transport, together with relevant cross reference to the Municipal and Environmental Infrastructure Operations Policy are included in the Transport Operations Policy in a new Section, drafted in response to public comment, entitled Municipal Transport. Other forms of public transport, such as trains and civil aviation are already addressed in the Transport Operations Policy.

- Further increase EBRD investments in the railway sector, while privatisation of the railways should not remain a priority of the EBRD's policy dialogue with CEE countries.

  The Bank will continue to operate in the rail sector and views it as a significant portion of our Transport mission. The Bank does not state that privatisation of railways is a priority and typically supports measures to put railways on a commercial footing as a first step in the economic restructuring of state-owned railways. In its operations in the transport sector, the Bank has due regard for its founding principle, as set out in the Agreement Establishing the EBRD, "to assist the process of demonopolization, decentralization and privatization" and supports rail privatisation objectives of governments where practical.

- Focus on meeting actual national priorities in road transport, where the primary need is rehabilitation rather than the expensive and often economically non-viable construction of highways and motorways. The EBRD should only finance projects that are included in plans and programs that have been subjected to an SEA.

  Over 70% of the Bank's road projects have included road rehabilitation and maintenance or town-centre by-passes and the Bank continues to pay due attention to the importance of such work. The Bank, in its appraisal of its projects, has due regard for the feasibility and viability of the broader context in which an individual project is developed. This is essential to maximise project returns both in financial and transition terms in the context of sound overall sector business/investment planning.

  The Agreement Establishing the Bank includes the requirement to foster environmentally sound and sustainable development. As a result all transport operations undergo environmental appraisal in line with the Bank's Environmental Policy and Procedures. The Bank gets involved most often at the project level, and not at the strategic country planning level, at which other institutions, such as World Bank, are involved. As such, we are not in a position to go backwards from project identification to the program development. The EBRD acknowledges the importance and benefits of SEA as a key tool for sustainable development in light of its application to policies, plans, and programmes, such as cumulative impacts of transport plans and programmes. As the Bank is not often involved in this stage, it is more appropriate for other institutions to work with governments on SEAs of these types of initiatives. The EBRD will, however, look for opportunities to support SEA conclusions, where available.

- The Bank should ensure that the EIA procedure is conducted together with the development of the project concept. Furthermore, where the construction of new infrastructure is likely to affect valuable biodiversity sites, the Bank should insist upon the implementation of the precautionary principle.

  The Bank makes sure that its requirement for the conduct of the EIA procedure is made clear at the early stages of the Bank's involvement in a project, but is not in a position to influence the timing of an EIA prior to the early discussions with the project sponsor. Sometimes, in the case of public tenders, the involvement of EBRD does not arise until the concept has been designed by the host government.

  The Bank's Environmental Policy is clear on the importance of assessing biodiversity, respect for international conventions and treaties in this area, and the precautionary principle. The policy is applied to every project.

- The Bank must give loans only to countries/projects where there have been thorough studies of the real costs of the various transport modes.

  For public sector projects, the Bank, as a matter of course, requires there to be a positive economic internal rate of return; that is that there must be a net economic benefit to the country of undertaking any given project. For private sector projects, the project must be environmentally compliant with the appropriate regulation and must be economically viable.

- The Bank vision that fuel taxes should be treated as road taxes contradicts the need for pricing related to the external costs of road transport.

  The Bank supports the user pays principle and the introduction of road tolling in a structured manner. However, road tolling requires appropriate technology, investment and broad public support. Until these conditions are present, the use of a fuel levy, while imperfect, serves as a proxy for road usage charging.

- The Bank should condition the availability of loans for highway construction to the fulfilment of EU transparency standards by the National Roads Agencies.

  The Bank supports the transparency of funding of the transport sector as a whole and part of its transition mandate is to promote such transparency. As a consequence, lending to state entities is frequently either conditional upon the fulfilment of certain transparency standards, or contains covenants in respect of the achievement of transparency standards.

- The Bank should only provide finance in respect of road freight transport projects where new traffic is not induced, which are proven to increase safety standards and are not economically feasible under present market conditions.

  The Bank is required to respect sound banking principles; as a consequence, for it to lend to a project, which is not economically feasible would run *counter to this requirement. The Bank would require that road freight transport projects are economically feasible and compliant with the relevant health and safety regulations.*

- The Bank must not finance privatisation and public-private-partnership schemes unless it is clearly proven that they bring added value to citizens and the environment and that they contribute to the public service duty of the transport sector.

