

BANKTRACK

EQUATOR PRINCIPLES ANALYSIS OF THE RAMPAL COAL-FIRED POWER PLANT PROJECT, BANGLADESH

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INTRODUCTION

The Equator Principles (EP) is a risk management framework adopted by 80 financial institutions from around the world for assessing and managing environmental and social risk in projects. According to the Equator Principles website, “Equator Principles Financial Institutions (EPFIs) commit to implementing the EP in their internal environmental and social policies, procedures and standards for financing projects and will not provide Project Finance or Project-Related Corporate Loans to projects where the client will not, or is unable to, comply with the EP.”¹

This report examines the compliance of the proposed Rampal coal-fired power plant (also known as the Maitree Super Thermal Power Project) in Bangladesh with the EPs. This analysis shows that serious deficiencies in project design, planning, implementation and due diligence obligations render the project non-compliant with the minimum social and environmental standards established by the Equator Principles, as well as the International Finance Corporation’s Performance Standards which are a key part of the EPs.

We assume the Equator Principles apply to the Rampal coal plant as the project proponents are seeking project finance to proceed, total project capital costs far exceed the US \$10 million threshold for application of the principles, and most importantly, because the project poses significant adverse social and environmental risks and impacts that are diverse and irreversible. Because Bangladesh is a Non-Designated country under the Equator Principles, the IFC Performance Standards on which the principles are largely modelled also apply.

The body of this report assesses the project’s compliance with those principles most directly relevant at the current stage of project preparation and implementation: Equator Principles 1 through 6. In addition, analysis under Equator Principle 3 identifies existing and potential violations of IFC Performance Standards 1, 3 5, 6 & 8.

The failure to comply with these minimum standards is indicative of the social, environmental and financial risks the Rampal plant poses and makes the project a clear “no-go” for EPFIs. Accordingly, this report calls on signatory banks to publicly rule out involvement in financing or support of any kind for the Rampal coal plant.

BACKGROUND: PROJECT SUMMARY

The Rampal coal plant is a proposed 1320-megawatt (MW) coal-fired power station to be located at Khulna division in southwest Bangladesh. The project is a 50:50 joint venture between the Bangladesh Power Development Board (BPDB) and India’s partly state-owned National Thermal Power Corporation (NTPC), which signed a Memorandum of Understanding in August 2010 to jointly implement the project by 2016.

1 www.equator-principles.com

The two companies have formed a joint venture company, the Bangladesh-India Friendship Power Company Pvt. Ltd. (BIFPLC), to develop the project. Under an agreement signed on 29 January 2012, NTPC will be responsible for planning, building, and operating the project and the two companies will share fifty-fifty ownership of both the project and the electricity it produces. The shareholders will equally contribute 30 per cent of the equity of the estimated US\$ 1.5 billion project², with the remaining debt of 70% to be financed by loans from external sources. A tender for the project's Engineering, Procurement and Construction (EPC) contract has been released and bids were due on 18th May 2015 but that deadline was subsequently extended until 16 July, 2015.

The plant will be comprised of two 660 MW supercritical units, but there are plans for further units to be added in the future. It is expected that the plant will require 4.72 million tons of imported coal each year. Over the life of the project, coal will be sourced from a number of countries and the Environmental Impact Assessment (EIA) for the project identifies Indonesia, South Africa and Australia as the most likely.³

A land acquisition order for 1,834 acres of land was issued for the Rampal coal plant on 2 January 2012 and site preparation has commenced, including land filling for construction of the plant and its associated infrastructure.⁴ However, the project has generated intense controversy and opposition within Bangladesh, resulting in delays of several years. In addition to grave concerns about threats to the Sundarbans World Heritage Site, which are summarized below, the project will displace a minimum of 150 households. The physical acquisition of land for the project is to be phased, and some of the 425 hectares of land required for Phase 1 have already been acquired.

THREATS TO THE SUNDARBANS WORLD HERITAGE SITE⁵

The Rampal coal plant is located just 14 kilometers upstream of the Sundarbans Reserve Forest, the world's largest remaining contiguous mangrove forest and a UNESCO World Heritage Site. The Sundarbans lie in the coastal region of the Bay of Bengal, straddling the border between Bangladesh and India.

The entire Sundarbans is Reserved Forest, established under the Indian Forest Act, 1878. Roughly two-thirds of the Sundarbans is located within Bangladesh and consists of three wildlife sanctuaries. Within Bangladesh, the entire Sundarbans constitutes a National Conservation Area and has been designated as a Ramsar Convention Site and Biosphere area. It contains two UNESCO-designated World Heritage Sites. Approximately one-third of the Sundarbans lies in India and contains a third UNESCO World Heritage Site.

The rich wetland ecosystem of the Sundarbans provides habitat for an extraordinary range of biodiversity with 334 plant species and 693 species of wildlife. Endangered or critically endangered wildlife species include the last remaining population of the Bengal tiger, several types of turtles, fishing cats, and the Ganges and Irrawady river dolphins, the only two remaining river dolphin species in Asia and both listed as globally endangered.

This vast mangrove forest provides breeding grounds for fish and shrimp and is a rich source of food and sustainable livelihoods for the many surrounding communities. It has been estimated that more than one million people depend on the Sundarbans for their livelihood, many of whom work seasonally as fishermen and gather non-timber forest products that include nipa palm, honey, leaves and grass.

The vast mangrove forest also plays a critical role in slowing erosion and salt water intrusion and also provides a life-saving protective buffer against the devastating impacts of tropical cyclones, storms and tidal

2 Recent articles have indicated that project costs may rise to or even exceed \$1.82 billion. See "[Rampal power plant near Sunderbans: PC under pressure to reverse decision](#)", FHM Humayan Kabir, Financial Express, 14 February 2015 and "[Rampal power project runs into equity funding snag](#)", Daily Star, 8 March 2015.

3 The EIA was conducted by the Center for Environmental and Geographic Services (CEGIS). The most recent version was published in July 2013 and can be viewed at: http://www.bpdb.gov.bd/bpdb/index.php?option=com_content&view=article&id=299

4 CEGIS (2103: p. 99).

5 This summary of the Sundarbans is based on <http://whc.unesco.org/en/list/798> and Sundarbans Oil Spill Assessment, Joint United Nations/Government of Bangladesh Mission, December 2014, Switzerland, 2015 Joint UNEP/OCHA Environment Unit.

surges that strike this region of Bangladesh with relentless regularity. This protective buffer is vital as storms increase in frequency and intensity and sea levels rise as a result of global warming, posing threats of massive forced displacement of people in Bangladesh, one of the world's most climate-vulnerable countries.⁶

Despite the critical importance and global conservation significance of this sensitive wetland eco-system, the Rampal coal plant calls for coal to be transported by a fleet of vessels travelling along a route that cuts directly through the Sundarbans for a distance of approximately 67 kilometers.

Coal imported to fuel the plant will be transported to the region on ocean-going ships, each having a capacity of 80,000 tons. It is estimated that 59 ships will make the voyage each year to meet the plant's coal requirement. All ships will anchor at Akram point – located within the Sundarbans – where their massive loads of coal will be offloaded to smaller vessels, posing significant risks of coal spillage and toxic coal dust being released into the environment.

These smaller vessels, with a capacity of 5,000-10,000 tons, will travel along the Possur River (also known as the Pashur River) between Akram point and the coal plant, making a total of 400-500 trips per year directly through the Sundarbans. In order to accommodate this, the Possur River will be extensively dredged and widened along a 10-kilometer stretch near Mongla Port. Development of the anchorage point at Akram point will involve dredging of some 30 million cubic meters of fill.

