No U-Turn Allowed

Recommendations to the Equator Banks

BANK Track

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Introduction

in June 2003, leading high street banks announced the creation of the Equator Principles (EPs). These Principles commit signatory banks to follow the environmental and social guidelines set out by the International Finance Corporation (IFC) of the World Bank Group. As of today, twenty leading banks have signed on to the Principles.[1]

Non-governmental organizations (NGOs) cooperating under the BankTrack[2] umbrella, agree with the EP banks on the importance of the Principles as a first step towards harmonisation of environmental and social standards in project finance. With EP banks arranging roughly three-fourth of all project loan market volume[3], the Principles have the potential to become the de facto standard for all banks and investors on how to deal with potential social and environmental effects of projects to be financed.

The Principles have the potential to become the de facto standard for all banks and investors

However, since the announcement in June 2003, NGOs have grown impatient with the slow pace of implementation of the Principles and the secrecy surrounding them. When several EP banks, lead by ABN AMRO, announced their participation in the Baku-Tblisi-Ceyhan (BTC) oil pipeline, despite NGO findings of numerous violations of IFC standards, this impatience turned into outright concern about the future viability of the Principles.[4]
The Equator banks give the impression that the full consequence of adopting the Principles is only now becoming clear to them. But there is no way back. NGOs consider it of paramount importance that the Equator Principles are seen as merely a baseline on the issues that banks approach, and that endorsing banks work to raise the bar and continually improve their business practices.

Springboard

NGOs view the EPs as a springboard; they must be the starting point of a much wider process, extending such principles not only to project finance but to all bank activities, whether they act as financial advisor, underwriter, arranger, manager, etc. Existing critical loopholes in the EPs, resulting from the use of vague and non-binding language must also be addressed. Artificial thresholds such as EPs only being applicable to projects with a

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[1] See www.equator-principles.com

[2] BankTrack is a new network, established in November 2003, of environmental NGOs working together to monitor the private financial sector.

[3] Dealogic Projectware, quoted at www.equator-principles.com

[4] See http://www.baku.org.uk/publications/Equator_Principles.pdf. Earlier, Barclays, one of the four banks taking the initiative on the EPs, agreed to finance the Landsvirkjun dam in Iceland, despite similar findings of IFC policy violations. See http://www.irn.org/programs/finance/index.asp?id=030718.violation.html

total capital costs of $50 million or more must be done away with.

Also, the IFC sector standards do not always represent best practice, and the EPs should explicitly encourage the adoption of other best practice sector standards in addition to IFC guidelines. There is a need to develop specific policies for sectors that are not commonly project financed, such as forestry and mining, as well as a need for certain categorical exemptions and the introduction of no go zones for certain projects.

The Equator Banks should clearly commit themselves to go beyond EPs whenever a better international standard may occur. Under no circumstances EPs should be used as an excuse by the signatory banks to refuse to implement a higher standard or guideline, whether promoted by a public institution or another private bank.

The EPs, as a voluntary set of principles, will be meaningless unless independent monitoring and compliance mechanisms are put in place

In this ambitious process, good intentions alone are not sufficient. The EPs, as a voluntary set of principles, will be meaningless unless independent monitoring and compliance mechanisms are put in place. Signatories cannot expect to receive much public credit without accountability procedures that ensure that banks practice what they preach on the ground. For the same public to be able to judge what is going on, it is crucial that EP banks are committed to transparency and openness in their operations.

Recommendations

In this paper, BankTrack offers five sets of recommendations to EP Banks on how to implement and expand the Principles. This way, they will indeed contribute to what is described in the preamble of the EPs as "responsible environmental stewardship and socially responsible development''[5], and which BankTrack understands as 'creating healthy and just societies and preserving the ecological well being of the planet'.[6]
The five sets of recommendations relate to:[7]

1. The implementation and integration of current EPs in bank operations
2. The integration of current principles in bank-borrower relations and loan covenants
3. A commitment to transparency and external verification
4. A commitment to independent accountability mechanisms
5. A commitment to move beyond the current scope of the Principles

[5] Equator Principles, preamble, paragraph 1

[6] BankTrack mission statement

[7] Some of these recommendations were already included in an earlier BankTrack analysis, called "good faith, good practice; implementation and accountability of the Equator Principles". This paper was written as a -rejected- input to the first evaluation meeting of EP banks taking place at ABN AMRO headquarters in Amsterdam in December 2003.

