WE SEEK COMMITMENTS, NOT JUST MORE PRINCIPLES

JOINT CIVIL SOCIETY SUBMISSION TO THE UNITED NATIONS ENVIRONMENT PROGRAMME FINANCE INITIATIVE CONSULTATION ON THE DRAFT PRINCIPLES FOR RESPONSIBLE BANKING

On September 22nd 2019, a large group of banks linked to the United Nations Environment Programme Finance Initiative (UNEP FI) plans to launch the industry-developed Principles for Responsible Banking (PRBs) during the annual UN General Assembly in New York.

The PRBs set out six Principles under which adopting banks commit to “align their business strategy to be consistent with and contribute to individuals’ needs and society’s goals, as expressed in the Sustainable Development Goals (SDGs), the Paris Climate Agreement and relevant national and regional frameworks.”

As promoted by UNEP FI his “highly anticipated” set of Principles, the “most significant mechanism ever jointly created by the UN and the global finance industry”, will be “a framework for a sustainable banking system in which a bank’s business strategy is aligned with society’s goals and guide banks in demonstrating how they are making a positive contribution to society”. [1]

By adopting the PRBs, banks commit to assess the most significant positive and negative social, environmental and economic impacts resulting from their activities; set targets to reduce and mitigate their negative impacts and scale up their positive impacts; furthermore they commit to engage with clients; consult with stakeholders on their target setting; and report annually on their progress towards these targets. The draft framework allows any bank to adopt the PRBs, regardless of how it is currently operating.

As civil society organisations working to ensure that the business operations of banks do not threaten peace, human rights, livelihoods, nature and a healthy environment globally, we very much wish to support an ambitious bank initiative on these themes. However, for us to do so it is necessary that the PRBs as currently drafted are substantially strengthened and fully brought in line with stated ambitions.

Twenty years ago, the incremental approach set out in the draft version of the PRBs might have made an important contribution to the development of sustainable banking practices. But in 2019, as we face global climate and biodiversity crises and the continued violations of human and Indigenous rights linked to activities financed by banks, the pace and approach set out in the draft PRBs is alarmingly out of touch with what is nowadays expected of banks. To effectively meet these challenges, it is not sufficient that banks adopt yet another set of Principles, not unlike many already-established initiatives, to be followed later on by further steps at a pace and scale to their own liking. Instead banks must make a solid and far reaching commitment upfront to truly change course.

As such, we urge a thorough revision of the PRB framework so that banks are required to make specific, timed commitments *prior to joining*. Based on the commitments they lay out ahead of time, banks would *then* apply to become an adopting PRB bank. Without asking for such commitments upfront, the PRB framework only furnishes banks with yet another opportunity to position themselves publicly as dedicated to solving the world’s problems, without demonstrating that commitment through concrete action.

---

[1] https://www.unepfi.org/wordpress/wp-content/uploads/2019/05/CEO-Guide-Principles-launch-final-13-05-19.pdf

In order to achieve a strengthening of the PRBs that will allow our organisations to publicly welcome and support them, we kindly present this joint submission as our contribution to UNEP FI's consultation process. We provide both **GENERAL COMMENTS** on the PRB framework and procedures as well as **SPECIFIC COMMENTS** on each of the six Principles.

GENERAL COMMENTS ON THE PRB FRAMEWORK

Our primary concern regarding the draft PRBs is the slow pace of change the framework allows adopting banks to follow. While we understand the desire to promote the adoption of the PRBs among as many banks as possible, the current approach effectively sets no barriers to entry and creates an undemanding pace for implementation, to a large degree allowing banks to set their own timetable. This may well ensure widespread adoption but is unlikely to secure success in meeting the urgent challenges the PRBs set out to address. Rather, we fear that it risks setting the initiative up for greenwashing, irrelevance, or even failure.

Currently, PRB endorsement (and later adoption) is open for any bank that offers a confirmatory statement and quote from its CEO. What is missing is any assessment of the precise targets banks will set, or the concrete commitments banks will make. Self-defined "starter banks" even have up to 24 months before they are required to publish targets, with then another two years allowed to act on what they pledge. Understandably, many banks have been quick to endorse the draft PRBs and take public credit for their 'participation' *now*, knowing that concrete, published targets will not be due for months or even years.

