

## “Trust Us, We’re Equator Banks”

Part I: the presence or absence of grievance mechanisms and stakeholder engagement processes under the Equator Principles

August 2020

*The Euro-Caspian Mega-Pipeline, or Southern Gas Corridor, of which TAP is a part.*

*Photo: Berber Verpoest & Laure Cops*

### Summary of findings

The [Equator Principles](#) – banks’ own rules for financing large infrastructure projects – require banks to ensure that high-risk projects they finance have stakeholder engagement processes and project-level grievance mechanisms in place. These rules are meant to ensure that project developers meaningfully engage with and respect the rights of local communities, and that channels are available for those communities to raise problems and seek remedy for adverse impacts.

But do project sponsors indeed meet these requirements? For this briefing paper, Bank-Track reviewed a selection of 37 projects financed ‘under Equator’, focusing on high-impact projects financed in the most recent available reporting year. We found that evidence of a stakeholder engagement processes or a project-level complaints mechanisms was missing in 24 out of 37 projects analysed (65%). In 16 cases (43%), neither a stakeholder engagement process nor a project-level complaints mechanism could be found.

This means either these processes or mechanisms are not in place at all, or if they are, then they cannot be found through online research and banks financing the projects are unable or unwilling to signpost them. While in some cases, banks assured us that mechanisms are in place, even if we could not find them and the bank could not signpost them (for example, ‘for reasons of client confidentiality’<sup>1</sup>), Equator Principles compliance cannot be taken on trust. In our view, these results call into question the level of compliance with the Equator Principles across the board.

As far as we know, this research represents the first time a systematic effort to assess the implementation of the EPs has been conducted. In a second stage of this research we plan to assess the quality of stakeholder engagement and grievance processes for a smaller set of projects.

1 For more information regarding our stance on banks’ client confidentiality requirements, see: [https://www.banktrack.org/download/we\\_are\\_unable\\_to\\_comment\\_on\\_specific\\_clients/191105weareunabletocomment.pdf](https://www.banktrack.org/download/we_are_unable_to_comment_on_specific_clients/191105weareunabletocomment.pdf)

## Requirements under the Equator Principles

The [Equator Principles \(EPs\)](#) are the finance sector’s risk management framework for determining, assessing, and managing environmental and social risks when financing large infrastructure projects. They are currently adopted by 108 financial institutions, including private sector banks and several national export credit agencies, known as [Equator Principles Financial Institutions \(EPFIs\)](#).

The EPs, in both EP3 and the recently finalised EP4, require under Principle 5 that all Category A and B projects have an ongoing process of effective stakeholder engagement with affected communities and other stakeholders. For projects with potentially significant adverse impacts on affected communities, Principle 5 requires that the project sponsor conduct an Informed Consultation and Participation process. Further, under Principle 6, they require all Category A projects and “as appropriate” Category B Projects, to establish a project-level grievance mechanism which is designed to receive and facilitate resolution of concerns and grievances about the project’s environmental and social performance.

### BankTrack’s engagement with the Equator Principles

BankTrack has continually [tracked the EPs](#) since their inception in 2003, engaging with the Equator Principles Association (EPA) on topics such as reporting, transparency and reviewing the Principles. In 2017, following the financing by Equator banks of the Dakota Access Pipeline project, BankTrack, together with a coalition of civil society groups and Indigenous organisations, launched the [Equator Banks, Act!](#) Campaign. The campaign was instrumental in bringing about process to update the EPs, which began in 2018 and resulted in the publication of EP4, which comes into force in October 2020. However, while EP4 contains marginal improvements compared to EP3, the overall outcome of the revision process did not meet civil society expectations, and failed to make significant progress towards protecting Indigenous peoples’ rights and combating climate change. Despite this disappointing outcome, we continue to monitor the implementation of the EPs with a focus on advocating for better outcomes from EP implementation in future.

Although the EPs require the establishment of project-level grievance mechanisms for high-risk projects financed ‘under Equator’, there are still no means by which project-affected people or their legitimate representatives can raise instances of alleged non-compliance by the EPFIs with the Equator Principles. We have [previously called](#) for an accountability mechanism for the Equator Principles at the level of the EPA, which an Operations Working Group within the EPA [is now considering](#).

Given this accountability gap and the wider lack of accountability in financing large infrastructure projects, it is important that community consultation processes and grievance mechanisms are in place and deliver effective results. Yet to date there has been very little systematic analysis of whether and how the EP requirements for stakeholder engagement and project-level grievance mechanisms are being met. This research represents our initial contribution towards providing that analysis.

