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# **CRUDE ACCOUNTABILITY**

## **Turkmenistan's Environmental Risks in the Era of Investment in the Hydrocarbon Sector**

A Report by

Crude Accountability

September 2007

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## **Turkmenistan's Environmental Risks in the Era of Investment in the Hydrocarbon Sector**

### **1. Overview of the Political Situation in Turkmenistan**

Turkmenistan is one of the five Central Asian states of the former Soviet Union and it borders the Caspian Sea to the west, Iran and Afghanistan to the south, Uzbekistan to the east and Kazakhstan to the north. During the Soviet period, Turkmenistan competed with Tajikistan as the poorest republic, and since the fall of the Soviet Union, it has continued to fall behind its Central Asian neighbors in most areas of development. Infant and maternal mortality rates are among the highest in the former Soviet Union (FSU), gross domestic production is lower than in the other Central Asian states and economic development is slow in comparison to its neighbors.<sup>1</sup> Although the hydrocarbon sector performs well (Turkmenistan is the second largest exporter of gas in the FSU), according to the US Fund for Peace, 58 percent of the population lives below the poverty level.<sup>2</sup> According to the US State Department, in 2006, GDP per capita was \$8,500.<sup>3</sup>

After the breakup of the Soviet Union, former Communist Party boss Saparmurat Niyazov became the country's first President, and he ruled Turkmenistan with an iron fist until December 2006, when he died suddenly of cardiac arrest.<sup>4</sup> His legacy is a regime of totalitarian control, paranoid dictatorship and an absence of basic freedoms and human rights for the citizens of Turkmenistan. During his rule, his government gutted the country's educational system, destroyed the medical system, built statues and enormous government buildings at the expense of ordinary citizens, most of whom live in extreme poverty, and systematically isolated Turkmenistan by outlawing foreign publications, maintaining full control over the Internet, and censoring all media. Freedom of association was extremely limited and he maintained full control over the political system, outlawing the opposition and squelching all forms of expression. He created an unrivalled cult of personality, even renaming the months of the year after members of his family and decreeing that the Rukhnama, a spiritual guide he allegedly wrote, be taught in schools throughout the country and, often, be recited from memory as a precondition to obtaining jobs.

Following Niyazov's death in December 2006, Gurbanguly Berdymukhammedov was appointed acting President, until he was elected in February 2007. He promised to continue in the footsteps of Niyazov, and although minor reforms to the educational system and a loosening of Internet restrictions have been implemented, there is no indication that Berdymukhammedov will institute sweeping reforms to bring democracy—or even a less repressive regime—to Turkmenistan anytime in the near future.<sup>5</sup>

However, since the beginning of Berdymukhammedov's presidency, western corporations—especially international oil companies—have expressed unprecedented interest in partnering with his government to extract and export hydrocarbons from

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Turkmenistan. International financial institutions are also reiterating their interest in investment in Turkmenistan and western governmental officials are visiting Turkmenistan in waves. Russia's President Putin has renewed efforts to create an energy alliance with Turkmenistan and other Central Asian countries, creating nervousness within European and American policymaking circles. With investments in the other former Soviet Caspian countries more or less clear following the decade of intensive investments in Azerbaijan, Kazakhstan and Russia, Turkmenistan represents the last "frontier" of hydrocarbon investments in this region and, therefore, maintains an important geopolitical position regionally.

## **2. Background on Crude Accountability**

Crude Accountability is an environmental justice organization active in the Caspian region since 2003. Its founders and staff have been working in the former Soviet Union, and with a particular focus on Central Asia and the Caucasus since the early 1990s. Crude Accountability works in close partnership with environmentalists and civil society activists in the littoral states of the Caspian region on a number of projects, including campaigns for improved environmental conditions and compliance with national legislation and international conventions in communities impacted by hydrocarbon development. Crude Accountability staff are fluent in Russian and have lived and traveled extensively in the region. For more information about Crude Accountability's activities, please visit our website at [www.crudeaccountability.org](http://www.crudeaccountability.org).

## **3. Methodology of this Study**

Crude Accountability has undertaken this study with generous support from the Open Society Institute's Turkmenistan Project. We have utilized written materials on Turkmenistan, interviews with environmental experts in- and outside of Turkmenistan, and we have made use of our own experience working in the Central Asian region for the past fourteen years. Our purpose is to provide an overview of the current environmental situation in Turkmenistan with an emphasis on issues relevant to oil and gas extraction and transport.

This study does not attempt to provide a comprehensive analysis or report of the current environmental situation in Turkmenistan, but rather aims to identify those environmental issues most relevant to the oil and gas sector, international oil companies, international financial institutions and environmentalists concerned with hydrocarbon development in Turkmenistan.

With regard to oil and gas related issues, in addition to reviewing materials from Turkmenistan, we have incorporated experience from other countries in the Caspian basin. With similar political and economic situations, a common ecosystem, and interest from the western world, the Caspian Sea basin countries share more than is dissimilar when it comes to hydrocarbons. The policy recommendations provided at the end of this paper reflect that understanding, and we hope will be utilized in that manner.

