DOCUMENT OF THE EUROPEAN BANK
FOR RECONSTRUCTION AND DEVELOPMENT

STRATEGY FOR UKRAINE

REPORT ON THE INVITATION TO THE PUBLIC
TO COMMENT
INTRODUCTION

In accordance with the EBRD Public Information Policy (PIP), the draft of the new Strategy for Ukraine, together with an invitation to comment on the draft, were posted on the Bank’s website on 1st February 2011. The public was invited to submit comments by no later than 17th March 2011. Comments to the designated e-mail address were received from two sources: CEE Bankwatch Network and Creative Union “TORO” – Transparency International Contact Group in Ukraine. As required by the Public Information Policy, these comments were examined by the relevant Banking teams and Management and responses have been provided in Strategy for Ukraine: Report on the Invitation to the public to comment. This report becomes an addendum to Strategy. The addendum will be approved by the Board discussed along with the Strategy on 13th April 2011.

2. COMMENTS RECEIVED AND BANK RESPONSES

2.1. Comments from CEE Bankwatch Network and Bank responses

Tax Havens

There is a widespread practice recently that the bank provides financing to borrowers, whose owners are established or controlled by an entity established in an offshore jurisdiction. Even though the general business environment in Ukraine is not the most favorable compared with the other countries of the bank’s operations and “foreign investment in Ukraine has largely been made in off-shore holding companies where shareholder rights can more clearly be enforced by other courts and arbitral tribunals under foreign law” (p.16), the EBRD, being a public bank, should not loan money to offshore companies facilitating private tax avoidance. This results eventually in the Ukrainian state ending up with debts and other fiscal liabilities while business does not build up the country’s fiscal capacity.

Thus we would like to propose to the Bank:

1. To state in its country strategy for Ukraine its position on the use of offshore companies in its projects and how it will seek to avoid this;
2. To explain in the Project Summary Documents the reason for the use of the offshore jurisdiction, what tax impact this is likely to have on the government, and what steps have been taken to assess alternatives to using offshore jurisdictions.

We welcome the EBRD’s policy on Offshore Jurisdictions in EBRD projects as a first step to regulate the issue; however we are unclear about what difference it will make to the EBRD's operations in practice. We believe there is a necessity from the EBRD’s side to focus on promoting a progressive tax system, help strengthen the tax administration and fight against tax flight and the use of tax havens by companies operating in Ukraine.
Response

As explained in the Strategy for Ukraine, when offshore jurisdictions are used the EBRD makes use of internationally agreed processes and best practices designed to prevent misuse and to promote transparency and information exchange on tax matters.

The current tax regime in Ukraine is such that a number of companies elect, for a variety of reasons, to borrow through an offshore jurisdiction. This is permitted by the laws of Ukraine.

There are many companies operating throughout the world which are structured with holding companies in countries such as Cyprus, the Netherlands and Luxembourg – we do not consider these to be “secrecy jurisdictions” and indeed we are unclear as to the meaning / implication.

The clients of the Bank elect which corporate / tax structure they wish to employ – our role is to ensure transparency and legality – it is not our role to dictate to clients how they should structure themselves providing the above goals are met.

The Bank’s Priorities for the Strategy Period

We welcome the eagerness of the Bank to promote energy efficiency across all sectors as we consider Ukraine to have significant potential for improvement in that area. We also welcome the initiative to strengthen the energy and food security of Ukraine. We believe that Bank’s willingness to promote reform of the wholesale electricity market and the tariff reform is of great importance for the energy market of Ukraine.

However there are several concerns connected with these issues (see also below).

We believe that every large project in energy and infrastructure (especially under sovereign guarantees) should be subject to public scrutiny and should not be politically driven, but must favour environmentally and socially sustainable development. As in many countries of the region Ukraine has poor quality national sectoral strategies and projects, many of which are not compatible with sustainable development, and therefore the EBRD needs to take particular care to examine carefully the rationale for each project and the possible alternatives.

Response

The Bank fully concurs with the recommendations.

The Bank already makes environmental and social information about projects publicly available and clients are required to meet both national and EBRD requirements for information disclosure and public consultation. Environmental and social impact assessments (ESIAs) are prepared for environmentally or socially sensitive projects.
which are classified as category A. ESIA summaries are also disclosed on the EBRD site.