  Public-private-partnership schemes as supported by the EBRD are subject to the value for money test. The Bank will continue to support privatisations, where they are consistent with its guiding principles, as set out in the Agreement Establishing the EBRD. The Bank endorses privatisation and public-private partnerships, where well structured, as the relationship between the state and the private sector is set out transparently in the concession documentation, including the concessionaire's environmental obligations. In the case of the privatisation of transport operators, the enforcement of environmental compliance tends to be more rigorously imposed than against public sector entities, owing to the separation of state as regulator and private sector as operator.

- The Bank should conduct a social assessment of privatisation and labour restructuring programmes.

  The EBRD does carry out social assessments of privatisation and labour restructuring programmes as part of the environmental impact assessment which is mandated by the Environment Policy. As part of the due diligence process: issues of land acquisition and socio-economic displacement are governed by the World Bank's Involuntary Resettlement Policy, issues of cultural heritage and indigenous peoples are regulated by the respective World bank Operational Directives. The EBRD follows the Core Labour Standards of the International Labour Organisation. Thus any issues related to discrimination, forced and child labour which might arise in the restructuring process are addressed, in accordance with these standards. With respect to the potential of an increase in the tariffs of basic services, as a result of privatisation, the Bank seeks to ensure that they remain affordable for the poorest and most vulnerable while at the same time seeking to ensure that the investment is economically viable.

- EBRD should limit its support in privatisation in the transport sector to small and medium sized transport companies, which can prove that they cannot access financial markets and to specific investment projects…that are not economically feasible under present market conditions

  The Bank is obliged to make available its finance in support of all legitimate bidders in a tender, otherwise the fairness of the outcome of the tender would be compromised. Equally the Bank is required to respect sound banking principles; as a consequence, for it to lend to a project, which is not economically feasible would run counter to this requirement.

- The Bank should demand transparency in the private management of public assets.

  If the Bank lends to a concession company, it reviews the terms of the concession contract under which the concession company operates. Typically, because the relationship between the state and the concession operator is set out explicitly in a legal contract, there is greater transparency than the case where the operator is state owned and the terms under which it operates are not set out in legal detail.

- Suspend investments in air transport until the market conditions for different transport modes are sufficiently harmonised (e.g. aviation fuel is taxed) to avoid providing support for the most environmentally unsustainable mode of transport.

  The Bank has provided finance in the sector for developments which have improved air safety and has sought to encourage the replacement of less environmentally sound, older aircraft with more fuel efficient, new aircraft. Given the Bank's remit of bringing about transition through engagement, the suspension of investment in an entire sub-sector would be an unprecedented step and counter to the Bank's gradualist transition mandate.

  The Bank recognises that in the last 15 years the shift in the transport patterns in Eastern Europe and the former Soviet Union has been environmentally adverse and that this trend has been favoured by current market conditions, which are characterised by non-harmonised pricing between transport modes. The Bank believes that financial and environmental sustainability are inextricably linked. Pricing is one of the key policy instruments able to promote sustainable transport development as it influences overall transport demands. It can also be used to encourage shifts to more environmentally-friendly fuels, vehicles and modes of travel and transport. The Bank will include the consideration of such issues in its policy dialogue with Governments, recognising each Government's sovereign role in establishing national environmental and transport policy.

- Emphasise maintaining public ownership of ports while allowing private entities to act as service providers at ports.

  The Bank recognises that public ownership of ports, while allowing private entities to act as service providers at ports, can be a workable model. However it will also consider supporting alternative models involving privatisation in line with its founding principle to assist the process of demonopolization, decentralization and privatization.

- The Bank should raise awareness of the economic cost of road traffic injuries

  While the Bank is not institutionally in a position to set out the cost of road traffic injuries in its countries of operation, to the extent that the Bank assesses the benefits and returns on public investment, the returns taken into consideration include those arising from improvements, thereby *institutionalising the benefits inherent in improving the quality of the road infrastructure.*

- The Bank should offer institutional support in developing road safety counter measures

  As a project-led institution, the Bank focuses upon the improvement of road safety from the project up. Each road project financed by the Bank is designed to comply with National, EU or World Bank safety criteria, whichever is the appropriate under the circumstances. In addition, in the course of road rehabilitation and maintenance projects, the Bank finances road improvement schemes, including improvements to layout and design in addition to improvements to road surfaces.