Unfortunately, given the urgency of the climate and biodiversity crises and many other social and environmental problems besieging the world, we cannot afford to wait this long. The framework given by the PRBs is untenable. We therefore propose that the procedures for adopting the PRBs be reversed: the PRBs should require that banks *first* review their operations, assess their impacts, and *publicly* propose to the initiative their strategies for meeting the targets necessary for aligning themselves with the Paris Climate Agreement and SDG goals, among others. This would require banks to make public commitments to align their operations with climate and sustainability goals *in order to* become an official 'PRB bank', rather than ask that they merely aspire to these standards with actual commitments pending, as the PRBs currently do.

UNEP FI in turn would conduct a *public* assessment of whether a bank's stated targets and plans will indeed ensure alignment with the Paris Climate Agreement and SDG goals and meet other minimum baselines, followed by a public available, well-argumented decision on admission to the initiative. Adopting such a procedure will ensure that the initiative will only attract banks that are genuinely prepared to change at the pace and scale required by the current urgent circumstances.

SPECIFIC COMMENTS FOR EACH PRINCIPLE

In addition, we wish to offer the following comments on each of the six draft Principles.

Principle 1. Alignment

"We will align our business strategy to be consistent with and contribute to individuals' needs and society's goals, as expressed in the Sustainable Development Goals (SDGs), the Paris Climate Agreement and relevant national and regional frameworks. We will focus our efforts where we have the most significant impact."

We are supportive of the general aim of ensuring that banks align their business strategies with individuals' needs and society's goals. However, we are concerned that this principle gives banks too much room to interpret what "alignment" means in practice. The SDGs, for example, are a broad set of 17 global goals touching on a wide array of societal challenges. The permission this Principle gives to banks to "focus" their efforts where, according to them, they have the most significant impact grants banks far too much latitude. We are concerned that leaving this up to each bank's discretion may result in many banks taking only piecemeal and low-cost actions instead of committing themselves to a full alignment on these goals. Such alignment needs to meet minimum standards in order to count as a credible commitment.

One such minimum standard concerns the Paris Climate Agreement. It is now widely recognised that there is no room in the world's remaining carbon budget for any new fossil fuel projects. Every new oil rig, gas pipeline, and coal mine takes us further away from the rapid reduction of carbon emissions required to meet the target of 1.5°C established by the Paris Climate Agreement.[2] Or as Fatih Birol, head of the International Energy Agency, said recently: "We have no room to build anything that emits CO_2".[3]

Given this, there is simply no way for banks to align their operations with the Paris Climate Agreement while continuing to finance new fossil fuel infrastructure. A minimum standard this Principle should require, then, is the commitment from adopting banks to stop financing new fossil fuel projects immediately and present a plan to phase out current financing – lending, underwriting, and equity – for the fossil fuel industry as quickly as possible.

Similarly, the recent IPBES Global Assessment Report on Biodiversity and Ecosystem Services found that one million species are now threatened with extinction and "current negative trends in biodiversity and ecosystems will undermine progress towards 80% of the assessed targets of the Sustainable Development Goals, related to poverty, hunger, health, water, cities, climate, oceans and land."[4] The Principle should then require a commitment by adopting banks to help reach zero deforestation in the tropics at a minimum, given their special importance to biodiversity, and a clear plan for contributing to achieving SDG Goal 15 of halting deforestation by 2020.

A further problem with this Principle is the inadequate attention it gives to respect for human rights, Indigenous rights in particular. Human rights are mentioned in the implementation guide accompanying the PRBs as an additional "relevant national, regional or international framework" that banks may consider. But respect for human rights is not an add-on. It is a baseline expectation of business enterprises everywhere. Adopting banks should commit to full implementation, at a minimum, of all requirements of the UN Guiding Principles on Business and Human Rights (UNGPs) and explicitly recognize collective rights of Indigenous people as enshrined in international human rights standards, while UNEP FI must integrate the duty of banks to respect human and Indigenous rights in the PRBs as a foundational commitment.