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#### **4. Brief Overview of Relevant International Conventions and Agreements**

Although Turkmenistan has been one of the most isolated of the former Soviet countries, it has signed on to numerous international conventions that are relevant to environmental concerns. These include the Aarhus Convention on Access to Information, Participation in Decision-making and Access to Justice in Environmental Matters; the Convention on Biological Diversity; the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa; the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal; the United Nations Framework Convention on Climate Change; the Kyoto Protocol to the United Nations Framework Convention on Climate Change; and the Framework Convention on the Protection of the Marine Environment of the Caspian Sea.<sup>6</sup>

An analysis of the relevance of each of these conventions and agreements is beyond the scope of this study, and information about most of these conventions is readily available on the Internet. However, a brief review of two of the conventions provides a framework for understanding the extent to which international environmental legislation is relevant for oil and gas companies operating in Turkmenistan.

The Framework Convention on the Protection of the Marine Environment of the Caspian Sea is the first international environmental agreement to be signed by all five of the Caspian littoral states. Signed in 2003 (and ratified by Turkmenistan in 2004) and ten years in the making, this Convention could serve as the cornerstone of environmental protection for the Caspian Sea. The United Nations Environment Programme serves as the Interim Secretariat of the Convention, working closely with the Caspian Environment Programme. Negotiations to date among the Parties and with the NGO sector have been fraught with disagreement and political posturing. However, provisions for biodiversity conservation, emergency response management, transboundary environmental impact assessments, and monitoring land-based sources of pollution are stipulated in the Convention's protocols.<sup>7</sup>

The Framework Convention holds additional relevance in the absence of a legal regime for the Caspian Sea. Debates about whether the Caspian is a lake or a sea remain unresolved fifteen years after the dissolution of the Soviet Union. Issues such as emergency response management and other common issues for the littoral states are addressed through the Framework Convention and are essential considerations for oil and gas companies operating in the region.

The Aarhus Convention on Access to Information, Participation in Decision-making and Access to Justice in Environmental Matters is the first international convention to make the link between environment and human rights, and ensures that citizens not only have access to environmentally relevant information, but also the right to participate in environmental decision-making and access to justice in instances where that right is denied.<sup>8</sup> In the Caspian region, Azerbaijan, Kazakhstan and Turkmenistan are signatories to the Aarhus Convention.

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The Aarhus Convention has relevance in the oil and gas sector when considering public consultations such as public hearings, environmental impact assessments and overall project development. Not only does Turkmenistani law apply when considering environmental protection measures, but so do the Aarhus Convention and other relevant international conventions.

### **5. Nongovernmental Organizations**

Very few nongovernmental organizations (NGOs) exist in Turkmenistan due to the country's highly repressive political system. Although NGOs existed in early post-Soviet Turkmenistan, in the early 2000s civil society experienced a severe crackdown, which has only become more intense as time progresses. In 2002, following the discovery of an alleged plot to assassinate President Niyazov, the authorities cracked down on opposition figures and members of civil society. Following that event, a number of environmentalists and other civil society activists were arrested by the authorities and charged with crimes against the state. Among them was Farid Tukhbatullin, the co-chair of the Dashkhovuz Ecology Club, an environmental education NGO based in Dashkhovuz, in northwestern Turkmenistan. Tukhbatullin was charged with illegally entering Turkmenistan (although he is a Turkmen citizen!) and he spent several months in prison before he was forced to sign a confession and then released on the condition that he permanently leave Turkmenistan.<sup>9</sup>

In 2003, the Turkmen government passed a new NGO law, requiring all registered NGOs to re-register according to the new legislation.<sup>10</sup> Following this decree, virtually all independent NGOs were denied re-registration, including the Dashkhovuz Ecology Club and Catena, two of the oldest and most respected environmental NGOs in Turkmenistan. In addition to cracking down on indigenous NGOs, the new law also made it impossible for foreign donors to finance non-registered Turkmen NGOs. With this act, the Turkmen government had effectively gutted the civil society movement in Turkmenistan.

However, despite this setback, civil society representatives continue to work for environmental improvements, environmental education, and dissemination of environmental information in Turkmenistan. Environmentalists are employed by international organizations like the United Nations Environment Programme, Global Environmental Fund (GEF), the Caspian Environment Programme, and other organizations working in Turkmenistan. Their expertise is critical to the success of such international organizations and is invaluable to the international environmental community.

In December 2006, just days before Niyazov died, Andrey Zatoka, the co-chair (along with Tukhbatullin) of the Dashkhovuz Ecology Club, was detained and taken into custody as he attempted to board a plane for Moscow to attend the annual meeting of the Socio-Ecological Union, an international environmental umbrella organization, of which he is a founder.<sup>11</sup> Held without access to a lawyer, his family or contact with the outside world, Zatoka was charged with illegal weapons possession and possession of



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a dangerous substance and sentenced to three years in prison. Due to intense international pressure, his sentence was suspended and, after spending 2 months in prison in Dashkhovuz, Zatoka was released. He is currently under virtual house arrest, unable to leave the country and unable to travel within Turkmenistan without express permission from the government.<sup>12</sup>