## Methodology

For this paper we first identified all projects that were reported by EPFIs on the [EP website](#) as having been financed under the EPs with a financial close in the banks' most recent financial reporting year (ending in 2017/18).

We filtered this long list of projects to focus on those projects in what we consider to be high-risk sectors (fossil fuel extraction, infrastructure or power generation, hydropower and mining). We further filtered the list based on the [designation status](#) of the country of operation, to select those in 'non-designated countries' (those countries deemed not to have "robust environmental and social governance, legislation systems and institutional capacity designed to protect their people and the natural environment") and also designated countries which have particularly large populations of Indigenous peoples, such as Australia, Canada and the United States.

Through this process we identified a set of 37 Equator projects which are both in high-risk subsectors and in the selected geographies. For each of these projects we used online research to look for evidence of a process of stakeholder engagement and an operational-level grievance mechanism, as required by the EPs.

Where we found evidence of project-level grievance mechanisms, we investigated whether information regarding the number and types of grievances that have been lodged, and the outcomes of those grievances, was publicly available. While publication of this data is not required under the EPs, we consider it good practice to make this information available, as it improves the transparency and legitimacy of a grievance mechanism and also speaks to the effectiveness of the grievance mechanism in place.

We then contacted the 30 EPFIs that reported financing one or more of these projects to invite feedback or responses to the initial research, and in particular to signpost evidence of stakeholder engagement processes or grievance mechanisms that we had been unable to find. Of these banks, 17 (57%) responded with comments, while a further three banks (10%) responded without comments or to acknowledge receipt. Based on the feedback received, nine updates were made to the initial research ranging across all three criteria. The results of this research can be found in the table below. More detailed information can be found in the [annexed spreadsheet](#).

## Results

**Evidence of stakeholder engagement processes or project-level complaints mechanisms cannot be found in 24 out of 37 projects analysed (65%). In 16 cases (43%), neither a stakeholder engagement process nor a project-level complaints mechanism could be found.**

Of the 37 projects researched:

- 18 projects (49%) had a process of stakeholder engagement;
- 17 (46%) projects had a project-level grievance mechanism; and
- 7 projects (19%) had publicly reported on the numbers, types and outcomes of grievances.

The lowest level of evidenced compliance was in the hydropower sector. Out of the eight projects listed in the hydropower sector, six projects had no stakeholder engagement plan or project-level grievance mechanism. For the two projects in this sector where a grievance mechanism was found, neither have publicly reported any grievance management data. The oil and gas sectors are not much better. For the nine projects listed in the gas sector (not including LNG), five do not have a stakeholder engagement plan or a grievance mechanism. In the oil sector four projects out of six have no evidence of a grievance mechanism, and none have reported any grievance management data. In contrast, the mining sector projects we examined performed relatively well, with six out of seven projects having evidence of both a stakeholder engagement process and a grievance mechanism, although only two of those projects have publicly reported grievance management data.

There were 16 projects for which no evidence of stakeholder engagement processes or project-level grievance mechanisms was found. These projects are disproportionately located in non-designated countries. (13 out of these 16 'worst' projects are located in non-designated countries (80%), compared with 25 out of the 37 projects (67.5%) in the sample as a whole). However the picture in non-designated countries is not uniformly worse than in designated countries: of the six 'best' projects, where stakeholder engagement processes and project-level grievance mechanisms with evidence of outcomes were available, four were located in non-designated countries. Note that we have not assessed the quality of these processes at this stage (see 'Next steps' below).

For seven projects, EPFIs stated to us that there was a process of stakeholder engagement, a grievance mechanism or grievance management data available, however they were not public or could not be shared with us due to client confidentiality (these are marked in the table below with an asterisk (\*)). On the one hand, this highlights that, just because we have not found evidence that these processes are in place, does not mean that they have not been implemented at the local project level, without online documentation. On the other hand, stakeholders should not be asked to take EP implementation on trust, and for banks to be unable to provide evidence that the Principles they have signed up to are being met, for such a large number of projects, clearly represents a problem. For the Equator Principles to be effective, transparent and accountable, EPFIs need to publish sufficient information for each project to account for how they have met their commitments under the Principles.

## Examples

The 37 projects covered in this research include 15 power projects, mainly in the gas and hydropower sectors; 15 oil and gas extraction and infrastructure projects; and seven gold or copper mining projects.