Principle 2. Impact

"We will continuously increase our positive impacts while reducing our negative impacts on, and managing the risks to, people and environment resulting from our activities, products, and services."

While a "continuous improvement" approach to banks' maximisation of *positive* impacts is desirable, this Principle seems to endorse an incremental approach to reducing *negative* impacts, which we consider unacceptable. Indeed this approach is out of line with banks' responsibilities to ensure they systematically manage risks to people and environment, prioritising adverse impacts

[2] Report: The Sky's Limit Report, 2016

[3] The Guardian: World has no capacity to absorb new fossil fuel plants, warns IEA, 2018

[4] UN Report: Nature's dangerous decline 'unprecedented'; species extinction rates 'accelerating', 2019

based on the severity and likelihood of the impact, as codified, for example, in the OECD Guidelines for Multinational Enterprises.[5]

The insistence in the implementation guidance[6] to this Principle that "all sectors of the economy create or have the potential to create both opportunities and positive impacts, risks and negative impacts" belies the reality that the impact of some sectors of the economy is overwhelmingly negative and that therefore these activities have to be brought to an end. The manufacture of indiscriminate weapons, for example, has neither potential nor opportunity for positive impacts. Nor can the continued exploration of new coal reserves be seen as positive in any way, in light of the massive climate impact of coal and the ready availability of feasible alternatives.

This principle, differently formulated, could be an opportunity to require that banks integrate an understanding of, and respect for, ecological limits and social justice into corporate strategies across all core business areas including credit, investing, underwriting and advising. Additionally, it could require banks to adjust their screening and due diligence procedures, investment policies, and internal operating standards in order to minimize environmental and social harm.

As we noted in the **GENERAL COMMENTS**, the PRBs must seek that banks formulate concrete targets and commitments upfront. We urge that this Principle is revised to require banks to assess their impacts, make specific, time-bound commitments, and ensure they have processes in place to manage their negative impacts *before* signing on to the PRBs.

Principle 3. Customers & Clients

"We will work responsibly with our clients and our customers to encourage sustainable practices and enable economic activities that create shared prosperity for current and future generations."

While we welcome commitments from banks to actively engage with their customers and clients, this Principle also needs to acknowledge that there are sometimes limits to what can be achieved through such engagement. Next to "*encourage* sustainable practices", banks should also commit to leverage their power to "*ensure"* sustainable practices. Banks can do this by threatening to sever relationships with clients and customers whose activities, after engagement, remain fundamentally incompatible with the goals of the Paris Climate Agreement, the SDGs, the UNGPs and other frameworks. Banks will often need to require of clients time-bound action plans for improvement, backed by sanctions or divestment in the case of non-compliance.

Principle 4. Stakeholder Engagement

"We will proactively and responsibly consult, engage and partner with relevant stakeholders to achieve society's goals."

While we welcome this general commitment to engage with stakeholders, we must observe that the process leading to the current draft version of the PRBs did not itself meet this requirement. Instead of seeking to engage with a broad range of stakeholders from the start, UNEP FI developed the draft PRBs in a closed process with banks and a group of hand-picked civil society organizations. The PRB initiative must ensure henceforth that the consultation process guarantees meaningful engagement of all stakeholders and demonstrate that UNEP FI and endorsing banks are prepared to make changes to the now proposed Principles. UNEP FI must also commit to fully engage all relevant stakeholders in any subsequent revision of the PRBs.

[5] OECD: Guidelines for multinational enterprises, 2011
[6] https://www.unepfi.org/banking/bankingprinciples/implementation-guidance/

Neither Principle 4 itself, nor the implementation guidqnce, make any mention of established rights of affected communities to be meaningfully consulted on business developments that impact on their rights and interests, and of the right of Indigenous peoples to provide or withhold their consent for such developments (FPIC). The absence of any such references risks undoing important progress made in the recognition of such rights among banks.