The recommendations are sometimes very detailed, referring directly to Banks' practices. However, the general message conveyed here is straightforward: Banks should 1) Implement the Principles as adequately as possible; 2) ensure that the Principles are part of every agreement with borrowers; 3) be open and transparent about their actions; 4) allow third parties to verify everything; 5) see the EPs as a first step, be prepared to move on.

The recommendations that are offered in this paper should be seen as an invitation to Equator banks to enter into a transparent and open dialogue with NGOs on the critical issues mentioned above.

1. Implementation and integration of EPs in bank operations

Given the considerable ambitions embedded in the EPs, by necessity implementing them will require substantial changes in everyday practices of participating banks, ranging from the revision of existing environmental policies to a overhaul of the reward system for project staff. The following recommendations are based on widely recognised components of bank Environmental Management Systems (EMSs), including those with ISO 14001 certification.[8]

Initial environmental review

- Banks should identify the environmental and social impact of their existing project finance portfolio and, if absent, create appropriate environmental and social Performance Indicators, preferably with external stakeholder consultation.

Policy development

- Banks should identify existing environmental and social policies, procedures and standards and screen them for possible incompatibility with EPs commitments.
- Policies should be made to conform with, or even exceed IFC guidelines and be applied to all project finance transactions (regardless of the banks' role in the project) and as appropriate to non-project finance deals.
- These policies should be mainstreamed with institutions' existing implementation and risk management systems and approved by the board.
- Implementation of Equator Principles should occur within the framework of an overall, comprehensive Environmental/Social Management System (EMS). Where banks' EMSs are ISO 14001 certified, Equator Principles should be a clear part of the system and also subject to verification.

[8] For an explanation on ISO standards see www.iso.ch

Consultation and consent

- Banks must ensure that no project will go ahead without proper engagement with affected communities and public interest organisations. Such consultation can inform due diligence and help manage risks.
- Banks should create adequate mechanisms for ensuring that borrowers or third party experts conduct these public consultations in a "structured and culturally appropriate way." These must include referencing best practice consultation methods (e.g. achieving prior informed consent), including third party monitoring when necessary

Organizational structure & personnel

- Banks should identify personnel and create governance/accountability systems for implementing EPs. All project finance staff should be responsible for implementing the EPs, while a senior manager or team should take the lead on implementation and reporting to the Board.
- To avoid excessive reliance on outside consultants, banks should have internal environmental and social expertise on staff; where such staff does not exist a budget should be provided for their recruitment.
- Compliance with EPs and superior environmental and social performance should be fully integrated into performance evaluations and bonuses. Performance Indicators should be developed to assess such compliance.

Environmental procedures & standards

- Although the EPs refer to IFC standards and policies, banks should always conduct their own due diligence, and not just refer to assessments made by IFC or other borrowers.
- Banks should create formal due diligence procedures for researching environmental and social risks of project finance transactions as early as possible in the project cycle;
- Create mechanisms for appraising projects against EP standards and in relation to the banks' reputational risk; mainstream these procedures into existing credit risk management systems;
- Create mechanisms for assessing and considering borrowers' environmental, social and cultural expertise in relation to particular projects.

Documentation

- All Environmental Assessments (EAs), Environmental Management Plans (EMPs), Strategic Environmental Assessments (SEAs) and monitoring reports should be part of the credit file and subject to management audit;
- Banks should create documentation, such as questionnaires or assessment forms, for ensuring that all EP procedures and standards are implemented in the due diligence and project appraisal phases. Such documentation should be required of staff, consultants and borrowers.

