



To: Equator Principles Financial Institutions
P/a Jens Kubusch (Unicredito)
Eric Cochard (Calyon)
Claire Wallace (Barclays)

Subject:

Follow-up on Amsterdam meeting December 3, 2007

Date

Utrecht, February 25th 2008

Dear EPFIs,

On behalf of the groups present and the BankTrack network, I would like to thank you again for what we remember as an excellent meeting last December 3, 2007 at ABN AMRO headquarters in Amsterdam. A number of factors resulted in a longer than normal time for us to follow up on the results of the meeting with this letter, for which we apologize.

We were very pleased by the willingness of all to engage in a straightforward, constructive and frank conversation on the state of affairs with the Equator Principles.

During the meeting, several ideas were brought up by both NGOs and EPFIs that we think deserve a proper follow up. We briefly list them below, roughly following the order of the agenda. We would appreciate it if you discuss these ideas in your upcoming Steering Committee meeting.

As in the past, the BankTrack secretariat will serve as contact point for your engagement with our groups. I look forward to hearing from you.

Best Regards,

A handwritten signature in black ink, appearing to be "JF".

Johan Frijns

Coordinator BankTrack

(on behalf of BankTrack members and other groups present at the meeting)

BankTrack - Boothstraat 1c
3512 BT Utrecht, the Netherlands
T: 31-30-2334343, F: 31-30-2381112
E: coord@banktrack.org, www.banktrack.org

Follow-up ideas on the EPFI-NGO meeting

1. Governance of the Equator Principles

We appreciate the presentation you gave on the governance structure of the Equator Principles, more specifically the establishment of a steering committee and working group structure, - which we understood to be on governance, adoption, administration, communications, best practices, outreach and stakeholder engagement. We also understood that an additional working group on transparency was going to be established as a result of our meeting, but we are unclear on the status of this group.

We remember that your governance structure was going to be presented in the form of a paper on your website but notice that, as of today, no such presentation has been posted. Would it be possible for you to give us an indication how soon this information will be publicly posted on the web site, including contact details for each working group as well as precise objectives and functions of each body, and the deliverables and timelines you mentioned at the meeting?

Several of our organisations have expressed an interest in cooperating with you on some of the issues taken up by the working groups, more specifically, those on outreach, stakeholder engagement, and best practices. We would be interested to hear what opportunities and possibilities you envisage for this.

You have also communicated to the BankTrack secretariat that there is an interest in forming a joint NGO-EPFI working group, with representatives of both our networks, which would facilitate a more permanent communication between us. We appreciate this proposal and, if this moves forward, will select our representatives for participation in such a group.

2. Improvements on Transparency

We appreciate that EPFIs have begun to publish their implementation reporting on the Equator-Principles website, including an indication of cases when no information is available when it should.

At the meeting, we learned from you that in the near future, a failure to report on the implementation of the Equator Principles along the line of your reporting guidance will result in the EPFI being 'delisted' from the list of EPFIs. We are not exactly clear whether being 'delisted' means that a bank is no longer considered an 'official' EPFI and would appreciate seeing this clarified in your governance paper.

While we applaud this first step towards dealing with free riders, we believe that failing or even meeting the current voluntary reporting guidelines does not provide enough guidance to judge whether an EPFI is seriously implementing the EPs or not.

Therefore, we urge you to place stronger requirements on -prospective- EPFIs. We suggest that there be a dual set of criteria: one set focused on the policies and procedures the prospective EPFI has established at the onset to ensure that the EPs will be properly implemented; and a second set focused on performance as judged by complying with a stringent set of reporting guidelines.

We further strongly recommend that EPFIs explore the option of external, third party verification of compliance with reporting guidelines, as was discussed during the meeting. Examples were raised briefly at the meeting by HSBC concerning their current system of external and internal audits which already provide for some sort of independent public compliance and performance assessment on EP implementation.

During the meeting you offered to discuss in the Best Practice working group the possibility to add or integrate a specific best practice paper to the reporting guidelines, based on such examples. Professionals in our own networks would be interested to learn more about these mechanisms and in sharing experiences or ideas with you in this regard.