The largest and best-known projects on this list also tend to have more information available on stakeholder engagement and grievance processes; for example, the enormous \$45 billion Southern Gas Corridor pipeline project from the Caspian and Middle East to southern Europe, and the [Trans Adriatic Pipeline](#) which forms a part of its route. Both these projects have evidence of stakeholder engagement processes and grievance mechanisms in place, with a record of grievance outcomes also available. We plan to consider the quality of these processes in a subsequent phase of this research.

Other well-known projects have information only partially available. These include the Coral South Floating LNG project in Mozambique, for which the Environmental Impact Assessment states, due to the project being located offshore, a public consultation was not deemed necessary. This is despite widespread concern and an ongoing [campaign](#) in Mozambique against LNG facilities located in this area. For another LNG project, Dominion Cove Point LNG, in the United States, we found no evidence of a project-level grievance mechanism despite the [numerous impacts](#) the project will have on the people of the Chesapeake Bay, such as worsening local air quality, impacting on the thriving tourism of the area, and threatening the network of rivers, wetlands and forests in the area.

For many of the projects where no evidence was found of stakeholder engagement being conducted or a grievance mechanism being in place, we often found that even the most basic information about the project could not be found. For example, no project websites and little other public information is available for the Seta River Cascade hydropower project in Albania, nor for two hydropower projects in Colombia; PCH Penderisco and PCH Hidronare. Other projects do have project websites, but still lack information on stakeholder engagement or grievance processes. A particularly worrying example is the Tujuh Bukit Gold Mine in Indonesia, as there have been recent [reports of attacks on land defenders](#) in this area which have been linked to the project sponsor, Merdeka Copper Gold. Given these disputes, an effective process of stakeholder engagement and a project-level grievance mechanism should be considered important, not just in order to comply with the EPs, but also to help resolve such land disputes.

## Next steps

Going forward, we plan to conduct more in-depth research into a smaller selection of projects from this list for a second briefing paper which will investigate (a) to what extent the stakeholder engagement that has been carried out for those projects is adequate, and (b) to what extent project-level grievance mechanisms which are in place under the EPs are effective.

Project name <sup>1</sup>	Sector	Project location	Country designation	Stakeholder Engagement found?	Grievance Mechanism found?	Outcomes of grievances available?	Category <sup>2</sup>	Banks financing <sup>3</sup>
Carioca FPSO Project	Oil	Brazil	Non-designated	No	No	N/A	Unknown	MUFG
ContourGlobal Hydro Cascade CJSC	Hydro	Armenia	Non-designated	Yes	Yes	No	Unknown	FMO
Cooper Energy Ltd	Oil	Australia	Designated with Indigenous Peoples	No	Yes	No	Unknown	ING, National Australia Bank
Coral South (F)LNG	LNG	Mozambique	Non-designated	No*	Yes	Yes	Unknown	ABN AMRO, BNP Paribas, Crédit Agricole, CIB, HSBC, Natixis, Société Générale, Standard Bank, SMBC, Unicredit SpA
Corpus Christi LNG	LNG	United States	Designated with Indigenous Peoples	Yes	Yes	Yes	Category B	National Australia Bank, Wells Fargo, Royal Bank of Canada, CIBC, BBVA, Standard Chartered, Société Générale, KfW IPEX-Bank, ING, Citigroup, Banco Sabadell
Dalgaranga Gold Project	Gold mining	Australia	Designated with Indigenous Peoples	Yes	Yes	No	Category A	National Australia Bank
Dominion Cove Point LNG	LNG	United States	Designated with Indigenous Peoples	Yes	No	N/A	Unknown	Citigroup
Duqm Refinery	Oil	Oman	Non-designated	Yes	Yes	No	Unknown	Intesa Sanpaulo SpA, Natixis, Société Générale
Freeport HoldCo FLEX	LNG	United States	Designated with Indigenous Peoples	No	No	N/A	Category B <sup>4</sup>	Royal Bank of Canada
Fruta del Norte	Gold mining	Ecuador	Non-designated	Yes	Yes	Yes	Category A	KfW IPEX-Bank, Natixis, Société Générale, ING
Gokirmak Copper Project (Acacia Maden Isletmerleri)	Copper mining	Turkey	Non-designated	Yes	Yes	No	Category A	ING, Société Générale
Gruyere Gold Project	Gold mining	Australia	Designated with Indigenous Peoples	Yes	Yes	Yes	Category A	National Australia Bank
Iona Gas Storage Facility	Gas	Australia	Designated with Indigenous Peoples	Yes	No	N/A	Unknown	MUFG
Jawa 1	LNG	Indonesia	Non-designated	Yes	Yes	Yes	Category A	Société Générale
Kasleti 2 LLC	Hydro	Georgia	Non-designated	No	No	N/A	Category B	FMO
Marigold I (RAPID Refinery + Petrochem)	Oil	Malaysia	Non-designated	Yes	No*	N/A	Category A	ANZ
Medco Refinancing 2018	LNG	Indonesia	Non-designated	No*	No*	N/A	Unknown	Crédit Agricole
Mina Justa Copper Mine	Copper mining	Peru	Non-designated	Yes	Yes	No*	Category A	Crédit Agricole, Export Development Canada, Natixis, KfW IPEX-Bank, Société Générale, BBVA

