



global witness

Complaint to the United Nations' Global Compact regarding Deutsche Bank's relationship with the government of Turkmenistan.

Introduction

Global Witness is concerned about Deutsche Bank's relationship with the government of Turkmenistan, widely recognised as one of the most repressive, most corrupt and most secretive regimes in the world, according to information from the European Parliament, the US State Department, the OSCE, Transparency International, and numerous other independent NGOs.

Turkmenistan possesses one of the largest natural gas reserves in the world and, under the terms of a new contract with Russia's Gazprom, will earn US\$5 billion per year from 2007 from the sale of this resource. But its citizens have no information as to where that money is going because the revenues are managed in a completely opaque way. Therefore it is impossible to state whether this money is being used for legitimate public purposes. The situation in the country, where human development indicators are low and falling in large part because of putative budgetary cut-backs, strongly suggests that the revenues are not being spent for the benefit of the people of Turkmenistan.

A gas-export contract signed 14 May 2001 between Ukraine and Turkmenistan seen by Global Witness shows that the Central Bank of Turkmenistan holds account number 949924500 at Deutsche Bank, Frankfurt, Germany. Various reports from international financial institutions state that money from this account is solely controlled by Saparmurat Niyazov, the president of Turkmenistan.¹

Niyazov has been the ruling political figure in Turkmenistan (formerly Turkmen SSR) since 1985 and was named 'president for life' in 2002. His dictatorial regime and his consolidation of power rely on the vast sums of money Turkmenistan earns from the sale of its natural resources, most notably its gas.

We are concerned that Deutsche Bank's relationship with Turkmenistan, and hence Niyazov, appears to put the bank in violation of principles 1, 2 and 10 of the Global Compact, which Deutsche Bank joined in 2000:

1. Businesses should support and respect the promotion of internationally proclaimed human rights.
2. Businesses should make sure that they are not complicit in human rights abuse.
10. Businesses should work against corruption in all its forms, including extortion and bribery.

In November 2000, the bank produced a four-page document entitled *Deutsche Bank commitment to the Global Compact*. The document states, 'It is our belief that it is possible to be both profitable and moral; doing more than the law requires because it is not just correct policy, but it is our moral obligation and conviction.'² It is difficult to see how holding a bank account for a regime such as this can be reconciled with the bank's commitment to the Compact. Deutsche Bank did not answer any specific questions relating to Turkmenistan, citing confidentiality agreements, when asked by Global Witness in 2006 (see below).

Deutsche Bank cannot claim to be ignorant of the nature of Niyazov's regime; the bank has held an office in Turkmenistan's capital since the 1990s and condemnation of the country's well-documented human rights' record has been widespread since Niyazov became president in 1991. We are also troubled by Deutsche Bank's apparent unwillingness to engage in a proper dialogue over these issues. In July 2005, Global Witness wrote to Deutsche Bank's management to voice our concerns over possible Turkmen accounts held at Deutsche Bank. It replied three weeks later: 'As a financial services provider active worldwide Deutsche Bank is aware of possible impacts of its activities on the environment and society. Therefore we consider environmental and sustainable aspects through our sustainability management system and in specific cases of lending decisions we carry out environmental risk assessment.' Global Witness did not in fact ask in this letter about the bank's impact on the environment or its lending

¹ European Bank for Reconstruction and Development. 2004. Strategy for Turkmenistan. EBRD, London.

² <http://www.umwelt.deutsche-bank.de/en/pdf/global%20compact.pdf>. Interestingly the document has small sections on Deutsche Bank the environment, human rights and labor but not on corruption.

decisions, and the bank gave no information on what its 'sustainability management system' entailed. The reply continued: 'Acting in line with sustainability criterias is an important part of our business activities and corresponds with our role as a corporate citizen. On the basis of the UNEP statement and the 10 principles of the UN Global Compact, principles behind Deutsche Bank's sustainability policy have been developed that are translated into action through various activities. Deutsche Bank works according to national laws and regulations and the relevant guidelines published by international organisations like the UN and the Worldbank or national organisations like BaFin-Federal Financial Supervisory authority.' The email concluded, 'Due to data protection laws in general we cannot give you information regarding specific client relationships.'

In October 2006, we wrote to Deutsche Bank regarding the above-mentioned contract and the account it refers to, and to ask more questions concerning the bank's relationship with Turkmenistan, including whether the bank had given loans to Turkmenistan. Deutsche Bank replied with the same two paragraphs as given above, with the word 'environment' in the second sentence, replaced by 'human rights'. The letter repeated that 'due to data protection laws in general we cannot give you information regarding specific client relationships.' This time the letter directed Global Witness to two websites – regarding corporate social responsibility and the environment. Global Witness believes that both fail to address our concerns regarding the bank's relationship with Turkmenistan.

