

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

STRATEGY FOR TURKMENISTAN

**REPORT ON THE INVITATION TO THE PUBLIC
TO COMMENT**

1. INTRODUCTION

In accordance with the EBRD Public Information Policy (PIP), the draft Strategy for Turkmenistan was posted on the EBRD web site in English and Turkmen for 45 calendar days from 9 August 2013. The public was invited to submit comments on the draft Strategy no later than 23 September 2013. For information, the previous Strategy was also made available on the web site in English and Turkmen: <http://www.ebrd.com/pages/country/turkmenistan/strategy.shtml>.

Information about the public consultation process was posted on the EBRD's dedicated "Have your say" webpage, which highlights the latest opportunities for public to comment on the Bank's policies and strategies under review. In addition, targeted notifications of the consultation process were sent to local and international civil society organisations (CSOs) that have expressed interest in the Bank's work in the country. The review process was also advertised through EBRD Facebook and Twitter accounts.

In advance of the Strategy drafting process, a delegation of the Board of Directors met with representatives of local organisations in Ashgabat to exchange views about the Bank's work in the country and planned priorities for the next Strategy period.

Following the disclosure of the draft Strategy for public comments, the EBRD hosted two consultation workshops with civil society in September 2013. The workshops aimed to proactively solicit inputs views on the draft Strategy and the Bank's calibrated strategic approach from the CSOs active in Turkmenistan and those others that closely follow the EBRD's work of the Bank in the country.

The list of CSOs and members of public who participated in the consultation process is provided in the Annex 1.

This report captures the key themes and views received during the consultation process. It summarises feedback from the meetings with civil society held in Ashgabat and London, as well as comments as of 23 September received through the Bank's dedicated email address; it also provides management responses to these comments.

2. SUMMARY OF PUBLIC COMMENTS

CSOs commended the EBRD's calibrated approach towards its operations in Turkmenistan and expressed their general support for the Bank's work and main priorities for the country as identified in the Strategy. They particularly welcomed the Bank's use of political and economic benchmarks to assess reform progress and calibrate the level of engagement in response. The EBRD was praised for its standard-setting role among IFIs in its engagement in Turkmenistan and was encouraged in its commitment to Article 1.

CSOs found the assessment of the political situation presented in the Strategy realistic and appropriate. They encouraged the Bank to continue insisting on its requirements for the Turkmen government to apply commitments to political pluralism and human rights and freedoms not only in theory, but also in practice.

The vast majority of comments received from CSOs focused on the political and human rights situation and the persistent lack of reform progress in the area. Deep concerns were expressed about Turkmenistan's commitment to democratic principles, pluralism and the independence of political institutions. In particular, the lack of the freedoms of expression, association, peaceful assembly and media freedom were criticised. Comments pointed to the threats which civil society activists and journalists encounter in their work. Further concerns were expressed about the implementation practices of Turkmenistan's commitments to international standards and conventions as well as national legislation, such as in the case of labour rights, detention practices and freedom of association and of the press.

While some comments considered it as sufficient to rely on use of political benchmarks for simply calibrating engagement, others advocated a more direct and active stance by the EBRD in promoting rights and freedoms as well as civil society development.

Some CSOs highlighted the problems faced in terms of transparency and persistent corruption, particularly with regard to hydrocarbon revenues. While the current exclusive focus on the private sector was welcomed, CSOs urged the EBRD to maintain and if necessary reinforce the conditions for its engagement, even for strictly private sector-focused investments.

Regarding further operational responses, stronger support to MSMEs was encouraged, as was assistance in the improvement of the legal framework and tax provisions.