Internal information and training

- Banks should create communication plans for disseminating EP commitments, procedures, and standards to staff, consultants, and borrowers;

- Create training programs for project finance staff. Trainings should be mandatory, regular, and accompanied by goals and mechanisms for monitoring effectiveness;
- Create mechanisms to ensure that staff seek environmental/social expertise when necessary, rather than avoiding these because of higher transaction costs;
- Assess consultants' environmental, social and cultural expertise in particular deals.

Auditing, monitoring & corrective action

- Banks should identify conditions for assigning independent environmental experts to monitor and resolve problems with projects;
- Identify conditions for requiring multi-stakeholder dialogue processes in the project planning phase and, if stakeholders agree, a life-of-the-project mediator;
- Create mechanisms to regularly monitor borrower compliance with EMPs and to determine whether additional monitoring is necessary;
- Create formal processes for addressing borrower non-compliance, which explicitly includes an option to call loans;
- Create protocols for fully co-operating with independent external auditors on EP projects, and for engaging with communities affected by transactions;
- Create specific mechanisms for internally auditing the overall implementation of EPs, and taking corrective action in cases of non-compliance. Auditors should be independent from the project finance department.

Management review and improvement

- Banks should create a management process with timelines to review implementation of EPs, including internal reporting guidelines and stakeholder engagement;
- Review progress on EP implementation based on goals that include measuring environmental and social impact of the banks' project finance portfolio;
- Create board-approved annual goals and action plans to continually improve EP implementation and the environmental and social performance of the project finance portfolio. These should include timelines, personnel and objectives.

2. Borrower Compliance and Loan Covenants

From many years of monitoring controversial projects financed by public financial institutions, NGOs have learned that on-the-ground compliance with banks' environmental and social policies relies heavily on the commitment and capacity of the borrowers. One of the most powerful ways banks can ensure the adequate environmental and social performance of their loans is through the effective use of loan covenants.

General

- Loan covenants must include affirmative and negative environmental and social obligations.
- In general environmental and social loan covenants should secure:
- The implementation of the full Environmental Management Plan (for A and B projects)
- Compliance with IFC Pollution Prevention and Abatement Guidelines
- Meeting of host country laws and regulations
- Compliance with applicable international treaties and agreements
- Co-operation with legitimised efforts of third party monitoring, such as the compliance audits of an Independent Accountability Mechanism

Project specific covenants

- In addition environmental and social loan covenants should include project specific covenants. These must not be formulated only in general terms. The World Bank experience shows that covenants must be very detailed and specify very clearly and concisely the steps required to obtain compliance. Whenever possible an implementation program for specific covenants should be attached in the legal agreement. Such programs specify the steps to be taken in executing the project, those responsible for the action, and the timing or phasing of steps.

Monitoring

- Equator banks must develop adequate mechanisms and in house capabilities to monitor compliance with environmental and social loan covenants on a similar basis as the financial loan covenants.

Ensuring and supporting compliance

- Equator banks must develop adequate mechanisms and in house capabilities to be able to fulfil their duty under Principle 8 of the Equator Principles, that is to help borrowers to find solutions to come back into compliance with its environmental and social loan covenants.
- In cases of massive breach of the Environmental Management Plan or host country laws and regulations, or in cases of any substantive claim by affected or local people of socially unacceptable misbehaviour, loans should be cancelled.

Reporting

- Loan covenants should be formulated in a way not to hamper the reporting requirements. They should be written in ways that omit confidential information.
- Require borrowers to release EAs before project appraisal, not just during a "reasonable timeframe";

3. Transparency and Verification

External verification provides extra credibility to any claim of success for the EPs

Because the Equator Principles currently do not include a commitment to disclosure of information, it limits the ability of the public, and even of the endorsing banks themselves, to measure the efficacy of the Principles. Naturally, external verification provides extra credibility to any claim of success for the EPs. For this to happen, banks must disclose information that is now kept confidential with reference to client confidentiality.[9]

