

A large dam with multiple spillways, with water flowing through them. The dam is made of concrete and has several yellow buildings on top. The water is dark and turbulent as it flows over the spillways. The sky is blue and the background shows a body of water.

BANKTRACK

**“Trust Us,
We’re Equator Banks”**

Part II: the adequacy and effectiveness of grievance mechanisms and stakeholder engagement under the Equator Principles

November 2020

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Cover image: Adapted from Dasan Bobo, World Bank (Proposed Nachtigal hydropower project)

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1. Summary

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

This research, alongside our previous briefing paper [“Trust Us, We’re Equator Banks”: Part I](#), represents BankTrack’s contribution towards providing a systematic analysis of whether and how the Equator Principles requirements for stakeholder engagement and project-level grievance mechanisms are being met. We have conducted in-depth research into nine projects, seven of which are taken from our previous briefing paper and two of which are projects financed under the EPs in earlier years which have been the focus of recent BankTrack campaign efforts. We investigated (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 in place under the EPs are effective.

“...project sponsors failed to provide adequate assessment documentation to affected stakeholders for seven out of the nine projects analysed, a requirement under Principle 5 of the EPs”

The results of this research highlight a number of problems regarding compliance with the EPs on the ground.

Regarding stakeholder engagement, project sponsors failed to provide adequate assessment documentation to affected stakeholders for seven out of the nine projects analysed, a requirement under Principle 5 of the EPs. In addition, in at least five cases, local communities report feeling dissatisfied with the consultation process and view stakeholder meetings as failing to provide an adequate forum for raising concerns.

Regarding grievance mechanisms, we found evidence of a mechanism for six out of the nine projects analysed, and publicly available grievance management data such as numbers, types and outcomes of grievances for four projects. However, we found that in many cases, project-level grievance mechanisms are not actually being used by affected stakeholders. We found reports of local communities not knowing about mechanisms, and of projects where distrust in the project sponsor results in communities not trusting the mechanism to bring about effective resolutions. For seven out of the nine projects analysed, we found no detailed information on the grievance mechanism itself or the process of how to file a complaint, making it difficult to assess the mechanism’s effectiveness and calling into question compliance with the EPs.

Based on our analysis of the nine case studies in this paper, this paper provides six recommendations for how the Equator Principles Association (EPA) and Equator Principles Financial Institutions (EPFIs) can address the issues identified and improve overall compliance with the Principles on the ground:

- 1.** Require consent from clients for project name disclosure as part of loan agreements
- 2.** Publish a Compliance Report to show how projects are meeting EP requirements
- 3.** Invest in ensuring clients do stakeholder engagement well
- 4.** Ensure project-level grievance mechanisms are not just in place, but effective
- 5.** Establish an initiative-level Accountability Mechanism for the Equator Principles
- 6.** De-list EPFIs that persistently fail to comply with the EPs

These recommendations are elaborated at the end of this paper.

2. Introduction

The [Equator Principles](#) (EPs) are a risk management framework, created and adopted by financial institutions, for determining, assessing and managing environmental and social risks in financing projects. Currently, 111 Equator Principles Financial Institutions (EPFIs) in 37 countries worldwide have officially adopted the EPs. While the EPs are voluntary standards, EPFIs commit themselves to implement the EPs in their internal environmental and social policies, procedures, and standards for financing projects. According to the Principles, an EPFI will not provide financial services where the client will not, or is unable to, comply with the EPs.

Despite banks' commitments under the Principles, which according to the preamble of the Principles include commitments to 'respect human rights', 'support the objectives of the Paris Climate Agreement' and to 'support conservation', EPFIs have continued to finance problematic projects under the EPs. For example, violations to Indigenous rights were committed in the development of both the [Dakota Access Pipeline](#) (see further details below) and the [Agua Zarca Hydro Project](#). Equator banks also continue to finance fossil fuel expansion, such as the [Cirebon 2 Coal Power Plant](#) (see further details below).

BankTrack has continually [tracked the EPs](#) since their inception in 2003 and we continue to see [several shortcomings in the EPs](#). There continue to be problems with transparency and reporting: EPFIs can hide behind the requirement for client consent to avoid project name reporting; and project names that are reported are done so in a way that makes searching difficult. In addition, the EPs maintain the arbitrary distinction between 'designated' and 'non-designated' countries, which allows EPFIs to rely on host country law in designated countries, even where requirements under such laws have been loosened – a reality which has been highlighted by the [Covid-19 pandemic and relaxing of regulatory regimes for social and environmental review in the US](#).

A new version of the Principles (EP4), which came into effect on 1st October 2020, contained some improvements, but failed to tackle key problems. Despite including a commitment to "support the objectives of the Paris climate agreement", EP4 does not include a single requirement that would exclude finance for projects that severely endanger the Paris goals, including high climate-impact projects such as coal power plants. EP4 also falls short of a clear commitment to uphold Indigenous Peoples' rights, including their right to Free, Prior and Informed Consent (FPIC). Additionally, there remains no formal method of tracking the implementation of the Principles on the ground or holding banks accountable for non-compliance at the level of the EPA.

In this briefing paper, BankTrack focuses on nine specific projects financed under the Equator Principles to assess whether processes of stakeholder engagement and project-level grievance mechanisms are in place and effective. This follows our previous briefing paper, ["Trust Us, we're Equator Banks": Part I](#) (August 2020), which reviewed a selection of 37 projects financed 'under Equator' with financial close in 2017/18, focusing on high-impact projects financed in the most recent available reporting year. Our aim for both papers is to investigate on-the-ground implementation of the Principles, identifying good and bad practices, and advocate for better implementation for all existing projects as well as new projects financed under EP4.

Project name	Location	Sector	Country designation	Stake-holder Engagement found?	Grievance mechanism found?	Outcomes of grievances available?	Categorisation by EPFIs
Coral South FLNG	Mozam- bique	Oil and Gas Extraction	Non-designated	No ¹	Yes	Yes	Unknown (assumed A)
Corpus Christi LNG	United States	Oil and Gas Extraction	Designated with Indigenous Peoples	Yes	Yes	Yes	Category B
Dominion Cove Point LNG	United States	Oil and Gas Extraction	Designated with Indigenous Peoples	Yes	No	N/A	Category B
Fruta del Norte Mine	Ecuador	Mining	Non-designated	Yes	Yes	Yes	Category A
Nachtigal Hydropower	Cameroon	Hydropower Electric Generation	Non-designated	Yes	Yes	No	Category A
Trans Adriatic Pipeline	Albania, Greece, Italy	Oil and Gas Transportation Infrastructure	Non-designated (Albania) & designated (Greece, Italy)	Yes	Yes	Yes	Category A
Westport Oil Limited	Nigeria	Oil Extraction	Non-designated	No	No	N/A	Unknown
Cirebon 2 Coal Power Plant	Indonesia	Coal Electric Power Generation	Non-designated	Yes	Yes	No	Category A
Dakota Access Pipeline	United States	Oil and Gas Transportation Infrastructure	Designated with Indigenous Peoples	Yes	No	N/A	Category A

¹ We received a response from an EPFI to confirm that there was a 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.

2.1 Requirements under the Equator Principles

Under Principles 5 and 6, the EPs 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 and legitimate interests of local communities, and that channels are available for those communities to raise concerns and seek remedy for adverse impacts.

In both EP3 and the recently implemented EP4, Principle 5 requires that, for all Category A and B projects, “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, [Workers] and, where relevant, Other Stakeholders.”² Where projects have “potentially significant adverse impacts on Affected Communities” the EPFI must require the client to “conduct an Informed Consultation and Participation process”. The EPs refer to numerous factors which project sponsors should consider when conducting stakeholder engagement, including language preferences of affected communities, disadvantaged or vulnerable groups and the project’s phase of development. The Principles also require that project sponsors “make the appropriate Assessment Documentation readily available to the Affected Communities, and where relevant Other Stakeholders, in the local language and in a culturally appropriate manner”.

Under Principle 6, the EPs require all Category A projects and “as appropriate” Category B projects, to “establish a grievance mechanism designed to receive and facilitate resolution of concerns and grievances about the Project’s environmental and social performance”. The Principles reference some performance criteria, such as the mechanism being an “understandable and transparent consultative process”, it must be “culturally appropriate, readily accessible, at no cost, and without retribution to the party that originated the issue or concern”. Finally, the Principles state that the project sponsor must “inform the Affected Communities [and Workers] about the mechanism in the course of the Stakeholder Engagement process”.³

2.2 BankTrack’s engagement with the Equator Principles

In 2017, following the financing by Equator banks of the [Dakota Access Pipeline](#) project, a coalition of civil society groups and Indigenous organisations, led by BankTrack, launched the “[Equator Banks, Act!](#)” campaign. The campaign was instrumental in bringing about the process to update the EPs, which began in 2018 and resulted in the newest iteration of the Principles – EP4 – which came into effect on 1st October 2020. However, while EP4 contains marginal improvements⁴ compared to EP3, the overall outcome of the revision process [did not meet civil society expectations](#) and failed to ensure that EPFIs protect Indigenous peoples’ rights and combating climate change. Despite this disappointing outcome, the EPs continue to be the global standard banks use to manage risks when financing projects, and BankTrack continues to monitor the implementation of the EPs with a focus on advocating for better outcomes from EP4 implementation.

2 The word ‘Workers’ was added under EP4

3 The word ‘Workers’ was added under EP4

4 For example, under Principle 3 EP projects in designated countries may be required to satisfy all EP standards, even where they exceed requirements of local law. Also, small improvements to EPFI reporting requirements have been included, such as encouraging project name reporting for Project-Related Corporate Loans and a new provision which seeks to promote consistency in project name reporting where client consent is obtained.

An important requirement under the EPs is stakeholder engagement, a critical process that facilitates the involvement of affected stakeholders, including women, children, and Indigenous peoples, in the development of any high-risk project. In 2017, BankTrack published reports analysing two Equator projects – the [Trans Adriatic Pipeline](#) and the [Cirebon 2 Coal Power Plant](#) – which highlighted how these projects are non-compliant with the minimum social and environmental standards established by the EPs. In both cases, they found issues with the stakeholder engagement conducted by the project sponsors (see case studies below for more details).