We also wish to reiterate that mere institutional or portfolio level disclosure is not sufficient for external observers to judge the effectiveness of the EPs. Project-level information disclosure must be improved to the highest level of disclosure that banks and project sponsors can feel comfortable with, while at the same time 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. The current reporting guidelines do not have any such requirement.

At the meeting, we thoroughly discussed all constraints faced by EPFIs to make such project level information available (e.g. legal obstacles, business confidentiality, ownership of information, liability issues). We understand that the confidentiality agreements signed with the project sponsor, in particular, are a major obstacle for disclosing project level information by EPFIs. In the meeting you offered to consider in the Best Practice Working Group examples of project-level information disclosure by project sponsors which might be recommended to other clients.

Despite these restraints, we urge you to explore possibilities to obtain consent from project sponsors to disclose information and to create opportunities for external observers to monitor the implementation of the principles at project level. At the very minimum, we believe that a deal signed under the Equator Principles should be publicly identified as being governed by the Equator Principles. We strongly feel that keeping this information confidential directly contradicts the spirit and objectives of the Principles.

A project sponsor that is meeting the requirements of the Principles should also be willing to let project affected communities and other stakeholders know of its intent to operate in accordance with this standard. This openness and transparency increases trust and improves communication with affected communities and stakeholders; both are essential components for successful project operations.

Finally, we noticed that you have begun to translate the Equator Principles into various languages. We applaud this and suggest that you also translate other sections of the website (such as the FAQ section) for the benefit of project affected communities wishing to inform themselves of the EPs. We further propose that the FAQ be rewritten to answer questions that may arise from project affected communities, rather than from an imaginary "interested but otherwise well-informed" audience. We further ask you to commit to a process to improve the website as a forum to share best practices among banks and stakeholders.

3. Grievance and Accountability Mechanisms

We were somewhat disappointed to learn that the EPFIs as a group seem to not have formulated any guidelines and criteria for the proper design and functioning of grievance mechanisms, despite this being a key requirement for all Category A and big B projects. Even if those mechanisms are going to be handled individually by EPFIs, a common quality standard should be applied to ensure consistency and equal treatment of affected communities by EPFIs. We want to reiterate the offer of the World Resources Institute to convene a meeting with you, both to learn about your priorities with regard to these mechanisms and to share experiences and research.

4. Equator Principles, Project Finance and Other Financing Mechanisms

We wish to thank the EPFIs that presented their efforts to extend the -spirit of the- EPs beyond project finance and to apply them to other financing mechanisms, e.g. corporate finance, equity investments etc. We understood that your steering committee is discussing possible collective steps for the EPFIs to go beyond project finance. We would very much welcome being kept informed about developments in this area.

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

We appreciated the explanation provided by the EPFIs, and by the advisor who presented on this issue at the meeting, on the nature and functioning of loan covenants and how they serve to ensure compliance with the EPs. As the advisor emphasized, project sponsors often seem to be unclear about their obligations under the language of the Equator Principles, as these obligations are translated into loan covenants. Perhaps initiating a process to establish a consistent, publicly available set of best practices to accompany the Equator Principles would help address those concerns.

Further ideas

At several occasions during the meeting, it was observed that the effectiveness of the EPs can be best discussed on a project level basis. However, the format of the meetings we have had so far prevents these discussions from taking place. We understood that both EPFIs and NGOs share an interest in having such discussions in a future event. We therefore suggest that the joint EPFI-NGO working group explore the possibility of organizing a meeting between local and international NGOs, EPFIs involved in a particular deal and project sponsors sympathetic to such an initiative, with the objective to jointly evaluate the effectiveness of the EPs in a particular situation. Such a meeting could perhaps also be arranged in the form of a joint field mission, an idea that has been floating around for several years already.

We suggested to the EPFIs that the upcoming 5th anniversary of the EPs (June 2008) might be a good moment to launch your own section of 'rosy Deals' on your website, highlighting what you consider to be real achievements and improvements as a result of the EPs. We would very much welcome such a publication and urge the EPFIs to find project sponsors willing to be included in such a section. If you prefer, BankTrack will gladly provide comments on these profiles prior to publication.