A commitment to transparency is vital to promote accountability and demonstrate banks' good faith effort to implement the Equator Principles. NGOs therefore call upon Equator banks to annually report on their implementation of the EPs, using the following indicators;

List all project finance transactions, including:
- Name of project, including country and deal size
- Indication of whether Principles were applied, and categorization (A, B, or C)
- A list of non-project finance transactions where Principles were applied

For Category A, and if relevant category B projects, during the last year:
- Projects not financed due to lack of compliance with EPs
- Projects financed that do not comply with EPs or are not fully covenanted to the EMP, and in each case justification for deviation
- Projects financed that have an independent expert monitoring the EMPs
- Projects financed discovered to be in default due to non-compliance with EPs or loan covenants, and corrective actions taken by the institution and/or borrower
- Loans suspended or called due to non-compliance with EPs or EMPs, including project name, borrower and reason
- Description of how the EPs has enhanced EMPs or resulted in better social/ environmental performance of projects

Implementation systems
- Banks should describe the internal guidelines they have adopted as a result of EP commitment, and explain any deviations from the IFC environmental and social safeguard policies and/or Pollution Prevention and Abatement Handbook;
- Describe how implementation of EPs relates to the institution's systems of implementing general policies (e.g. anti-money laundering) and managing credit risk.

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[9] It should be noted that providing lists of projects financed does not per se violate client confidentiality; project information is already routinely provided to financial journalists and companies such as Dealogic (producer of ProjectWare)

- Indicators should be integrated into the financial services sector supplement of the Global Reporting Initiative, which is currently under development.
- Banks should explain what level of management is responsible for implementing the EPs and explain the lines of reporting and accountability up and down the organisation;
- Describe training programs for staff for ensuring implementation of EPs, including goals, target audiences, frequency of programs, and methods to measure effectiveness;
- Indicate what additional environmental and social resources there are available to staff;
- Describe the institution's efforts to ensure that borrowers, consultants and peer institutions understand the EPs and have appropriate social/environmental expertise.
- Explain the management audit process specific to the Equator Principles implementation, and describe the independence of the auditors;
- Explain how superior compliance with EPs is recognised and rewarded in the institution and what corrective action is taken in cases of staff non-compliance with the EPs?

Project appraisal

- Banks should describe, if applicable, how the institution's process of implementing EPs differs depending on the bank's role in the transaction (e.g. lead arranger, participant, etc.);
- Indicate what particular documentation is required of EP transactions;
- What mechanisms are in place to ensure the adequate review of EAs, EMPs and other technical documents;
- What particular measures exist to ensure that borrowers and/or third party experts conduct public consultations in ways that comply with the EPs and what corrective actions can be taken if they do not?
- How consultants are selected, what instructions are given to them with regards to EPs and whether these involve site visits and consultation with local communities and NGOs;
- How activities of consultants are verified.

Covenants and Monitoring

- Bank should indicate what loan covenants and monitoring reports are available to the public upon request;
- Whether covenant obliges borrowers to implement the full EMP;
- How borrower compliance with EMPs will be monitored, and how often;
- Under what conditions the institution requires the appointment of an independent environmental expert to monitor EMPs or a mediator to resolve conflicts;
- What mechanisms exist to determine whether additional monitoring is necessary;
- What corrective actions are taken by the institution in cases where environmental and social covenants are breached.

4. Independent accountability mechanism

A critical shortcoming of the current EPs is the lack of independent accountability mechanisms. The EPs put most of the social and environmental responsibilities on the borrower, without any way for affected communities to have recourse to the bank in cases where bank standards are not being met or implemented. Equator Banks suggested that they could police themselves by observing in co-financing deals how lead banks implemented the due diligence, procedures, and standards required of the EPs.

Banks must be accountable not only to themselves, but also to the public and those communities that are affected by their transactions

However, mere observation of each other is a wholly inadequate system of accountability. Banks must be accountable not only to themselves, but also to the public and those communities that are affected by their transactions. BankTrack therefore urges Equator Banks to create a joint 'independent accountability mechanism' (IAM) to ensure the implementation and continuous improvement of the Equator Principles and to provide project affected communities a mechanism for recourse.

