

To: Mr Nigel Beck, Chair of the Steering Committee of the Equator Principles Association
CC: All Equator Principles Financial Institutions

Concerning: Civil society expectations on the Equator Principles revision process

Nijmegen, February 26 2018

Dear Mr. Beck,

We are writing you to voice our concerns about the slow pace with which the Equator Principles revision process, which you agreed upon in October 2017, is currently unfolding, and to share with you our expectations as civil society organisations on both the format and the outcome of this process.

First, let us reiterate once more that our organizations place great importance on the decision of the EPA to embark on a revision process for the Equator Principles. We are very pleased that the Association agrees with us on the need for such a process, and we have organised ourselves since then so that we can effectively provide and ensure input in the revision process from a wide range of civil society stakeholders.

However, nearly four months after your Brazil annual meeting, and over six weeks after our call with the EPA steering committee on January 11th, we still see no visible progress in getting the revision process off the ground. As we understand that you plan to finish this process 18 months from October 2017, and as we understand from our call with you that you will work towards agreeing on the text of the new Principles at your next annual meeting in October in Washington, we are concerned that without a rapid and purposeful shift in direction from the EPA, there may not be enough opportunity for civil society stakeholders to meaningfully engage in the process in this time.

With this letter we urge you to provide us with clarity, in writing, on how you plan to conduct the revision process, and particularly the external stakeholder consultation part of this process. Specifically, we seek to understand:

- The overall plan for the revision process, including key decision dates and timelines for feedback
- who will be responsible for the management of the process, including contact details
- how external stakeholders will be defined
- how external stakeholders will have access to all relevant information, and where on the web this information will be provided and stored
- in what languages the consultation process will be conducted
- how the participation of civil society stakeholders in each region of the world will be ensured (for example through regional consultation meetings, which we consider key to this aim)
- how you will reach out to specific sections of civil society stakeholders, for example Indigenous organisations and their governing bodies
- how stakeholder input received will feature in the overall revision process
- how progress and outcomes of the stakeholder process will be publicly reported

In addition to these questions on the format of the planned process, we also wish to share with you our expectations on the outcome of the process. We consider the revision of the Equator Principles long overdue, because in our opinion the current and previous versions of the Principles do not adequately deal with, at least, four major issues, both from a risk management and a social and environmental safeguard perspective. These four issues are:

Climate change:

The new EPs must fully commit to supporting the Paris Agreement goal of limiting global temperature rise to below 2 degrees, aiming for 1.5 degrees, and ensure projects financed are aligned with reaching this goal. This requires an expanded notion of what effective management of climate risk entails - one which addresses both the potential impacts of climate change on Equator projects and the wider and cumulative impacts of Equator projects on further accelerating climate change. It also requires explicit recognition that the Paris Agreement goals require a rapid and managed decline in fossil fuel production, and that financing new fossil fuel extraction, transportation and power projects is incompatible with this aim.¹

Rights of indigenous peoples:

The new EPs must include an explicit commitment to uphold the right of Indigenous Peoples anywhere in the world to give or deny Free, Prior and Informed Consent for projects situated on territories they traditionally use and occupy; commit to neither directly nor indirectly finance projects that did not obtain such consent; strengthen due diligence and consultation processes to ensure that Indigenous Peoples' rights are fully respected; and ensure that Indigenous Peoples and other project-affected communities have full access to grievance channels with project sponsors *and* financing banks when their rights and interests are violated. The new EPs must also unequivocally commit all adopting banks to adhere to all relevant international human rights norms, beyond what is being referred to in IFC Performance standards and WB IHS guidelines.

Transparency

The new EPs must contain stronger commitments on transparency, so that adopting banks publicly disclose their entire EP portfolio, and that on project level the EPs are being applied in a fully transparent manner. Rather than project level reporting being subject to project sponsor consent, EP finance must only be provided if the project sponsor agrees on the loan being publicly reported, with this condition being part of the loan covenant. Data disclosure on the Equator Principles website should be improved to allow an overview of all projects financed under Equator, by year and by sector. Such reporting should also include details of each Equator bank participating, borrower and/or project sponsor names as well as project names, as well as a link to where all documents that are to be publicly disclosed by the project sponsor as part of meeting their EP requirements can be found.

Accountability

The new EPs must ensure that access to remedy is readily available for all communities affected by EP projects, through the establishment of project level grievance mechanisms by the project sponsor, but also at the level of the Equator Principles Initiative itself. This would bring the EPs in line with the UN Guiding Principles on Business and Human Rights, which explicitly require that "Industry, multi-stakeholder and other collaborative initiatives that are based on respect for

¹ See for example, [The Sky's Limit](#), Oil Change International, September 2016

human rights-related standards should ensure that effective grievance mechanisms are available”, and go on to state that “Such collaborative initiatives should ensure the availability of effective mechanisms through which affected parties or their legitimate representatives can raise concerns when they believe the commitments in question have not been met. The legitimacy of such initiatives may be put at risk if they do not provide for such mechanisms. The mechanisms could be at the level of individual members, of the collaborative initiative, or both.”²

As civil society groups we will focus on these four areas when providing input in the revision process, but we are also keen to engage with you on other important matters, such as the current scope of the EPs. We will also continue to inform the public on the changes to be made for the EPs to remain relevant as an industry standard.

Given the urgent need to start our engagement we look forward to your swift response on our questions about the revision process, before mid-March. You can reach us through BankTrack, which has been mandated by this group (which is still expanding) to facilitate civil society engagement with the EPA.

Yours sincerely



Johan Frijns, director BankTrack
johan@banktrack.org

Also on behalf of:

1. 198 methods - United States
2. Accountability Counsel - United States
3. African Law Foundation (AFRILAW) - Nigeria
4. Amazon Watch - United States
5. ARA - Germany
6. Article One Collective - Netherlands
7. Bretton Woods Project - United Kingdom
8. Center for International Environmental Law (CIEL) - United States
9. Collectif Camerounais des Organisations des Droits de l'Homme et de la Démocratie (COCODHD) - Cameroon
10. Crude Accountability - United States
11. Divest, Invest, and Protect- United States
12. Forest Peoples Programme - United Kingdom
13. Forum for Civic Initiatives - Kosovo
14. Foundation for the Development of Sustainable Policies (FUNDEPS) - Argentina
15. Friends of the Earth - Japan

² [UN Guiding Principles](#), Principle 30 and 31, with commentary

16. Friends of the Earth - United States
17. Gesellschaft fuer bedrohte Volker - Switzerland
18. GHub - China
19. Global Witness - United Kingdom
20. Greenpeace - United States
21. Honor the Earth - United States
22. Inclusive Development International - United States
23. International Accountability Project- United States
24. International Rivers - United States
25. JACSES - Japan
26. London Mining Network - United Kingdom
27. Market Forces - Australia
28. Martinez Law - United States
29. Maza\$ka Talk\$ - United States
30. Mineral Policy Institute - Australia
31. National Lawyers Guild - United States
32. Oxfam Novib - Netherlands
33. People & Planet - United Kingdom
34. Positive Money - United Kingdom
35. Public Eye - Switzerland
36. Rainforest Action Network - United States
37. ShareAction - United Kingdom
38. Sierra Club - United States
39. SOMO - Netherlands
40. University of Arizona, Indigenous Peoples Law and Policy Program - United States
41. Urgewald - Germany
42. Women's March Barcelona
43. Women's March Frankfurt - Germany
44. Women's March Global
45. Women's March Melbourne - Australia
46. Women's March Milan - Italy
47. Women's March Stockholm - Sweden
48. Women's Earth and Climate Action Network - United States