It is Global Witness' opinion that data protection laws are irrelevant here; the above-mentioned contract confirms that major revenues flow into this account from the sale of Turkmen gas, a natural resource that belongs to the Turkmen people. The true client of this account is therefore the population of Turkmenistan, and data concerning this account should be on the public record, especially seeing that there are many unanswered questions concerning the Turkmen president's control of this money and the way in which it is used.

We are also concerned by the fact that questions raised in a previous complaint to the Global Compact regarding Deutsche Bank's relationship with the government of Turkmenistan was not addressed in a satisfactory manner, according to the complainant, Fair Finance Watch.³

Deutsche Bank, Niyazov and Turkmenistan

The gas-export contract mentioned above shows that the Central Bank of Turkmenistan possesses an account at Deutsche Bank in Frankfurt. The contract states that over US\$800 million is to be deposited yearly into this account.⁴ Reports from a wide variety of sources estimate that between US\$2-3 billion is held by the Turkmen Central Bank at Deutsche Bank.

Sources from the financial community have told Global Witness that Turkmen foreign-currency assets are managed by Deutsche Bank in a variety of development funds, such as the Foreign Exchange Reserve Fund (FERF). However, the FERF does not appear in the national budget, has no sector priorities, and most worryingly of all, is under the sole direct control of President Niyazov, according to reports from international financial institutions.⁵

Moreover, Niyazov has de-facto control over the Central Bank: he has the power to sack its chairman at will (five people have occupied this position since 2002, three are currently in jail). In late 2002, following a scandal at the Central Bank (see below), Niyazov stated on Turkmen television that nobody, apart from presumably himself, would be able to handle the country's currency reserves from then on.⁶ The World Bank, the IMF and the EBRD all refuse to fund projects related to the FERF because of the opacity of its operations.⁷

Many questions have been raised over Niyazov's sole control of these assets; Niyazov is one of the world's most despotic dictators. Despite repeated calls by international financial institutions to make the Turkmen foreign currency funds held at Deutsche Bank more transparent,⁸ the government of

³ <http://www.innerecitypress.org/dbbt.html>

⁴ This contract has since been annulled by a new agreement with Russia's Gazprom who will pay US\$5 billion to Turkmenistan yearly for greater amounts of gas from 2007.

⁵ European bank for Reconstruction and Development. 2004. Strategy for Turkmenistan. EBRD, London. International Monetary Fund. Article IV Consultation. 18 May 2004. IMF, Washington.

⁶ BBC Monitoring. 21 September 2002.

⁷ European Bank for Reconstruction and Development. 2006. Strategy for Turkmenistan. EBRD, London. See <http://www.ebrd.com/about/strategy/country/turk/index.htm>. p2.

⁸ *Ibid.*

Turkmenistan has done nothing to make this happen. In light of this, and with corruption endemic in Turkmenistan (see below), it is difficult to reconcile Deutsche Bank's pledge to the Global Compact with its management of an account, possibly several accounts, in the name of the Turkmen government.

Gas money allows Niyazov to remain in power while human development grinds to a halt

The lack of transparency in economic governance in Turkmenistan – where billion-dollar revenues from the sale of gas do not make it into the national budget – makes it impossible to determine whether or not the money in this account is being used for legitimate public purposes. A staggering 75-80% of government spending takes place off-budget from funds such as the FERF.⁹

It is clear, however, that a great deal of money is used to strengthen Niyazov's ever-present personality cult and thus enforce a totalitarian regime. Pictures, statues and placards featuring Niyazov and his family are omnipresent in Turkmenistan, including the infamous Arch of Neutrality golden statue of Niyazov in Ashgabat that rotates to face the sun. A powerful security service is used to monitor its citizens' movements and activities; police check-points surround every major town.

Multi-million-dollar monuments to Niyazov's personal power are the foundation of his authority. For example, President Niyazov ordered the construction of Central Asia's largest mosque – built in his home village and inscribed with his 'holy' sayings – for a reported US\$100 million. He has also ordered tens of millions of dollars spent on image-boosting projects such as the construction of a lake in the desert, where temperatures routinely exceed 40 degrees centigrade, and an artificial river running through the capital city. The state also pays for a 3,000-man presidential guard.

