



To: Equator Principles Financial institutions

Subject:

Upcoming NGO-EPFI meeting in Amsterdam, December 4

Date

Utrecht 5 November 2007

Dear Equator banks

Our organisations look forward to our planned meeting on December 4 in Amsterdam to discuss the state of affairs around the Equator Principles.

We have discussed a preliminary agenda and a list of expectations for the Amsterdam event at a meeting last month in Italy. With this letter we wish to share these ideas and expectations with you. We also would like to make some suggestions for practical preparations to make the event as productive and constructive as possible.

Expectations

The Amsterdam meeting will be the fifth event in which we will discuss the Equator Principles. Since our initial exchange of thoughts in June 2004 in London (at Barclays), many more institutions have adopted a revised and improved set of commitments under 'EPII'.

We are pleased to see additional banks participate and efforts made to revise commitments. However, we feel that despite these advances, there remains significant continuity in what we consider to be major flaws and fundamental shortcomings of the Equator Principles. It is critical that these shortcomings are addressed.

We come to Amsterdam with the belief that concrete progress can be made to address these issues. However, we wish to state beforehand that in the absence of such progress, we see no need for a follow up event.

Proposed agenda

At a recent BankTrack meeting, we identified a list of issues for discussion. We understand that the EPFIs may have issues to bring to the table as well and look forward to hearing these proposals. We request that the EPFIs brief the NGOs in attendance on the following issues:

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1. Governance of the Equator Principles

We are aware of ongoing discussions on improving the governance of the Equator Principles. As more banks join the initiative, this becomes an urgent issue.

We would appreciate being briefed on the state of these discussions and how EPFIs intend to deal with: minimum standards for joining; procedures for dealing with free riders; establishment of a secretariat; establishment of a joint accountability mechanism; dissemination of information over websites; and other related issues that will strengthen transparency, accountability, and compliance with the Equator Principles.

2. Improvements on Transparency

To date, all of our meetings have discussed the critical issue of transparency. This refers to the amount of information EPFIs are ready to make available on 1) Institutional integration of the EPs, i.e. how the EPs are being implemented and applied within EP institutions; and 2) Project-level information disclosure, i.e. the highest level of disclosure that banks and project sponsors can feel comfortable with while providing sufficient information to allow international NGOs and local stakeholders to meaningfully engage with the project sponsor and monitor the proper implementation of the Equator Principles.

Until now, this conversation did not move forward due to the challenge of meeting 'client confidentiality' requirements while providing stakeholders with access to information to facilitate 'free, prior and *informed* consultations with stakeholders.'

To inform a discussion, we would appreciate a briefing by the EPFIs on the initial results of the new 'voluntary reporting guidelines,' as well as a briefing on practical, concrete strategies to overcome the challenge identified above.

3. Grievance and Accountability Mechanisms

For the voluntary EP initiative to be credible, it must include robust project-level grievance and accountability mechanisms. EPFIs have partially responded to this by including in principle 6 of the EPII the obligation for *project sponsors* to set up a *grievance mechanism*. EPII does not provide any definition or description of such mechanisms.

We would appreciate being briefed by the EPFIs on what they consider to be the exact function of a project-level grievance mechanism and the minimum standards with which clients must comply. We also would appreciate the opportunity to share concrete experiences with such mechanisms. The World Resources Institute has offered to provide an input into this discussion.

4. Equator Principles, Project Finance and Other Financing Mechanisms

Over the last few years, our organisations have met situations in which large scale projects with considerable social and environmental risk were financed by EPFIs. However, since these projects were financed through other mechanisms, they were not subject to the Equator Principles.

We would appreciate a discussion on how EPFIs perceive this issue. Specifically, we would like to hear EPFI views on the relative importance and the -diminishing?- role of project finance in relation to other financing mechanisms, the importance of non project finance mechanisms in newly emerging controversial undertakings such as the financing of nuclear power plants, and on what can be done to ensure that the commitment underlying the EPs is extended to these other forms of financing, etc.

5. The Role of Loan Covenants in Ensuring Compliance with EPII

Principle 8 of the EPII on covenants, spells out one main strength of the EPs, which is the incorporation of covenants linked to compliance and the options of EPFIs to remedy any situation of non compliance with agreements.

We would appreciate hearing from EPFIs how this process works and what options exist in practice for EPFIs to influence situations that are out of compliance. Specifically, we would like a briefing on 1) in what conditions would a project be delayed or halted on the basis of failure to comply with an EP loan covenant, and 2) what other forces of influence are EPFIs using when the threat of calling in the project on default is not realistic but a project is still out of compliance with EPs.

We expect that other NGOs present, or the banks themselves, have other issues they wish to discuss. Given the limited time available, we suggest that we finalize the list of agenda items on November 14th at the planned meeting between the BankTrack coordinator and Calyon.

Practicalities

We thought that the following may be of use in preparing the meeting for our mutual benefit:

Chatham House rules

We propose that the meeting be conducted under Chatham House rules so that all participants will feel free to speak their mind. This may include, at least from our side, references to concrete EP financed projects. A further agreement needs to be made on a possible report coming out of this meeting.

Invitations

We will provide you with a list of attendees from our side as soon as this is finalized. We would appreciate having a list of EPFI representatives attending the meeting as well. We also wish to be kept informed of the NGOs which are being invited directly by banks. This will allow us to invite the other NGOs to the preparation meeting and ensure that their wishes appear on the agenda.

Facilitation

We believe that an independent facilitator would be a useful addition to our meeting. We recommend someone who is familiar both with the financial sector and the NGO world. This person can help us manage our agenda and challenge us into conversation and debate, while ensuring that the meeting remains productive. While we are not in the position to contribute to the hiring costs of such a facilitator, we can provide you with names of suitable and respected persons for such a role, all based in Amsterdam.

We look forward to your response on these wishes, and to a frank and constructive debate at the meeting itself. With friendly greetings, on behalf of BankTrack members and other participating NGOs.

Johan Frijns
BankTrack coordinator