Parts of the Possur River on which this transport is to occur were officially declared a “dolphin sanctuary” in January 2012. The project's EIA identified four “Important dolphin areas” along the coal transportation route, one of which is the anchorage area at Akram Point.⁷

MOUNTING CRITICISM AND CONTROVERSY

The Rampal coal plant has been subjected to ongoing criticism and protest within Bangladesh. Three Writ Petitions against the project have been filed with the High Court, all of which are currently outstanding and could delay or prevent the construction of the proposed plant. Recent reports by Transparency International Bangladesh (2015) and South Asians for Human Rights (2015) have independently confirmed that people in the project area have been forcibly displaced from their homes and lands without compensation and in the absence of a resettlement plan or measures to meet obligations to ensure that their former living standards are improved or, at minimum, restored.⁸

In September 2014, Bangladesh's planning commission refused to approve the project after determining that it could not legally appropriate the 15% equity funds the power board needs to invest in the project, since the department's financing policies do not apply to joint ventures. It has been reported that officials also fear that actual costs may reach US\$1.82 billion because “the EIA report suggests that the project would incur a huge additional cost for adequate environment protection.”⁹

Protests against the project have included a five-day Long March from Dhaka, the nation's capital, to the project site in September 2013, with 20,000 participants demanding an immediate halt to the project. On 2 and 3 May 2015, more than 40 environmental groups in Bangladesh attended a conference in Dhaka, with the conference declaration denouncing the Rampal coal plant for its potential “to cause significant damage to the world's largest mangrove forest's unique ecosystem”.¹⁰

The concerns being voiced in Bangladesh have resonated around the globe. Threats the project poses to the Sundarbans are recognized as being of global significance and, as detailed in this report, the UNESCO World Heritage Committee, Ramsar Convention Secretariat, and International Union for the Conservation of Nature (IUCN) Bangladesh have each taken action to formally convey their serious concerns about the project.

6 Stern (2007: pp. 156-7).

7 CEGIS (2013: Map 6.18, p. 214).

8 As required under IFC Performance Standard 5: Land Acquisition and Involuntary Resettlement.

9 See note 2 above.

10 [“Don't fund Rampal power plant project: Environmentalists urge international financial institutions from campaign launch”](#), Daily Star, 10 May 2015; [“Scrap power projects near Sundarbans: environmentalists”](#), New Age, 4 May 2015; [“Stop Rampal, Orion power plants construction”](#), [Dhaka Tribune](#), 4 May 2015.

The Norwegian Government Pension Fund Global's Council on Ethics conducted a detailed investigation into the Rampal coal plant. In its 2014 Annual Report, the Council recommended that the fund divest from India's National Thermal Power Corporation due to "an unacceptable risk that NTPC will contribute to severe environmental damage through the building and operation of the power plant at Rampal, including related transportation service."¹¹ In February 2015 it was revealed that the Pension Fund had indeed divested from India's National Thermal Power Company.

As the following analysis shows, signatories to the Equator Principles should follow the lead of the Norwegian Pension Fund Global and ensure that they do not provide and arrange financial support of any kind to the Rampal coal plant.

ASSESSMENT OF EQUATOR PRINCIPLE COMPLIANCE

Equator Principle 1: Review and Categorization

Equator Principle 1 states that as part of its due diligence, the EPFI will screen and categorize the project "based on the magnitude of its potential environmental and social risks and impacts." This screening is based on the environmental and social categorisation process of the International Finance Corporation (IFC), which identifies three possible categories of risk. Category A, the highest level of risk, is assigned to a project if it is known to pose "potential significant adverse environmental and social risks and/or impacts that are diverse, irreversible or unprecedented."

The Rampal coal plant is Category A, with irreversible adverse impacts that include the loss of 1,834 hectares of fishing and agricultural land. Potential adverse impacts that threaten the Sundarbans are also diverse and, according to expert environmental assessments, largely irreversible. Environmental Scientist Dr. Abdullah Harun Chowdhury of Khulna University carried out a year-long study to identify and assess potential impacts and concluded that most "are negative and irreversible" and cannot be effectively mitigated.

Key adverse impacts identified in this study include forcible displacement, destruction of sustainable livelihoods based on farming and fisheries, air pollution, drainage congestion and water-logging, contamination of ground and surface water, decreased availability of water, health hazards, noise pollution, river erosion and loss of flora and fauna species.¹²

Equator Principle 2: Environmental and Social Assessment

Equator Principle 2 stipulates that the EPFI will require the client to conduct, to the EPFI's satisfaction, an Assessment process of the relevant environmental and social risks and impacts of the proposed Project. An Environmental and Social Impact Assessment (ESIA) is required for all Category A projects. Importantly, this principle notes the specific risks posed by a Category A project may also require more specialised studies to be undertaken.

Further, the assessment is required to be "an adequate, accurate and objective evaluation and presentation of the environmental and social risks and impacts, whether prepared by the client, consultants or external experts." Assessment documentation "should propose measures to minimise, mitigate, and offset adverse impacts in a manner relevant and appropriate to the nature and scale of the proposed Project."

The assessment process and documentation for the Rampal coal plant falls far short of these minimum requirements under Principle 2.

The original Environmental Impact Assessment (EIA) for the project, conducted by the Centre for Environment and Geographic Information Services (CEGIS), was published in January 2013. Upon release, it was severely

11 Council on Ethics for the Government Pension Fund Global (2014: p. 237).

12 Chowdhury (2011). The project EIA acknowledges that many of these impacts are likely and, in some cases, "irreversible" (CEGIS: 2013, Table 9.1: Impact Matrix, pp. 306-312). Sattar (no date) analyzes emissions from the Rampal coal plant and concludes that they pose serious threats to the Sundarbans, as well as greenhouse gas emissions.

criticized by leading environmental scientists and civil society organizations in Bangladesh for being blatantly biased in favour of the project and for failing to meet international standards.

The International Union for the Conservation of Nature (IUCN) Bangladesh is among those who have called for an impartial and science-based EIA, and provided extensive written comments detailing its concerns about the January 2013 EIA. The Bangladesh Water Board, Department of Forests, Department of Fisheries, and Department of Environment Concerns also independently submitted written concerns about this EIA.¹³

CEGIS subsequently modified the EIA to address some of the concerns raised and a revised EIA was published in July 2013. However, there are many serious concerns that remain unaddressed in the revised EIA. Serious deficiencies include:

- Failure to carry out a separate EIA on the impacts of transporting coal through the Sundarbans – despite the fact that DoE’s provisional clearance for the project included a requirement for this separate assessment;
- Insufficient assessment of factors and risks relating to water requirements for operation of the plant, as well as transport and disposal of coal ash, and waste management;
- Extremely weak assessment of impacts on existing livelihoods – in particular impacts on people who depend on the Possur River and the fisheries and other resources within the Sundarbans – and lacks an implementable livelihood restoration plan;
- Failure to consider the cumulative impacts of other vessels transporting toxic materials through the Sundarbans;
- Failure to consider the cumulative impacts for pollution of air, soil, water resulting from the planned construction of the 565 MW Orion coal plant (also known as the Khulna power station) in close proximity to the Rampal plant¹⁴;
- Failure to adequately address associated impacts – the EIA anticipates changes in land use as existing farmlands are converted to industries and townships, but does not propose any measures to address resulting displacement or loss of livelihoods.