We envision three main roles for such a mechanism:

Compliance and accountability
To ensure high-quality reporting by banks of their implementation of the EPs and to conduct compliance audits of particular projects financed by Equator Banks.

The IAM could collect and review Equator Banks' annual public disclosures regarding their implementation of the EPs. It should monitor the overall implementation of the EPs to identify and take steps that promote continuous improvement in EP implementation. In the interest of protecting the credibility of the EPs, the IAM could create procedures to address banks that consistently fail to report, or repeatedly fail to apply the EPs. Similarly, the IAM could recognize those banks that have superior reporting or implementation records.

It could also conduct select audits of projects financed by one or more Equator Banks for compliance with the EP. Such audits could be performed at the initiative of the IAM itself, when requested by an Equator Bank, or when petitioned by directly affected communities who believe that the EPs have been breached.[10]

Ombudsman
To provide people or communities directly impacted by projects financed by EP banks a recourse mechanism that is fair, objective and constructive.

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[10] It should be noted that the IAM is not intended to conduct management audits of the systems devised by individual Equator banks (a function which should be performed by internal auditors).

The IAM should help create processes between Equator Banks and directly affected communities on projects that have received community petitions for IAM compliance audits. At the conclusion of such processes, the IAM could also identify 'lessons learned' and make recommendations on systemic issues that have contributed to the problems.

Continuous Improvement

To be an information clearinghouse on specific projects and promote best practice environmental and social policies, guidelines, and procedures.

While the primary role of the IAM should be its Compliance and Accountability function, the IAM could also enhance Equator banks' due diligence processes by being an information clearinghouse on environmentally and socially controversial projects that are in the financing or pre-financing phase. The IAM could also serve as an information resource by organizing workshops to promote better EP implementation and continuous improvement.

Finally, the IAM could foster the improvement of the EPs themselves. For example, it could strengthen the Principles through advocating for stronger IFC environmental and social safeguard policies, extending the scope of the EPs, and updating them to reflect state-of-the-art environmental and social procedures and standards.

EP banks do not need to start from scratch with their IAM. There now exists over a decade of experience with the various accountability mechanisms of the World Bank Group, the Asian- and Inter American Development Banks and several Export Credit Agencies. This can provide important guidance on how to develop a mechanism adapted to the specifics of private financial institutions.

5. Moving beyond the Equator Principles

The road to Collevecchio

In 2002, over a hundred civil society organisations signed on to the Collevecchio Declaration. The Declaration calls upon financial institutions (FIs) to adopt six commitments that would fundamentally alter the way the sector operates.[11]

The Equator Principles are generally consistent with, but fall far short of, the vision elaborated in the Collevecchio Declaration. For example, the commitment to "Do no harm" in the Declaration would call for an explicit commitment to categorical prohibitions for the most socially and environmentally egregious transactions, recognising that some activities may be off limits for the sector.

[11] See www.banktrack.org for the full text of the Collevecchio Declaration.

The Declaration also emphasises a precautionary-based approach rather than one based on mitigation.

This final section briefly outlines the six commitments as well as some emerging examples from some areas of the financial sector that begin to move towards the vision laid out in the Collevecchio Declaration. Although these are mostly only very recent initiatives and their implications and real impacts are as yet unknown they represent welcome steps in the right direction.