Sectoral Challenges and Bank Objectives

Among other things the Bank claims that it will “support diversification of the sources of energy, improving energy security and energy efficiency” (p. 22). We believe that “promotion of generation of the renewable energy” should be mentioned here separately.

In the power sector

The modernization of the transmission network foresees in particular the construction of high-voltage transmission lines such as the Second Backbone UHV Corridor and 330 kV Novooadeska-Artsyz. We believe that construction and putting into operation of these lines will lead to the preservation and further development of the existing old and dirty electricity supply system in Ukraine (with the main energy sources being coal and nuclear) instead of promoting the shift toward renewable energy sources and an increased role for energy efficiency, where Ukraine has huge potential. It will also enable the Ukrainian government to offer this “unsustainable” electricity to EU countries while all the externalities (nuclear risks, air pollution, etc.) are put as a burden on Ukrainian society.

In order to provide electricity to energy-deficient regions, priority should be given to low-voltage local grid (below 110kV) modernization and the development of technical solutions to integrate modern art renewable energy sources into the outdated design of the grid in the regions.

The commitment of the EBRD to invest money into the transmission lines also contradicts the Bank’s Energy Operations Policy. On one hand the Bank does not support construction of new nuclear capacities and is putting a lot of effort into the construction of new confinement structures for the Chernobyl NPP and on the other hand it loans money for the construction of infrastructure for the export of the electricity generated at NPPs and for the extension of the lifetime of old NPPs.

The promotion of renewable energy generation capacities is of great importance for Ukraine, but there is doubt about the efficiency of the USELF program in Ukraine. The size of the loans is comparatively big (EUR 1-15 million), and taking into account that this programme is aimed first of all at promoting renewable energy sources among agricultural producers, it is doubtful that small and medium sized farms can afford it. It is only achievable for big corporations, but the question is whether they need public money for it or could rather obtain it from another source at reasonable rates?

Response

Specific wording to address the Bank’s goal to promote the generation of renewable energy has been included in the Strategy document.
Regarding the suggested impact of modernizing the transmission network although this may have an indirect effect of the effect of extending the life of certain older and indeed inefficient generation, it has to be seen in the context of Ukraine and their immediate energy needs. Such modernization facilitates the delivery of energy which otherwise would be wasted and, if managed properly can be used to fund the development of new more efficient generating capacity.

The Bank does not believe that these investments contradict the Bank’s Energy Operations Policy. The Bank does not support the construction of new nuclear capacity however were existing nuclear is operating but unable to fully deliver its electrical production to much needed regions, the Bank has supported the construction of transmission lines to facilitate this delivery. The Bank believes that dividing line is clear and has been maintained.

The USELF facility is not directed only at farms. The qualifying criteria are deliberately broad, developers have only to contribute not less than 30% of the investment needs themselves and the size of the loans can be as small as EUR500,000.

At this point the project pipeline is quite healthy with over 35 projects. The constraint does not in fact appear to be the size of the facility but rather the developers’ ability to achieve a certain standard – which indeed is what the USELF team can provide support to achieve.

Further traction should also result from clarification by the government of the green tariff for Biomass and Biogas projects, which account for about half of the pipeline.

In the natural resource sector

We strongly believe that international financial institutions should not invest money into fossil fuel extraction, and especially in Ukraine, because as it is indicated in the very beginning that energy efficiency is to be the main focus of EBRD efforts in Ukraine for the next strategy period. Thus, we would recommend removing this point from the Country Strategy.

We believe that EBRD should consider giving support to closing of the mines, restructuring of the mining industry and the development of alternative production in the mining regions: mine closure and rehabilitation, recultivation, postclosure toxic waste management, social programmes, such as retraining of miners, opening new economic opportunities for new jobs. As well EBRD should pay particular attention to gender issues, caused by increased economic stress on miners’ families, increased unemployment in post-mining communities.
Response

The Bank has addressed the point regarding the “enhanced oil/gas recovery” and an amendment to appropriate section to further clarify the intent has been made.

Ukraine is a country with significant challenges in terms of improving energy efficiency. Domestic production of hydrocarbons, under the high Environmental, Health and Safety (“EHS”) standards promoted by the Bank, is part of the overall focus on energy efficiency given that this has a lower carbon footprint than meeting energy needs with oil & gas imported and transported to the country.