Although a separate EIA of the impacts of extensive river dredging has recently been conducted – and is a further requirement of the DoE’s conditional approval – IUCN’s 2015 State of Conservation (SOC) report on the Sundarbans notes that the assessment it received is inadequate. The State Party, IUCN notes, claimed that the EIA included a specific assessment of potential impacts on the Outstanding Universal Values of the World Heritage Site, but such an assessment was not actually included in the assessment received by the Committee.¹⁵

The EIA’s failure to adequately consider associated impacts is also of particular concern. Plans for a coal-fired power plant and the electricity it would provide have been a catalyst for rapid industrial development of the river belt from Mongla port to Rampal. Land grabs of as much as 3,000 acres in this area are reported, as well as online advertisements regarding “the availability of another 1,550 acres of ‘industrial land’ in adjacent areas, which could be used for ‘shipyard, ship-breaking yard, oil depot, cement factory and LP gas unit’.”¹⁶

The report of a recent fact-finding mission by South Asians for Human Rights (SAHR), a regional network of human rights defenders across South Asia, states that land in this belt is being acquired “both legally and

13 These concerns are compiled and included in Volumes II & III of the EIA (CEGIS: 2013).

14 “[Power project near Sundarbans: Orion develops site before EIA clearance](#),” New Age, 6 September 2014.

15 Analysis and conclusions by World Heritage Centre and the Advisory Bodies in 2015, available at: <http://whc.unesco.org/en/soc/3235>

16 These developments and reports are summarized by Mohammad (2015).

illegally”. People displaced by the rapid industrialization and growing competition for land in the project region, SAHR observes, “have lost their traditional livelihoods and [are] thereby facing hardship of life.”¹⁷

UNESCO has expressed strong concerns about the EIA’s failure to address such associated impacts, noting that infrastructure and industrial development downstream “could potentially cause more significant pollution than the plant itself.”¹⁸ New settlements and construction of roads and other infrastructure, UNESCO noted in its 2014 review of World Heritage Sites, will increase the pressure on natural resources in the Sundarbans, yet none of these impacts are considered in the EIA.

The failure to address cumulative impacts also extends to coal transport. Project plans for the Phulbari Coal Project in northwest Bangladesh also call for massive quantities of coal to be barged through the Sundarbans annually throughout the 36-year lifespan of that project. As in the project at Rampal, the project at Phulbari also calls for coal ship-to-ship transfer of coal at Akram point, located within the Sundarbans.

Responding to the inadequacies of the existing EIA, the UNESCO World Heritage Committee requested a “comprehensive Strategic Environmental Assessment (SEA) of development in the Sundarbans and its immediate vicinity, including a specific assessment of potential impacts on the OUV [Outstanding Universal Value] of the property” in 2014.¹⁹ The Committee also specifically requested that SEA be undertaken to assess both indirect and cumulative impacts.

These requests have not been met, as detailed in IUCN’s 2015 State of Conservation Report (SOC).²⁰ Accordingly, the Committee’s nine-point requests to the State Party in the 2015 SOC include:

- Submit an EIA for the dredging of the Possur River that assesses potential impacts on the OUV of the Sundarbans and “ensure activities are not conducted before the revised EIA is submitted to the World Heritage Centre and reviewed by IUCN”;
- Undertake an SEA to assess the cumulative and indirect impacts of the Rampal coal plant and other developments in the Sundarbans, as previously requested, and;
- Request the State Party to invite a joint World Heritage Centre/IUCN Reactive Monitoring mission to the property to review the state of conservation of the property, and the potential impacts of the thermal power plant development and dredging of the Possur River.

MANDATORY ALTERNATIVES ANALYSIS

Under Equator Principle III, a new requirement regarding emissions of greenhouse gases was instituted: “For all Projects, in all locations, when combined Scope 1 and Scope 2 Emissions are expected to be more than 100,000 tonnes of CO2 equivalent annually, an alternatives analysis will be conducted to evaluate less Greenhouse Gas (GHG) intensive alternatives. “

We find no evidence that any analysis of lower emission alternatives has been done. If correct, this constitutes a clear violation of Equator Principle 2.

This apparent failure to produce a mandatory assessment of lower emission alternatives is all the more glaring in light of Bangladesh’s potential for renewable energy, including solar, wind, biogas and biomass, micro and mini hydro and tidal energy. The Bangladesh government has set incremental targets to ensure

17 South Asians for Human Rights (2015) “Press Release: Fact Finding Mission to Rampal, Bangladesh, 5-11 April 2015, conducted by South Asians for Human Rights” and Transparency International Bangladesh, “Rampal and Matarbari Power Projects: Governance Challenges in Environmental Impact Assessment and Land Acquisition, Executive Summary”, 16 April 2015.

18 State of Conservation (SOC) The Sundarbans (Bangladesh), Conservation issues presented to the World Heritage Committee in 2014, available at <http://whc.unesco.org/en/soc/2868>

19 Analysis and Conclusion by World Heritage Centre and the Advisory Bodies in 2014, available at: <http://whc.unesco.org/en/soc/2868>

20 The report and draft decision of the World Heritage Committee are available at <http://whc.unesco.org/en/soc/3235>

that it harnesses this tremendous potential, with renewable energy to provide 5% of total electricity by 2015, 10% by 2020 and 20% by 2035.

The feasibility of meeting or even surpassing these targets has been demonstrated by the achievements of a small-scale residential solar program under the state-owned Infrastructure Development Company Ltd (Idcol). By 2014, the program had installed solar systems in 3.1 million homes, benefitting some 15 million people, and aims to double that number by 2017.²¹

This rapid progress in harnessing the power of clean and renewable energy to provide electricity to homes in Bangladesh stands in stark contrast to the time frame required to construct even a single coal-fired power plant. It takes three to four years, on average, to construct a coal plant. Even this time frame assumes that a project is not stalled by opposition such as is the case with Rampal, which has been delayed already for several years.

When and if the mandatory alternatives analysis for the Rampal coal plant is undertaken, it will be valid and sufficient only if it adequately assesses and fully incorporates the true and long-term costs of coal over its life cycle. As the findings of an important research study have shown²², coal-based energy production may no longer be economically competitive when the “true” costs entailed by health impacts, premature deaths, and damage to the environment are accurately accounted for and included rather than being externalized onto the families and communities that suffer these impacts.

Moreover, this is increasingly the case as improvements in renewable energy technologies have significantly reduced the investment costs of solar photovoltaic and wind power generation.

Equator Principle 3: Applicable Environmental and Social Standards

Under EP 3, the borrower’s assessment process must address compliance with “relevant host country laws, regulations and permits that pertain to environmental and social issues”. For projects located in Non-Designated Countries, the assessment process should also evaluate “compliance with the then applicable IFC Performance and the World Bank Group Environmental, Health and Safety Guidelines.”

In direct violation of IFC Performance Standard 1 requirements to comply with relevant host countries laws, the Rampal coal plant involves violations of these key pieces of legislation: the Environmental Conservation Regulation 1997 (ACR 1997), the Environment Conservation Act 1995, and the Forest Act 1927.

Under Bangladesh’s Forest Act 1927 and Section 5 (1) of the Environment Conservation Act 1995, the Ministry of Forestry and Environment has established a protected buffer area of 10 kilometers in width around the entire perimeter of the Sundarbans Reserve Forest. This protective zone is designated as an Ecologically Critical Area (ECA) and Industries or projects that cause soil, water, air and noise pollution to these areas are prohibited.

The outer perimeter of the ECA around the Sundarbans is located just 4 kilometers from the Rampal coal plant, raising concerns about potential adverse impacts within the ECA itself. As noted by the Bangladesh Environmental Lawyers Association (BELA), “there are insufficient studies on the possible impacts.”²³ Moreover, existing studies have concluded that the project poses the risk of significant and severe adverse impacts to the Sundarbans.²⁴ After analysing potential impacts within the World Heritage site, UNESCO concluded: “the dredging of the Possur River to facilitate the transport of coal to the plant, as well as the coal dust released into the environment during transport and transfer, are likely to adversely impact the property.”²⁵

The legality of the DoE’s conditional approval of the Rampal coal plant has also been challenged as a violation of Environmental Conservation Regulation 1997 (ACR 1997). The Rampal project is a red-listed or “Class D”

21 [“Bangladesh installs 3 million residential solar systems”](#), *pv magazine*, 11 November 2014.