With regards to bank level commitments, this Principle should express concretely that adopting banks will engage with all relevant stakeholders, specifically a broad range of civil society organisations, when developing or revising sector and issue policies aimed at mitigating the impact of specific business sectors. When financing specific projects, banks must further explicitly commit to respect established rights of communities to consultation and the right of Indigenous peoples to provide or withhold consent, and provide stakeholders with access to all relevant information and decision-makers within the bank. Banks should also actively respond to any enquiries from stakeholders seeking to understand their implementation of the PRBs.

Principle 5. Governance & Target Setting

"We will implement our commitment to these Principles through effective governance and a culture of responsible banking, demonstrating ambition and accountability by setting public targets relating to our most significant impacts."

Regarding governance, the scope of this Principle needs to be extended beyond mere implementation of the PRBs to recognise the importance of effective governance and a culture of responsible banking across the organisation as a whole. We consider this a basic requirement for any bank, without which per definition it cannot operate responsibly.

Indeed, we consider many of the steps set out in the implementation guidance for this Principle to be baseline expectations for responsible banks, for example: "integrate sustainability into a clearly communicated purpose and/or vision and mission for the bank"; "actively communicate top-level buy-in from directors, CEOs and C-suite executives"; and "integrate the bank's sustainability targets in the bank's incentive systems". These commitments should be required in advance of all banks seeking to become adopters of the PRBs.

We welcome public target-setting but reiterate that this should be the first step that banks take to present themselves as eligible adopting banks. As addressed in the **GENERAL COMMENTS**, we suggest the PRBs should require banks to set targets based on the Paris Climate Agreement, SDGs, and UNGPs *before* they are admitted to this initiative, and that the PRBs establish baselines that all banks will be required to meet for eligibility.

Principle 6. Transparency & Accountability

"We will periodically review our individual and collective implementation of these Principles and be transparent about and accountable for our positive and negative impacts and our contribution to society's goals."

Regarding transparency and accountability, as with Principle 5, the scope of this Principle needs to be extended beyond mere implementation of the PRB and applied across the institution as a whole.

Transparency, across all operations, is a prerequisite for accountability. For stakeholders to meaningfully assess how banks are managing their impacts on people and planet, it is necessary for banks to publish details of the companies and projects they finance, so that stakeholders, including affected communities, have the opportunity to hold banks accountable. Client confidentiality should not be used as an excuse to hide relevant information from stakeholders but should be overcome by ensuring disclosure criteria are included in all lending and other finance agreements.[7]

Similarly, accountability needs to apply across the board: banks need to ensure they can be held accountable for all of their activities, including but not limited to their implementation of the PRBs. This means that banks need to move beyond reporting on targets and impact in relation to the PRBs and set up practical procedures to strengthen accountability, for example by establishing or participating in grievance mechanisms that meet effectiveness criteria established by the UNGP, are accessible to all stakeholders (including local communities directly affected by bank financed projects and clients), and provide meaningful opportunity for concerns of stakeholders to be heard and addressed.

Further, to ensure banks are accountable for implementation of their commitments, the PRB initiative should establish its own independent panel or accountability mechanism. This mechanism should be open to external stakeholders wishing to file a complaint on a bank's implementation of the PRBs, and would issue recommendations to adopting banks and UNEP FI detailing actions necessary to ensure compliance.

In conclusion, we undersigned civil society organisations sincerely hope that the suggestions we put forward here can still be incorporated in the PRB framework, so that it will allow us to publicly support the initiative at its launch in New York in September. We are committed to continued constructive engagement with UNEP FI and with endorsing and adopting banks to ensure that the PRBs will make a tangible difference in stopping climate change, preserving nature, fighting poverty, and protecting human and Indigenous rights.

We welcome the chance to discuss the feedback and proposals contained in this submission and look forward to your written response to our organisations, at the email address below.