1. The Commitment to Sustainability:

FIs must expand their missions from ones that prioritise profit maximisation to a vision of social and environmental sustainability. This requires FIs to fully integrate the consideration of ecological limits, social equity and economic justice into corporate strategies and core business areas, to put sustainability objectives on an equal footing to shareholder maximisation and client satisfaction, and to actively strive to finance transactions that promote sustainability.

a) *Measurement of impacts*: FIs should measure the environmental and social impacts of their portfolios in core business areas, including lending, investing, underwriting and advising. Some banks have already signalled concrete plans to measure the carbon impacts of power plants they finance, and soon other deals. ANZ has even made a seven-year commitment to re-orient their bank towards sustainability.

b) *Continuous improvement*: all FIs must assess the sustainability challenges and issues facing their portfolios; and create objectives, strategies, timetables and performance indicators to increase the sustainability profile of their portfolios. ABN AMRO is now undertaking a review of their current loan portfolios to ensure that their forests policy is followed.

c) *Fostering sustainability*; FIs must actively seek to shift their businesses to proactively sustainable practices. This might include, for example, reducing the carbon footprint of their portfolios by shifting investments from fossil fuel to renewables; or the capitalisation of sustainable enterprises. FIs could use their influence to ensure that companies and projects in which they invest or support act in line with best practice. Large insurance companies as Swiss Re and Munich Re are now taking the lead in helping the financial sector understand climate change and act upon it.

d) *Implementation and capacity*; FIs should take all necessary steps to ensure that staff are trained and capacity is built to ensure that sustainability objectives are met and that procedures, policies and standards are implemented. Banks such as HSBC, Banco Real (ABN AMRO) and UBS are already actively developing training programmes for their staff

2. The Commitment to Do No Harm:

FIs should commit to do no harm by preventing and minimising the environmentally and/or socially detrimental impacts of their portfolios and their operations. FIs should create policies, procedures and standards based on the Precautionary Principle to minimise environmental and social harm, improve social and environmental conditions, and avoid involvement in transactions that undermine sustainability.

a) *Sustainability procedures*; FIs should create transactions-based procedures that screen and categorise potential deals on the basis of environmental and social sensitivity. Based on a transaction's sensitivity, the FI should perform appropriate levels of due diligence, stakeholder consultation, and assessment. FIs should also create processes for influencing, legally enforcing and monitoring sensitive transactions. FIs should also evaluate possible alternatives to projects that imply smaller environmental and social impacts. Citigroup has announced procedures to implement EPs that creates the necessary infrastructure for potentially introducing new environmental commitments.

b) *Sustainability standards*; FIs should adopt internationally recognised, sector-specific, best practice standards that can serve as the basis for financing or refusing to finance a transaction. Examples of these are the World Commission on Dams guidelines, Forest Stewardship Council standards etc.

Banks should also establish supplementary sectoral standards with stakeholder input and guidance. Some such standards exist already for the forests sector and others are being developed for other issues/sectors such as Minerals and Dams projects. These standards will vary, but should as a minimum cover issues such as: respect for international conventions, no-go zones, gender equity issues, supply chain issues, human rights, etc.

3. The Commitment to Responsibility

FIs should bear full responsibility for the environmental and social impacts of their transactions. FIs must also pay their full and fair share of the risks they accept and create. This includes financial risks, as well as social and environmental costs that are borne by communities.

a) Bear full responsibility for impacts of transactions; FIs must pay for their full and fair share of risks that they accept and create. FIs should therefore not help engineer country bail-out packages that aggravate the debt burden of developing countries. It also means that FIs should bear full responsibility for the environmental and social costs created by their transactions but borne by communities or individuals. The lawsuits that are being filed at banks for supporting apartheid in South Africa and by Holocaust victims may urge banks to be proactive in this field.

b) Recognise their role in developing debt crisis; FIs should recognise that the ability of countries to service external debt depends on the maintenance of social and ecological systems, and that developing country debt burdens are socially, environmentally, and economically unsustainable. FIs or their lobby organisations should refrain from lobbying against innovative solutions to the developing country debt crisis, and support calls for significant debt relief/cancellation.