The consultation process is supposed to ensure that community rights and interests are incorporated into the development and design of the project. However, any large infrastructure project will face concerns and complaints from those affected by the project, which is why such projects are also required to have a grievance mechanism in place.

Although the EPs require the establishment of project-level grievance mechanisms for high-risk projects financed ‘under Equator’, there is 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. While project-level grievance mechanisms are important and will in some circumstances be better able to deliver effective remedy due to their proximity to the community, they can often lack the independence necessary for stakeholders to trust the mechanism, as our research confirms. BankTrack has [previously called](#) for an accountability mechanism for the Equator Principles at the level of the EPA, and an Operations Working Group within the EPA is [now considering](#) this.

The gaps in the implementation of the EPs and their accountability reflect the wider lack of accountability in the financing of large infrastructure projects around the world. Despite the importance of community consultation processes and grievance mechanisms for communities, there has been very little systematic analysis of whether and how the EP requirements are being met in relation to these at a project level. This research, alongside our previous briefing paper [“Trust Us, we’re Equator Banks”: Part I](#), represents our contribution towards providing this analysis.

2.3 Briefing Paper: “Trust Us, We’re Equator Banks”: Part I

The first instalment of our research project, [published in August 2020](#), 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 process or a project-level complaints mechanism 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. While it is possible that these were in place, the fact that banks could not provide evidence of them calls into question the extent to which the EPs are actually being adhered to on the ground.

This paper represents the second instalment of our research on this topic. We have conducted in-depth research into seven projects from the previous list of 37, and a further two projects which were financed under the EPs in earlier years (2016/17). We investigated (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 in place under the EPs are effective.

3. Methodology

For this paper, we selected for further analysis a subset of projects from the list of 37 projects financed ‘under Equator’ used for the first briefing paper. These 37 projects were all reported as financed by EPFIs with a financial close in the most recent year for which data was available (2017/18).

The subset of seven projects selected from this list includes projects from each of the sectors covered (oil, gas, hydropower, and mining). The projects are located in both ‘designated’ and ‘non-designated’ countries.⁵ It is important to note that we have not sought to select particularly problematic projects. Rather, the projects represent a range of levels of evidence of EP compliance found in our first paper – from projects such as the Trans-Adriatic Pipeline (TAP), which fulfil all three criteria (evidence of a stakeholder engagement process, evidence of a project-level grievance mechanism, and public grievance management data available) to others such as Westport Oil, which fulfil none of the criteria.

We also included two case studies of projects financed ‘under Equator’ in previous years which have been the focus of recent BankTrack campaign efforts – the Dakota Access Pipeline in the United States and the Cirebon 2 Coal Power Plant in Indonesia.

The projects covered as case studies in this paper are:

1. **Coral South FLNG** (Mozambique, Oil and Gas Extraction), [see page 13](#)
2. **Corpus Christi LNG** (US, Oil and Gas Extraction), [see page 17](#)
3. **Dominion Cove Point LNG** (US, Oil and Gas Extraction), [see page 20](#)
4. **Fruta del Norte** (Ecuador, Mining), [see page 23](#)
5. **Nachtigal Hydropower** (Cameroon, Hydropower Electric Generation), [see page 26](#)
6. **Trans Adriatic Pipeline (TAP)** (Albania, Greece, Italy, Oil and Gas Transportation Infrastructure), [see page 31](#)
7. **Westport Oil Limited** (Eland Oil & Gas PLC) (Nigeria, Oil Extraction), [see page 35](#)
8. **Cirebon 2 Coal Power Plant** (Indonesia, Coal Electric Power Generation), [see page 36](#)
9. **Dakota Access Pipeline (DAPL)** (US, Oil and Gas Transportation Infrastructure), [see page 39](#)

For each of these projects, we used online research, together with any information provided by banks in the previous phase, to identify details of the process of stakeholder engagement and the project-level grievance mechanism. We also contacted individuals and organisations from civil society with knowledge of these projects to collect additional details and to understand the effectiveness of these processes and mechanisms from a stakeholder perspective.

We have noted for each project the EPFIs which have reported financing the project on the EP website, and the EPFIs which financed the project but did not disclose this, by cross-checking with data disclosed on financial databases for each project. See also our [EP project name database](#) to easily search which banks have reported financing which projects under the Principles.

⁵ A designated country, usually high income OECD-member countries, is presumed to have “robust environmental and social governance, legislation systems and institutional capacity designed to protect their people and the environment”, whereas non-designated countries are presumed to lack such systems. For more detail, see the EP website: <https://equator-principles.com/designated-countries/>

On the basis of this research, we evaluated stakeholder engagement and grievance processes against the requirements outlined in the EPs. Regarding stakeholder engagement, we looked for specific assessment documentation, such as Stakeholder Engagement Plans, which detailed the process of consultation. Where relevant, we searched for evidence of an Informed Consultation and Participation process, and where Indigenous communities were affected, we looked for evidence of a process to ensure Free, Prior and Informed Consent (FPIC). Additionally, we looked for evidence of whether assessment documentation had been made available to affected communities and whether the project sponsor had documented the outcomes of the engagement process.

Regarding grievance mechanisms, we searched for details of how the grievance mechanism worked, for example how individuals or communities could file a complaint, an expected timeline for the process of dealing with a complaint, and some indication of the possible outcomes of the process. We used the effectiveness criteria for non-judicial grievance mechanisms outlined in the UN Guiding Principles on Business and Human Rights ([UNGPs](#)) to help analyse the effectiveness of project-level grievance mechanisms. We also searched for grievance management data such as the number and types of grievances that had been lodged, and the outcomes of those grievances.

What are the UNGP effectiveness criteria?

Principle 31 of the [UNGPs](#) sets out the effectiveness criteria for non-judicial grievance mechanisms. They provide a benchmark for assessing a non-judicial grievance mechanism to help ensure that it is effective in practice. The criteria include legitimacy, accessibility, predictability, equitability, transparency, being rights-compatible, and a source of continuous learning. In addition, operational-level mechanisms should be based on engagement and dialogue with stakeholder groups.

4. Results

With regards to stakeholder engagement, we found some evidence that engagement had been carried out for seven out of nine projects analysed. For some projects, such as the Trans-Adriatic Pipeline (TAP), the projects sponsor provided detailed information regarding the process of consultation and its outcomes. In other cases, such as Fruta del Norte and Nachtigal Hydropower, there was evidence of a process of stakeholder engagement, but much less detail was available online from the project sponsor.

We identified a number of problems regarding compliance with Principle 5 of the EPs on stakeholder engagement. A recurring problem is that assessment documentation, such as Stakeholder Engagement Plans or Livelihood Restoration Plans, which detail the process of stakeholder engagement and the outcomes from any consultations, have not been made available online or to affected stakeholders. Seven out of the nine projects analysed did not have detailed Stakeholder Engagement Plans available online. For example, local communities and organisations have been unable to access the full environmental and social impact studies for the Nachtigal hydropower project, including the resettlement and compensation action plans. Whilst some information on stakeholder meetings and community engagement was available on the project websites of a number of the projects analysed, they did not provide an adequate level of detail to understand the whole process and its outcomes.

We found that local communities often viewed community consultation as unsatisfactory and stakeholder meetings as providing an inadequate forum for them to raise concerns. For example, communities located along the route of TAP report that TAP AG has often been high-handed and unwilling to listen during consultations. According to local communities and other stakeholders affected by the Nachtigal hydropower project, the consultation meetings conducted by the company were often threatening environments where individuals felt unable to raise their concerns. NGOs report that information on the Fruta del Norte mine was only addressed to certain groups rather than the entire affected or interested population and that spaces were not provided so that all groups who are affected by the project could freely express their opinion and dissent to the project.

With regards to project-level grievance mechanisms, we found evidence of such a mechanism for six out of the nine projects analysed. Of those projects with project-level grievance mechanisms, four have some publicly available grievance management data, such as numbers, types, and outcomes of grievances. However, we found no detailed information on the grievance mechanism or the process of how to complain for seven out of the nine projects analysed.

“...we found no detailed information on the grievance mechanism or the process of how to complain for seven out of the nine projects analysed”

From the available evidence, some project level grievance mechanisms are not being widely used by communities, even amidst widespread concerns. For example, for Nachtigal hydropower, our research suggests that local communities did not know that the grievance mechanism existed. In this instance, communities and individuals affected by the dam project have complained directly to the company developing the project, but they have never been directed to use the formal complaints mechanism.

Other project sponsors do publish information indicating their grievance mechanisms have been used. Cheniere Energy, the company developing the Corpus Christi LNG facility, reported receiving 68 concerns in 2018 and 59 in 2019. Eni, the company developing the Coral South FLNG facility, also provides extensive grievance management data on its website. However, in both cases, it is unclear how many of the grievances reported are specifically related to the projects analysed.

TAP's project-level grievance mechanisms are the most widely used of those we researched, according to the grievance management data provided by the company. The company has mechanisms in each of its three host countries of Greece, Italy and Albania. It reports that 663 grievances have been filed at its Albanian grievance mechanism. However considerably fewer – only 43 – were filed at the Italian mechanism. According to NGOs working on the project, the reason for this is due to a lack of trust between local communities and the company, TAP AG.

With regard to overall availability of information, the Westport Oil Limited project performed particularly poorly, with no clear information about the project available online. Standard Bank, the former chair of the EPA, reported project finance for “Westport Oil Limited (Eland Oil & Gas PLC)” on the EP website, but we could not confirm to which project this relates. We were unable to find evidence of any process for stakeholder engagement, nor of a project-level grievance mechanism, for any Westport Oil Limited or Eland Oil & Gas operations. This represents a more general problem with EP reporting, showing that project name reporting alone can be insufficient to make clear which project is being financed.

With regard to transparency of bank reporting, we found a considerable number of EPFIs that did not disclose their loans to the projects analysed. The worst disclosure found was for the two US LNG projects, Corpus Christi LNG and Dominion Cove Point LNG, for which 13 out of 26 EPFIs (50%) and nine out of 11 EPFIs (82%) respectively did not disclose their lending on the

EP website. For the Fruta del Norte project, two out of six EPFIs (33%) did not disclose their financing, and for the Dakota Access Pipeline, three out of 11 EPFIs (27%) did not disclose. The highest level of disclosure was for the Nachtigal hydropower project, with all three EPFIs disclosing financing. The EPFIs with the lowest levels of disclosure within this set of projects are JP Morgan and Scotiabank, which both failed to disclose financing of any of the projects analysed, despite being listed by financial databases as financing at least three separate projects.