While hundreds of millions are squandered on the cult of personality, little money seems to be reaching the people. There are serious concerns about the economic, social and cultural rights of the people of Turkmenistan: human development indicators have plummeted since Turkmenistan gained its independence. The World Bank has estimated that 58% of the country's population lives in poverty¹⁰ with little money spent by the government on key areas such as education and healthcare. The US State Department stated in 2004 that 'poverty and healthcare problems [have] led to a high rate of infant mortality,'¹¹ which is higher in Turkmenistan than in some African countries such as Kenya and Zimbabwe.¹² Such widespread impoverishment is all the more startling in a country with significant natural resource assets.

More importantly, President Niyazov's policies have artificially exacerbated poverty and social-sector collapse by mandating economically unjustifiable cutbacks in vital areas such as education, pensions, and public health. In March 2004, for example, citing the need for budgetary belt-tightening, 15,000 healthcare workers were reportedly dismissed and replaced with untrained army conscripts.¹³

The human rights situation in Turkmenistan

Turkmenistan is widely agreed to be one of the least democratic and most repressive states in the world. The European Parliament's resolution on Turkmenistan from 2003 states that, 'the already appalling human rights situation in Turkmenistan has deteriorated dramatically recently, and there is evidence to suggest that this Central Asian state has acquired one of the worst totalitarian systems in the world.'¹⁴

The civil and political rights of the people of Turkmenistan are systematically abused. The US Department of State has spoken of credible reports of systematic torture under Niyazov's regime referring to occasions of beatings, injection with psychotropic substances, electric shock torture and, in the case of female victims, sexual assault and the threat of rape.¹⁵ Recently, there was strong evidence to suggest that a Radio Free Liberty journalist had been killed in prison after being found guilty on apparently politically motivated charges in a closed trial absent due process; her family noticed a large wound on her head and

⁹ International Monetary Fund, 18 May 2004. Turkmenistan: Article IV Consultation. IMF, Washington, DC. P14.

¹⁰ <http://lnweb18.worldbank.org/eca/eca.nsf/ExtECADocbyUnid/448D2726890D48CC85256D5D006884C3?Opendocument>

¹¹ <http://www.state.gov/g/drl/rls/hrrpt/2004/41714.htm>

¹² http://www.indexmundi.com/turkmenistan/infant_mortality_rate.html

¹³ "Human rights and health in Turkmenistan," Bernd Rechel and Martin McKee, European Centre on Health of Societies in Transition, London School of Hygiene and Tropical Medicine, June 2005, p. 1, <http://www.lshtm.ac.uk/ecohost/projects/turkmenistan%20files/Turkmen%20report.pdf>.

¹⁴ http://www.europarl.eu.int/meetdocs/2004_2009/documents/FD/DCAS2004100604_/dcas2004100604_en.pdf

¹⁵ <http://www.state.gov/g/drl/rls/hrrpt/2002/18397.htm>

signs of strangulation;¹⁶ despite international pleas, the Turkmen authorities have failed to investigate the death or release the autopsy.

An OSCE report has noted that an ‘absolute monopoly of the state over all media exists in Turkmenistan’ and further, that ‘censorship in Turkmenistan is total.’¹⁷ Freedom of expression does not exist in Turkmenistan. There are no independent newspapers, radio stations or television channels; the state controls them all and uses them to broadcast Niyazov’s teachings (from his so-called ‘holy book’ *The Rukhnama*) and proclaim Turkmenistan to be in a ‘Golden Age’.

All lines of executive control pass through ‘president for life’ Niyazov: in addition to being president, Niyazov serves as the country’s *de facto* prime minister by being the head of the people’s council, the Turkmen parliament. Regular sackings and jailings of top officials ensure that he has no rivals (see below).

Turkmenistan and corruption

In a 2005 study by Transparency International, Turkmenistan was perceived to be the joint third most corrupt country in the world along with Burma and Haiti.¹⁸ Recent years have seen a great number of top public officials jailed for allegedly embezzling state money. In May 2002, the then-chairman of the Turkmen Central Bank Seitbay Gandymov was dismissed for allegedly transferring funds to his relatives.¹⁹ His successor, 34-year old Imamdurdy Gandymov (no relation), was sacked just six months after taking the position for his involvement in the alleged theft of over US\$40 million from the Central Bank account held at Deutsche Bank. According to the Turkmen authorities, a Turkmen bank clerk (who was later found murdered in Russia) had illegally transferred the money from the Turkmen Deutsche Bank account to offshore structures in late 2002. Half of the missing money was never recovered, in part because of the Turkmen authorities’ reluctance to present evidence concerning the exact ownership of the money at the trial of two bankers who stood accused of aiding the theft. The prosecution failed to prove that half of the missing money indeed belonged to the Turkmen state.²⁰ Deutsche Bank was absolved of all blame by Turkmen authorities.