22 Epstein Paul R et al (2011).

23 Cited in CEGIS (2013, Volume III: paragraph 8d).

24 Chowdhury (2011) and Sattar (no date).

25 Analysis and Conclusion by World Heritage Centre and the Advisory Bodies in 2014.

project. As detailed in a recent report by Transparency International Bangladesh (TIB, 2015), under ACR 1997 the DoE has the authority to approve environmental clearance of “red-listed” projects only when a project is located in “industrial, industrialized or empty areas.” As the Rampal project is not located in such an area, the DoE’s approval of the project violates ACR 1997.

Addressing requirements for a red-listed project, the EIA (Vol 1: p. 16) notes that “it is mandatory to carry out Environmental Impact Assessment (EIA) including [an] Environmental Management Plan (EMP)” for all such projects and, where applicable, to develop a Resettlement Plan. As noted below in the analysis of violations under Equator Principle 4, we find no evidence that a full EMP has been prepared, nor do we find any evidence of a Resettlement Plan being prepared – despite the fact that project plans call for the displacement of some 150 households, some of which have already been evicted from their homes and lands.

The 2015 TIB report also states that the process of acquiring lands for the project has violated national legislation, as land and shrimp field owners were evicted and their holdings handed over to the implementing agencies without the prior notice required under section 6 and 7 of the Land Acquisition Act 1982 (TIB: 2015, page 9).²⁶

VIOLATIONS OF IFC PERFORMANCE STANDARDS

The International Finance Corporation’s Performance Standards are applicable standards under Equator Principle 3 for Non-Designated Countries, which include Bangladesh. This analysis focuses on six standards most directly relevant to this project:

- PS 1 - Assessment and Management of Environmental and Social Risks and Impacts
- PS 3 - Resource Efficiency and Pollution Prevention
- PS 5 - Land Acquisition and Involuntary Resettlement
- PS 6 - Biodiversity Conservation and Sustainable Management of Living Natural Resources
- PS 8 - Cultural Heritage

IFC PERFORMANCE STANDARD 1: ASSESSMENT AND MANAGEMENT OF ENVIRONMENTAL AND SOCIAL RISKS AND IMPACTS

PS 1 requires the borrower to establish and maintain a process for identifying and managing all environmental and social risks and project impacts on an ongoing basis. The risk identification process must include pollution of air and water, as well as greenhouse gas emissions.

When a project includes physical elements or facilities that are likely to generate environmental and social risks and impacts, these must also be identified and addressed and include:

Cumulative impacts from “existing, planned or reasonably defined developments at the time the risks and impacts identification process is conducted”;

Impacts from “unplanned but predictable developments caused by the project that may occur later or at a different location”;

Indirect impacts on biodiversity or on ecosystem services that affected communities depend upon for their livelihoods.

The borrower is also required to establish management programs that identify the specific mitigation and improvement measures that will be taken to address the identified environmental and social risks and to “ensure the project will operate in compliance with applicable laws and regulations, and meet the requirements of Performance Standards 1 through 8.”

PS 1 also requires an ongoing process of strong and constructive engagement with stakeholders that is “commensurate with the project’s risks and adverse impacts, and the project’s phase of development.”

26 This and other illegalities and irregularities are detailed in the 2015 report by Transparency International Bangladesh and in [“Rampal coal-based power plant-II: A project of mass destruction”](#), Anu Muhammad, *The News Today*, 10 May 2013.

The Equator Principles are largely modelled on the IFC's standards, and there is significant overlap in the contents and requirements. For these reasons, identification and discussion of the violations of IFC Performance Standards in the Rampal coal plant – including almost all violations of the PS 1 requirements above – has been placed in this report under the most relevant Performance Standard or the corresponding Equator Principle as follows:

- The inadequacy of the EIA process and documentation in identifying and assessing the project's potential environmental and social risks and impacts is addressed above under violations of Equator Principle 2 (Environmental and Social Assessment). This includes the failure to meet PS 1 requirements to assess cumulative impacts, unplanned but predictable impacts, and indirect impacts;
- The failure to assess emissions of greenhouse gases is also addressed above under violations of Equator Principle 2;
- The failure to provide an adequate management program is addressed below under violations of Equator Principle 4 (Environmental and Social Management System);
- The failure to specify procedures to monitor and measure the management program is also addressed below under violations of Equator Principle 4;
- The failure to meet requirements for community consultation and engagement is addressed below under violations of PS 5 (Land acquisition and forced resettlement).

Performance Standard 1 (paragraph 5) also states that borrowers “must comply with applicable national law, including those laws implementing host country obligations under international law.”

The Rampal coal plant violates a number of key international conventions to which Bangladesh is a signatory, including:

- The Convention on Wetlands of International Importance Especially as Waterfowl Habitat, Ramsar Convention 1971;
- The UNESCO World Heritage Convention (Protection of the World Cultural and Natural Heritage).

UNESCO WORLD HERITAGE CONVENTION (PROTECTION OF THE WORLD CULTURAL AND NATURAL HERITAGE)

The Sundarbans were designated as a World Heritage Site in 1997. The UNESCO World Heritage Committee was highly critical of the Rampal coal plant in its 2014 review of World Heritage Sites, expressing strong concerns about the impacts of coal transport and dredging. The project EIA, the review observed, “did not adequately consider potential impacts of the plant” on the site's outstanding universal value. UNESCO expressed particular concern that dredging the Possur River to facilitate the transport of coal to the plant is likely to:

“[...] alter the morphology of the river channels, which, in combination with erosion and sedimentation caused by the wakes of large vessels, would be likely to affect priority habitat for freshwater dolphins and other aquatic species, such as the critically endangered Batagur turtle (Batagur baska) and vulnerable small clawed otter (Aonyx cinerea). Coal dust released into the environment during transport and transfer is likely to have a significant direct adverse impact on mangroves, fish, and probably freshwater dolphins, amongst other endangered species.”

Concerned about the inadequacy of the project EIA, the UNESCO World Heritage Committee requested that the Bangladeshi government undertake a “Strategic Environmental Assessment (SEA) of development in the Sundarbans and its immediate vicinity”, and submit to the World Heritage Centre by 1 February 2015 an

updated report on the state of conservation of the property and “on the urgent progress required to address the issues mentioned [by the Committee].”²⁷

Although the government submitted the updated report on 13 January 2015, it has thus far failed to conduct the Strategic Environmental Assessment requested by UNESCO and has also failed to properly assess the impacts of the project on the Outstanding Universal Values of the World Heritage Site. As a result, IUCN in its 2015 State of Conservation report has “recommended that the Committee urge the State Party not to begin activities related to the project until the assessment of potential impacts on OUV has been submitted to the World Heritage Centre and reviewed by IUCN.”

CONVENTION ON WETLANDS OF INTERNATIONAL IMPORTANCE (RAMSAR CONVENTION 1971)

The Ramsar Convention is the only global environmental treaty that deals with preservation of wetlands. Bangladesh signed the convention in 1972 and the Sundarbans was declared a Ramsar Wetland Sanctuary in 1992.

In 2011, the Ramsar Convention Secretariat wrote to Bangladesh’s Environment and Forest Ministry to express concerns about the Rampal plant and associated facilities, including an anchorage at Akram Point for ship-to-ship transfers of coal and construction of a ship yard.