4. The Commitment to Accountability

FIs must be accountable to their stakeholders, particularly those that are affected by the companies and activities they finance. Accountability means that stakeholders must have an influential voice in financial decisions that affect the quality of their environments and their lives -- both through ensuring that stakeholders rights are protected by law, and through practices and procedures adopted by FIs.

a) *Public consultation*; FIs can advance accountability by consulting civil society groups when creating sustainability policies, objectives, procedures, and standards. FIs should incorporate the views of stakeholders affected by their credit, lending, underwriting or advisory functions. This includes respecting the right of affected communities to "say no'' to a planned transaction. Co-Op bank in the UK, carries out public consultation on policy development that can be used as a model. Many so called ethical banks have good information disclosure and consultation practices, e.g. Triodos Bank, Bendago Bank, Alternative Bank, Banca Etica.

b) *Stakeholder rights*; FIs must also support regulatory efforts that increase the rights of stakeholders in having a more influential voice in the governance of FIs and their transactions. The World Bank, IFC, JBIC, EDC, ADB, IDB and other public institutions have ombudsman and accountability mechanisms, which can act as an analogue for private banks.

5. The Commitment to Transparency

FIs must be transparent to stakeholders, not only through robust, regular and standardised disclosure, but also by being responsive to stakeholder needs for specialised information on FIs' policies, procedures and transactions. Commercial confidentiality should not be used as an excuse to deny stakeholders information.

a) *Reporting;* FIs should publish annual sustainability reports according to an internationally recognised reporting format supported by civil society. FIs should further include disclosure on the sustainability profile of the FI's portfolio, a breakdown of core business activities by sector and region, and the implementation of the FI's sustainability policies and objectives. Some banks like Bank of Scotland and CIBC, as well as most ethical banks have fairly extensive lists of projects and clients, showing that it is indeed possible to deal with the need for client confidentiality.

b) Presumption in favour of *disclosure*; FIs should make assumptions in favour of information disclosure. Particularly for completed transactions, but also for those in the pipeline. FIs should publicly provide information on companies and significant transactions in a timely manner, and not hide behind the excuse of business confidentiality.

6. Commitment to Sustainable Governance

FIs should ensure that markets are more capable of fostering sustainability by actively supporting binding public policy, regulatory and/or market mechanisms that facilitate sustainability and that foster the full cost accounting of social and environmental externalities.

a) *Public policy*; FIs must recognise the pivotal role that governments must play in setting the market frameworks within which companies and FIs function.

b) *Financial practices*; FIs should avoid and discourage inappropriate use of tax havens or currency speculation that are unfair and that create instability. One possibility is to support the so called Tobin tax on speculative transactions. FIs should also strive to make financial decisions based on longer-term time horizons and reward clients that do the same. Triodos bank has a policy not to do swaps and options for speculative purposes, only for risk hedging.

Appendix 1 The Equator Principles

An industry approach for financial institutions in determining, assessing and managing environmental & social risk in project financing.[12]

PREAMBLE

Project financing plays an important role in financing development throughout the world. In providing financing, particularly in emerging markets, project financiers often encounter environmental and social policy issues. We recognize that our role as financiers affords us significant opportunities to promote responsible environmental stewardship and socially responsible development.

In adopting these principles, we seek to ensure that the projects we finance are developed in a manner that is socially responsible and reflect sound environmental management practices.

We believe that adoption of and adherence to these principles offers significant benefits to ourselves, our customers and other stakeholders. These principles will foster our ability to document and manage our risk exposures to environmental and social matters associated with the projects we finance, thereby allowing us to engage proactively with our stakeholders on environmental and social policy issues. Adherence to these principles will allow us to work with our customers in their management of environmental and social policy issues relating to their investments in the emerging markets.

These principles are intended to serve as a common baseline and framework for the implementation of our individual, internal environmental and social procedures and standards for our project financing activities across all industry sectors globally.

In adopting these principles, we undertake to review carefully all proposals for which our customers request project financing. We will not provide loans directly to projects where the borrower will not or is unable to comply with our environmental and social policies and processes.

STATEMENT OF PRINCIPLES

We will only provide loans directly to projects in the following circumstances:

1. We have categorised the risk of a project in accordance with internal guidelines based upon the environmental and social screening criteria of the IFC as described in the attachment to these Principles

[12] See www.equator-principles.com for full text plus exhibits

2. For all Category A and Category B projects, the borrower has completed an Environmental Assessment (EA), the preparation of which is consistent with the outcome of our categorisation process and addresses to our satisfaction key environmental and social issues identified during the categorisation process.