Project name <sup>1</sup>	Sector	Project location	Country designation	Stakeholder Engagement found?	Grievance Mechanism found?	Outcomes of grievances available?	Category <sup>2</sup>	Banks financing <sup>3</sup>
Nachtigal Hydropower Plant	Hydro	Cameroon	Non-designated	Yes	Yes	No	Category A	FMO, Standard Chartered, Société Générale
Ngodwana Energy	Biomass	South Africa	Non-designated	No	No	N/A	Unknown	Absa Group, Nedbank
NRG Canal 3	Gas	United States	Designated with Indigenous Peoples	Yes	Yes	No	Unknown	Natixis
Oksut Gold Project	Gold mining	Turkey	Non-designated	Yes	Yes	No	Category A	Unicredit SpA
PCH Aguas de la Santa Maria	Hydro	Colombia	Non-designated	No	No	N/A	Unknown	Bancolombia
PCH Hidronare	Hydro	Colombia	Non-designated	Unknown	Unknown	N/A	Unknown	Bancolombia
PCH Penderisco	Hydro	Colombia	Non-designated	Unknown	Unknown	N/A	Unknown	Bancolombia
Pemcorp Project	Gas	Mexico	Non-designated	No	No	N/A	Unknown	Natixis, Korea Development Bank
Petroperu	Oil	Peru	Non-designated	Yes	No*	N/A	Category B	Banco Sabadell
Rio Verde Chico Hydroelectric Power Plant	Hydro	Ecuador	Non-designated	Unknown	Unknown	N/A	Category B	CIFI
Seta River Cascade	Hydro	Albania	Non-designated	Unknown	Unknown	N/A	Unknown	Société Générale
South Field Energy	Gas	United States	Designated with Indigenous Peoples	No	Yes	No	Unknown	Crédit Agricole, National Australia Bank
Southern Gas Corridor	Gas	Azerbaijan	Non-designated	Yes	Yes	Yes	Category A	Citigroup
St. Joseph Energy Center, LLC	Gas	United States	Designated with Indigenous Peoples	No	No	N/A	Unknown	E.SUN
Tierra Mojada	Gas	Mexico	Non-designated	No*	No*	N/A	Category B	Banco Sabadell
Trans Adriatic Pipeline	Gas	Albania	Non-designated	Yes	Yes	Yes	Category A	Société Générale, Standard Chartered, Unicredit, Intesa Sanpaulo, Korea Development Bank, Natixis, Caixabank, Crédit Agricole
Tujuh Bukit Gold Mine	Gold mining	Indonesia	Non-designated	No*	No*	N/A	Category A	Crédit Agricole
Westport Oil Limited (Eland Oil & Gas PLC)	Oil	Nigeria	Non-designated	No	No	N/A	Unknown	Standard Bank
York Energy Center	Gas	Canada	Designated with Indigenous Peoples	No	No	N/A	Category A	Royal Bank of Canada

- Note that project names reported by EP banks vary. We have attempted to use the official or most recognised project name.
- According to EPFI documentation.
- Only EPFIs that disclosed their finance for the project on the EPA website are listed. Other EPFIs may have financed without disclosing, and non-EPFIs may have also financed these projects.
- Updated on 17/08/2020 following feedback from an EPFI.

In some instances, here marked with an asterisk (\*), we received a response from an EPFI(s) to confirm that there was a grievance mechanism or process of stakeholder engagement in place, however no link was provided for us to find more information about it. Due to no link being provided, we have marked this down as having no evidence.

To see the more information regarding these results, see Annex 1: [https://www.banktrack.org/download/annex\\_1\\_ephr\\_initial\\_research\\_briefing](https://www.banktrack.org/download/annex_1_ephr_initial_research_briefing)