Although they were both unjustly imprisoned without cause, Tukhbatullin and Zatoka were fortunate in comparison with others who have been arrested, imprisoned, tortured and killed in the custody of the Turkmen internal police. The case of Ogulsapar Muradova, a journalist who was arrested and imprisoned under trumped up charges, provides a chilling example. The 58-year old mother of two was charged with weapons possession and sentenced to six years in prison in August 2006. A month later she was dead, and although the authorities claimed she died of illness, her body was covered with bruises and according to her children, she appeared to have been strangled.<sup>13</sup>

## **6. Overview of Turkmenistan's Environment and Key Environmental Concerns in the Context of Hydrocarbon Extraction**

Turkmenistan is a country of approximately 488,000 square kilometers—roughly the size of California, and with a population of about five million.<sup>14</sup> With mountains in the south towards Iran, and the Caspian Sea to the west, the country is 80 percent covered by the Karakum Desert and has a subtropical desert climate.<sup>15</sup>

### *Water*

Because of its desert climate, water quality, supply and use is of critical concern in Turkmenistan. Health, environmental and other problems are exacerbated by the country's water quality, which is quite low. Turkmenistan suffers from a serious shortage of water as the main river, the Amu Darya, has been overused for irrigation purposes. In addition to putting pressures on water usage, this has resulted in minimal river flow into the Aral Sea and contributed to what is one of the world's most devastating man-made environmental disasters—the desiccation of the Aral Sea. A host of environmental health concerns, particularly in rural areas, are attributed to the water shortages and poor water quality in Turkmenistan.

### "Lake Turkmen" or "Golden Age Lake"

Lake Turkmen was a pet project of former President Niyazov. An artificial lake that is being constructed in the Karakum Desert in northwestern Turkmenistan, the project is an environmental and economic boondoggle. Work on Lake Turkmen began in 2000, and is planned to cover 3,460 square kilometers, which will hold 132 billion cubic meters of water.<sup>16</sup> President Niyazov envisioned a collection point for drainage from irrigated fields in four veleyats (Lebap, Mary, Dashoguz and Ahal) that would channel the water to the Karashor depression.<sup>17</sup> It is estimated that the project will cost USD 9 billion.<sup>18</sup> Some initial reports state it will be completed by 2009, while others state that it will take up to 20 years to build.<sup>19</sup> While there is no indication of foreign investment in the project, it does involve the use of Belarusian, Japanese and American equipment.<sup>20</sup> Environmental concerns are numerous, including evaporation,

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salinization of the surrounding land; and placement of additional strain on the Amu Darya and the Aral Sea, leading to diplomatic problems with neighboring countries.

#### *Cotton*

In spite of its desert climate, Turkmenistan is a substantial producer of cotton, and during the Soviet period was a chief supplier to the USSR. A system of irrigation canals built during the Soviet period brought water to the cotton fields, resulting in severe environmental problems that contributed to, among other disasters, the desiccation of the Aral Sea. Turkmenistan's cotton harvest was the result of extensive use of pesticides, defoliant and herbicides, especially during the Soviet period, in order to maximize the harvest and fulfill the Soviet Union's Five Year Plans.

Currently, cotton is grown on approximately half of all the irrigated land in Turkmenistan.<sup>21</sup> Despite being a signatory to the Convention on the Rights of the Child, Turkmenistan continues to use child laborers to bring in the cotton harvest.<sup>22</sup> Although there have been discussions about changing educational policy to lengthen the school year and stopping the use of children as laborers in the field, to date no legal proceedings have been initiated against those who hire children to work in cotton and other agricultural enterprises.<sup>23</sup> Environmental health problems are rampant among the population that works in the cotton fields. These problems are of the result of exposure to excessive amounts of fertilizers, defoliant and herbicides. Neglect of irrigation and collector drainage networks has led to degradation of sowing areas, soil salinity and land erosion. A lack of medical services to treat affected people has led to a number of health problems for nearby communities, including edema of the respiratory tract, allergic rhinitis and allergic bronchitis.<sup>24</sup> These are only the visible problems – doctors are pressured not to make links between health issues and cotton.<sup>25</sup>

#### *Human Health Concerns*

Turkmenistan is an overwhelmingly rural country, with 54 percent of its population living outside of urban areas, according to 2005 statistics.<sup>26</sup> Particularly in rural areas, health concerns are abundant, with only 24 percent of the rural population having access to potable water. (The statistic for the country overall is 55 percent.)<sup>27</sup> Poverty in rural areas also contributes to lower living standards. In the Caspian Sea region of Turkmenistan, particularly in the Cheleken region where much of the oil development is centered, many people are employed in the oil and gas sector. Others are employed in agriculture, fishing and in the marine transport sector.<sup>28</sup> Lack and poor quality of water contributes to health problems in this region as in other regions of the country. According to the Hakim of Cheleken, a town of approximately 14,000 inhabitants, the reported life expectancy is forty-six years.<sup>29</sup>

#### *Biodiversity Concerns in the Caspian Sea Region*

Turkmenistan, along with the other Caspian littoral states, faces serious biodiversity threats along the Caspian coast. Turkmenistan's Krasnovodsk Nature Reserve is under pressure from oil development along the coast. The Reserve is an important wetland and holds significance for the Ramsar Convention. It is home to hundreds of thousands

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of birds, over forty mammal species (including the Caspian Seal), reptiles, amphibians and fish, as well as over four hundred plant species.<sup>30</sup> For this report, we will focus only on a few of the “flagship” species of the Caspian Sea—those that are most visible and most at risk from increased oil and gas development.