“...EPFIs with the lowest levels of disclosure within this set of projects are JP Morgan and Scotiabank, which both failed to disclose financing of any of the projects analysed...”

5. Case Studies

5.1 Coral South FLNG

Country designation	Stakeholder Engagement found?	Grievance mechanism found?	Outcomes of grievances available?	Categorisation by EPFIs
Non-designated	No	Yes	Yes	Unknown (assumed A)

Results from [“Trust Us, We’re Equator Banks”: Part I](#)

Location: Rovuma Basin, off the northern coast of Mozambique

Sector: Oil and Gas Extraction, LNG

Project Summary

The Coral South Floating LNG project involves producing and selling gas from the southern part of the Coral gas field off the coast of Northern Mozambique, using a floating plant for liquefying natural gas. It is a large-scale midstream infrastructure project consisting of six subsea wells, pipelines, and a floating unit for liquefying and exporting gas. It is located in Area 4 of the Rovuma Basin and is being developed by Italy-based oil company Eni and US-based oil company Exxon. In September 2015, Coral South was the first project in the Rovuma Basin to be granted an environmental license, “following due diligence by local communities and national authorities” [according to Eni](#). Eni [expects](#) it to have a capacity of about 3.4 million tonnes of LNG per year and it is expected to be operational in 2022.



*Fisherfolk off the coast of Palma near the gas development.
Credit: Kate De Angelis*

The project is located in the same area as the USD 20 billion [Mozambique LNG project](#) which is extracting gas in Area 1 of the Rovuma basin, and the Rovuma LNG project which is extracting gas from the Mamba gas field in Area 4.

Negative impacts and risks

The infrastructure needed for the Coral South FLNG project will have several adverse impacts on the environment and fishing communities of Mozambique. There will be an increase in vessel traffic which results in noise and light emissions, and can also negatively impact water quality, marine fauna, fishing, and migratory and seabirds. It also increases the risk of vessel collision which could result in diesel oil being spilled into the marine

6 We received a response from an EPFI to confirm that there was a 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.

environment, impacting on local fisherfolk.⁷ Additionally, LNG development in the Cabo Delgado province (which includes the Coral South FLNG, Mozambique LNG and Rovuma LNG projects) will have devastating effects on the surrounding region, including the Quirimbas Biosphere, which has a wide diversity of [endangered and imperilled animals](#). It will cause habitat degradation, noise, and ship strikes will force species, such as humpback and sei whales, to leave the area. The floating LNG technology is still relatively new and is considered by the [Oxford Institute for Energy Studies](#) to have a high project risk.

There are also increasing security concerns in the Cabo Delgado province which are linked to these gas developments. Amnesty International [reports increasing attacks](#) being carried out against the media, with an [unprecedented attack](#) against a Mozambican independent weekly newspaper, Canal de Moçambique, occurring in August 2020. Amnesty International also [reports that evidence is mounting](#) of alleged state-sponsored human rights violations by Mozambican government soldiers. These attacks are separate from the [Islamic insurgency](#) that has killed at least 100 civilians and displaced more than 200,000 local residents since 2017. These security risks pose significant financial and reputational risks for those involved in any of the gas development projects in the region.

Financing

The project reached [financial close](#) in 2017 for a total amount of USD 4.68 billion. Crédit Agricole acted as financial advisor to Eni for the project.

Financing	
EPFIs that disclosed lending	ABN AMRO; BNP Paribas; Crédit Agricole; HSBC; Natixis; Société Générale; Standard Bank; SMBC; Unicredit
EPFIs that did not disclose lending	Korea Development Bank
Other FIs	Bank of China; China Exim Bank; Export-Import Bank of Korea; ICBC; Millennium BCPUBI Banca

Source: IJGlobal⁸, bank reporting on [equator-principles.com](#) (also see BankTrack's [searchable database](#))

Stakeholder engagement

Eni has conducted a “Public Participation Process”, details of which can be found in the [Environmental Impact Assessment](#). In 2014, during the Environmental Pre-feasibility and Scope Definition Study (EPDA) phase, the company conducted three consultation meetings in the Cabo Delgado and Maputo provinces (Palma town, Pemba city and Maputo city). Following these consultations and an analysis of the area of influence of the project, Eni states that the project is unlikely to have a direct influence on Palma Town and surrounding communities due to it being more than 50km from the coast. Therefore, no further public consultation was conducted. Instead, only an information meeting was held in Palma Town which was aimed at keeping the district government informed about the project development. The EIA states that by not conducting a public consultation

7 These impacts are outlined in Eni’s “Environmental Impact Assessment”, which can be accessed here: https://www.banktrack.org/download/environmental_impact_assessment_process_for_the_floating_liquefied_natural_gas_project/eis_volume_ii_en_final_report.pdf

8 Accessed 06/10/2020

it avoids “unreasonable expectations regarding the project and its impacts on local communities and the environment.”

The decrease in marine life resulting from the development of this project will mean that fishing, the major means of livelihood for many of the surrounding communities, will no longer be possible. Friends of the Earth (FoE) US and Justiça Ambiental! (FoE Mozambique) report that there has been little to no proper consultation by the company with the communities, and they claim that the consultation that has happened is compromised by internal corruption within the company and hostility between communities, the company and the government.

Following the publication of the Environmental Impact Assessment, in 2015 Eni held a further three consultation meetings. In addition, 14 focus groups were held in fishing communities along the coast of Palma District due to concerns regarding potential impacts on fisheries and coastal communities which had been raised during the EPDA phase.

A [2016 FoE US report](#) outlines a number of issues the wider Mozambique LNG project poses for Mozambican communities. It reports that there is a lack of information and transparency about the project and the decision-making processes of the companies and government officials involved in gas development in the area. FoE US reports that the government further filters that information, meaning that communities are left even more in the dark. Additionally, despite locals believing that many would receive high paying jobs from the gas developments in the area, the company developing Coral South FLNG seem to prefer to hire individuals from outside of the area, even when locals are capable of performing the duties. Where locals have been hired, they have been paid less, and some have not been put to work at all, apparently because they were only hired as part of the project’s public relations exercise. This has contributed to a breakdown of trust between the company and local communities.

Grievance Mechanism

We found no evidence of a project-level grievance mechanism in line with the requirements under the EPs. Eni has [established](#) a company-level grievance mechanism to “receive, recognise, classify, investigate, respond and resolve complaints in a timely, planned and respectful manner”. In addition, in some communities there are community representatives who aim to prevent potential grievances through “continuous listening to the members of communities”. The project website also includes [grievance management data](#) which shows how many complaints were received in 2019, how many had been resolved and closed, and the primary issues raised.

However, the website does not explain how an individual can file a complaint and there are no further details on what the process or potential outcomes of the mechanism could be. It is unclear whether details of the grievance mechanism have been disseminated among affected communities or if the information is available in local languages. This suggests that the grievance mechanism does not meet the UNGP effectiveness criteria, for example on accessibility. There are also no details on how many of the complaints received by the company-level grievance mechanism are specifically related to the Coral South FLNG project.

Conclusion

The company has demonstrated that it has engaged with communities, including fishing communities. Whilst Eni states that, due to the project being located offshore, there will be no direct impact on local communities, there is evidence of issues with stakeholder engagement posed by this project and the wider LNG projects located in the region which should be addressed by the company. Impacts on fishing and the development of a number of LNG facilities in this area will undoubtedly affect all local communities, and therefore the process of stakeholder engagement should be more detailed, covering all potentially affected communities.

Furthermore, there is no project-level grievance mechanism in place in line with the requirements under the EPs. Eni has set up a company-level grievance mechanism and publicly reports on the number and type of grievances received. However, it is unclear how many of these grievances are related directly to the Coral South FLNG project. Finally, details on the functioning of Eni's grievance mechanism are not available, and it remains unclear as to whether this information has been effectively disseminated amongst affected communities.

5.2 Corpus Christi LNG

Country designation	Stakeholder Engagement found?	Grievance mechanism found?	Outcomes of grievances available?	Category
Designated with Indigenous Peoples	Yes	Yes	Yes	Category B

Results from [“Trust Us, We’re Equator Banks”: Part I](#)

Location: Corpus Christi Bay, San Patricio County, Texas, United States

Sector: Oil and Gas Extraction, LNG

Project Summary

Corpus Christi Liquefaction, LLC, a subsidiary of Texas-based Cheniere Energy, is developing and constructing an LNG export terminal at its existing Corpus Christi LNG site. The initial two stages of the project consist of three ‘trains’, or units for gas liquefaction, with expected production capacity of up to 13.5 million tonnes of LNG per year. The third of these trains is under construction and [Cheniere expects](#) it to be completed in 2021. A third stage will add a further seven mid-scale LNG trains by 2024.

Negative impacts and risks

The [Environmental Impact Assessment](#) of the Corpus Christi LNG facility states that construction and operation of the terminal will “result in the permanent loss and conversion of disturbed coastal grasses and scrub/shrub habitats which would result in the permanent relocation of wildlife and an increase in stress, injury, and/or mortality”. LNG ships could strike and kill marine animals, which are drawn to these types of channels for heat and to adjacent shallow habitats for foraging and shelter. The Texas Parks and Wildlife Department notes in the EIA that sea turtles may become cold-stunned as a result of the project.

Cheniere Energy claims that the impacts of the project are not significant, and they have taken some steps to minimise the impacts, however the US-based civil society organisation Rainforest Action Network (RAN) [argues](#) that the terminal, as with many other LNG terminals in the US and globally, will disturb land and water and emit a significant amount of pollution. Air and water pollution have a negative impact on public health, causing respiratory diseases such as emphysema and bronchitis, and harmful chemicals emitted from LNG facilities can worsen asthma and is linked to heart and lung problems.

Cheniere Energy is also building a pipeline that would travel 23 miles to connect the Corpus Christi terminal to other intrastate and interstate pipelines. New pipelines and increased usage of existing pipelines to support LNG export pose safety concerns across the impacted areas.