Yolly Gurbanmuradov, a former deputy prime minister of Turkmenistan, was jailed in July 2005, having been found guilty of embezzling more than US\$100 million and another minister, Ilyas Chariev was jailed later that month, after allegedly wasting US\$99 million of state money.²¹ Saparmamed Valiev, head of the Turkmen state oil company, was also jailed in 2005 for crimes, including the embezzlement of US\$9.5 million and illegally acquiring 21 houses and 20 foreign-made cars, according to Turkmenistan’s state prosecutor.²² In 2006, even the state prosecutor herself was jailed after being found guilty of taking millions of dollars in bribes, of stealing money confiscated from former officials whom she helped jail, and of possessing 25 cars and 36 homes.²³

According to high-level sources familiar with the case, a Deutsche Bank official was present at the hearing of former deputy prime minister Yolly Gurbanmuradov. According to a German Press report, Niyazov thanked this official for help in preventing Gurbanmuradov from stealing money from the Deutsche Bank account.²⁴ Many questions have been raised over the fairness of Gurbanmuradov’s trial, and those of other high-ranking Turkmen officials. The US Department of State’s report on Turkmenistan’s human rights from 2003 notes that the judiciary is not independent and highlighted the problem of unfair trials.²⁵ Turkmen opposition leaders and human rights organisations regard these jailings as Niyazov’s way of eliminating potential rivals.²⁶ Worryingly, Gurbanmuradov has not been heard of or seen by relatives since his arrest and was not even present during his trial proceedings.

¹⁶ <http://www.rferl.org/featuresarticle/2006/09/0F829491-5086-43FC-A870-7B4AEC160105.html>

¹⁷ http://www.osce.org/documents/rfm/2002/01/2277_en.pdf

¹⁸ http://www.transparency.org/policy_research/surveys_indices/cpi/2005

¹⁹ Moscow Interfax, 7 May 2002.

²⁰ Moscow court’s *prigovor* (sentence) document. See Global Witness report *It’s a Gas*. April 2006. p18.

²¹ *Ibid.*

²² <http://rferl.org/featuresarticle/2005/08/e94ae9ce-242e-4c8f-ad62-8d4a1c61065b.html>

²³ <http://www.rferl.org/featuresarticle/2006/04/3a1ec544-e90b-4d7c-93ac-810bb1a5b84b.html>

²⁴ <http://www.spiegel.de/international/spiegel/0,1518,412923,00.html>

²⁵ <http://www.state.gov/g/drl/rls/hrrpt/2002/18397.htm>

²⁶ <http://rferl.org/featuresarticle/2005/08/e94ae9ce-242e-4c8f-ad62-8d4a1c61065b.html>

Deutsche Bank and The Global Compact

The Compact, launched in July 2000, is a voluntary initiative that ‘seeks to promote responsible corporate citizenship so that business can be part of the solution to the challenges of globalisation.’²⁷ Deutsche Bank was one of the first institutions to sign up to the Compact in 2000.

The Global Compact’s website gives detailed analysis on how a business should uphold each principle. Regarding principle 1, it states under the heading of ‘Promoting the rule of law’: *‘Businesses operating outside their country of origin may have an opportunity to promote and raise standards in countries where support and enforcement of human rights issues is insufficient.’*²⁸

Regarding principle 2, the Office of the United Nations High Commissioner for Human Rights defines corporate complicity in human rights abuses in a document jointly published with the Global Compact Office: *‘Broadly speaking, corporate complicity in human rights abuses means that a company is participating in or facilitating human rights abuses committed by others, whether it is a state, a rebel group, another company or an individual.’*²⁹

The Global Compact website goes on to describe what it terms ‘silent complicity’: *‘the way human rights advocates see the failure by a company to raise the question of systematic or continuous human rights violations in its interactions with the appropriate authorities.’*

It is difficult to see how Deutsche Bank can be seen to be ‘rais[ing] standards’ of human rights by holding an account for a regime that is universally perceived to be repressive and corrupt; judging by the description provided by the Global Compact website, it is Global Witness’ opinion that the bank may indeed be silently complicit in facilitating human rights’ abuses by continuing to hold this account and not raising questions to the relevant authorities. Global Witness asked Deutsche Bank in October 2006 what they had done to promote human rights in Turkmenistan, and whether officials had raised this question with the relevant Turkmen authorities. Global Witness considers that the reply it received from Deutsche Bank (see above) failed to address this question.