3. PUBLIC COMMENTS AND STAFF RESPONSES

Reference	Comment	EBRD Response
Operational environment		
1. General		
1.1.	A preference for a Russian translation of the Strategy was expressed.	The EBRD provides a translation of the country strategies into the official national language as required by its Public Information Policy (PIP). The suggestion to provide an additional informal translation into a widely used local language will be considered in the context of the forthcoming PIP review.
2. Political Context		
2.1.	<p>Comments overall endorsed the draft Strategy, expressing their agreement with the political assessment and the calibrated approach of the Bank towards Turkmenistan. They also welcomed the use of political benchmarks as an important vehicle to push for concrete political and human rights progress, suggesting that the Bank should endorse its commitment to their continued strict use and update them in the future to clearly reflect progress (or regress) made by the Turkmen government.</p> <p>A comment suggested clarification on whether EBRD's overall engagement may eventually cease if the Turkmen government continues to fail to reform.</p> <p>There was a view that the EBRD should cease its operations in Turkmenistan because of the state's persistent failure to reform. Continued engagement would cause reputation risks for the Bank.</p>	<p>The Bank is also of the view that the use of benchmarks (both political and economic) has been a useful tool for measuring progress (or regress as the case may be) towards multiparty democracy, pluralism and market economics for the countries under the calibrated approach.</p> <p>The gist of the calibrated strategic approach is precisely in measuring progress against the benchmarks with the view of adjusting the Bank's operational response accordingly. Where progress against these benchmarks is noted, the Bank will be able to consider broadening its engagement. Conversely, if regress is noted against the political and economic benchmarks, the Bank will further narrow its engagement.</p> <p>The Bank is of the view that progress with reforms in Turkmenistan has been slow. Some progress has been made on three of the four economic benchmarks but no substantial progress was registered on the three political benchmarks. At the same time there was no clear evidence of regression.</p>

<p>2.2. Comments appreciated the honest and realistic political assessment provided by the Bank and reiterated deep concerns in relation to Turkmenistan’s human rights record in accordance with the draft Strategy. For the purpose of illustration, some comments suggested to provide further details about Turkmenistan’s violations of its obligations in the field of human rights, particularly in the cases of:</p> <ul style="list-style-type: none">a. the imprisonment of foreign citizens in violation of the Agreement on Prisoner Exchange of 1993 with Russia;b. the continued torture and other ill-treatment of people suspected of criminal offenses despite Turkmenistan’s acceptance of recommendations to investigate torture and to ratify the Operational Protocol to the Convention Against Torture, alongside the inclusion of a definition of torture in the Criminal Code;c. the forced participation of citizens in cotton harvest which violates the Convention of Abolition of Forced Labour, which Turkmenistan ratified in 1997.	<p>The political assessment carried out by the Bank does not cover the entire spectrum of human rights, but focuses on civil and political rights, which are directly linked to the transition towards multiparty democracy and pluralism as defined in Article 1 of the Agreement Establishing the Bank.</p> <p>In this respect, freedom from harassment, intimidation and torture is specifically included in the assessment confirming that “there are numerous and consistent allegations about the widespread practice of torture and ill-treatment of detainees”.</p>
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<p>2.3. In addition, it was suggested that the Bank may want to provide more details on some points of the political assessment. For the benefit of additional clarification the Bank may want to:</p> <ul style="list-style-type: none"> a. Elaborate on the working conditions of NGOs (currently no independent human rights NGOs are operating openly, all NGO activity is closely scrutinised and restricted to non-political spheres, registration progresses for NGOs are not being reformed); b. make reference to the Presidential Decree of January 2013, which requires foreign grants to be registered with and approved by the government, and further point out that all funding of “political activities” is prohibited; c. provide more details about the persisting close ties of newly set-up associations and political organisations with the Government (such as the Party of Industrialists and Entrepreneurs (p.31) and furthermore the Union of Businessmen and Entrepreneurs); d. make reference to the provisions of Turkmenistan’s newly enacted Media Law of January 2013 being in stark contrast with the reality of continuing censorship, control and interference by the authorities; e. specify the lack of internet freedom, including severe restrictions of access to independent foreign media and use social media; f. elaborate on the persecution of religious minorities and the lack of equal opportunities for ethnic minorities. g. The Bank should also clarify its reference to “positive developments in a few individual cases” (p. 11) in the field of human rights. 	<p>All the areas of concern raised by the civil society organisations – the status of the civil society organisations, lack of independent political parties, the situation with the media after the passage of the new media law, and internet freedoms – have been covered in detail in the political assessment.</p> <p>The general assessment of the Strategy is as follows: “the fundamental freedoms of speech, religion, conscience, movement, association and assembly are recognised in the Constitution and the laws but are severely restricted in practice”.</p> <p>There is a clear discrepancy between the laws on the books and practice of their implementation. This also applies to the “positive developments in a few individual cases”, as these did not lead to the improvement of the overall human rights record of the country, which remains “poor” and with “more progress needed”, according to the draft Strategy.</p>
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<p>2.4. Some comments request additional efforts in terms of policy dialogue activities where the EBRD should:</p> <ul style="list-style-type: none"> a. support more proactively the development of the CSO landscape (e.g., assistance with NGO registration procedures and support in the establishment of dialogue between the Turkmen state and civil society activists through third countries) as well as freedom of the media alongside other basic human rights and freedoms; b. advocate for independent political parties to ensure their ability to register under the new Law on Political Parties; c. engage in dialogue with Turkmen authorities regarding citizens' right to freedom of movement (especially for dual citizens and medical requirements). 	<p>The Bank's policy dialogue is primarily geared towards fostering transition to an open market-oriented economy in Turkmenistan through the development of the private sector. In the purely political field, the dialogue with the authorities focuses on the implementation of the political benchmarks of the previous and current Strategies, clearly stating that the Bank's ability to do more in the country is directly linked to progress on the political (and economic) benchmarks articulated in the Strategy. The fact that the entire Strategy, including the political assessment, is a public document adds to the encouragement to the authorities to deliver political and economic reforms.</p>
<p>2.5. The Strategy should include more pronounced details about the severe restrictions and practical inability to access Turkmenistan which international monitors, CSOs and UN Special Rapporteurs face. In particular, it should be made explicit that 10 UN Monitors still do not have access while only the Special Rapporteur on religion (p. 32-33) was permitted visit. The inability of the International Committee of the Red Cross (ICRC) to access to detention facilities should be pointed out more prominently.</p> <p>It was recommended to include a benchmark requiring the Turkmen authorities to issue a standing invitation to UN special procedures as a means of assessing genuine commitment and progress in meeting human rights obligations.</p>	<p>The situation with the lack of access to the country for the UN Special Rapporteurs has been covered in the Strategy.</p> <p>However, the comment on adding explicitly that only one rapporteur has been allowed to visit the country and ten UN monitors are still waiting to have an access has been now included and the draft has been revised accordingly.</p>