Financing

The total investment needed for the first two stages of the project (trains 1 – 3) is [estimated](#) to be USD 15 billion. The first two LNG trains were financed through USD 8.4 billion of debt and USD 3.1 billion of equity. The debt financing was provided by 31 commercial banks and other financial institutions.

Financing

EPFIs that disclosed lending	Banco Sabadell; Banco Santander; BBVA; CIBC; Citigroup; ING; KfW IPEX-Bank; MUFG; National Australia Bank; Royal Bank of Canada; Société Générale; Standard Chartered; Wells Fargo
EPFIs that did not disclose lending	ABN AMRO; Bank of America; CaixaBank; Commonwealth Bank of Australia; Credit Suisse; HSBC; Intesa Sanpaolo; JP Morgan; Korea Development Bank; Lloyds; Mizuho; Scotiabank; SMBC
Other FIs	Apple Bank for Savings; Bank of China; China Merchants Bank; CIC Bank; CIT Group; DBS Bank*; FirstBank Puerto Rico; Goldman Sachs; ICBC; KEB Hana Bank; Landesbank Baden-Württemberg; Morgan Stanley; Raymond James; Siemens Bank

Source: IJGlobal⁹, bank reporting on [equator-principles.com](https://www.equator-principles.com) (also see BankTrack's [searchable database](#)). *DBS Bank was not a signatory to the Equator Principles at the time of the transaction.

Stakeholder engagement

According to the [company website](#), Cheniere Energy has conducted local stakeholder engagement throughout project development for all of its projects, including Corpus Christi LNG. The company's [2019 Corporate Responsibility Report](#) states that, in 2019, it “built upon the existing stakeholder engagement strategy” for Corpus Christi LNG by “pairing site managers at each facility with essential stakeholders” in order to “break down the barriers of single-point communication”. The company estimates that it participated in over 400 unique engagements using this approach. In 2018, it created the [Cheniere Coastal Bend community advisory panel \(CAP\)](#) composed of 25 community members from across the Corpus Christi region, who met monthly throughout 2018 to learn more about the liquefaction project, provide feedback and suggestions, and to help mitigate local impacts.

However, we could not find any assessment documentation available online which outlines the stakeholder engagement process for the Corpus Christi LNG project. There is no clear stakeholder engagement plan or environmental and social impact study which outlines the details of the consultation meetings or what the outcomes were, meaning we cannot assess the effectiveness of the process. This assessment documentation should be made available to affected stakeholders as per Principle 5 of the EPs.

Grievance Mechanism

In 2018, Cheniere established a [formal stakeholder feedback mechanism](#) for each of its LNG facilities. According to the company, this allowed it to collect, record and address community input. They reported to receive 68 concerns in 2018 and 59 in 2019, and according to the project website, they engaged with all community members who submitted feedback. It is not clear from the website which LNG facility these concerns were related to, and therefore we cannot know how many grievances have been formally lodged regarding the Corpus Christi LNG facility specifically.

We could not find details of the mechanism's process, including how to file a complaint, the timeline of a complaint, or how the complaint would be dealt with. Despite stating that they engaged with 100% of community members who submitted feedback, there is no further information or evidence as to how they engaged with them, what the outcomes of that engagement were, or whether the engagement was satisfactory to either party. This suggests that the grievance mechanism does not meet the UNGP effectiveness criteria, for example on accessibility and transparency.

Conclusion

On face value, it would seem that Cheniere Energy has conducted stakeholder engagement and implemented a project-level grievance mechanism for the Corpus Christi LNG facility in line with the Equator Principles. However, on closer examination, the assessment documentation is not publicly available and the lack of detail on the process and outcomes calls into question the project's compliance with the EPs. Despite a stakeholder feedback mechanism being in place, it is still unclear how affected stakeholders could raise complaints with the company, and how they would be dealt with.

5.3 Dominion Cove Point LNG

Country designation	Stakeholder Engagement found?	Grievance mechanism found?	Outcomes of grievances available?	Category
Designated with Indigenous Peoples	Yes	No	N/A	Category B

Results from [“Trust Us, We’re Equator Banks”: Part I](#)

Location: Lusby (along the Chesapeake Bay), Maryland, United States

Sector: Oil and Gas Extraction, LNG

Project Summary

Dominion Energy Cove Point terminal is an existing LNG import and storage facility which has been operated by Dominion Energy since 2003. In response to the glut of US fracking, the company has proposed constructing liquefaction facilities for exporting LNG, allowing it to liquefy natural gas onsite and transport it to tanker ships for export. The facility would then provide both LNG import and export services. The liquefaction project was approved and [construction began in late 2014](#), with a target date of late 2017 to begin exporting LNG from the facility. [According to](#) Dominion’s then Chief Executive Officer, Thomas Farrell, the facility has been at full production since April 2018. BankTrack has published a [Dodgy Deal profile](#) on the project.



Rally against Dominion Cove Point export project.

Credit: Erik McGregor

Negative impacts and risks

The Cove Point LNG terminal has been operating as an import facility for many years. Converting the terminal into a liquefaction and export facility changed the terminal from a relatively quiet facility into a much busier and more dangerous one. Exporting gas from Cove Point increases the traffic of 1,000-foot-long tankers carrying volatile, potentially explosive liquid fuel. Harmful emissions from those tankers add to local air and water pollution and they could dump billions of gallons of dirty ballast wastewater into the bay each year.

As early as 2014, a [report](#) by the financial research firm Profundo recommended that investors avoid buying units in the company operating the terminal, citing key performance risks with sustainability, market volatility, finance and governance. The project has continually faced public opposition and legal challenges due to significant air and water pollution. It also poses risks to the sensitive ecology of the Chesapeake Bay and could trigger more lifecycle climate pollution than all six of Maryland’s existing coal-fired power plants combined.

Financing

The project requires an investment of USD 3.8 million. A USD 3 million term loan was provided by 21 private banks, with financial close on 25th September 2018.

Financing	
EPFIs that disclosed lending	Citigroup; Credit Agricole
EPFIs that did not disclose lending	CIBC; ING; JP Morgan; Mizuho; MUFG; Natixis; Royal Bank of Canada; Scotiabank; SMBC; Société Générale; Wells Fargo
Other FIs	Bank of China; BB&T; DnB NOR Bank; First Tennessee Bank; ICBC; KeyBank; SunTrust Bank; Union Bank

Source: IJGlobal¹⁰, bank reporting on [equator-principles.com](https://www.equator-principles.com) (also see BankTrack's [searchable database](#))

Stakeholder engagement

There is some evidence on the [project website](#) that stakeholder engagement meetings were conducted. Two public scoping meetings were conducted prior to the drafting of the Environmental Assessment (EA) which aimed to “provide an opportunity for the general public to learn more about the project and to participate in the environmental analysis”.

Community members attended the meetings set up by federal regulators and the company. They reported that it appeared that Dominion had filled sets with people from outside of the region, and some community members [expressed concern](#) that representatives from the company were not telling the whole truth about the project. Some individuals expressed concerns about the project directly to the company, however Dominion took no further action. For example, [several community members were concerned](#) about the safety of the facility and claimed that the risk analysis completed by the company does not take into account the 360 homes and public recreation facilities which fall within “consequence zone”. Given the very real risk of explosion at LNG export facilities¹¹, community members called upon the company and FERC (Federal Energy Regulatory Commission) to conduct a “full quantitative risk assessment” and ensure that local citizens know the “full cumulative risk they face”. However, we found no evidence that these concerns were resolved or details outlining how these community concerns were dealt with in the social and environmental review process carried out by the company.

We found no assessment documentation detailing the process of stakeholder engagement for the Dominion Cove Point project online, and only very few details of the process are available on the project website. This made it difficult to assess the effectiveness of this process and calls into question the extent to which the project complies with the EPs.

10 Accessed 06/10/2020

11 For example, in 1944 an LNG plant fire in Cleveland killed 128 people. In 2004, an LNG blast in Algeria killed 27 and in 2014, an explosion and fire from an LNG storage tank in Plymouth, Washington, forced hundreds to evacuate a two-mile zone around the facility. See RAN's [“A Bridge to Nowhere”](#) report for more details.

Grievance Mechanism

We found no evidence of a project-level grievance mechanism being in place. This could potentially be because this is considered a Category B project, for which grievance mechanisms are only required under the EPs 'as appropriate'.

Conclusion

There is some evidence that the company conducted stakeholder engagement, however the assessment documentation is not publicly available and the lack of detail on the process calls into question the project's compliance with the EPs. Affected community members did raise concerns regarding the safety of the facility, but details on how these concerns were dealt with and any outcomes from the consultation process are not available, so it is not possible to assess the effectiveness of this process. We found no evidence of a grievance mechanism.

5.4 Fruta Del Norte Mine

Country designation	Stakeholder Engagement found?	Grievance mechanism found?	Outcomes of grievances available?	Category
Non-designated	Yes	Yes	Yes	Category A

Results from [“Trust Us, We’re Equator Banks”: Part I](#)

Location: Zamora-Chinchipec province, Ecuador

Sector: Mining

Project Summary

Fruta del Norte is an underground gold and silver mining project located in the south-eastern region of Ecuador in the region of the Cordillera de Cónдор mountain range. It is the largest project of its kind in Ecuador. The gold deposit was discovered in 2006 and Lundin Gold, a Canada-based mining company, purchased the asset in 2014. The project is 100% owned by Lundin Gold through its subsidiary Aurelian Ecuador (Aurelian). A feasibility study was completed in June 2016 and construction commenced in mid-2017. First gold production was reached in November 2019 and [commercial production began](#) in February 2020.



*Fruta del Norte gold project.
Credit: Lundin Gold.*

Negative impacts and risks

The Cordillera del Cónдор has one of the world’s richest concentrations of biodiversity and is home to several Amazonian societies, including the Shuar, the largest Amazonian ethnic group in Ecuador. [According to the Worldwide Movement for Human Rights](#) (FIDH), the Fruta del Norte mining project was approved despite it being in breach of the right to participation and without Free, Prior and Informed Consent (FPIC). Additionally, the project continued despite the fact that the Mining Mandate No.6 of 2008 should have led to the cancellation of mining concessions on which the project is being developed as it suspended any new granting of mining concessions.