Regarding the recommendation that the Bank supports the closing of mines it should be stressed that the Bank’s role, as a finance provider to projects, does not cover setting sector / or regional economic policy (nor funding social programs). That said the Bank does maintain a highly selective focus on EHS impact when it assesses mining project proposals.

In manufacturing and services

The experience with ArcelorMittal Kriviy Rih (AMKR) has shown that the objectives of the loan (i.e. energy efficiency and environmental improvements) were hardly achieved if at all. The EBRD has confirmed this point of view in the Draft lessons learned from previous strategy period. So we believe that the Bank is not able to control and enforce the implementation of environmental improvements and should not give more money to ArcelorMittal Kriviy Rih. Being the part of the largest international steel corporation the AMKR should not benefit the public money for “corporate restructuring and market expansion”. For other steel plants, energy efficiency projects may be possible, but should be prepared much more thoroughly than the AMKR project, with a clearer assessment of what is and is not possible to achieve.

Response

The Bank acknowledges the comments regarding AMKR however it should be noted that the key reason for AMKR failing to achieve certain defined environmental targets was in fact the effect of the unprecedented global financial crisis. This along with the collapse of steel prices at the end of 2008 and the impact of government interference (non-refund of VAT receivables and sequestration of coal imports) reduced available cash resources below the level initially projected.

We continue to seek ways to support AMKR in achieving the defined goals and our standard pertaining to future transactions in this industry will continue to reflect high goals in energy efficiency
In nuclear safety

The National Ecological Centre of Ukraine considers the nuclear safety upgrades to be a form of covert support for the nuclear industry in Ukraine. This is because the list of “safety upgrade measures” coincide considerably with the measures needed to prolong the lifetime of the old nuclear reactors and de facto give them new life. This is not a secret: the administration of Rivne Nuclear Power Plant openly admits that “safety upgrades” mean “extension” on its official web-site. Such renewed old reactors pose much more danger than new ones, because of inevitable changes in materials and obsolescence. Thus, we would ask the EBRD to remove this statement from the strategy and instead to include the following:

“The EBRD should assist Ukraine with preparing and financing a programme to decommission nuclear of Country strategy for Ukraine in the section “Key reactors as their designed lifetime comes to an end in the upcoming years, with the last reactor to be decommissioned in 2019”.

Response

The Bank’s view is that nuclear safety is of paramount importance. The Bank’s funding is specifically directed towards nuclear safety upgrades and as such it is consistent with the Bank’s stated position on not financing new nuclear capacity. The concept of financing further nuclear safety upgrades was embedded in the successful K2R4 programme and the allocation of this to the 13 units is simply an extension of this.

The Bank will ensure a strong level of technical and environmental due diligence and that the risks of each investment are thoroughly reviewed by independent technical experts.

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In the transport sector

The intension to use the PPPs in road construction and operation should be thoroughly weighed for every project and the proper financial analysis needs to take place. Judging from the results in other countries it seems that PPPs are most often used to avoid on balance sheet debt, not because they offer better value for money, and we are extremely sceptical that any substantial risk is transferred during the operation stage. Therefore we recommend removing PPPs from this sentence.

We consider support to aviation and airport rehabilitations not to be the proper sector for IFIs financing. This is because aviation is an already heavily subsidised industry worldwide, with no tax on kerosene and no VAT on air tickets. It also does little to benefit ordinary people, being mainly the preserve of business travelers and more well-off tourists.

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Response

The Bank’s view is that all projects need to be properly assessed, not just PPPs, as there will always be those that are not well structured regardless of how they are procured. In this regard, there are many different PPPs structures and what is important is that they are competitively tendered and an appropriate risk allocation is achieved. The Bank has difficulty agreeing with the request to remove PPP from the referenced sentence as it is the policy of the Bank is to support involvement of the private sector in the development of infrastructure through well structured and competitively tendered projects.

Regarding the recommendation to delete the reference to supporting aviation, again the Bank has difficulty agreeing with the premise and indeed the argument presented.

Privatisation

Non-transparent privatization processes have become a worrying and wide-spread practice in Ukraine.

Thus, we would like to see the Bank’s objective formulation changed as follows: “The Bank will assist Ukraine in the development of its knowledge intensive industries and its better use of its human and scientific potential, as well as support the government’s privatisation programme of state enterprises, ensuring the transparency of the process and its value for money for the public sector.”