The Department of Environment (DoE), Forest Department, and Shipping Ministry each responded to the Secretariat’s letter and individually expressed concerns about the project’s potential to adversely impact the Sundarbans. The DoE’s letter of reply, dated 21 July 2011, advised the Secretariat that it had already given “positional clearance certification for the project with various conditions related to environment” and had requested a detailed EIA from the project authority.²⁸

Importantly, however, the DoE’s 2011 letter included an assurance that it “will cancel the positional certificate and will not issue [an] environmental clearance certificate in favour of this project” if its review of the EIA finds that “there will be adverse impacts on the biodiversities of Sundarbans Ramsar Site as well as other areas and the mitigation measures proposed to overcome the impacts is [are] not adequate enough”. (Emphasis added)

In addition to the DoE’s assurance to the Ramsar Secretariat that it will cancel its clearance of the Rampal coal plant if proposed mitigation measures in the EIA do not or cannot protect the Sundarbans from adverse impacts, the DoE’s provisional clearance for the project, dated 5 August 2013, identified 59 conditions and points that must be addressed and includes the following clause: “Violation of any of the above conditions shall render this approval void.”²⁹

As already noted, BIFPLC has, to the best of our knowledge, failed to produce a separate EIA/morphological study for coal transportation, which is one of the DoE’s requirements. As also noted above, UNESCO has reported that the separate EIA for dredging of the Possur River – a further DoE requirement – is inadequate. Additional confirmed violations of the DoE’s conditions are detailed below under violations of IFC Performance Standard 5 and include (but are by no means limited to) the following:

- “Resettlement and Rehabilitation of the displaced population (including those who do not own land) should be done properly.” (Paragraph 27)
- “Resettlement Plan should be properly implemented and people should be adequately compensated.” (Paragraph 28)

Despite these known violations of the DoE’s conditions, land filling and signing of agreements related to project implementation, investment, and power purchases have moved forward and the Department has not

27 State of Conservation (SOC) The Sundarbans (Bangladesh), Conservation issues presented to the World Heritage Committee in 2014, available at <http://whc.unesco.org/en/soc/2868>

28 Opinion from Department of Environment on E-mail texts concerning “Sundarbans Ramsar Site, 21 July 2011.

29 Government of the People’s Republic of Bangladesh Department of Environment Memo No: DoE/Clearance/5062/2011/206, 5 August 2013, paragraph 56.

taken legal action to halt project implementation, nor has it voided its conditional approval of the project to date.

IFC PERFORMANCE STANDARD 3: RESOURCE EFFICIENCY AND POLLUTION PREVENTION

PS 3 requires the borrower to “avoid the release of pollutants to air, water, and land due to routine, non-routine, and accidental circumstances with the potential for local, regional, and transboundary impacts.” This standard also requires the borrower to apply pollution prevention techniques that “are best suited to avoid, or where avoidance is not possible, minimize adverse impacts on human health and the environment.”

PS 3 also requires the borrower to avoid the generation of hazardous and non-hazardous waste materials. Where this cannot be avoided, the borrower must “treat, destroy, or dispose of it in an environmentally sound manner that includes the appropriate control of emissions and residues resulting from the handling and processing of the waste material.”

In recognition of the fact that emissions of greenhouse gases (GHG) threaten “the public health and welfare of current and future generations”, PS 3 also requires the borrower to consider renewable and low-carbon alternatives. Further, the borrower must adopt and implement technically and financially feasible and cost-effective options to reduce project-related GHG emissions during the design and operation of the project.

In direct violation of the requirements of PS 3, the Rampal coal plant poses excessively high and extremely grave risks to air, water and land. Moreover, these risks extend beyond the immediate project area, threatening the sensitive ecosystem of the Sundarbans World Heritage Site.

Unacceptably high-risk features and potential adverse impacts of the project include³⁰:

- Coal, gypsum, limestone and materials needed to construct and operate the plant, and the highly toxic coal ash and other wastes the plant generates will be transported along a route of approximately 67 kilometers that cuts directly through the Sundarbans. With more than 400 ships carrying coal and other materials along this route each year, experts warn that water in the Sundarbans and surrounding areas will be contaminated by discharges of ballast and bilge waters, oil leaks, coal and coal dust spilling off the ships. The dramatic surge in boat traffic necessary to supply the Rampal plant with thousands of tonnes of coal will significantly increase the risk of boat collisions and accidents in an already crowded shipping lane. The impacts of a devastating oil spill in December 2014 – when an oil tanker slammed into another vessel spilling some 358,000 litres of heavy fuel into a wildlife sanctuary within the Sundarbans – are indicative of the excessive risks of adding many new shipments of coal and other toxic materials through this vital and sensitive ecosystem³¹;
- Due to shallow water and siltation of river channels, massive loads of coal will be transferred from large ocean-going ships to many smaller barges and bulk carriers. Hundreds of smaller vessels, many of which do not have basic electronic navigation equipment allowing them to safely negotiate fog, will carry coal through the Sundarbans and the Dhangmari and Chandpai marine sanctuaries for the endangered Irrawaddy dolphin. These ship-to-ship transfers will take place at Akram point, also within the Sundarbans. Transfer, shipping and barging activities at Akram point

30 Sources for this summary of potential adverse impacts include: the extensive and detailed concerns submitted by the Bangladesh Environmental Lawyers Association (BELA) and included in Volume III of the EIA (pp. 48-64); the 2014 Annual Report of Norway’s Council on Ethics; independent analyses by Chowdhury (2011), Sattar (no date) and Mustafa (2013); the three volume EIA; the Final Report On Consulting Services on Coal Sourcing, Transportation and Handling of (2x660) MW Coal Based Thermal Power Plants Each at Chittagong and Khulna, and 8320 MW LNG and Coal Based at Maheshkhali; and tender documents for the project, with technical analysis provided by Waterkeeper Alliance. Tender documents can be viewed at:

http://www.bpdb.gov.bd/bpdb/index.php?option=com_content&view=article&id=347&Itemid=113. The EIA and report on coal can be viewed at

http://www.bpdb.gov.bd/bpdb/index.php?option=com_content&view=article&id=299

31 “Sundarbans oil spill shows why Bangladesh’s Rampal coal plant is a bad idea,” *endcoal.org*, 11 December 2014

will result in further coal spillage, the release of coal dust during transport and transfer, and will generate noise and light pollution that will create disturbances for the wildlife of the Sundarbans;

- A large increase in shipping traffic and extensive dredging of the Possur River as it flows through the Sundarbans, with resulting erosion, sedimentation and possible increases in acidity, will result in altered water chemistry and adverse impacts on aquatic biodiversity including globally endangered freshwater dolphins and other endangered species living within the Possur River system. Dredging removes river bottom habitat and nutrient rich sediment that forms the base of the aquatic food chain. It kills benthic macroinvertebrates, shrimp, clams, oysters and juvenile fish causing cascading negative impacts all the way up the aquatic food chain and economic damage to fishing enterprises;
- The plant will produce approximately 0.94 million tonnes of highly toxic ash annually.³² The tender documents specify that ash will be stored in a 25-acre coal ash pond with dams up to 13 meters high. There are no requirements prohibiting the coal ash pond from being located in a flood plain or within a certain distance from the flood-prone riverbank. An impervious composite liner and leachate collection system is not required to prevent leaching of heavy metals from the bottom and sides of the ash pond. Insufficient safety features surrounding disposal of the ash in a region that is vulnerable to flooding³³ mean that there is a high likelihood of improper storage, leading to leaching of heavy metals including arsenic, chromium, lead, mercury and selenium into the environment.

Without minimum coal ash dam safety standards, impervious composite liners, substantial setbacks from waterways, leak detection and monitoring systems it is almost certain that the coal ash pond will contaminate both ground and surface water, creating a massive new industrial source of water pollution for the Sundarbans river systems and dolphin sanctuaries, and contaminating drinking water.