First and foremost among these is the Beluga Sturgeon (*Huso huso*), a Red Book species that summers in the warm Turkmen waters of the Caspian Sea. The Beluga is highly endangered, and is at risk not only from over-fishing, poaching and increased pollution in the rivers where it spawns (principally, the Volga), but also from overall environmental pressure on the Caspian, to which a major contributor is increased oil pollution. The Beluga is found throughout the Caspian, and relies on the deeper waters of the South Caspian, especially during the summer months.

Along with the Beluga, Stellate and Russian sturgeon are endangered as a result of the Caspian’s polluted water; over-fishing; and invasive species such as *mnemiopsis leidyi*, which have upset the food chain. Although CITES initiated a ban on caviar export from the Caspian region in 2006<sup>31</sup>, despite widespread international outcry, in February 2007 CITES reinstated quotas for caviar export from the Caspian region.<sup>32</sup> According to Caviar Emptor, an international environmental organization protecting sturgeon, “the population of stellate sturgeon, source of sevruga caviar, is just 10 percent of its 1978 level, and numbers of Russian sturgeon, source of osetra caviar, have dropped 50 percent during the same period. The same data show precipitous declines in beluga sturgeon, suggesting a 45 percent drop in population from 2004 to 2005.”<sup>33</sup> Environmental experts within the Caspian region and around the world agree that without constant, comprehensive protection, the Beluga may be extinct within the next two decades and the other sturgeon species are also at great risk.

All three species of sturgeon winter in waters off the Cheleken region, and Beluga and Stellate sturgeon are also found there in the summer months. The area around Ogurchinsky Island, which is approximately twenty kilometers south of the blocks developed by Dragon Oil, is also a known nursery for young Beluga.<sup>34</sup>

The Caspian Seal, the only mammal endemic to the Caspian Sea, is listed as vulnerable on the IUCN Red Book List<sup>35</sup> and has suffered serious losses during the past decade in an increasingly severe series of die-offs throughout the Sea. Most recently, in the spring of 2007, hundreds of seals were found dead in the North Caspian. The Kazakhstani government has blamed Agip KCO, the operator at the Kashagan Field, for the seal deaths.<sup>36</sup> After wintering on the ice floes of the North Caspian, the seals migrate to the waters off the shore of Azerbaijan, Iran and Turkmenistan, placing them at further risk from offshore oil and gas development.<sup>37</sup> Increased exploitation in Turkmenistani waters will place increased pressure on seal habitats.

Many other species are at risk in the Caspian region including the kilka (Caspian sprat), an inexpensive and popularly consumed fish, the numbers of which have declined seriously in recent years. Kilkas spawn and overwinter off the coast of Turkmenistan,

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particularly in the Krasnovodsk and South Cheleken bays.<sup>38</sup> In total, 273 species of fauna and 110 species of flora are “rare and vanishing” as listed in the Red Books of the littoral states of the Caspian Sea.<sup>39</sup>

## **7. Relevant International Financial Institution Activity**

Since the dissolution of the former Soviet Union, international financial institutions (IFIs) have examined the possibilities of investing in Turkmenistan. However, under the leadership of President Niyazov, very little investment actually took place. Because of his authoritarian government, its opaque legal structure and an absence of fundamental human rights protections for Turkmenistan’s citizens, the international banks have stayed at an arms length from most investment in Turkmenistan. However, all of the major IFIs are currently looking at further investment possibilities in Turkmenistan.

As of August 2007, the Asian Development Bank has financed three projects in Turkmenistan; none of them in the oil and gas sector.<sup>40</sup> The Japanese Bank for International Cooperation financed a cotton spinning plant, but no oil and gas investment to date.<sup>41</sup> The World Bank has financed several projects in Turkmenistan and provided energy sector advice, but has provided no loans in the oil and gas sector. Of the six World Bank loans that were approved since 1994, three were dropped.<sup>42</sup> The International Finance Corporation (IFC) has tried since 2001 to provide private sector financing to Turkmenistan, but has been unsuccessful. Together with the European Bank for Reconstruction and Development (EBRD), the IFC undertook a study of the energy sector and possibilities for foreign investment for the Turkmenistan government.<sup>43</sup>

The EBRD has been the most active IFI in Turkmenistan and has, as of January 1, 2007, signed eight investment agreements in Turkmenistan, which total approximately 117 million Euro.<sup>44</sup> One of these investments was in the oil and gas sector with a 50 million Euro loan to Dragon Oil; this loan was significantly larger than any other single investment in Turkmenistan. The Dragon Oil investment was made in 1999 for its offshore joint venture with Turkmenneft, the state oil company, at the Lam and Zhdanov oil fields, which are in the southeast Caspian, offshore from Cheleken. This loan was repaid early in 2006. In 1997, the EBRD also provided a 25 thousand Euro loan for the development of the Turkmenbashi Port.

