

**To:** Mr. Nigel Beck, Standard Bank,  
Chair of the Steering Committee of the Equator Principles Association (EPA),  
CC: All Equator Principles Financial institutions (EPFIs)

**Concerning:** Strengthening commitments on climate change and Indigenous Peoples' rights in a revised set of Equator Principles (EPs), for discussion at your Annual Meeting in São Paulo

Nijmegen, August 29 2017

Dear Mr. Beck,

The undersigned organisations are writing to you, as Chair of the Steering Committee of the EPA, to urge you to place three important issues on the agenda for discussion and decision making at your upcoming Annual Meeting in São Paulo, Brazil on October 24:

- Strengthening the commitments of all members of the EPA to fully consider the climate impact of projects to be financed under the EPs;
- Strengthening the commitments of all members of the EPA to fully respect Indigenous Peoples' rights when financing projects under the EPs;
- Starting a formal revision process of the EPs, so that these commitments are reflected in a new version of the Principles (EPIV).

Please allow us to briefly elaborate on all three issues in the sections below.

## **1. STRENGTHENING THE CLIMATE CHANGE COMMITMENTS OF THE EQUATOR PRINCIPLES**

As you are aware, for many years, civil society organisations, but also Indigenous Peoples and their representative institutions and governments, have been deeply concerned that the EPs as they are currently formulated allow for the continued financing of projects that, by their very nature, have a strong negative impact on climate change, most notably projects related to the exploration, exploitation, transport and burning of fossil fuels (oil, gas, coal).

We consider the ongoing financing of fossil fuel projects by EPFIs a direct contradiction of the stated objective of the EPs "to ensure that the projects we finance and advise on are developed in a manner that is socially responsible and reflects sound environmental management practices". It also contradicts your stated belief that "climate change is important" and that "negative impacts on project-affected ecosystems, communities, and the climate should be avoided where possible".

We have communicated our concerns about this to the EPA numerous times in the past few years, most recently in a letter<sup>1</sup> a number of our organisations of us wrote to you prior to your 2016 London Annual meeting. We considered your response<sup>2</sup> to this letter outright disappointing, as it made clear to us that the ambitions of the EPA on climate change are entirely determined by those of its least-ambitious members. Given the ever-increasing scale and severity of the global

---

<sup>1</sup> See:

[https://www.banktrack.org/download/open\\_letter\\_civil\\_society\\_groups\\_to\\_equator\\_principles\\_association/161107\\_letter\\_ep\\_banks\\_on\\_dapl\\_and\\_climate\\_change\\_final\\_1.pdf](https://www.banktrack.org/download/open_letter_civil_society_groups_to_equator_principles_association/161107_letter_ep_banks_on_dapl_and_climate_change_final_1.pdf)

<sup>2</sup> See:

[https://www.banktrack.org/download/letter\\_from\\_ep\\_association\\_steering\\_committee\\_to\\_banktrack\\_et\\_al\\_on\\_climate\\_commitments\\_and\\_dapl/161214\\_response\\_letter\\_banktrack\\_and\\_ngos.pdf](https://www.banktrack.org/download/letter_from_ep_association_steering_committee_to_banktrack_et_al_on_climate_commitments_and_dapl/161214_response_letter_banktrack_and_ngos.pdf)

climate crisis, examples of which now hit the news on a daily basis, we consider the EPA's continued stagnation in strengthening its climate change commitments unacceptable.

The EPs as they now exist were drafted in 2013, years before nearly all countries of the world agreed in Paris on the goal of "keeping a global temperature rise this century well below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius". The latest scientific findings on the severity of the climate crisis indicate that the window of opportunity to meet this goal is already rapidly closing.<sup>3</sup>

Meeting this goal requires, amongst other things, a managed and just transition away from fossil fuels and towards renewable energy sources. In particular, it requires a complete end to the construction of new fossil fuel extraction and transportation infrastructure, and power generation projects.<sup>4</sup> This transition requires bold and decisive action from state and non-state actors alike, not least from financial institutions that have financed the growth of the fossil fuel industry and are now called upon to play a decisive role in financing the energy transition.

The EPA, being the prime sustainability initiative of 91 of the world's leading financial institutions, has so far refused to take action to align the EPs with the goals of the Paris Agreement. Meanwhile, the recent decision by the US government to abandon the Paris Agreement may lead to a surge in new fossil fuel projects that will all be eligible for funding under the current EP framework.