Response

The Bank is in broad agreement with the sentiment and has made changes to the appropriate sections to reflect the above point.

Financial intermediaries

We would like to draw attention to the financing through Financial Intermediaries, which made up the largest share among all sectors in 2010 – EUR 1.103 billion of the EBRD’s Portfolio in Ukraine as of 31st December 2010.

As stated elsewhere in our communications with the EBRD, we believe that in principle financial intermediation can be a useful tool for reaching MSMEs, provided it is clear that the financing benefits socially and environmentally beneficial activities. However so far the general public has no insight into who the final beneficiaries are of these operations or what development impacts have been attained. It would be possible and desirable to show which sectors and which sizes of business have
benefited from sub-projects and what the average size of financing has been, as well as publishing in advance any planned sub-loans that would have been categorized as environmental category A or B had they been direct lending projects by the EBRD.

Efforts need to be made to support forms of intermediaries such as co-operative banks and credit unions, and to ensure that EBRD standards are rolled out across banking operations. This is in order to avoid situations where EBRD financing is used for less environmentally and socially dubious projects but the intermediary may use its other financing to support projects that the EBRD standards would not allow.

**Response**

The sovereign SME I credit line signed in 1998 was the main source of long term financing for SMEs for many years. The SME II CL has been successfully implemented since 2001 through 7 eligible banks and was fully disbursed in 2005. There were 247 SME sub-projects financed under SME I and SME II credit lines in total, while USD 48 million was committed and disbursed to MSEs, funding over 16,000 micro sub-loans.

EBRD has continued to support the private small and medium size business via direct lending to the local banks as the demand for financing had not abated.

In December 2004 the Board approved a new MSE/SME Framework to Ukrainian banks, which provided further funds on a direct risk basis to the banks:

7 banks have received SME lending credit lines from EBRD between 2004 and 2008 financing more than 6,670 individual SME loan facilities for a total of USD 241 million (USD 100 million in 2008 alone).

- The average number of SME loans per bank is 157;
- The average size of SME loans varies within USD 10,000 and USD 200,000 between participating banks, with an average of USD 142,000.
- Average maturity of SME loans is above 3 years.

In 2005 – 2008 EBRD provided Mortgage credit lines to the banks for the total amount of USD 165 million, of which USD 85 million was disbursed. The remaining amount was cancelled in 2009 due to the onset of the crisis in Ukraine. The average sub-loan amount on-lent to individuals was USD 29 thousand with an average maturity of USD 7 years.

The priority of the Bank remained EE credit lines provided in the amount of USD 135 million to three participating banks in 2006 -2008 (UkrExim, Forum, Kreditprombank). By YE 2010 USD 90 million had been disbursed for energy projects financing purposes with an average sub-loan size being USD 3.8 million.
Environmental and Social Impact

Public transport

It is very promising that the Bank sees itself involved in promoting public transport in the cities of Ukraine. We consider this to be highly important.

However, in the area of the public transport we would like to mention several concerns related to Kyiv public transport. In recent media reports there were mentions of the buses and trolleybuses purchased by the Kyiv Administration – 185 Minsk trolleybuses and 185 “Bohdan”8 buses - with the EBRD’s financing. However, it was not clear whether there was a procurement notice and proper tender procedure. Also worrying is the fact that last year in November Kyivpastrans also announced the intention to purchase 77 trolleybuses from LAZ (Lviv) having 1 only company presented during the procurement process. This was a simplified procedure because there was a necessity to finalize it till the end of the year and there was a recommendation from the National Agency on the preparation for the final part of the Euro 2012.

As an example of possible corruption in an untransparent public transport purchasing scheme, Dnipropetrovsk Electrotransport purchased 48 used trams (23 and 32 years old) from Dresden that do not correspond to the requirements for electricity consumption and safety standards from Dnipropetrovsk Electrotransport’s tender and 5 times overpriced11 - for UAH 17 million loan from PrivatBank with an 18% rate with municipal guarantees. The public prosecutor in Dnipropetrovsk region has been asked to investigate the case for possible corruption.

Transparent procurement and tendering issues should be among the priorities for the EBRD public transport projects and should be monitored more carefully than is currently the case to ensure value for money for the public sector.