In 2006, the EBRD adopted a new country strategy for Turkmenistan, which excludes any funding of public sector or natural resource projects. According to EBRD documents, the reason for this shift is the lack of political and economic reform in the government.<sup>45</sup> According to the EBRD’s Country Director, since 2000, the EBRD has not financed any oil and gas projects, and is currently restricted from financing any state or oil and gas sector projects. The current strategy is operational through 2008.<sup>46</sup>

## **8. Oil Company Activity**

Since the death of President Niyazov in December 2006, western oil companies have been courting Turkmenistan’s President Berdymukhammedov with unprecedented

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attention. Many of the western majors have sent representatives to Turkmenistan since he was elected in February, and it appears that a new competition between Russia and the western oil companies is brewing in the South Caspian. Chevron, BP, Lukoil, Shell, Total and TNK-BP are among the major oil companies that have sent managers to Turkmenistan to investigate the opportunities there in recent months.<sup>47</sup> However, other corporations have been investing in Turkmenistan since the 1990s, among them Burren Energy Pls, Wintershall, Maersk and Dragon Oil. These companies have also been intensifying their operations in Turkmenistan.

#### *Dragon Oil*

Dragon Oil, an oil company with its headquarters in Dubai, but registered on both the London and Irish stock exchanges, has the largest hydrocarbon investments in Turkmenistan. Dragon Oil's equity is approximately seventy percent owned by the Emirates National Oil Company Ltd. It operates primarily in the Cheleken Contract Area in the Turkmenistan area of the Caspian Sea under a Production Sharing Agreement (PSA) and has received financing from the EBRD for commercial development of the offshore hydrocarbon reserves included in Block II of the concession area. The EBRD financing went to Dragon Oil (Turkmenistan) Ltd., a wholly owned subsidiary of Dragon Oil PLC. With both on- and offshore activities, the Dragon Oil project was classified by the EBRD as a category A project because of its potentially environmentally damaging activity. Dragon conducted a full environmental impact assessment in 1999 in accordance with EBRD requirements and Turkmenistani law.

Since 2003, Dragon has been working with Petronas to intensify offshore operations<sup>48</sup> and in May of this year opened a 50,000-barrel a day onshore processing facility.<sup>49</sup> Its profit in 2006 was \$180 million; seventy percent more than it made the year before.<sup>50</sup>

#### *Petronas*

In 1996, the Malaysian oil company Petronas was the first international petroleum corporation to sign a PSA with the government of Turkmenistan after the dissolution of the Soviet Union. In this agreement, Petronas Carigali Turkmenistan was awarded 100 percent interest in Block One of the offshore field where it operates. In 2002, Petronas Carigali (Turkmenistan) Sdn Bhd, a subsidiary of Petronas engaged in the exploration and production activities in Turkmenistan, discovered oil and gas reserves in the Turkmen sector of the Caspian Sea.<sup>51</sup> In 2007, Petronas announced plans to build a gas production facility near Cheleken.<sup>52</sup> Also in 2007, Dragon Oil and Petronas announced plans to work together to increase extraction capacity offshore near Cheleken.<sup>53</sup>

#### *Burren Oil*

Burren Oil is the chief operator at the Nebit Dag PSA area, which is located onshore in western Turkmenistan and contains three producing oil fields operated by Burren: the original Burun Field and two recently discovered fields, Balkan and Uzboy. The PSA term runs until 2022 and may be extended for a further 10 years by mutual agreement. Burren has been the operator of the PSA since 2000.<sup>54</sup> In August 2007, Burren reported record results from an appraisal well in an undeveloped part of the Burun Field, giving

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the company cause for optimism about the productivity of other areas of the field. Burun crude is a light, high quality, low sulfur crude, which the company transports by tanker from Nebit Dag.<sup>55</sup>

#### *Maersk and Wintershall*

The Danish company, Maersk, and German Wintershall have been cooperating in offshore sites since 2002. Maersk Oil Turkmenistan entered into an Exploration and Production Sharing Agreement for Block 11-12, covering some 5,700 sq. km. offshore of Turkmenistan. Exploration activities are in progress. Maersk Oil originally held eighty percent interest, with Wintershall holding twenty percent. However, after a renegotiation in 2007, Maersk currently holds thirty-four percent, Wintershall thirty-six percent and India's OMEL the remaining thirty percent.<sup>56</sup> Wintershall, which is also active in Azerbaijan and Dagestan, is currently building on its exploration activities throughout the region by strengthening its presence in Turkmenistan. In July 2007, Wintershall's Chief for Exploration and Extraction, Bernhard Schmid, met with Berdymukhammedov to express his company's interest in strengthening its economic ties with Turkmenistan. During the meeting, he stated that Turkmenistan "has rightfully earned a reputation as a reliable and responsible partner in Germany"<sup>57</sup> and is "set to actively participate in projects on exploration of hydrocarbon fields in the Turkmen sector of the Caspian Sea."<sup>58</sup>

#### *Mitro International*

Austria's Mitro International has signed a PSA with Turkmenneft State Oil Company to supply materials and holds a 100 percent investment share in the Khazar Field.<sup>59</sup>