3. In the context of the business of the project, as applicable, the EA report has addressed:
a) assessment of the baseline environmental and social conditions
b) requirements under host country laws and regulations, applicable international treaties and agreements
c) sustainable development and use of renewable natural resources
d) protection of human health, cultural properties, and biodiversity, including endangered species and sensitive ecosystems
e) use of dangerous substances
f) major hazards
g) occupational health and safety
h) fire prevention and life safety
i) socioeconomic impacts
j) land acquisition and land use
k) involuntary resettlement
l) impacts on indigenous peoples and communities
m) cumulative impacts of existing projects, the proposed project, and anticipated future projects
n) participation of affected parties in the design, review and implementation of the project
o) consideration of feasible environmentally and socially preferable alternatives
p) efficient production, delivery and use of energy
q) pollution prevention and waste minimization, pollution controls (liquid effluents and air emissions) and solid and chemical waste management

Note: In each case, the EA will have addressed compliance with applicable host country laws, regulations and permits required by the project. Also, reference will have been made to the minimum standards applicable under the World Bank and IFC Pollution Prevention and Abatement Guidelines and, for projects located in low and middle income countries as defined by the World Bank Development Indicators Database, the EA will have further taken into account the then applicable IFC Safeguard Policies. In each case, the EA will have addressed, to our satisfaction, the project's overall compliance with (or justified deviations from) the respective above-referenced Guidelines and Safeguard Policies.

4. For all Category A projects, and as considered appropriate for Category B projects, the borrower or third party expert has prepared an Environmental Management Plan (EMP) which draws on the conclusions of the EA. The EMP has addressed mitigation, action plans, monitoring, management of risk and schedules.

5. For all Category A projects and, as considered appropriate for Category B projects, we are satisfied that the borrower or third party expert has consulted, in a structured and culturally appropriate way, with project affected groups, including indigenous peoples and local NGOs. The EA, or a summary thereof, has been made available to the public for a reasonable minimum period in local language and in a culturally appropriate manner. The EA and the EMP will take account of such consultations, and for Category A Projects, will be subject to independent expert review.

6. The borrower has covenanted to:

a) comply with the EMP in the construction and operation of the project

b) provide regular reports, prepared by in-house staff or third party experts, on compliance with the EMP and

c) where applicable, decommission the facilities in accordance with an agreed Decommissioning Plan.

7. As necessary, lenders have appointed an independent environmental expert to provide additional monitoring and reporting services.

8. In circumstances where a borrower is not in compliance with its environmental and social covenants, such that any debt financing would be in default, we will engage the borrower in its efforts to seek solutions to bring it back into compliance with its covenants.

9. These principles apply to projects with a total capital cost of $50 million or more.

The adopting institutions view these principles as a framework for developing individual, internal practices and policies. As with all internal policies, these principles do not create any rights in, or liability to, any person, public or private. Banks are adopting and implementing these principles voluntarily and independently, without reliance on or recourse to IFC or the World Bank.

Appendix 2 Signatory banks to the Equator Principles

As of *March* 2004, the following banks have signed on to the Equator Principles

ABN AMRO Bank, N.V.	the Netherlands
Barclays plc,	United Kingdom
CIBC,	Canada
Citigroup, Inc.,	United States
Crédit Lyonnais,	France
Credit Suisse Group,	Switzerland
Dexia Group,	Belgium
Dresdner Bank,	Germany
HSBC Group,	United Kingdom
HVB Group,	Germany
ING Group,	the Netherlands
KBC	Belgium
MCC,	Italy
Mizuho Corporate Bank,	Japan
Rabobank Group,	the Netherlands
Royal Bank of Canada,	Canada
Standard Chartered Bank,	United Kingdom
The Royal Bank of Scotland,	United Kingdom
WestLB AG,	Germany
Westpac Banking Corporation,	Australia

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