Response

In response to the above comments, the Bank would like to clarify certain points:

- Regarding Kyiv Public Transport – all the acquisitions referred to above have been undertaken by the Kyiv Administration with their own funds and in accordance with the state procurement laws of Ukraine. No funding for these procurements has been provided by EBRD.
- We take note of the comments relating to Dnipropetrovsk Electrotransport but would highlight again that the EBRD has not been involved in providing funding.
- EBRD’s funding is subject to the Bank’s own procurement rules.

Notwithstanding the above, the Bank concurs with the conclusion that transparent procurement and tendering issues should be among the priorities.
Municipal infrastructure

There is no doubt that improvements in the utility sectors are needed. However, for example, in case of the Dnipropetrovsk Municipal Water and Waste-Water Project the project works have started only in the recent years even though the loan was provided in 2004, there have been many delays. Now what is being observed by local people is that the prices for services are rising, but the services do not improve.

Another example is Zaporizhzhya vodokanal that received financing with state guarantees in 1999 for the Zaporizhzhya - Water Utility Development & Investment Program that was planned to be accomplished in four years but it has taken more than ten and is still not completed. The report of the Audit Chamber of Ukraine identified several problems with the project that led to delays and unsatisfactory project fulfillment: problems with contractors, illegal or ineffective use of finances; financial miscalculations and lack of responsibility of all the state agencies responsible for the project; the state company Vodokanal inflated the planned price of the construction by UAH 17.7 million; and the technical equipment for the emergency pipe repair costing EUR 0.4 million and bought with EBRD’s money practically cannot be used. The water service charges significantly increased making it problematic for the local people to pay for, and thus the Bank’s loan repayment has to be put on the state budget.

Nothing is known about the energy efficiency implications for the projects mentioned above and the Bank’s statement that “high energy efficiency benefits were demonstrated by Zaporizhzhya and Dnipropetrovsk municipal projects” (p.32) remains unproved.

Ukraine received the possibility to access funding from the operation of the €90 million multi-donor Eastern Europe Energy Efficiency and Environment Partnership (E5P) Fund managed by the EBRD recently. This fund will focus on district heating, other energy efficiency projects as well as on waste water or renewable energy. Thus we recommend the Bank to take into consideration the experience with the projects that are being implemented with water programmes.

Thus we would like to emphasize our recommendations concerning the Bank’s planned focuses (p. 27) in these areas:

1. “Continuing to support commercialization of municipal utilities and enterprises through projects with large demonstration effects.”

We would recommend adding to the above “… based on real on-the-ground improvements and better services provided,” as we do not believe that commercialization is a goal in itself.

2. “Shaping key product offerings on improving district heating, water and wastewater, but also urban transport and solid waste management solutions.”

For these aims to be realized, tender and procurement transparency and close scrutiny of value for money for the public sector should be in place. The Bank can foster and
ensure this to happen – or if it cannot, it must send a clear signal to the authorities by openly refusing to participate in projects.

3. “Supporting private sector involvement in the provision of municipal services in accordance with transparency and concession standards acceptable to the Bank.”

We would like to emphasize the need for proper evaluation and analysis of whether private sector participation is the most appropriate route, taking into account the mixed experience of private sector participation in public services in Central European countries, where it was already introduced. In order to increase the effectiveness of public services in transition countries, the EBRD should also consider public-public partnerships.

Response

With regard to the three numerical points, the Bank is in general agreement and has incorporated relevant wording in the Strategy addressing the comments by CEE Bankwatch.

With regard to the comments made concerning the Dnipropetrovsk Municipal Water and Waste-Water project, only a very small amount of EBRD funding has been disbursed. As such it is not surprising that, at this stage the public has not seen much improvement. Plans are underway but we acknowledge this has taken a very long time to implement which was primarily due to complex, unclear and lengthy regulatory procedures for investment project preparation/approval. In the case of the Dnipropetrovsk Municipal Water and Waste-Water project – granting of the State Expertise approval of the project feasibility study took almost two years and approval of the consultancy contract for project preparation with the State Pricing Agency took almost a year.

The Zaporizhzhya project is a pilot project that was implemented to help the City to resolve a major environmental issue (i.e. to stop the discharge of untreated wastewater in to the Dniper river). The Bank’s Board visited this plant last year and saw first hand the environmental and efficiency benefits which in addition to the cessation of the discharge includes, reduction of electricity consumption through the replacement of water pumps and pump controls. In terms of increased water charges to local people, it has been necessary to increase tariffs to support the stand alone nature of the Borrower however these have been maintained at an affordable levels – in 2008-09 the ratio of water payments to the average household income was less than 3% of household income (versus 4% on average in the EU). This increase allowed the Company to recover the EBRD investment through the tariff with no subsidies from the City and / or State and turn the Company into a profitable and sustainable entity.