[According to Rainforest Action Network](#), the land under concession includes Indigenous lands and areas of extremely high ecological significance. There have been protests in Ecuador since 2012 against large-scale mining, and there are reports of state security forces being used to arrest anti-mine campaigners and journalists. In December 2014, Shuar Indigenous leaders called for an end to mineral extraction after the assassination of Shuar leader and anti-mine activist Joseph Tendezetza. In 2017, FIDH together with its three member organisations in Ecuador, requested the Ecuadorian government cancel the licences, approvals and permits extended to the Fruta del Norte project as well as the Panantza-San Carlos and Mirador mining projects located in the same region, as they had

violated human rights, the territory of peasant communities and Indigenous Peoples, and caused massive damage to nature.

FIDH, alongside Comisión Ecuémica de Derechos Humanos (CEDHU), Fundación Regional de Asesoría en Derechos Humanos (INREDH) and Acción Ecológica, have documented the impact of the large scale mining expansion and intervention in the Cordillera del Cóndor on human rights and nature in their 2017 report.¹² In this report they request that mining projects in the area, including the Fruta del Norte mine, be cancelled due to land violations and the serious impacts they have on nature, rivers, forests and soil. These impacts have affected local populations, damaging food sovereignty and health, and impacting on agriculture, harvesting, fishing and cultural practices, all of which sustain the livelihoods of the local communities.

Financiers

Lundin Gold estimates that the total cost of the project will be USD 692 million. The company secured a debt facility of USD 350 million from a group of lenders in January 2018.

Financing	
EPFIs that disclosed lending	Bank of Montreal (BMO); ING; KfW IPEX-Bank; Natixis; Société Générale
EPFIs that did not disclose lending	Scotiabank
Other FIs	Caterpillar Financial Services

Source: IJGlobal¹³, NS Energy Business, bank reporting on equator-principles.com (also see BankTrack's searchable database)

Stakeholder engagement

Lundin Gold has demonstrated that it has a process of stakeholder engagement, which is outlined in the project's Environmental and Social Impact Assessment 2018 (ESIA). The company has identified various groups of affected stakeholders, including the Shuar Indigenous peoples. The ESIA states that details of the stakeholder engagement plan can be found in the Environmental and Social Management Plan (ESMP), however this document is not publicly available on the company website. There is only a very short description of the stakeholder engagement plan available in the ESIA.

The project website includes a page which briefly outlines the different methods of stakeholder engagement that Lundin Gold has undertaken with each different identified stakeholder group, and some details of the process of stakeholder engagement can be found in the company's annual Sustainability Reports. These do not provide adequate details on the outcomes from stakeholder consultations. The project website states that there was

12 FIDH, CEDHU, Acción Ecológica, INREDH, *Vulneración de derechos humanos y de la naturaleza en la Cordillera del Cóndor - Ecuador*, November 2017, <https://www.fidh.org/IMG/pdf/cordilleracondorversionfinal13dic2017-1.pdf> (only available in Spanish)

13 Accessed 05/10/2020

a 2009 cooperation agreement between the Shuar Federation of Zamora Chinchipe and Aurelian Ecuador S.A. which “instituted regular meetings to address issues of common priority”. However, the details of this agreement or any meetings between the company and the Shuar people are not available online. Importantly, there are no details available on whether the company conducted a process of FPIC as part of the stakeholder engagement.

[According to the report by FIDH, CEDHU, Acción Ecológica and INREDH](#), mining intervention in the Cordillera del Cóndor region was characterised by a lack of detailed information on the projects, the non-dissemination of Environmental Impact Studies (EIAs), and the lack of reliable information, participation and consultation with local populations. The report states that EIAs presented by the company lacked comprehensive information, making informed participation of affected communities impossible. An analysis of the Fruta del Norte EIA revealed that, due to imprecise, incomplete, and non-existent data, the study does not cover the real impacts communities are experiencing in relation to their livelihoods and impacts on rivers and nature.

In addition to this, the report finds that the information was only addressed to certain groups rather than the entire affected or interested population. They report that spaces were not provided so that all groups who are affected by the project could freely express their opinion or dissent to the project. [According to CEDHU and FIDH](#), the mechanisms established by Lundin Gold do not constitute a proper process of environmental consultation directed at the general population, nor are processes for FPIC directed at the Indigenous population in line with international standards.

Grievance mechanism

The ESIA states that the company has a grievance mechanism that is in line with the UNGPs and can be used by workers, contractors, and stakeholders. We could find no further details on how to submit a complaint to the grievance mechanism on the project website, and the Grievance Resolution Plan mentioned in the summary of the ESMP (in the ESIA) is not available online.

According to Lundin Gold’s [2019 Sustainability Report](#), the company disseminated information about the grievance mechanism in Shuar, the language of the main Indigenous group in the project area. It also provides grievance management data stating that the mechanism received a total of 106 complaints in the reporting period of 2019, of which 97% were categorised as the lowest level of severity. In 2017 there were 75 complaints recorded and in 2018 there were 125 complaints recorded.

Conclusion

The project has both a process of stakeholder engagement and a project-level grievance mechanism in place. However, whilst the annual Sustainability Reports provide some detail as to the process of stakeholder engagement, including some outcomes, the actual assessment documentation is not available online, meaning it is not possible to assess the quality of the engagement process. The Stakeholder Engagement Plan and Grievance Resolution Plan which are mentioned in the ESIA should be publicly available and affected stakeholders should be able to access this assessment documentation. Furthermore, reports from NGOs highlight issues with stakeholder engagement which continue unresolved. The ESIA is reportedly not complete and consultations are not being conducted in a proper way, both of which should be addressed by the company immediately.

5.5 Nachtigal Hydropower

Country designation	Stakeholder Engagement found?	Grievance mechanism found?	Outcomes of grievances available?	Category
Non-designated	Yes	Yes	No	Category A

Results from [“Trust Us, We’re Equator Banks”: Part I](#)

Location: Sanaga River, Cameroon

Sector: Hydropower Electric Generation

Project Summary

The Nachtigal hydropower project is a medium sized 420 megawatt (MW) hydroelectric power plant being developed in Nachtigal, in the centre region of Cameroon. The project is developed by an EDF-led consortium, through the Nachtigal Hydro Power Company (NHPC) whose shareholders are Electricité de France (EDF) (40%), International Finance Corporation (IFC) (20%), STOA (10%), the Government of Cameroon (15%) and Africa50 (15%).



*Discussion with Batchenga fishermen.
Credit: IFI Synergy.*

The hydroelectric facility consists of two concrete dams on the Sanaga River to create a reservoir; a concrete lined canal; a hydroelectric power plant; a secondary power plant; and a transmission line. Construction of the facility began in 2018, and [NHPC expects](#) the commissioning of the first turbine between 2021 and 2022. BankTrack has published a [Dodgy Deal profile](#) on the project.

Negative impacts and risks

There are huge negative impacts on both the river, which serves as a local source of food and income, and local communities who will suffer social and economic displacement. There are also impacts on the environment, including loss of biodiversity, forest, and wetland areas, which can play a big part in the region’s climate resiliency.

Nachtigal is one of a number of hydropower plants planned on the Sanaga River and many local activists and community leaders [oppose](#) the other hydropower developments. It is located in close proximity to the existing Mbakaou dam and the Lom Pangar dam. A number of issues have been identified in relation to the Lom Pangar dam, including submerging forest and land used for agriculture, as well as embezzlement of funds, which they fear will persist as more dams are built.

Before construction of the dam started, communities relied on this area for a variety of purposes including fishing, collecting and selling sand, farming, ‘restorers’ (women who sold food to sanders and fishermen), and the practice of traditional rites on the Binadjengue sacred site. Their livelihoods depended upon these activities, and since construction began, they have been unable to continue them in the affected area. Since construction began in 2018, the communities have suffered from numerous impacts, including unemployment, prohibition of access to sand quarry sites, prohibition of women selling food to NHPC employees, lack of access to water, lack of fish in the river, low compensation and lack of ability to practice traditional rites on the Binadjengue sacred site.¹⁴

Financing

The total investment required for the hydropower project is **USD 1.4 billion**. IFC, the State of Cameroon, and EDF signed the final agreements for the construction of the project in November 2018 and financial close was reached in December 2018.

IFC is investing USD 70 million in equity and providing a loan of up to USD 127 million for the project. IFC is arranging another USD 935 million project loan from a group of 11 commercial banks and institutions. The International Bank for Reconstruction and Development (IBRD) and the Multilateral Investment Guarantee Agency (MIGA) are providing USD 300 million and USD 223 million respectively for the project.

Financing	
EPFIs that disclosed lending	FMO; Société Générale; Standard Chartered
EPFIs that did not disclose lending	None
Other FIs	Africa Finance Corporation; African Development Bank; Agence Francaise de Development; Attijariwfa Bank; BICEC; CDC Group; DEG; Emerging Africa Infrastructure Fund; European Investment Bank; IFC; OPEC Fund for International Development; Proparco

Source: IJGlobal¹⁵, bank reporting on equator-principles.com (also see BankTrack's [searchable database](#))

Stakeholder engagement¹⁵

The [project website](#) states that the project is “carrying out disclosure of information and public consultations in accordance with Cameroonian regulation and IFC performance standards”. The website states that “dialogue is being established with all stakeholders who are directly or indirectly involved in the project” and that the company established a local social team in the village of Batchenga in April 2014 to provide “continuous information and organise consultations with affected people”. There is only a [summary of the environmental and social action plans](#) available on the project website. It states that consultations with project affected people and other stakeholders were carried out and the process was formalised in a “Stakeholder Commitment Plan” in 2014, however this plan

14 IFI Synergies Group, *Data collection of impacts of the Nachtigal Hydroelectric Dam construction project on local communities and socio-professional corps*, August 2020. Available here: https://www.banktrack.org/download/data_collection_of_impacts_of_the_nachtigal_hydroelectric_dam_construction_project_on_local_communities_and_socioprofessional_corps/ifi_synergy_group_field_report.pdf

15 Accessed 6th August 2020

is not publicly available. Specific consultations were conducted on the “Livelihood Restoration Plan” (also not publicly available) in 2015 and 2016 in the village of Batchenga, and the company states that compensation measures were put in place as an outcome of those consultations.