Regarding principle 10, the website quotes Transparency International’s definition of corruption as *“the abuse of entrusted power for private gain”*: *This can mean not only financial gain but also non-financial advantages.’*

As outlined above, the very nature of the regime – where foreign currency funds are used to strengthen the personality cult through the building of monuments to the president and the continuing suppression of free media – is corrupt because Niyazov uses state funds for his political advantage. With so many senior government officials arrested for the embezzlement of state funds, yet with Niyazov announcing control over state assets, the true situation concerning oversight of the country’s foreign currency reserves (the majority of which are held at Deutsche Bank) is unclear. Amid such chaos, it is difficult to reconcile Deutsche Bank’s pledge to the Compact’s Principle Ten in which it promises to ‘work against corruption’.

Assurances needed

The recent death of a journalist in custody under suspicious circumstances shows that the already dreadful human rights situation in Turkmenistan is continuing to decline. The opacity of the expenditure of state funds is near total, with the majority of spending taking place offshore and off-budget. The situation at the Central Bank, with frequent dismissals of its chairman, is chaotic, and corruption remains endemic. By possessing an account in the name of the Turkmen government it is Global Witness’ opinion that Deutsche Bank is in grave danger of strengthening Niyazov’s totalitarian grip on the country and failing to live up to its pledges to the Global Compact.

Global Witness would welcome the opportunity to begin a dialogue with Deutsche Bank to discuss possible measures which could be taken to ensure that the accounts held by the Turkmen government in Deutsche Bank are only used for legitimate public purposes and that Deutsche Bank lives up to its human rights and anti-corruption commitments. Deutsche Bank needs to demonstrate that it is not aiding one of

²⁷ <http://www.unglobalcompact.org/>

²⁸ <http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/principle1.html>

²⁹ “The Global Compact and Human Rights: Understanding Sphere of influence and Complicity: OHCHR Briefing Paper” in *Embedding Human Rights in Business Practice* joint publication of the United Nations Global Compact Office and the Office of the United Nations High Commissioner for Human Rights, 2004, p. 19.

the world's most autocratic regimes in its corrupt practices and its violation of the human rights of its citizens.

As stated above, Global Witness is troubled by what we regard as an inadequate response from Deutsche Bank regarding our letters which voice concerns over Turkmen funds held at this institution. It is time for Deutsche Bank to prove the sincerity of its commitment to the Global Compact principles on anti-corruption and human rights by fully and transparently incorporating the principles into its dealings with the government of Turkmenistan. Global Witness would welcome the opportunity to discuss with Deutsche Bank measures it could take to do so. These measures should include an unambiguous public statement by Deutsche Bank that includes all of the following:

- A detailed description of what due diligence procedures have been put in place to make sure that all money from the Turkmen Central Bank account, or any other Turkmen accounts that may be held by Deutsche Bank, are being used for legitimate government business and not for corrupt ends, as a vehicle for corrupt transactions, personal expenditure or to fund human rights abuses (for example, for the financing of state security forces or surveillance equipment).
- A confirmation that Deutsche Bank is continuously monitoring all such Turkmen accounts for suspicious activities, such as suspicious wire transfers, cash deposits, transfers to offshore entities and transfers to personal accounts of government officials or their relatives or associates.
- An explicit assurance that, though Deutsche Bank holds this account for the Central Bank of Turkmenistan, it does not hold personal accounts for President Niyazov, for members of his family, or senior members of his government, or people acting as their personal representatives.
- A detailed description of what steps Deutsche Bank has taken to review the appropriateness of continuing to hold the Turkmen Central Bank account. According to a former Turkmen Central Bank chairman, the account has been open for 10 years; during this time Niyazov's regime has become increasingly severe and his behaviour more abusive.
- A clarification by Deutsche Bank as to what other measures it is taking, beyond these due diligence, monitoring and review measures mentioned above, to promote human rights, tackle corruption and promote fiscal responsibility in Turkmenistan.

The Global Compact should require Deutsche Bank to prove with publicly available documentation that the above recommendations have been met. Global Witness feels that should such a statement of proof not be forthcoming, Deutsche Bank is not fulfilling its obligations to the UN Global Compact and it is our opinion that the bank should be excluded as a member of the Compact until such clarifications are made.