Without significant changes in the EPs, our organisations will continue to confront the financing of numerous new, Equator-compliant 'Dakota Access Pipeline' projects in the years to come, thereby increasing the financial and reputational risks for banks involved. This is a situation we wish to avoid as much as you, but this requires that the EPA commits now to a fundamental rethink of what sort of projects are eligible for financing under the Equator Principles.

We urgently call upon your Association to commit at your Annual Meeting to a strengthening of your collective climate change commitments, by:

- including in the preamble of the EPs an explicit commitment to the overall goal of the Paris Agreement to limit global temperature rise within this century to well below 2 degrees,
- including stringent and *binding* criteria for all projects to be considered under the EP framework to be fully aligned with reaching this goal, and
- categorically excluding financial support for the construction of new fossil fuel extraction and transportation infrastructure and fossil fuel based power generation projects.

## **2. STRENGTHENING THE COMMITMENTS OF THE EQUATOR PRINCIPLES TO INDIGENOUS PEOPLES' RIGHTS**

Our letter of last year also requested that the Annual Meeting of the EPA speak out on the involvement of thirteen EPFIs in providing project finance for the Dakota Access Pipeline (DAPL) project under the EP framework. It stated that "we consider it crucial for the credibility of the Equator Principles as an effective safeguard against violation of Indigenous Peoples' rights that your meeting calls upon the EPFIs involved in financing DAPL that they take swift action to stop the ongoing violation of the rights of Native Americans".

No such call emerged. Instead, your response letter claimed that "the EP provides a robust due diligence framework to manage and mitigate risks, and help equip financial institutions in their

---

<sup>3</sup> See for example <https://www.theguardian.com/environment/2017/jul/05/hopes-of-mild-climate-change-dashed-by-new-research>, which refers to a study published here: <http://advances.sciencemag.org/content/3/7/e1602821>

<sup>4</sup> See for example <http://priceofoil.org/2016/09/22/the-skys-limit-report/>

decision-making processes.” In retrospect, it is clear that your claim on the robustness of the EP due diligence framework was wholly unjustified; instead of preventing non-financial and financial risk for banks, and preserving the only source of drinking water for the Standing Rock and Cheyenne River Sioux Tribes, the current EP framework allowed for the project to proceed in a violation of the principle of Free, Prior and Informed Consent (FPIC) that has been recognised even by banks financing the project.<sup>5</sup>

The DAPL project also resulted in substantial losses for several of the EP banks involved, and dealt a severe blow to the reputation of the EP initiative as a robust risk management framework. DAPL was only the latest in a long line of projects affecting Indigenous Peoples’ lands that have been considered fully compliant with the Equator Principles - despite devastating impacts on Indigenous communities. Other examples include the Agua Zarca dam in Honduras, the Barro Blanco dam in Panama, the Belo Monte dam in Brazil, the Nam Theun dam in Laos, and others.

Time and time again, normative standards of meaningful and effective consultation and the rights of Indigenous Peoples to withhold consent to projects situated on their land are either ignored by project sponsors, or manipulated to such an extent that the ‘consent’ thus obtained is effectively meaningless. This not only violates the rights of Indigenous Peoples involved but also increasingly exposes EPFIs to the risk that these projects will be actively resisted, delayed and even halted by Indigenous Peoples and their allies worldwide. To avoid such situations from occurring in the future, it is necessary that the EPA strengthen its stated commitment towards adhering to human rights of self-determination, culture, and normative standards of FPIC relating to Indigenous Peoples.

As you are aware, 10 EPFIs recently sent a letter to the EPA calling for changes to the Equator Principles to ensure “lessons are learned” from the financing of the DAPL project.<sup>6</sup> We consider the proposals made in this letter (e.g. that projects in Designated Countries are developed to comply with the same environmental and social standards as in non-Designated Countries, and that amendments are made to the EP framework to facilitate the resolution of issues resulting from a potential breach of the applicable E&S standards) a good step forward, but not sufficient to prevent further violations of Indigenous Peoples’ rights.