During 2007 it seems that every month a new petroleum company expresses interest in Turkmenistan and the number of companies actively exploring or otherwise investing in the country is growing quickly. The US majors are increasingly active, with Chevron opening an office in Ashgabad in June; reportedly, Shell and BP are not far behind.<sup>60</sup>

Governments are also in on the action, with President Putin aggressively negotiating for increased trade deals between Russia and Turkmenistan, including oil and gas transport. In July, Steven Mann, US Principal Deputy Assistant Secretary, South and Central Asian Affairs, traveled to Turkmenistan to discuss improved US-Turkmen relations, including in the energy sector.<sup>61</sup> Transportation of hydrocarbons to Europe and the United States has received renewed attention, and discussions about pipelines across the Sea continue despite the environmental risks associated with this type of project. It is clear that the focus on Turkmenistan will only continue to sharpen in the years to come.

## **9. Relevant Legal Issues for Oil Companies**

### *The Production Sharing Agreement*

In Turkmenistan, as in the other Caspian countries, the agreement of choice between the oil companies and the host government has traditionally been the Production

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Sharing Agreement. Seen as an ideal contract, largely because of its long-term legally binding status, PSAs have been signed in virtually all of the major oil deals in the Caspian region. BTC, Tengiz, Karachaganak and Kashagan are all subject to the terms of PSAs, which have been signed between the host country government and the companies. Legally binding for as long as forty years, these agreements often allow oil companies to reap financial benefit before the host country does. PSAs frequently supersede national law, and because they contain proprietary information, they are not public documents. Even the environmental information contained in a PSA is excluded from public discourse. In Turkmenistan, as in Kazakhstan or Azerbaijan, civil society activists could make the case that this is a violation of the Aarhus convention.

#### *Opaque National Environmental Laws*

National environmental legislation in Turkmenistan is based primarily on environmental laws from the Soviet period. Western corporations must be aware of current legislation, as well as relevant human rights, labor, tax and economic laws. This can be challenging for corporations operating in new environments, especially in countries such as Turkmenistan, where the Rule of Law often has only tenuous status among government bureaucrats.

### **10. Policy Recommendations**

#### *For International Finance Institutions:*

1. The EBRD's policy not to finance state owned ventures or hydrocarbon sector investments should be continued until there is clear evidence that Turkmenistan complies with basic environmental, human rights and other international conventions and agreements. Other international finance institutions, including the World Bank, ADB and IMF, should follow the EBRD's example.
2. International investments should focus on improving human health, access to clean water, improved labor practices, etc. within Turkmenistan. The World Bank, in particular, can use its poverty alleviation mandate to help Turkmenistan comply with global standards on human health, infrastructure development and institutional capacity building.
3. Investment banks should require host governments to conduct comprehensive strategic environmental assessments (SEAs) prior to IFI investment to help to understand the potential environmental impacts of projects, not only through discrete activity, but also in an overall sense. Part of the problem with past IFI investments is that they have been treated as isolated projects, rather than as part of an overall development scheme. In the FSU context, neither Baku-Tbilisi-Ceyhan nor Sakhalin underwent SEAs prior to development.<sup>62</sup>

#### *For International Oil Companies:*

1. Exploration, extraction and transport of hydrocarbons should avoid protected areas. Because of the fragility of the Caspian Sea ecosystem, drilling in or transport through zakazniks and zapovedniks places an unacceptable strain on the environment.

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2. Production Sharing Agreements should be made public. Currently, PSAs are confidential documents, which are inaccessible to the public. Stating a concern for protecting proprietary corporate information, oil companies and national governments do not share the contents of PSAs with the public, even concerning environmental or social programming.
  3. International oil companies should be aware of, understand and comply with national legislation and all of the relevant international conventions and treaties impacting the region. Many oil companies operating in other parts of the Caspian appear to be unaware of the environmental and human rights legal regimes in which they are working, which causes serious problems for the corporations, the local communities and the host governments.
  4. Companies should ensure that Environmental Impact Assessments are conducted properly and in compliance not only with national legislation, but also with the highest international standards. Public hearings about the environmental impacts of projects are required by law, and should be held in the most transparent and accessible manner possible. Especially in remote areas—frequently the sites of hydrocarbon extraction—it is critical to provide transportation, adequate advance notice, interpreters, and advance materials in local languages to local community members. Relying on local government officials to inform the public is a frequent mistake that corporations make. Corporate HSE and community liaison staff should be actively involved in the organization of these hearings and should work directly with community leaders.
  5. Companies should work with environmental conservation groups, including local experts, to ensure that biodiversity conservation and other environmental concerns are taken into consideration before any further development of on and offshore oil fields.
  6. Social investments should be made directly to communities, not through central government bodies. Social investments made as part of other mega-projects in the region, including Karachaganak and Kashagan, have resulted in widespread dissatisfaction among the local population, lack of accountability for expenditures, and slow realization of projects.

*For the US Government:*

1. The US government should ensure that US corporations operate within the strictures of the highest environmental, social, human rights and labor standards. Currently, there is a perception in the FSU that the US government's interest in supporting democratic governance and its interest in building strong energy partners are at odds in the Caspian basin.