This exposes the local population and environment to unacceptable health risks, which will have sustained long-term impacts after any improper disposal ends. Some of these metals, including arsenic and chromium, are carcinogens and can accumulate in organisms and be concentrated up the food chain, leading to contamination of fish and posing serious health risks to people who consume the fish.

To meet the water demand for plant operations, 9,150 m³/hr (equivalent to 2.54 m³/s) of surface water will be withdrawn from the Possur River. After treatment, the water shall be discharged back to the Possur River at the rate of 5,150 m³/hr. When such vast amounts of water are withdrawn it kills shellfish, fish, turtles and other aquatic life through the process of entrainment and impingement.

The discharged water from the coal power plant may adversely affect and pollute the water systems of the Sundarbans due to its changed temperature and velocity, dissolved chemicals and other pollutants. The “induced draught wet cooling towers” called for in the tender documents will result in the evaporation and loss of water from the aquatic environment into the air. This will further lower extreme dry season low tide water levels and impact aquatic life, navigation and food production. Less water will be available for local food production of rice, shrimp and fish.

IFC PERFORMANCE STANDARD 5: LAND ACQUISITION AND INVOLUNTARY RESETTLEMENT

PS 5 defines displacement as involuntary “when affected persons or communities do not have the right to refuse land acquisition or restrictions on land use that result in physical or economic displacement.” Involuntary displacement includes physical displacement, in which people lose their homes or shelters and require relocation, as well as economic displacement, which results from the loss of assets or access to assets that results in the loss of income sources or other means of livelihood, whether this occurs as a result of project-related land acquisition or restrictions on land use.

32 CEGIS (2013: paragraph 8.3.8, p. 291).

33 The Annual Report of Norway’s Council on Ethics for the Government Pension Fund Global cites data on storm surge during cyclones, which indicates that the water level along the coast has risen by more than eight meters on at least three occasions since 1960 (2014, p. 225).

PS 5 stipulates that involuntary resettlement be avoided whenever feasible. When deemed unavoidable, it must be minimized by exploring alternative project designs, and the borrower must fulfil clear requirements to ensure that the human rights of those displaced are not violated. Key requirements include:

- *Take possession of acquired lands and related assets only after compensation has been paid (or, in exceptional circumstances such as disputes over ownership, has been deposited in an escrow or similar account);*
- *Ensure compensation standards are transparent and applied consistently to all displaced communities and people;*
- *Provide displaced communities and persons compensation for loss of assets at full replacement cost and provide other assistance to improve or, at minimum, restore their former standards of living;*
- *Implement a Resettlement Action Plan for people physically displaced and offer them choices among feasible resettlement options, including adequate replacement housing or cash compensation, where appropriate, which is sufficient to fully replace lost land and other assets;*
- *Build resettlement sites for people displaced that provide improved living conditions;*
- *Implement a Livelihood Restoration Plan to compensate the losses of people and take corrective action as needed;*
- *Where feasible, provide land-for-land compensation to displaced people with land-based livelihoods.*

The process of acquiring land for the Rampal coal plant has violated every one of these PS 5 requirements.

The EIA for the project estimates that it will evict “around 150 households” whose livelihoods are based primarily on farming and shrimp cultivation. Moreover, a report by South Asians for Human Rights (SAHR) indicates that actual displacement impacts are significantly higher, with as many as 400 families already displaced.³⁴ In direct violation of the requirements of PS 5, we find no evidence that a Resettlement Plan has been prepared to date.

Evidence of further gross violations of the requirements of PS 5 is provided by SAHR. Key findings include:

“Due process was not followed in land acquisition and relocation. Compensation to landowners has been inadequate, falling short of the standard market price of equivalent land in the area. A large number of landless farmers who depend on the land and water bodies for their livelihoods have been displaced without any compensation [...] Displaced people have lost their traditional livelihoods and thereby face hardships of life.”

These findings regarding the acquisition of people’s lands before payment of compensation are confirmed by an independent study by Transparency International Bangladesh (TIB), which also recorded evidence of financial irregularities, unethical transactions, and widespread corruption – including the extraction of bribes to process legitimate claims to compensation.

The final EIA for the project reveals a shocking neglect of PS 5 requirements for ensuring that people who are displaced are adequately resettled, as well as requirements for culturally appropriate and accessible disclosure of project information, including options for resettlement and requirements for compensation. The EIA fails to provide an implementable plan for improving or, at minimum, restoring the livelihoods of people who are involuntarily displaced. The acquisition of 1,834 acres of land for the project, the EIA tentatively observes, “might cause loss of employment opportunity of affected people.” Proper compensation, the EIA suggests vaguely, “might help the affected people to opt for other jobs.”

The EIA includes the findings of a study team tasked with carrying out consultations with communities. The team’s findings clearly and unequivocally state that households facing displacement to make way for the

34 SAHR’s full report on its fact-finding mission is forthcoming. Key findings are summarized in its 2015 Press Release.

Rampal coal plant strongly oppose the project. Further, if forced to move against their will to make way for the project, their preferences are clear: “[...] they demanded their resettlement in any adjacent villages rather than financial compensation. In resettlement areas there should be enough room, separate space for courtyard and gardening for their living.”

The clarity of these demands stands in sharp contrast to the extreme vagueness of recommendations in the EIA for meeting the obligation to ensure that people who suffer forced eviction and the loss of their homes and lands are adequately resettled. Resettlement, the EIA suggests, “should be done in a[n] adjacent locality” (Paragraph 12.2.2, page 363).

Despite the clearly expressed preference for resettlement rather than cash compensation, the EIA implies that it may not be necessary to resettle displaced households at all; most of the displaced households, it suggests “will migrate to nearby villages” (Paragraph 8.2.15, page 275).

Given the absence of any clear provisions for resettlement in the Final EIA and the lack of an independent Resettlement Plan, is it not surprising that the study team found enormous uncertainty among people facing the threat of imminent forced displacement: “The evicted people,” the team concluded, “do not know where they will be resettled” (EIA, page 428).

A monitoring report presented by the government to UNESCO in 2015 for the period August-November 2014 states that 56% of surveyed households reported that they had received full compensation for resettlement, with 44% reporting that they had not been compensated. The report states “in general local people are not satisfied with [the] resettlement and rehabilitation process.”³⁵

IFC PERFORMANCE STANDARD 6: BIODIVERSITY CONSERVATION AND SUSTAINABLE MANAGEMENT OF LIVING NATURAL RESOURCES

PS 6 defines “Critical habitats” as areas with “high biodiversity value, including (i) habitat of significant importance to Critically endangered and/or endangered species; (ii) habitat of significant importance to endemic and/or restricted-range species; (iii) habitat supporting globally significant concentrations of migratory species and/or congregatory species; (iv) highly threatened and/or unique ecosystems; and/or (v) areas associated with key evolutionary processes. (Paragraph 16)

Importantly, PS 6 stipulates that the borrower will not implement any project activities in Critical habitat unless it is demonstrated that “The project does not lead to measurable adverse impacts on those biodiversity values for which the critical habitat was designated, and on the ecological processes supporting those biodiversity values.” (Paragraph 17)

In addition to avoiding impacts on biodiversity, PS 6 also requires the borrower to avoid impacts on ecosystem services, defined as the benefits that people derive from ecosystems.

Critical habitats include UNESCO World Heritage sites, most Ramsar and Biosphere areas, and areas that support endangered or critically endangered species. The Sundarbans is recognized as a Critical habitat by all these standards and, as noted previously, is of universal conservation importance and significance for a number of globally endangered species including the Royal Bengal Tiger, Ganges and Irawaddy dolphins, estuarine crocodiles and the critically endangered endemic river terrapin (*Batagur baska*).³⁶

The Rampal coal plant violates PS 6, as it cannot be demonstrated that the project will not lead to measurable adverse impacts in the Sundarbans. On the contrary, the numerous threats this project poses to the Sundarbans have been detailed throughout this report.