We urgently call upon your Association to commit at your Annual Meeting to a strengthening of your collective commitments towards Indigenous Peoples, by:

- including an explicit commitment in the EPs to respect the right of Indigenous Peoples anywhere in the world to withhold their consent for projects situated on territories they traditionally use and occupy, and to not provide finance, directly or indirectly, for projects that did not obtain such consent;
- reviewing and strengthening the due diligence and stakeholder engagement procedures required under the EPs, so that these processes are conducted in a manner that ensures that all rights of Indigenous Peoples are fully respected, and
- ensuring that Indigenous Peoples and other project affected communities have full access to remedy when harm is done, through effective project level grievance mechanisms and through establishing bank- or EPA level mechanisms<sup>7</sup>

---

<sup>5</sup> See:

[https://www.banktrack.org/download/letter\\_from\\_10\\_banks\\_to\\_epa\\_secretariat\\_on\\_designated\\_countries\\_eps/17052\\_2\\_letter\\_banks\\_on\\_designated\\_countries.pdf](https://www.banktrack.org/download/letter_from_10_banks_to_epa_secretariat_on_designated_countries_eps/17052_2_letter_banks_on_designated_countries.pdf)

<sup>6</sup> Ibid.

<sup>7</sup> See Principle 30 of the UN Guiding Principles on Business and Human Rights: “Industry, multi stakeholder and other collaborative initiatives that are based on respect for human rights-related standards should ensure that effective grievance mechanisms are in place”

### 3. TOWARDS A REVISION OF THE EQUATOR PRINCIPLES

We realise that the commitments we seek from you on climate change and Indigenous Peoples' rights cannot be accommodated within the current version of the EPs. It will therefore be necessary for the EPA to decide in Brazil on a formal revision process of the current Equator Principles (EPIII), leading to a new version (EPIV) that properly reflects your strengthened commitments on these issues. In line with best industry practices, such a revision must not only be based on deliberations within your Association, but also be the result of a public consultation process, involving all relevant stakeholders. Our organisations are fully committed to engage with you in such a process in the coming year.

To conclude, we wish to emphasise that we seek the outcomes listed above because our organisations place great importance on the existence of a set of Principles that ensure that projects are indeed financed in a 'socially and environmentally responsible manner'. A revised set of Principles, reflecting strengthened commitments on climate change and Indigenous Peoples' rights to lands, territories, and natural resources they traditionally use and occupy, will ensure that the EPs move us toward this goal.

Consequently, we also strongly believe that a failure of the Brazil meeting to deliver on these matters will result in a fatal blow to the reputation of the Principles as a global sustainability 'gold standard', and in fact position your initiative as one that is actively accommodating the financing of projects that lead to a further deepening of the climate crisis and a deterioration of the plight of Indigenous Peoples.

We kindly request a response *before mid-September*, confirming whether you can include the three issues outlined in this letter in the agenda of the Annual Meeting. Meanwhile, our organisations are taking steps to ensure that there will be widespread public interest in the outcomes of your October meeting.

Sincerely,

Johan Frijns, Director **BankTrack**, The Netherlands  
(for contact on this letter: [johan@banktrack.org](mailto:johan@banktrack.org))

**And:**

**350.org**, United States – May Boeve, Executive Director

**Abibimman Foundation**, Ghana – Kenneth Nana Amoateng, Chief Executive Director

**Accountability Counsel**, United States – Kindra Mohr, Policy Director

**African Law Foundation (AFRILAW)**, Nigeria - Okereke Chinwike, Founder/Executive Director

**Aksi! for gender, social and ecological justice**, Indonesia – Titi Soentoro, Executive Director

**Alternatives**, Canada – Isabelle L'Héritier, Activist and Member of the Board of Directors

**Alyansa Tigil Mina (Alliance Against Mining-Philippines)**, Philippines – Jaybee Garganera, National Coordinator

**Amazon Watch**, United States – Leila Salazar-López, Executive Director

**ARA**, Germany – Monika Nolle, Campaigner Paper & Forests

**ARTICLE 19**, United Kingdom – David Banisar, Senior Legal Counsel

**Asia Indigenous Peoples Pact (AIPP)**, Thailand – Gam A. Shimray, Secretary General

**As you Sow**, United States - Andrew Behar, CEO

**Bank Information Center**, United States - Elana Berger, Director of Social inclusion and Accountability Program

**Both ENDS**, The Netherlands – Anna van Ojik, Policy Advisor

**Center for International Environmental Law**, United States – Carla Garcia Zendejas, Director People, Land & Resources Program