In interviews with International Financial Institution Synergies Group (IFI Synergies), Green Development Advocates (GDA)¹⁶ – two Cameroon-based civil society platforms – and an independent consultant based in Cameroon, all of whom have engaged with affected communities directly, a number of issues with the stakeholder consultation process were identified. First and foremost, local communities and other stakeholders have so far been unable to access the assessment documentation, including: the full Environmental and Social Impact Studies; the Environmental and Social Management Plan; the Resettlement and Compensation Action Plans; the Livelihood Restoration Plan; the Biodiversity Action Plan; and the Archaeological Resource Management Plan.

Following IFI Synergies’ most recent visit to communities (July – August 2020) to identify the impacts of the project, they confirmed that NHPC has conducted consultations with communities expected to be impacted by the construction of the dam since 2015. However, according to the communities, these meetings were primarily an opportunity for NHPC to present the project and its financial partners, to explain that impacted communities will suffer from the construction, and to present them with compensation. The independent consultant also noted that these meetings were often threatening environments where individuals were unable to raise their concerns. According to the independent consultant, there is a Company Communities Officer to whom locals can raise their concerns, however reports from individual community members suggest that they must wait for long periods of time and, in the end, they receive no response from the company regarding the issues raised.

According to the project website, NHPC conducted a comprehensive survey of affected lands and properties which led to a Resettlement Action Plan being issued in July 2016. The stated objective of this plan is to restore the standards of living of affected people according to Cameroonian legislation and international best practice and includes a “Compensating Actions Program”. IFI Synergies, GDA and the independent consultation all identified a number of problems with the compensation plan organised by NHPC and state that the communities affected by the project believe that the compensation received is at odds with the promises made by NHPC in the Resettlement Action Plan.

According to IFI Synergies’ report, whilst some individuals have received satisfactory compensation which allows them to continue their economic activities, such as the farmers who were compensated for agricultural land and plants, many other affected individuals have not received satisfactory compensation. Fishermen, who are no longer able to access the river where the dam is being constructed, were promised compensation from NHPC. Those who decided to continue practicing fishing have received some compensation, however this is less than what was agreed during consultations and represents considerably less than what they would have earned if they could continue to fish in the area. Those fishermen who decided to stop fishing or convert to other economic activities have not received any compensation from NHPC, despite agreements made during consultations that they would receive compensation. A coalition of fisherfolk wrote letters to NHPC asking for this promised compensation, but they have received neither a response from the company or any compensation since 2015 when the consultations were conducted. The same can be said for the sanders, who collect and sell sand from the area where the

16 Interview with Ekane Nkwelle Ngome and Jean Henri Tsogo Awona, IFI Synergies and GDA, 3 September 2020

dam is being constructed. Only a few sanders who are located in what the NHPC call the 'red zone' (the dam's direct flooding zone) have received financial compensation, and it does not represent what they previously earned. The majority of sanders, those located in 'blue' and 'green zones', are still waiting for compensation.

Women have been particularly affected by the unsatisfactory compensation scheme. Where compensation has been given, the independent consultant reported that it does not take into consideration the support of women. In nearly every case, the compensation has been given to men, and there is no specific mechanism in place for the consideration of women. In addition, IFI Synergies reports that many women made a living from preparing and selling food to the sand workers, which they cannot do anymore. They have not received any compensation for the last five years. These same women have asked to be able to continue to prepare and sell food to the workers who are constructing the dam, but they have been prohibited from doing so.

In addition, NHPC has given compensation to the community in order for them to move the Binadjengue sacred site which is located in the area where the dam is being constructed. The sacred site has been moved; however, the local community argues that this compensation is not enough to adequately carry on traditional rites. By moving the site, they have lost access to the water which serves as an important component of the traditional rites practiced on the sacred site.

Grievance mechanism

NHPC has initially complied with the EPs by establishing a project-level grievance mechanism. A [grievance mechanism](#) has been put in place by the company in early 2015 to "receive and facilitate resolution of the affected communities' concerns and complaints about the Project's environmental and social performance". Complaints can be filed in writing, by telephone or SMS, or in person at the offices of the local social team in Batchenga. Alternatively, it is possible to file a complaint through a complaint box for those who wish to remain anonymous.

During our research, we could find no reports of the grievance mechanism being used. The sanders, fishermen and other community members have filed petitions and written letters directly to NHPC asking them to uphold their promises regarding compensation. However, these petitions and letters remain unanswered by NHPC. IFI Synergies reports that the community is unaware of the grievance mechanism in place, which is why they sent letters directly to the company. They argue that the company should have indicated to the community members that there is a grievance mechanism in place, but this has not happened. This suggests that the grievance mechanism does not meet the UNGP effectiveness criteria, for example on accessibility and calls into question the mechanism's compliance with the EPs.

Conclusion

The Nachtigal project has evidence of both stakeholder consultation and a grievance mechanism, although there are problems with both. It has conducted stakeholder engagement meetings and put in place plans as outcomes of those consultations which seek to compensate affected stakeholders and restore their livelihoods. However, these plans have not been made available to the local communities or other stakeholders; a requirement under Principle 5 of the EPs, and the consultation meetings were reportedly threatening environments where affected individuals could not raise concerns, and therefore the company is in non-compliance in this respect. Furthermore, there have been a number of problems regarding the compensation plans which have been put in place, and despite the company being made aware of these issues, it has failed to respond. Finally, although the company has established a grievance mechanism, evidence suggests that it has not been adequately publicised or communicated to local communities as a formal process for complaints.

5.6 Trans Adriatic Pipeline (TAP)

Country designation	Stakeholder Engagement found?	Grievance mechanism found?	Outcomes of grievances available?	Category
Non-designated (Albania) & designated (Italy, Greece)	Yes	Yes	Yes	Category A

Results from [“Trust Us, We’re Equator Banks”: Part I](#)

Location: Albania, Greece, Italy

Sector: Oil and Transportation Infrastructure

Project Summary

The Trans Adriatic Pipeline (TAP) project is the western extension of the Southern Gas Corridor, a European Union initiative to develop a gas supply route from the Caspian Sea and the Middle East to Europe. The Southern Gas Corridor is planned to transport natural gas from the Shah Deniz II gas field in Azerbaijan to Europe via the South Caucasus Pipeline extension to Georgia, on through the Trans-Anatolian Pipeline (TANAP) stretching across Turkey, and then joining up with TAP at the border of Turkey and Greece. TAP AG is promoting and constructing the project; its [current shareholding comprises](#) BP (20%), SOCAR (20%), Snam (20%), Fluxys (19%), Enagás (16%) and Axpo (5%).



Local resistance to TAP at Melendugno beach, Italy.

Credit: Laure Cops.

TAP is planned to run for 879 kilometres in total, across northern Greece, Albania, and the Adriatic Sea to Italy. A further 55km pipeline is planned to connect TAP to the Italian gas network, called the TAP Interconnection. TAP’s initial capacity is set to be 10 billion cubic metres (bcm) of gas per year, and the [TAP website](#) suggests a doubling of that capacity to 20 bcm “in future”. Construction was completed in [October 2020](#).¹⁷ BankTrack has published a [Dodgy Deal profile](#) on the project.

Negative impacts

The pipeline’s route crosses highly fertile agricultural land in north-east Greece and villages along the route in Albania are dotted with scores of olive trees, orchards, pastures, and fields providing subsistence for local inhabitants. In Italy, around 200 families, local fisheries and a burgeoning local tourism sector are directly affected by the project. Up to 2000 more landowners are affected by the construction of the TAP Interconnection gas pipeline. There has been widespread opposition to the project in all three countries the pipeline is

17 Accessed 22nd September 2020

routed through. In September 2020 two trials began in Italy; one regarding environmental destruction caused by TAP and its subcontractors and the other against individuals involved in peaceful protests and resistance to the construction of the pipeline.

The European Commission admits it has not made an assessment of the climate impacts of the pipeline. The plans for the pipeline were drawn up before the Paris Agreement was signed, and instead of rapidly reducing emissions as the Paris Agreement demands, TAP would lock Europe into fossil fuels for decades.

Financing

In December 2018, the project reached financial close, securing EUR 3.9 billion in project finance. A number of EPFIs co-financed both a EUR 500 million European Bank for Reconstruction and Development (EBRD) loan and a EUR 635 million commercial term loan.

Financing	
EPFIs that disclosed lending	Banco Santander; Caixabank; Crédit Agricole; Intesa Sanpaolo; Korea Development Bank; Mizuho; MUFG; Natixis; SMBC; Société Générale; Standard Chartered; Unicredit
EPFIs that did not disclose lending	BNP Paribas; ING
Other FIs	Bank of China; Siemens Financial Services; UBI Banca; Euler Hermes Kreditversicherungs-AG (Hermes); Italian Export Credit Agency (SACE); European Bank for Reconstruction and Development (EBRD); European Investment Bank; BPIfrance

Source: EIB [press release](#), bank reporting on [equator-principles.com](#) (also see BankTrack's [searchable database](#))

Stakeholder Engagement

TAP AG, the pipeline developer, has conducted extensive stakeholder engagement along the route of the pipeline in [Albania](#), [Italy](#) and [Greece](#). It conducted numerous consultation meetings with various stakeholders between 2011 and 2013 to provide information about the project, discuss potential impacts and mitigation measures, and to answer and understand concerns of those most affected by the project. The Environmental Social Impact Assessment (ESIA) was made available in both English and local languages. TAP AG has clearly outlined the outcomes resulting from the stakeholder engagement process in the stakeholder engagement sections of the ESIA for each country (linked above), which includes some changes to the route of the pipeline in Albania. The company also noted that there was some opposition and distrust of the project, especially in Italy and Greece.

The Independent Environmental Consultant [Ramboll Environ](#) confirms that TAP has “committed significant resources to engaging with stakeholders” through the use of various engagement mechanisms. However, it notes that TAP has also faced opposition from some communities. Where serious concerns have been raised regarding the presence or route of the pipeline, Ramboll Environ notes that the community consultations have not been successful. It recommends finding ways to mediate the conflict through the use of conflict resolution specialists, however there is no evidence that this has been implemented to date.

According to [Re:Common](#), an Italian NGO which has studied and visited over two-thirds of the pipeline and spoken with those communities whose lives will be impacted by the project in Italy, Greece and Albania, the stakeholder consultation processes has been overwhelmingly unsatisfactory.