Strategic orientations	
3. General	
<p>3.1. The draft Strategy suggests that “targeted policy dialogue” (cf. p. 7) contributed to the Bank’s ability to finance the real economy and to engage in some sectors that showed some reform advances under the previous Strategy. The Bank should clarify which improvements were made, and in which manner, that facilitated operational engagement through policy dialogue activities. More details should be provided to substantiate the reference to “some signs of progress” (p. 9) in relation to the operational environment.</p>	<p>The reference to targeted policy dialogue contributing to the Bank’s ability to finance the real economy in Turkmenistan refers to the implementation of the previous country Strategy and namely the period from March 2010 to today. During this period the Bank engaged in targeted policy dialogue together with other IFIs and donor organisations that enabled the Bank to support local SMEs in agribusiness, manufacturing and services sectors of the real economy through the provision of SME credit lines to two local commercial banks as well as through provision of direct SME financings largely in the same segments of the real sector. Accounting reform including the adoption of International Financial Reporting Standards, and successful delivery of capacity building training courses including credit skills courses provided to local banks as well as technical assistance channelled to local end-beneficiaries were the main breakthroughs during the period.</p>
<p>3.2. Considering that the Turkmen government was seeking legitimacy from its engagement with the EBRD and other IFIs, the Bank should stress its continued commitment to its cautious approach, even in terms of private sector engagement, maintaining high standards, firm guidelines and specific benchmarks.</p>	<p>The Bank is consistently applying sound banking principles and fosters high integrity, transparency, high standards of corporate governance and best industry practices in all its private sector engagements in Turkmenistan as also is the case in all its Countries of Operations. These high standards are embedded and reflected in the terms of the Bank’s legally binding financing agreements with all of its clients.</p>
<p>3.3. The EBRD is encouraged to support student loans and training opportunities for youth abroad, especially traineeships in the banking sector.</p>	<p>Capacity building is an integral part of the support that EBRD provides in Turkmenistan’s banking sector. All three EBRD Credit Lines provided to local commercial banks to date are extended together with extensive technical assistance programmes targeting the professional upgrade and skills enhancement of a good number of young as well as of more experienced banking professionals. Currently such trainings focus on accounting, modern credit skills, trade financing and micro-financing. As</p>