**Community Empowerment & Social Justice Foundation (CEmSoJ)**, Nepal – Prabindra Shakya, Founder Chairperson

**Conectas**, Brazil – Caio Borges, Coordinator Human Rights

**DivestInvest Individual**, United States – Vanessa Green, Director

**Earthworks**, United States – Jennifer Krill, Executive Director

**Fair Finance Guide International**, International – Gine Zwart, Coordinator

**Fern**, Belgium – Hanna Aho, Forest and Climate Campaigner

**Friends of the Earth Japan**, Japan – Hozue Hatae, Researcher of Development Finance and Environment Program

**Friends of the Earth US**, United States – Erich Pica, Director

**Future in our hands**, Norway – Anja Bakken Riise, Executive Director

**GegenStrömung – CounterCurrent**, Germany – Heike Drillisch, Member of the Board

**Green America**, United States – Fran Teplitz, Executive Co-Director

**Greenpeace International**, The Netherlands – Bunny McDiarmid, International Executive Director

**Honor the Earth**, United States – Tara Houska, National Campaigns Director

**Inclusive Development International**, United States – Natalie Bugalski, Legal Director

**Incomindios Switzerland**, Switzerland – Pascal Elsner, Executive Director

**Indigenous Climate Action Network**, Canada – Tantoo Cardinal, Member of the Steering Committee

**Indigenous Climate Action**, Canada – Eirel Deranger, Executive Director

**Institute for Ecology and Action Anthropology**, Germany – Johannes Rohr, Member of the Board

**Instituto Brasileiro de Defesa do Consumidor (Idec)**, Brazil – Teresa Donato Liporace, Programs and Policy Manager

**International Accountability Project**, United States/International – Jocelyn Medallo, Director of Policy and Advocacy

**International Rivers**, United States – Kate Horner, Executive Director

**Jamaa Resource Initiatives**, Kenya – Maurice Ouma Odhiambo, Executive Director

**Japan Center for a Sustainable Environment and Society (JACSES)**, Japan – Yuki Tanabe, Program Coordinator

**Jikalahari**, Indonesia – Woro Supartinah, Director

**Jubilee Australia**, Australia – Luke Fletcher, Executive Director

**Lakota People’s Law Project**, United States – Chase Iron Eyes, Lead Counsel

**Les Amis de la Terre France**, France – Lucie Pinson, Finance Campaigner

**London Mining Network**, United Kingdom – Andy Whitmore, Project Officer

**Market Forces**, Australia – Julien Vincent, Executive Director

**Markets for Change**, Australia – Peg Putt, CEO

**Mazaska Talks**, United States – Jackie Fielder, Organizer

**MiningWatch Canada**, Canada – Catherine Coumans, Co-Manager

**National Lawyers Guild, International & Environmental Justice Committees**, United States – Robin S. Martinez, Midwest Regional VP

**Occupy Bergen County (New Jersey)**, United States – Sally Jane Gellert, Member

**Oxfam Novib**, The Netherlands – Alke Gijrath, Policy Lead Land Governance and Land Rights

**Project on Organizing, Development, Education and Research (PODER)**, Regional (Latin America) – Fernanda Hopenhaym, Deputy Executive Director

**Rainforest Action Network (RAN)**, United States – Patrick McCully, Climate & Energy Program Director

**Rainforest Foundation Norway**, Norway – Vemund Olsen, Senior Policy Advisor

**Re:Common**, Italy – Elena Gerebizza, Campaigner

**Sierra Club**, United States – Nicole Ghio, Senior International Campaign Representative

**Society for Threatened Peoples Switzerland**, Switzerland – Christoph Wiedmer, Co-Director

**SOMO**, The Netherlands – Joseph Wilde, Senior Researcher

**The Oakland Institute**, United States – Anuradha Mittal, Executive Director

**The Sunrise Project**, Australia – Peter Bosshard, Director Finance Program

**TuK Indonesia**, Indonesia – Rahmawati Retno Winarni, Executive Director

**ULU Foundation**, United States – Stephanie Fried, Executive Director

**urgewald**, Germany – Regine Richter, Finance and Energy Campaigner

**Women’s Earth & Climate Action Network (WECAN)**, United States – Osprey Orielle Lake, Founder/Executive Director

**Women’s March Barcelona**, Spain – Cecilia Gomez, Organizer

**Women’s March Stockholm**, Sweden – Lotta Kuylentstjerna, CEO