In Greece, where the routing of the pipeline traverses wide tracts of high value agricultural land, farmers' groups have compelled the company to engage in additional stakeholder meetings in order to air concerns – according to the farmers, at these meetings the company has often been high-handed and unwilling to listen. According to Re:Common, consultation meetings held by TAP were not proper consultations, instead they were public events where the company promoted the project and genuine concerns with the project could not be raised. TAP AG has offered money for many local events, such as town festivities, sports events, music events etc., but affected community members view this as simply greenwashing rather than engagement with the community.¹⁸

During an NGO mission in 2015 to the Kavala province in Greece it was found that explicit land violations had been carried out by the JP Avax Company, a TAP subcontractor. One of the violations, on private land close to the village of Zygos, resulted in damage to the land by bulldozers which had entered without informing or consulting with the landowner. Another violation, in September 2016 in the village of Lachanas, involved a local farmer who requested police intervention against Bonatti-JP Avax, another subcontractor of TAP, that was on his land without permission. However, after the police and landowner left, the company proceeded to damage the land. This has led to a breakdown in trust between landowners who oppose the project and TAP AG and its subcontractors.

In Italy, trust between the company and many of the affected communities has reportedly broken down. The public consultation in 2013 was deemed by local stakeholders to be a failure and the compensation process is widely characterised as unsatisfactory by local residents. There has been widespread opposition and protests against the project in Italy and local individuals no longer trust TAP AG due to their “misleading techniques”.¹⁹

In Albania, [CEE BankWatch](#) visited over 60 villages in July and August of 2016 and found extensive community discontent concerning involuntary resettlement, compensation for loss of land and property, damage to property (during the construction of a TAP access road) and the engagement methods being used by TAP AG's Albanian contractor ABKons. TAP's [Land Easement and Acquisition \(LEA\)](#) process states that where attempts to reach an agreement fail, expropriation and compulsory easement will be used, which has been the case in Albania.

Grievance mechanism

TAP AG has initially complied with the EPs by [establishing individual grievance mechanisms](#) in each of the three host countries. TAP's grievance mechanism is available on the website. Stakeholders can submit grievances through an online form, by email or by post to the relevant TAP office in Greece, Italy, or Albania. There are also options to call a TAP Grievance Coordinator or send an SMS message. TAP has also [reported](#) on the number and types of grievances which have been received at each country grievance mechanism in their Site Visit Monitoring reports.

18 Interview with Elena Gerebizza, Energy Campaigner at Re:Common, 7 September 2020

19 Marco Poti, Mayor of Melendungo: <https://eurasianet.org/azerbaijan-energy-hopes-vs-italian-olive-groves>

TAP AG [reported](#) that, between 2016 and 2018, only 43 grievances were received by the Italian grievance mechanism, including grievances related to land compensation, access to land and depreciation of property value claims. According to Re:Common, the reason so few grievances have been filed through TAP's grievance mechanism in Italy might be due to the lack of trust local communities have in the company.²⁰

A [fact-finding mission](#) by CEE BankWatch in July and August 2016 found that there was very limited public awareness of TAP's grievance mechanism in Albania, in spite of widespread stakeholder grievances. It found instances of complaints about compensation that had not been lodged with the grievance mechanism, but rather with project staff members, and had been handled poorly and to the dissatisfaction of complainants. However, TAP AG [reports](#) that up to December 2018, 663 grievances had been received relating to the project in Albania, mainly concerning land acquisition related disputes.

Since 2015, the European Investment Bank (EIB), a financier of TAP, has received at least [52 complaints](#) regarding the project. In one instance, in August 2015 a farmers' group, the Agricultural Association of Kavala, alerted the EIB to a range of [problems](#) including inappropriate consultation methods deployed by TAP AG, instances of threats and malfeasance connected with land acquisition and concerns over safety and security issues for the villages located less than a kilometre from the TAP route.

Conclusion

The TAP project shows evidence of both stakeholder engagement and grievance mechanisms. The company organised an extensive process of stakeholder engagement which is adequately documented on their website and available in both English and local languages. In addition, project-level grievance mechanisms have been put in place in each country the project goes through. However, there are still a number of issues regarding stakeholder engagement shown in reports from local communities and NGOs working in the field. The breakdown of trust between affected communities and TAP AG, which has led to widespread opposition to the project and failure to resolve disputes regarding issues such as land acquisition and compensation, is of significant concern.

5.7 Westport Oil Limited (Eland Oil & Gas PLC)

Country designation	Stakeholder Engagement found?	Grievance mechanism found?	Outcomes of grievances available?	Category
Non-designated	No	No	N/A	Unknown

Results from [“Trust Us, We’re Equator Banks”: Part I](#)

Location: Nigeria

Sector: Oil Extraction

Project Summary

One EPFI, Standard Bank, disclosed financing for “Westport Oil Limited (Eland Oil & Gas PLC)” in its 2018 Equator Principles reporting. However, it is unclear to what exactly the transaction refers.

Westport Oil Limited is a 100% subsidiary of Eland Oil & Gas, which was [acquired](#) by Nigerian oil producer Seplat Petroleum in December 2019. Eland owns the licence to the OML40 oil field in the Niger Delta, and 40% of a second oil field.

Financing

In 2018 Seplat Petroleum secured a four-year revolving credit facility of USD 350 million from a number of banks, including Standard Bank, for the acquisition of Eland Oil & Gas.²¹

Standard Bank [disclosed](#) that it provided project finance to “Westport Oil Limited (Eland Oil & Gas PLC)” under the Equator Principles in 2018. It seems likely that it is referring to its involvement in this credit facility for the acquisition of Eland Oil & Gas, however this has not been confirmed by the bank.

This raises the question of why Standard Bank reported this transaction under its Equator ‘Project Name Reporting’, when it does not seem to refer to a project finance transaction. Under EP3, project name reporting only applies to project finance transactions.

Stakeholder engagement & Grievance Mechanisms

We were unable to find evidence of any process for stakeholder engagement, nor of a project-level grievance mechanism, for any of Westport Oil Limited or Eland Oil & Gas operations.

Conclusion

The almost total lack of information regarding this project, and the question-mark around whether it should have been reported at all, illustrates the inadequacy of the current approach to project name reporting under the Equator Principles.

21 IJGlobal, accessed 24/09/2020

5.8 Cirebon 2 Coal Power Plant

Country designation	Stakeholder Engagement found?	Grievance mechanism found?	Outcomes of grievances available?	Category
Non-designated	Yes	Yes	No	Category A

Location: Cirebon, West Java, Indonesia

Sector: Coal Electric Power Generation

Project summary

Cirebon 2 is a coal-fired power plant project with a capacity of 1,000 megawatts (MW) located in the West Java region of Cirebon, Indonesia. The project is estimated to require an investment of USD 2.1 billion and it was expected to be operational in 2020. In March 2020 the project was delayed as a result of the Covid-19 pandemic. The Cirebon project was also planned to include a further 1,000 MW expansion, Cirebon 3, expected to cost a further USD 2.1 billion. However, as of June 2020, there had been no progress on Unit 3 since May 2016 and the unit appears to be cancelled. Cirebon Unit 1, with a capacity of 660 MW, began construction in 2007 with commercial operation starting in July 2012.

The Unit 2 project is being developed by Cirebon Energi Prasarana (CEPR), a consortium consisting of Marubeni (35%), Indika Energy (25%), Samtan (20%), Korea Midland Power (10%) and Chubu Electric (10%). This consortium signed a 25-year power purchase agreement with the Indonesian state power utility PLN in October 2015. BankTrack has published a [Dodgy Deal profile](#) on the project.

Negative impacts

As well as being the biggest single contributor to climate change, coal power plants are also a significant source of air pollution, which leads to an increased risk of lung cancer, stroke, heart diseases and respiratory diseases. There are increased rates of respiratory infections among local residents surrounding area of Cirebon Unit 1 plant. In addition, air pollution standards in Indonesia are not sufficient to protect the local population and there is no air quality monitoring.

In addition, coal is one of the most water-intensive methods of generating electricity. Coal power plants consume vast amounts of water for cooling and pollution controls and their coal ash ponds can contaminate surrounding water bodies. In Cirebon, this has had a negative impact on the livelihoods of the local community, who relied on small-scale fishing, shellfish harvesting, salt making, production of terasi (shrimp paste) and farming. These livelihoods are now all but gone due to the coal plant's pollution, use of water resources and impacts on the natural environment.

Financiers

The total cost of the construction of Cirebon Unit 2 is USD 2.1 billion with the total debt being USD 1.74 billion. The project came to financial close on November 14, 2017.

Financing	
EPFIs that disclosed lending	ING; MUFG; Mizuho; SMBC
EPFIs that did not disclose lending	JP Morgan
Other FIs	Exim Bank of Korea; JBIC, NEXI

Source: [JBIC press release](#), bank reporting on [equator-principles.com](#) (also see BankTrack's [searchable database](#))

Stakeholder engagement

Cirebon Power's [2017 Sustainability Report](#) states that several stakeholder engagement meetings were conducted involving representatives from five affected villages, NGOs and administrative authorities. However, we found no assessment documentation, such as a Stakeholder Engagement Plan, which detailed this process and any outcomes which resulted from it.

The local civil society organisation Rapel Cirebon stated in a [letter](#) to Japan Bank for International Cooperation (JBIC) in April 2016 that no proper consultation has taken place with the local community on the formulation of the Environmental Impact Assessment (EIA) and on the land acquisition process. Only selected people were invited to the meetings with the project sponsor and could participate in public consultations. The communities complain that there has been no opportunity for many local people, including businessmen and fisherfolk, to participate in any stakeholder consultation process.

The lack of community participation in the EIA development process was also raised in the court case filed by six inhabitants of Kanci Kulon Village which began at the end of 2016. The lawsuit was filed against the West Java Provincial Government for not appropriately issuing the environmental permit for Cirebon 2 and demanded its cancellation. The inhabitants raised the issue of the lack of community consultation, stating that although Cirebon 2 directly threatens their livelihood, none of them have been involved in the formulation process, the issuing of the EIA or the environmental permission. In April 2017, the Bandung administrative court revoked the environmental permit for Cirebon 2. Despite this, the project sponsors filed another permit, which was issued in September 2017. Bandung Legal Aid has challenged that new permit and are having the legality of the verdict in the case reviewed, although loans have been disbursed despite the legal uncertainty.