	<p>the EBRD cooperation with local banks evolves over time, additional trainings will be provided to ensure a sustainable over time improvement of the banking services the local institutions are able to deliver to their clients.</p> <p>While the EBRD acknowledges that only a small number of Turkmen students are able to obtain scholarships for studies abroad education is not a focus area for the EBRD in general and also not in the context of the new Strategy for Turkmenistan.</p>
<p>4. Supporting private sector development</p>	
<p>4.1. It should be stressed more clearly in the Strategy that there the state budget is non-transparent, especially in the oil and gas sector. In addition, opacity and corruption in construction projects and procurement practices should be mentioned.</p>	<p>In section 2.3 titled “Structural reform context” the Strategy text has been amended to reflect this point suggesting that “the investment rules and governing principles of the stabilisation fund as well as its accounts are yet to be published” and that “a significant part of hydrocarbon revenues continue to be accumulated in the Foreign Exchange Reserve Fund (FERF), an off-shore, off-budget account, and these revenues continue to be accrued and spent in a non-transparent way”.</p> <p>The Bank’s calibrated approach prohibits any Bank involvement in state sponsored construction projects. Nevertheless, the Bank consistently applies its strict and fully transparent procurement practices in all its countries of operations.</p>
<p>4.2. The EBRD should extend credit lines directly to MSMEs without financial intermediaries. Eliminating involvement of officials from local administrations or banks would limit corruption.</p>	<p>EBRD operations in Turkmenistan are by large focused on direct lending to SMEs. As mentioned in section 1.1 of the draft Strategy, the Bank has financed 39 operations out of which 36 are direct financings to local companies and only three are financings directed to local banks for them to onlend to local companies following stringent EBRD approved company selection criteria and credit extension practices.</p>

<p>4.3. The EBRD should encourage Turkmen authorities introduce a practice of taxing businesses based on their profit instead of the current situation where the overall financial turnover is taken as a basis.</p>	<p>The Bank is monitoring Turkmenistan's investment climate and taxation is an integral part in any country's investment climate. Improvements on taxation including reviewing the basis on which corporate / company tax is calculated in Turkmenistan will be the subject of policy dialogue where the bank will join forces with other leading International Organisations such as IMF and the World Bank Group that are also engaged in improving the tax code and practices in the country.</p>
<p>4.4. The EBRD should support legislative reform and other applicable measures to improve conditions for micro-enterprise financing. A precise definition of micro-enterprises should be included in the Strategy.</p>	<p>Through its Legal Transition Programme the Bank has been offering its assistance and is available to consider future support to reforms that the government of Turkmenistan may be planning in order to improve the conditions for micro-enterprises financing. In this sector the Bank's assistance must always be induced by a request to the Bank based on a political decision by the government to implement reforms.</p> <p>The Bank is currently reviewing its MSME framework which will provide precise terms and conditions for the financing of micro-enterprises in its countries of operations. An analysis of Turkmenistan's Law on Microfinance Institutions and Microfinance of 2011 will be part of this review, among others, examining any definitions of micro-enterprises. The Bank is expecting to approve a new MSME framework for Turkmenistan in the next few months.</p>
<p>4.5. The Bank was asked to clarify concerns that the Turkmenbashi Port Development project might benefit the hydrocarbon sector despite the intention to primarily achieve environmental improvements.</p>	<p>The government of Turkmenistan has been systematically pursuing the development of the Turkmenbashi port over the last few years seeking advice and financing from many alternative sources. The potential involvement of the Bank in this transport infrastructure project needs to be further explored.</p> <p>Should the Bank decide on any future involvement in this project it will be committed to ensure its financing will not benefit the country's hydrocarbon sector, but that it shall contribute to exemplary transition impact by financing the port's key environmental infrastructure unit and by introducing transparent procurement practices and high governance</p>