*For International NGOs:*

1. International NGOs should monitor corporate, IFI and international organizational activity to ensure that they uphold the highest standards in environmental practice, human rights, and public participation, thereby



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- encouraging all countries in the region to raise the bar by which they operate.
  2. Work closely with regional counterparts to ensure that projects are relevant, realistic and important for locally based communities, regional environmentalists and other activists, and not working against regional priorities.
  3. Cooperate with the media, providing them with timely, detailed information that focuses on environmental and social concerns.

## Endnotes

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<sup>1</sup>[http://www.unicef.org/infobycountry/Turkmenistan\\_statistics.html](http://www.unicef.org/infobycountry/Turkmenistan_statistics.html)

<sup>2</sup>[http://www.fundforpeace.org/web/index.php?option=com\\_content&task=view&id=218&Itemid=348](http://www.fundforpeace.org/web/index.php?option=com_content&task=view&id=218&Itemid=348)

<sup>3</sup> <http://www.state.gov/r/pa/ei/bgn/35884.htm>

<sup>4</sup> For more information about Niyazov's death, see <http://news.bbc.co.uk/2/hi/asia-pacific/6198983.stm>

<sup>5</sup> <http://www.fpif.org/fpifxt/3892>.

<sup>6</sup> <https://www.cia.gov/library/publications/the-world-factbook/print/tx.html>

<sup>7</sup> For more information on the Framework Convention see the website of the Caspian Environment Programme: <http://www.caspianenvironment.org> and Crude Accountability's website at <http://www.crudeaccountability.org>, which provides information about NGO attempts to secure public participation in the Convention's development and implementation.

<sup>8</sup> For information about the Aarhus Convention, see <http://www.unece.org/env/pp/>

<sup>9</sup> See <http://www.state.gov/r/pa/prs/ps/2003/18271.htm> for more about Tukhbatullin's arrest.

<sup>10</sup> <http://turkmeniya.tripod.com/turkmenistanlaws/id11.html>

<sup>11</sup> Andrey Zatoka is also a member of Crude Accountability's Board of Directors.

<sup>12</sup> For information about Andrey Zatoka's arrest and the campaign to free him from prison, see <http://www.crudeaccountability.org/eng/headlines/zatoka/zatoka.htm>

<sup>13</sup> <http://web.amnesty.org/pages/tkm-151206-action-eng>,  
<http://hrw.org/english/docs/2006/09/15/turkme14201.htm>

<sup>14</sup> <http://www.state.gov/r/pa/ei/bgn/35884.htm>

<sup>15</sup> <http://www.state.gov/r/pa/ei/bgn/35884.htm>

<sup>16</sup> <http://www.asiawaterwire.net/node/329>

<sup>17</sup> <http://www.asiawaterwire.net/node/329>

<sup>18</sup> <http://www.eurasianet.org/departments/environment/articles/eav041604.shtml>

<sup>19</sup> <http://news.bbc.co.uk/2/hi/asia-pacific/1021567.stm>

<sup>20</sup> <http://www.data.minsk.by/belarusnews/082005/44.html> and [http://www.cawater-info.net/news/01-2007/10\\_e.htm](http://www.cawater-info.net/news/01-2007/10_e.htm)

<sup>21</sup> <http://www.ens-newswire.com/ens/sep2005/2005-09-30-01.asp>

<sup>22</sup> <http://www.unhchr.ch/html/menu3/b/k2crc>

<sup>23</sup> <http://www.unicef.org/infobycountry/Turkmenistan.html>

<sup>24</sup> <http://www.ens-newswire.com/ens/sep2005/2005-09-30-01.asp>

<sup>25</sup> <http://www.ens-newswire.com/ens/sep2005/2005-09-30-01.asp>

<sup>26</sup> [http://www.who.int/whosis/database/core/core\\_select\\_process.cfm](http://www.who.int/whosis/database/core/core_select_process.cfm)

<sup>27</sup> <http://www.unicef.org/infobycountry/Turkmenistan.html>

<sup>28</sup> Dragon Oil Block II Field Development Project: Environmental Impact Assessment, 5-39, October 1999, Environmental Resources Management, 8 Cavendish Square, London W1M 0ER.

<sup>29</sup> *Ibid.*, xxiii.

<sup>30</sup> *Ibid.*, xx.