The group further claims that the information disclosure to affected communities was inadequate to non-existent and that there was no transparency on the decision-making process. The group also claims it found evidence that the project sponsor provided 10 million rupiahs (about USD 675) for every head of village that approved the EIA as proposed by the project sponsor.

Grievance mechanism

CEPR reports that it has put in place a Community Grievance Mechanism Procedure as part of the Environmental and Social Management System. According to its 2017 Sustainability Report, it is designed to receive and facilitate the resolution of grievances about the Project's environmental and social performance in compliance with Principle 6 of the Equator Principles. However, no information about the process or grievance management data is available on the company website.

Rapel Cirebon, in the same letter to JIBC, stated that some members of the local community have verbally complained individually to CEPR, the project sponsor, about the negative impacts the project has on their livelihoods. However, they have not received a response and no actions have been taken to solve or mitigate the problems they have identified. It is unclear if these complaints were made through the community grievance mechanism, or whether they were made directly to the company.

Conclusion

Despite the company stating that they engaged in stakeholder consultation, we found no assessment documentation detailing this process or its outcomes, and therefore we cannot assess the effectiveness of this process. Local organisations report that the consultation process was inadequate, with many affected individuals not being able to participate, and a general lack of transparency in the decision-making process. Additionally, the company has a community grievance mechanism procedure, but it is unclear whether local community members are aware of this process.

5.9 Dakota Access Pipeline (DAPL)

Country designation	Stakeholder Engagement found?	Grievance mechanism found?	Outcomes of grievances available?	Category
Designated with Indigenous Peoples	Yes	No	N/A	Category A

Location: North Dakota, South Dakota, Iowa and Illinois, United States

Sector: Oil and Gas Transportation Infrastructure

Project summary

The Dakota Access Pipeline (DAPL) is a 1,172-mile-long underground US oil pipeline project for crude oil. The pipeline carries crude oil from the Bakken shale oil field of North Dakota to Illinois, where it is transported to refineries on the Gulf Coast or East Coast. The pipeline pumps about a half-million barrels of oil each day. The pipeline is operated by Energy Transfer Partners (ETP). In July 2020, the pipeline was ordered by the district court to shut down by 5 August 2020. BankTrack has published a [Dodgy Deal profile](#) on the project.



*Protest at Standing Rock.
Credit: Rob Wilson Photography.*

Negative impacts

The DAPL project was constructed in clear violation of the rights of Indigenous Peoples, including their right to Free, Prior and Informed Consent (FPIC). Its path crosses Native American sacred sites and threatens the drinking water at the Standing Rock Sioux reservation. It has also been criticised for its harm to the environment and impact on climate change. In 2017 the pipeline [leaked at least five times](#), causing contamination to the soil. In 2015-2016, an unprecedented number of Native Americans in Iowa and the Dakotas have opposed the pipeline, including the Meskwaki and several Sioux tribal nations. The resistance camp at the pipeline site in North Dakota drew massive support from Native American groups and allies across the world.

Native water protectors at the prayer and resistance camp were brutally confronted by law enforcement and private security forces. Indiscriminate use of attack dogs, rubber bullets, concussion grenades, tasers and mace were reported, while journalists covering the assault were arrested. Arrested protesters were subjected to inhumane treatment, with reports of some being locked up naked, or cramped without food and warmth into enclosures described as dog kennels.

Financiers

On 2nd August 2016, 17 banks participated in a USD 2.5 billion loan for the construction of DAPL. Citi, Mizuho, Bank of Tokyo Mitsubishi UFJ and TD Bank were the lead lenders.

Financing	
EPFIs that disclosed lending	BBVA; Citigroup; Credit Agricole; DNB; ING; Intesa Sanpaolo; MUFG; Société Générale; TD Bank; Wells Fargo
EPFIs that did not disclose lending	BNP Paribas; Mizuho; Natixis; SMBC
Other FIs	BayernLB; ICBC; Truist Bank (formerly SunTrust)

Source: [Bloomberg terminal](#), bank reporting on [equator-principles.com](#) (also see BankTrack's [searchable database](#))

Stakeholder engagement

[According to Energy Transfer](#), it conducted an extensive analysis to identify a pipeline route that would have the least impact on the maximum group of stakeholders, in which it engaged in outreach to all interested stakeholders. However, we have been unable to access the project website or any detailed Stakeholder Engagement Plans in relation to the project. This means that it is not possible to analyse the effectiveness or adequacy of any such consultation.

There has been clear and long-standing opposition to the project by the Standing Rock Sioux Tribe, as well as widely documented gross violations of Native land titles, threats to water sources and the desecration of burial grounds. Energy Transfer has stated that the route of the pipeline falls outside the territory of the Standing Rock Sioux Tribe, however the Indigenous community insist that it traversed unceded over land which they have sovereignty over, including the right to FPIC. On 27th of July 2016, the Standing Rock Sioux Tribe, represented by [Earthjustice](#), filed a lawsuit against the U.S. Army Corps of Engineers for violating the National Historic Preservation Act and other laws. The [complaint](#) says the Corps effectively wrote off the Tribe's concerns and ignored the pipeline's impacts to sacred sites and culturally important landscapes.

In [September 2016](#) the UN Special Rapporteur on the rights of Indigenous peoples called for the project to be halted, saying: "The [Standing Rock Sioux] tribe was denied access to information and excluded from consultations at the planning stage of the project and environmental assessments failed to disclose the presence and proximity of the Standing Rock Sioux Reservation." The consultation did not involve obtaining the Indigenous community's free, prior, and informed consent, which is clearly in non-compliance with Principle 5 of the EPs.

Grievance mechanism

There is no evidence of a project-level grievance mechanism.

Conclusion

Despite the company stating that extensive stakeholder engagement was undertaken, there are clear issues and violations of Indigenous rights related to the pipeline project. The Standing Rock Sioux tribe did not receive adequate information about the project and were excluded from consultations set up by the company. Trust between the company and affected communities completely broke down and this has resulted in violence against those who oppose the project. The stakeholder engagement process is clearly not in line with the requirements under the EPs. In addition, we found no evidence of a project-level grievance mechanism.

6. Recommendations

Based on the findings above we provide the following six recommendations to the EPA and EPFIs.

1. **Require consent from clients for project name disclosure as part of loan agreements**

To address the problem of EPFIs not disclosing names for project finance transactions, project name disclosure must be written into loan agreements with project sponsors. The reason behind many project names not being disclosed is that project names are only published subject to client consent. Our research into reporting under the EPs and discussions with banks shows that some banks simply make more effort to obtain client consent than others. It is within the interests of those EPFIs that do report all project names for consent for such reporting to become a condition of receiving lending under the Equator Principles.²²

2. **Publish a Compliance Report to show how projects are meeting EP requirements**

Just as the UN Guiding Principles set out that businesses need to ‘know and show’ that they respect human rights, EPFIs should take a ‘know and show’ approach to ensuring that projects financed ‘under Equator’ meet the requirements of the EPs. The EPA should introduce a requirement for each Equator project to be accompanied by a short ‘Compliance Report’ setting out how each of the ten Principles has been implemented by both EPFIs and project sponsors. Such a report should be made publicly available by the lead EPFI financing a project and added to the reporting page on the EP website. It should include links to Assessment Documentation, an account of how the Assessment Documentation has been made available to local communities in an accessible and culturally appropriate manner, details of grievance processes, and all other key documents. This will ensure that compliance with the EPs no longer needs to be taken on trust.

3. **Invest in ensuring clients do stakeholder engagement well**

Too often, communities find stakeholder engagement processes to be unsatisfactory, one-way communications exercises, or worse, environments where they experience intimidation and harassment. The EPA and EPFIs should further invest in guidance and training for clients to ensure good practice in stakeholder engagement. In addition, EPFIs themselves should monitor the effectiveness of stakeholder engagement, including through seeking feedback from engaged communities independently of the project sponsor, with non-compliance with this requirement a reason to withhold finance, or put loan disbursements on hold.

22 To see which EPFIs are fulfilling this reporting requirement, view our [EP reporting status table tool](#).

4. **Ensure project-level grievance mechanisms are not just in place, but effective**

The Equator Principles require that projects (in Category A and, as appropriate, Category B) establish *effective* grievance mechanisms. However, in practice there is limited evidence that banks are taking steps to ensure effectiveness. Simply ensuring mechanisms are established is not likely to be sufficient to ensure adverse impacts are remedied.²³ Banks should ensure that project-level grievance mechanisms publish sufficient information on the outcomes of cases for their effectiveness to be assessed, and then engage actively with those mechanisms to promote effectiveness, including making sure they are designed with reference to other mechanisms that may be able to provide remedy to affected communities.

5. **Establish an initiative-level Accountability Mechanism for the Equator Principles**

We continue to recommend that the EPA introduce an initiative-level accountability mechanism in order to allow affected stakeholders to raise concerns of alleged non-compliance with the EPs by EPFIs. This is needed to align with the UN Guiding Principles, which set out in Principle 30 that industry initiatives based on respect for human rights should ensure effective grievance mechanisms are available so that concerns can be raised when commitments are not met. Further, an EP accountability mechanism would contribute to improved due diligence and risk management, making the Equator Principles a more effective risk management tool for banks. This should complement, rather than replace, project-level grievance mechanisms.

6. **De-list EPFIs that persistently fail to comply with the EPs**

EPFIs that repeatedly show evidence of non-compliance with the EPs should de-listed from the EPs. Under the EPA Governance Rules, an EPFI can only be de-listed for not complying with the reporting requirements within six months of its submission deadline, or for failing to pay the annual fee. This should be extended to create a process for de-listing EPFIs for persistent non-compliance with other aspects of the EPs. The EPA should not allow banks to be signatories to the EPs if they show repeated signs of non-compliance with the Principles. This is in the interests of those EPFIs that endeavour to fully comply with the EPs, as well as being of crucial importance for the integrity of the initiative as a whole.

23 A set of diagnostic questions for the financial sector to determine the effectiveness of client grievance mechanisms is published in the Dutch Banking Sector Agreement paper Enabling Remediation, May 2019



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