	standards as explicitly mentioned in the context of “Policy dialogue” in section 3.4.2 of the draft Strategy.
5. Promoting international integration	
5.1. In agreement with the draft Strategy investments in transport infrastructure should be subject to strict conditionalities. The EBRD could even consider elaborating and expanding the list of conditionalities.	The draft Strategy document includes relevant comforting provisions in section 3.4.2 under the heading “criteria for engaging with state-owned or public entities”.
6. Laying the foundations for future reforms	
6.1. A more thorough analysis of the Stabilisation fund and the ways in which it could contribute to greater transparency of hydrocarbon revenues should be added to the Strategy.	The Stabilisation Fund could potentially contribute to transparency of revenue management provided that its accounts as well as fund policies and investment guidelines are published. An Amendment to section 2.3 of the Strategy reflects that at the moment such transparency is lacking as the “investment rules and governing principles of the stabilisation fund as well as its accounts are yet to be published”.
6.2. As a measure to tackle corruption the Bank should assist with the introduction of electronic procedures such as e-billing systems.	Successful introduction of e-billing systems depends on extensive capital expenditure in information technology and systematic marketing including information campaigns in favour of the general public. The Bank will include the need to introduce e-billing in its modernisation related policy dialogue with the authorities and shall join forces with other interested international organisations.
6.3. While multilateral efforts to address corruption as a foundation for future reforms were commended, the Bank was encouraged to additionally elaborate similar initiatives for other points covered by the political benchmarks.	The EBRD monitors compliance with the agreed benchmarks. In addition, technical assistance can be provided in coordination with other IFIs and international organisations. In this context the EBRD typically focuses on assistance with the establishment of market institutions and legislation, whereas other organisations can be better placed to assist with the other points mentioned in the political.

7. Environmental and Social Implications of Bank Proposed Activities	
7.1. The EBRD should suggest a resolution to the problem of oils spills in the Turkmen section of the Caspian Sea, including around the Port area, into the Turkmenbashi Port project.	<p>The EBRD is not currently involved in any active projects with regards to the Turkmenbashi Port. The Bank will however continue its policy dialogue activities to promote the introduction of commercial principles, environmental standards and transparent procurement rules, and study the feasibility of an environmental base for the port. Should the Bank invest in Turkmenbashi Sea Port in the future, or indeed any petroleum company, the prevention of oil spills and a clean-up will be on the top of the Bank's agenda.</p> <p>EBRD has previously (1999-2000) provided technical Assistance to the Government of Turkmenistan on developing their National Oil Spill Contingency Plan and also provided relevant IMO training for a number of governmental organisations including, inter alia, the Ministry of Oil Gas, State Oil Company Turkmenneft, Turkmenbashi Sea Port, etc. EBRD has ensured that appropriate oil spill response and prevention arrangements were undertaken by its former client Dragon Oil.</p>
8. Cooperation with other IFIs and multilateral donors	
8.1. The mention in the Strategy that compliance with the Extractive Industries Transparency Initiative (EITI) is desirable should be complemented by a recognition that civil society would have to be developed markedly beforehand.	The EBRD is aware of the fact that implementing the EITI in Turkmenistan will require significant building of civil society institutions. For additional emphasis, this point has been added to section 4.2 noting that "domestic CSOs play a crucial oversight role in the Initiative" and "would have to develop significantly before the country would be able to join EITI".

List of civil society organisations and members of public who participated in the consultation process

13 September 2013, Ashgabat RO

1. International Center for Not-for-Profit Law (ICNL)
2. IREX
3. Keyik Okara
4. IF Biley Yashamak

20 September 2013, EBRD London HQ

1. Amnesty International
2. A local activist
3. Crude Accountabiliy
4. Global Witness
5. Human Rights Watch
6. Netherlands Helsinki Committee
7. Open Society Foundation

09 August - 23 September 2013, written comments submitted by:

1. Alternative Turkmenistan News
2. Amnesty International
3. Crude Accountability
4. Human Rights Watch
5. International Partnership for Human Rights/Turkmen Initiative for Human Rights
6. Turkmenistan Helsinki Foundation for Human Rights