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- <sup>31</sup> <http://www.caviarempor.org/timeline.html> This was not the first time CITES banned caviar export from the Caspian. Since 2000, CITES has outlawed and reinstated trade in Caviar several times.
- <sup>32</sup> <http://www.pewoceanscience.org/press/press-article.php?ID=71>
- <sup>33</sup> [http://www.caviarempor.org/latest\\_news.html](http://www.caviarempor.org/latest_news.html)
- <sup>34</sup> Dragon Oil Block II Field Development Project, Environmental Impact Assessment, xix, October 1999, Environmental Resources Management, 8 Cavendish Square, London W1M 0ER.
- <sup>35</sup> <http://www.pinnipeds.org/species/caspian.htm>
- <sup>36</sup> "A Caspian halt shows oil giants face fresh political perils," Isabel Corst, *Financial Times*, September 4, 2007 (<http://www.ft.com/cms/s//0/6158cb8-5a7f-11dc-9bcd-0000779fd2ac>)
- <sup>37</sup> A small population of Caspian seals whelp on Ogurchinsky Island, off the coast of Turkmenistan, and are, therefore, especially vulnerable to toxins in the southern Caspian. The Caspian Seal Conservation Network's Turkmenistan branch studies these seals. For more information see [http://www.caspianseal.org/?option=com\\_content&view=category&id=22&Itemid=44](http://www.caspianseal.org/?option=com_content&view=category&id=22&Itemid=44)
- <sup>38</sup> Dragon Oil Block II Field Development Project: Environmental Impact Assessment, xix, October 1999, Environmental Resources Management, 8 Cavendish Square, London W1M 0ER.
- <sup>39</sup> <http://www.caspianenvironment.org/newsite/Caspian-Biodiversity4.htm>
- <sup>40</sup> <http://www.adb.org/Projects/summaries.asp?query=&browse=1&ctry=TKM&p=ctrytkm>
- <sup>41</sup> <http://www.jbic.go.jp/autocontents/english/news/2005/000012/index.htm>
- <sup>42</sup> <http://web.worldbank.org/external/projects/main?query=Turkmenistan&menuPK=224076&pagePK=218616&piPK=217470&theSitePK=40941>
- <sup>43</sup> [http://www.ifc.org/ifcext.eca.nsf/Content/Turkmenistan\\_Home](http://www.ifc.org/ifcext.eca.nsf/Content/Turkmenistan_Home)
- <sup>44</sup> According to the EBRD Country Director for Turkmenistan, in a presentation delivered at the annual meeting of the EBRD in Kazan, Russia, in May 2007, the EBRD has been active in Turkmenistan since 1994 and has invested approximately 116 million Euro. It has been involved in 8 investment projects in finance, infrastructure development, energy and manufacturing. It has also been involved in 41 technical assistance projects worth 9 million Euro.
- <sup>45</sup> EBRD Country Fact Sheet, Turkmenistan, page 1.
- <sup>46</sup> EBRD Country Director presentation at the annual meeting of the EBRD, Kazan, Russia, May 20, 2007.
- <sup>47</sup> "Gazovaya likhoradka Turkmenistana," *Informatsionnoye agenstvo, Liga*, September 3, 2007: <http://news.liga.net/smi/NP071241.html>
- <sup>48</sup> [http://www.oilvoice.com/Dragon\\_Oil\\_Petronas\\_Sign\\_Turkmenistan\\_Exploration\\_Deal\\_/1165.htm](http://www.oilvoice.com/Dragon_Oil_Petronas_Sign_Turkmenistan_Exploration_Deal_/1165.htm)
- <sup>49</sup> [http://www.oilvoice.com/President\\_of\\_Turkmenistan\\_Commissions\\_New\\_50000\\_Processing\\_Fa/9815.htm](http://www.oilvoice.com/President_of_Turkmenistan_Commissions_New_50000_Processing_Fa/9815.htm)
- <sup>50</sup> Dragon Oil 2006 Annual Report, page 4.
- <sup>51</sup> <http://www.oilonline.com/news/features/aog/20030619.Maintain.11701.asp>
- <sup>52</sup> <http://www.turkishdailynews.com/tr/article.php?enewsid=75255> and <http://www.emergingeuropemonitor.com/file/46956/petronas-builds-gas-processing-plant-in-turkmenistan.html>
- <sup>53</sup> [http://www.oilvoice.com/Dragon\\_Oil\\_Petronas\\_Sign\\_Turkmenistan\\_Exploration\\_Deal\\_/1165.htm](http://www.oilvoice.com/Dragon_Oil_Petronas_Sign_Turkmenistan_Exploration_Deal_/1165.htm)
- <sup>54</sup> <http://www.burren.co.uk/turkmenistan.htm>
- <sup>55</sup> The press release can be downloaded from the Burren website at <http://www.burren.co.uk/> (accessed on 9/7/2007).
- <sup>56</sup> <http://www.maerskoil.com/en/AreasOfActivity/Turkmenistan/>
- <sup>57</sup> "German Wintershall set to expand presence in Turkmenistan," 04.07.07 <http://www.turkmenistan.ru>
- <sup>58</sup> *Ibid.*
- <sup>59</sup> [http://www.turkmenistaninfo.ru/?page\\_id=6&type=article&elem\\_id=page\\_6/magazine\\_46/390&lang\\_id=en&layout=print](http://www.turkmenistaninfo.ru/?page_id=6&type=article&elem_id=page_6/magazine_46/390&lang_id=en&layout=print)
- <sup>60</sup> <http://www.iht.com/articles/ap/2007/06/29/business/AS-FIN-COM-Turkmenistan-Chevron.php>
- <sup>61</sup> <http://turkmenistan.usembassy.gov/pr20070713.html>
- <sup>62</sup> [http://www.wwf.org.uk/news/n\\_0000001444.asp](http://www.wwf.org.uk/news/n_0000001444.asp)

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