Sincerely,

Johan Frijns, Director, **BankTrack**, The Netherlands (penholder)
<johan@banktrack.org>

And

1. Brett Fleishman, Director of Finance Campaigning, **350.org**, United States
2. Kindra Mohr, Policy Director, **Accountability Counsel**, United States
3. Okereke Chinwike, Founder & CEO, **African Law Foundation (AFRILAW)**, Nigeria
4. Moira Birss, Finance Campaign Director, **Amazon Watch**, United States
5. Kate Geary, Director, **BIC-Europe**, The Netherlands
6. Shonan Kothari, Campaign Lead, **Change Finance Coalition**, Belgium
7. Ashley Taylor, Senior Private Sector Advisor, **Christian Aid**, United Kingdom
8. Julia Cortez de Cunha Cruz, **Officer, Conectas Human Rights**, Brazil
9. Michelle L. Cook, Founder, **Divest, Invest, Protect**, United States
10. Jennifer Krill, Executive Director, **Earthworks**, United States
11. Merel van der Mark, Coordinator, **Environmental Paper Network Pulp Finance Working Group**, The Netherlands
12. Thomas Küchenmeister, Managing Director, **Facing Finance**, Germany
13. Bernadette Victorio, Regional Program Lead, **Fair Finance Asia**, Cambodia
14. Namit Agarwal, Interim Coordinator, **Fair Finance Guide Coalition - India**, India

[7] BankTrack Report: "We are unable to comment on specific clients…", 2019

15. Gine Zwart, Coordinator, **Fair Finance Guide International**, International
16. Carla F. Fredericks, Faculty Director, **First Peoples Worldwide**, United States
17. Adam Carlesco, Staff Attorney, **Food & Water Watch**, United States
18. Anja Bakken Riise, Director, **Framtiden i våre hender**, Norway
19. Lorette Philippot, Private Finance Campaigner, **Friends of the Earth France**, France
20. Karen Orenstein, Deputy Director, Economic Policy, **Friends of the Earth U.S.**, United States
21. Heike Drillisch, Board Member, **GegenStroemung - CounterCurrent**, Germany
22. Elaine Zuckerman, President, **Gender Action**, United States
23. Claudio Fernandes, Senior Economist Policy Advisor, **Gestos**, Brazil
24. Adam McGibbon, Senior Campaigner, **Global Witness**, United Kingdom
25. Daniel Mittler, Political Director, **Greenpeace International**, International
26. Natalie Bugalski, Legal Director, **Inclusive Development International**, United States
27. Alberto Saldamando, Counsel, Climate Change Policy, **Indigenous Environmental Network**, United States
28. Sabine Schielmann, Board, **INFOE - Institute for Ecology and Action Anthropology**, Germany
29. Josh Klemm, Policy Director, **International Rivers**, International
30. Andy Whitmore, Advisory Group Member, **London Mining Network**, United Kingdom
31. Will van de Pol, Campaigner, **Market Forces**, Australia
32. Jeanne Mirer, Suzanne Adely and Jackelyn Mariano, Co-chairs, **National Lawyers Guild International Committee**, United States
33. Thijs van Brussel, Project Leader International Standards, **PAX**, The Netherlands
34. Jan willem van Gelder, Director, **Profundo**, Netherlands
35. Andreas Missbach, Joint Management Director, **Public Eye**, Switzerland
36. Lindsey Allen, Executive Director, **Rainforest Action Network**, United States
37. Vemund Olsen, Senior Policy Adviser, **Rainforest Foundation Norway**, Norway
38. Eugene Simonov, Coordinator, **Rivers without Borders International Coalition**, Russia
39. David Hillman, Director, **Stamp Out Poverty**, United Kingdom
40. Lucie Pinson, Senior Campaigner, Finance Program, **Sunrise Project**, France
41. Joseph Wilde-Ramsing, Senior Researcher, **The Centre for Research on Multinational Corporations (SOMO)**, The Netherlands
42. Regine Richter, Energy Campaigner, **urgewald**, Germany
43. Osprey Orielle Lake, Policy Officer Financial Markets, **Women's Earth and Climate Action Network (WECAN) International**, United States
44. Markus Henn, Executive Director, **World Economy, Ecology & Development (WEED)**, Germany