The project also violates the PS 6 requirement to avoid impacts on ecosystem services, and the performance standard provides these examples of such services:

35 Monitoring Report of Third Quarter, Bangladesh India Friendship Power Development Company (p. vi).

36 <http://whc.unesco.org/en/list/798>

- provisioning services may include food, freshwater, timber, fibers, medicinal plants; (ii) regulating services may include surface water purification, carbon storage and sequestration, climate regulation, protection from natural hazards; (iii) cultural services may include natural areas that are sacred sites and areas of importance for recreation and aesthetic enjoyment; and (iv) supporting services may include soil formation, nutrient cycling, primary production.

The vast mangrove forest of the Sundarbans provides every one of the ecosystem services identified above. More specifically, the ecosystem services the forest provides include: “1) trapping of sediment and land formation, 2) protection of human lives and habitats from cyclones, 3) acting as a nursery for fish, 4) oxygen production, 5) natural recycling, 6) timber production, 7) supply of food and building materials, and 8) climate change mitigation and adaptation through carbon sequestration and storage.”³⁷

As detailed under violations of PS 3 above, the likely adverse impacts resulting from the Rampal coal plant extend beyond the immediate project area, threatening the sensitive ecosystem of the Sundarbans World Heritage Site and the vital ecosystem services it provides.

PERFORMANCE STANDARD 8: CULTURAL HERITAGE

PS 8 defines cultural heritage to include “unique natural features or tangible objects that embody cultural values, such as sacred groves, rocks, lakes, and waterfalls.

Under PS 8, the borrower must ensure that project location and design do not adversely impact cultural heritage. When a project may affect cultural heritage, the borrower is required to identify and protect cultural heritage through consultation with communities “who use, or have used within living memory, the cultural heritage for long-standing cultural purposes” and must also consult with the relevant national and/or local regulatory agencies responsible for the protection of cultural heritage.

PS 8 stipulates that the applicability of this standard is to be established during the process to identify social and environmental risks.

In direct violation of PS 8, there is no evidence that the requirement to identify and assess potential adverse impacts on cultural heritage has been met in existing assessment documentation.

The EIA for the Rampal coal plant does not explore the profound cultural significance of the Sundarbans forest as a whole, nor does it provide any information about specific sacred sites within the forest that must be protected as cultural heritage under PS 8, and that might be adversely affected by the project.

These are critical omissions. Without the required consultation with communities to identify sites of cultural significance, it will be impossible for the borrower to take necessary steps to ensure that they are not adversely impacted.

Moreover, as detailed in this report, the location of the Rampal coal plant poses threats to the entire ecosystem of the Sundarbans and the incredible biodiversity it supports. It is difficult to overstate the profound cultural significance of this vast forest or the enormous pride it evokes for people in Bangladesh and India alike.

The Sundarbans literally translates as “beautiful forest” and is aptly described by [UNESCO](#) as “a landmark of ancient heritage of mythological and historical events.” The forest is treasured for its majestic scenic beauty and cherished for its incredibly rich flora and fauna. Under the requirements of PS 8, it is imperative to protect this unique and vital ecosystem from adverse impacts.

Equator Principle 4: Environmental and Social Management System and Action Plan

Principle 4 stipulates that the EPFI will require the borrower to develop or maintain an Environmental and Social Management System (ESMS), to be modelled on the requirements of IFC PS 1. The purpose of the ESMP, as

37 2015 Joint UNEP/OCHA Environment Unit (2015: pp. 10 & 23).

described in principle 4, is to identify and detail the borrower's commitments to address and mitigate risks and adverse impacts identified during the assessment process.

Under EP 4, the borrower is also required to prepare an Environmental and Social Management Plan (ESMP) to address issues raised in the assessment process and incorporate actions required to ensure that the project is in compliance with all applicable standards.

Importantly, EP 4 requires that "the level of detail and complexity of the ESMP and the priority of the identified measures and actions will be commensurate with the Project's potential risks and impacts." Thus, in complex projects, the ESMP may include a series of comprehensive management plans (e.g. water management plan, waste management plan, resettlement action plan, emergency preparedness and response plan).

We find no evidence that an ESMS or an ESMP has been prepared for this project. If correct, this is a clear violation of Equator Principle 4. Moreover, any ESMS or ESMP that may be prepared at a future date is valid only if based on an assessment process that is compliant with the Equator Principles and IFC Safeguards. As detailed above in the analysis under IFC Performance Standard 3, the assessment process for this project is weak and incomplete in numerous respects and is non-compliant with these standards.

It is concerning that the conditional approval for the Rampal coal plant issued by the DoE refers to "The Environmental Management Plan under the EIA study", stating that it "shall be strictly implemented and kept functioning on a continuous basis" (Paragraph 42). While the EIA does include one chapter entitled "Environmental Management Plan" and another chapter entitled "Environmental Monitoring Plan", the latter is described as "preliminary" and neither even remotely meets the Equator Principle 4 requirements for addressing, monitoring and mitigating risk.

To provide a general overview, the chapter entitled Environmental Management Plan devotes a single page or less to management of impacts related to each of the following: resettlement, coal transport and handling, dust suppression, ground water, ash waste, solid waste, and air pollution. Details on cost for specific components of the plan during the Pre-construction, Construction, and Post-Construction (Operation Phase) are not provided. The Environmental Monitoring Plan chapter is a mere nine pages in length with a total of three paragraphs on provisions for compliance monitoring.

Despite the increase in the volume of shipping traffic that the project will require, the EIA's Environmental Management Plan does not address or include emergency plans and measures for shipping accidents occurring during coal transport, nor does it describe any existing or planned resources for containing or preventing the spread of toxic materials in the event of an accident occurring. This is a critical omission, particularly as the risk of accidents is increased in the project area, due to its location in a designated "wind risk zone of Bangladesh" which is also challenging for navigation and highly vulnerable to cyclones, storm surge and flooding.

The EIA chapter "Environmental Management Plan" addresses this omission by stating: "Mongla Port Authority and BIWTA [Bangladesh Inland Water Transport Authority] shall prepare [an] emergency response plan for ship collision, oil spillage and pollution from ships" (Paragraph 12.5.1, page 374).

However, it is doubtful whether these two authorities have the expertise or experience necessary to prepare a plan that will meet Equator Principle 4 requirements for a comprehensive Environmental and Social Management System and Action Plan. Addressing the causes of the disastrous oil spill in the Sundarbans in 2014, analysts noted reports that Bangladesh's Forest Department has "repeatedly requested that the Sundarbans not be used to transport oil, coal and other toxic chemicals", and adds that this request "has been ignored by the Bangladesh Inland Water Transport Authority (BIWTA)."³⁸

The government, they note, "is hopelessly under-prepared to deal with an oil spill in an area of global significance" – a conclusion that became tragically apparent as media reports documented children without

38 "[Sundarbans oil spill shows why Bangladesh's Rampal coal plant is a bad idea](#)", Aviva Imhof and Mowdud Rahman, [endcoal.org](#), 11 December 2014.

any protective gear using kitchen utensils in an effort to “clean” the spill as the oil “spread over the rivers, canals and creeks.”³⁹

The stakes of failing to prepare an adequate emergency response plan are extremely high, as addressed at length by the Norwegian Pension Fund’s Council on Ethics in its Annual Report (2014, p. 233), which notes that the council “[...] considers it unlikely that the disruption and accident risk connected to transportation will be reduced without extensive analysis and measures. Moreover, even if further measures were to be implemented, it is unlikely that risk can be reduced to an acceptable level. Given the large volumes of mud transported by the river, there will be a recurring need for dredging. The leakage of metals will be a constant risk if the proposals in the environmental impact assessment are adopted. Each of the factors – transportation, dredging and ash disposal – constitutes a significant environmental risk.” [Emphasis added]