Municipal solid waste

We strongly support the Banks’ engagement in projects with sustainable municipal solid waste treatment. Collection, separation, and recycling services and plants are
extremely needed in Ukraine in all the cities, as well as for solving the waste problem in smaller towns and villages. We also call on the EBRD to adopt an integrated approach and concentrate on preventing waste production in its other projects.

Response

The Bank agrees with these comments and continues to focus on this important environmental challenge.

Gender Action Plan

We are very pleased to see the inclusion of the gender issue into the Country Strategy. However, we feel that concrete commitments on measures to promote gender equality are still missing in the general language on gender considerations.

“As part of the implementation of the EBRD’s Gender Action Plan, the Bank will continue to support women’s entrepreneurship through Financial Institutions projects by increasing the access to finance for women-owned MSMEs and women entrepreneurs and address barriers that impede access to credit, particularly in rural areas.” (p. 32)

This aspect is very important. However, is no way for the public to check on the results.

“In other priority sectors, the Bank will focus on identifying and encouraging clients to adopt gender balanced approaches in their human resources policies and practices (e.g. work-life balance, flexible working hours, family friendly initiatives, etc).” (p. 32)

This statement goes in line with the recommendations raised in Bankwatch’s report on the labour and gender issues in the Ukrainian supermarket chain Furshet. We hope that the EBRD has learned valuable information from the study and will monitor the implementation of the EBRD’s policies and national labour legislation by all its clients.

Response

The EBRD considers the gender issue to be of significant importance and is seeking to act as the catalyst for change. The above comments are noted.
2.2. Comments from Creative Union “TORO” – Transparency International Contact Group in Ukraine and Bank responses

Proposed new text, page 5: The presidential elections held in early 2010 were deemed by international observers to have been free and fair. However, steps taken since the election have the potential to impact the constitutional checks and balances in the political system. The challenge for the new president and government now is to maintain the democratic gains of the past five years while ensuring political stability and strengthening the accountability of public policymaking, overcoming corruption.

Response

Agreed – new amended wording has been incorporated in the Strategy.

Proposed new text, page 5: The post-crisis recovery is expected to be protracted due to weak domestic demand, ongoing adjustment to the terms of trade shock, lingering problems in the financial sector, the limited capacity of government to provide further fiscal stimulus to attract inward investment, high level of corruption. The announced structural reforms, if implemented fairly, should contribute towards increasing the country’s long-term growth potential and help mitigate the post-crisis macroeconomic vulnerabilities.

Response

The Bank has not included this proposed wording as the point has be made sufficiently with the inclusion of the other references to corruption.

Proposed new text, page 7: To add after the last paragraph:

Implementation of measures to overcome corruption. Ability of Ukraine to guarantee the adequate management of financial resources in the situation when corruption is widespread in the country gives rise to serious concerns. The 2010 Corruption Perceptions Index (CPI) (according to Transparency International) shows that corruption remains a very serious problem for Ukraine. The Ukrainian authorities direct efforts towards mitigation of the phenomenon that threatens security of the country and its citizens, but the value of 2.4 as compared to 2.2 (out of 10 possible points) in 2009 is far from the desired result. The Accounting Chamber of Ukraine declares officially that the shadow economy amounts to 52% of GDP. As estimated by the National Bank of Ukraine, over US$15 billion remain beyond legitimate money turnover. This amount would be sufficient to fund all national projects announced by the President V. Yanukovych or to provide funds equivalent to all credit from the International Monetary Fund. So, economic reforms in Ukraine are not possible without fast overcoming of corruption.
Response

Although the Bank fully acknowledges the seriousness of the corruption problem in Ukraine and values highly the work undertaken by Transparency International in highlighting this problem, we feel that the wording proposed imparts too much specific detail and references to third party documents for inclusion in the EBRD’s Strategy.