Detailing further inadequacies in the project EIA, the Ethics Council observes:

“The EIA describes measures that, in principle, appear relevant. However, it contains no, or few, descriptions of what is required to avoid damaging the environment, and does not assess whether the proposed measures will be adequate. Nor does it draw on international experience relating to leakages from storage sites, measures to prevent sludge loss, comparable contingency systems or the risk of ship-wreck. It is therefore impossible to assess whether the environment will be sufficiently protected if the company’s proposals are adopted”(2014, page 233). [Emphasis added]

Further omissions regarding health impacts raise equally grave concerns. While the EIA’s Environmental Management Plan does include proposals for a number of different methods to dispose of toxic coal waste, it fails to include or describe any plans or measures for addressing environmental and health impacts if coal ash waste containing large quantities of mercury comes into contact with water and is absorbed by rice, a dietary staple, and concentrated up the food chain.

The failure to address the potential health effects posed by dissemination of mercury, chromium, arsenic and other toxic heavy metals poses a significant health risk to people in the region, including risks to people who rely on fish from the Possur River as an important source of protein.

Importantly, the EIA also fails to address or suggest any consequences for violations of relevant environmental regulations – and devotes a total of just two pages to “compliance monitoring” – nor does it address the strict requirements for biodiversity monitoring and evaluation in areas classified as critical habitats.

Lastly, it is important to note that the EIA does not propose or provide detailed measures for the mitigation and management of adverse social impacts. On the contrary, it is consistently vague in its proposals for addressing the serious social impacts of the Rampal coal plant: involuntary displacement and the loss of livelihoods.

In short, the EIA does not and cannot serve as the basis for an ESMP and Action Plan and the Rampal coal plan has violated EP 4 requirements to provide these plans.

Equator Principle 5: Stakeholder Engagement

Equator Principle 5 stipulates that the EPFI “will require the client to demonstrate effective Stakeholder Engagement as an ongoing process in a structured and culturally appropriate manner with Affected Communities and, where relevant, Other Stakeholders.”

Further, for projects with “potentially significant adverse impacts on Affected Communities” – such as the Rampal power plant – the EPFI will also require the client to conduct an Informed Consultation and Participation process.

39 [“Children ‘clean’ oil spill with kitchen utensils in the Sundarbans”](#), Jeremy Hance, *mongabay.com*, 15 December 2014; [“No capacity to tackle oil spills”](#), *Daily Star*, 15 December 2014.

Principle 5 also requires that the consultation process be “tailored” to the risks and impacts of the Project and should be “free from external manipulation, interference, coercion and intimidation.”

The Rampal coal plant has grossly violated each of these Equator Principle 5 requirements.

Legitimate stakeholders protesting the project have been “constantly harassed by powerful quarters”, subjected to threats, physical assaults, and intimidation that includes the filing of false cases against them.⁴⁰

The findings of the study team tasked with carrying out consultations, included in the Final EIA, provide clear evidence of the absolute failure to meet PS 5 requirements for engagement and consultation with stakeholders.⁴¹ These consultations utilized “Rapid Rural Appraisal techniques” and were carried out in ten mauza, or administrative districts, by a study team. Assessing “knowledge about the project”, the study team concluded that people in seven of the ten mauza “had shallow and not so clear idea[s] about the power project.”

Regarding the project location, participants in the consultations had “no clear idea” about the project sites, as “the PDB [Bangladesh Power Development Board] did not disclose any information among them.” (Paragraph 15.2.2, page 425)

The study team’s conclusions regarding “attitudes to the project” among landowners are unequivocal:

“[...] people having land in the project area and that would be acquired for implementation of the project were not in favor of that, as they would lose their land - the only means of livelihood and it would be impossible for them to survive without these lands used for shrimp cultivation, they had no other resources for their survival.”

As noted in the analysis under Equator Principle 3 above, there has been a lack of transparency around issues of compensation and the failure to meet obligations to improve or, at minimum, restore the livelihoods of people who have been physically and economically displaced. The findings of the study team show that stakeholders opposing the project were fully aware of the likelihood of these project risks:

“They apprehended that if the government wish to compensate for loss of their land through paying cash there would be chances of corruption and they may not get the full compensation money or it (compensation payment) would take long time that the money would remain unproductive. They were also in doubt about their rehabilitation.”

There is no indication that effective action has been taken to adequately address these ongoing violations of Equator Principle 5 requirements.

Equator Principle 6: Grievance Mechanisms

Principle 6 stipulates that the EPFI will require the borrower to establish a grievance mechanism “designed to receive and facilitate resolution of concerns and grievances about the Project’s environmental and social performance” in all Category A projects (and, as appropriate in Category B Projects as well).

The grievance mechanism must be scaled to the risks and impacts of the project and “seek to resolve concerns promptly, using an understandable and transparent consultative process that is culturally appropriate, readily accessible, at no cost, and without retribution to the party that originated the issue or concern.”

In direct violation of Equator Principle 6, there is no evidence that an accessible, legitimate, and functioning grievance mechanism has been established to address and resolve the concerns of people who have been harmed by the forcible acquisition of land and other resources that formerly sustained them.

On the contrary, there are widespread reports from numerous independent and highly credible sources that stakeholders seeking resolution of their concern and grievances have been subjected to relentless

40 SAHR (2015: p. 2).

41 The Bangladesh Environmental Lawyers Association (BELA) provided extensive comments detailing its concerns about the Rampal coal plant, including the lack of effective public consultation, and these comments are included in Vol III of the July 2013 EIA.

harassment, intimidation, physical assaults and spurious legal actions. Summarizing the situation in Rampal in early 2015, Transparency International Bangladesh reports powerful political party leaders and administration officials had threatened to file cases and take legal actions against those who opposed the power plant. Many people in the project area, TIB reports, “are now hiding for fear of the police and live outside the project area. Many among them were physically assaulted and tortured.”⁴²

It is evident that any grievance mechanism that may exist has proved grossly inadequate, as evidenced by outstanding demands for adequate compensation by landowners, and by the large number of unresolved claims of families who have lost access or have reduced access to land and water-based resources that formerly sustained them and now face extreme hardship after being economically displaced without adequate compensation or provisions for alternative livelihoods.⁴³

CONCLUSION

The Equator Principles are understood to be the minimum standard for responsible investment and management of environmental and social risk in the project finance sector. Banks that aspire to be seen as leaders on responsible investment and environmental and social policy need to go beyond these minimum standards.

As detailed in this report, the Rampal coal plant fails to comply with even the minimum environmental and social norms established by any one of the Equator Principles included in the scope of this analysis: Principles 1 through 6.

Being non-compliant with the Equator Principles, the project is not appropriate for investment by signatory financial institutions, nor should it be considered for financing by any banks that aspire to socially and environmentally responsible investment. Moreover, even if an ESMP and Action Plan were prepared in the future, they would be based on an environmental impact assessment that is non-compliant with the Equator Principles and the IFC Safeguard Policies.

In order to uphold their commitments under the Equator Principles, signatory financial institutions should immediately cease any and all consideration of financing for the project. This report calls on signatory banks to publicly rule out involvement in financing or support of any kind for the Rampal coal plant.

42 TIB (2015: paragraph 2.3.2.1, p. 9). As previously noted, SAHR (2015) provided independent confirmation of reports that local people and activists opposing the project are being subjected to harassment and threats from powerful quarters.

43 SAHR (2015: p. 1).

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