Proposed new text, page 8: To add before the last paragraph of the section:

Fighting corruption. The Bank will support implementation of measures towards development of the anti-corruption legal framework, as well as measures to facilitate wide information of public on activities of the state authorities in this direction. That would be facilitated by adoption by the Parliament of Ukraine in January 2011 of the Law of Ukraine «On Access to Public Information» (of 13.01.2011 No. 2939-VI) that presents an important step in improvement of public access both to information and to direct participation in the processes of the state policy formation and implementation. The priority tasks of Ukraine in this directions include:

- adoption of the legislation on prevention of corruption and fighting corruption;
- development of the State Programme on prevention of corruption and fighting corruption for 2011-2014;
- implementation of the package of recommendations of the Council of Europe's Group of States against Corruption (GRECO);
- getting up and running work of the National Anti-Corruption Committee under the auspices of the President of Ukraine with clear definition of its authorities and principles of work;
- involvement of the civil society organisations in the practical implementation of the state anti-corruption policy and in the work of the specialised government organisations.

Response

The EBRD is focused on providing funds and through this medium supporting business and the development of good business practices. Although the Bank shares the above sentiment and fully agrees as to the importance of the above legislation, the Bank considers that its primary mechanism to promote change lies in its funding role whereby it facilitates projects and monitors the implementation of certain defined conditionalities. We do not consider the inclusion of this detailed wording in the Executive Summary to be appropriate.

Proposed new text, page 20: The overarching strategic directions of the Bank reflect the assessment of remaining transition challenges, and are in line with the government’s reform programme. The strategic priorities include the improvement of
energy efficiency across all sectors; integration into the European energy market and strengthening energy security; promotion of competition and economic diversification as Ukraine moves towards deeper integration into global production and supply chains; support for unlocking Ukraine’s enormous potential in food and agribusiness and thus helping food security in Ukraine as well as the region and globally; modernisation of Ukraine’s outdated infrastructure, especially upgrading transport corridors and commercialisation of municipal utilities; and stabilising the financial sector and facilitating local currency and local capital markets development; 

**assistance in overcoming corruption in Ukraine.** The Bank will focus on addressing the key transition in close coordination with other IFIs and bilateral donors.

**Response**

Corruption in Ukraine is endemic and can only be addressed over time based on social as well as legal change. Although the EBRD is committed to good business practices and the promotion of transparency amongst its client base, the Bank seeks to achieve this goal primarily through its funding relationships. The Bank will however continue its policy of dialogue to address the corruption problem, together with other IFI’s and the international community.

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**Proposed new text, page 22:** To add to the «The Bank’s key cross-sector priorities and principles in the strategy period» (beginning on the page 19):

- Considering that economic reforms are impossible overcoming of corruption phenomena in the area of public administration, the Bank will support pursuits of the civil society towards implementation in Ukraine of accepted international standards of integrity.

**Response**

The EBRD is unclear as to the meaning of the proposed wording and does not concur with the premise that economic reform is impossible.

The Bank is committed to good business practices and the promotion of transparency amongst its client base, the Bank seeks to achieve this goal primarily through its funding relationships.

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**Proposed new text, page 32:** The main areas of cooperation will include:

**Policy dialogue alignment:** The EBRD plays a leading role in the policy dialogue with the government and IFIs in general investment climate issues as well as specific sector coordination such as banking sector stabilisation during the crisis, gas transit system modernisation, energy efficiency, and nuclear safety, as well as
implementation of consistent policy for overcoming of corruption phenomena. Together with other IFIs, the Bank will focus on a coordinated dialogue with Ukrainian authorities on key issues related to investment climate, transparency and corporate governance; but also specific initiatives related to food security, energy efficiency and environmental issues as well as the promotion of local capital markets.

Response

The EBRD already has in place policies that address integrity, transparency, corruption and good business practices. These policies are already implemented consistently throughout our countries of operation.

Proposed new text, page 42: However, concerns have arisen with regard to the protection of the democratic process in Ukraine. This is particularly true in the areas of media independence and freedom, which have come under pressure in recent months, as well as the proposed reversal of constitutional reforms undertaken in 2004, which were intended to strengthen checks and balances within the political system. Preserving Ukraine’s democratic institutions while strengthening the rule of law, efficient measures to overcome corruption and ensuring responsible public policymaking will be essential to ensuring Ukraine’s successful transition and facilitating the country’s integration with European and global markets.

Response

Agreed – new amended wording has been incorporated in the Strategy.