

Global Banks, the Environment, and Human Rights:

The Impact of the Equator Principles on Lending Policies and Practices

Introduction

During the decade before the outbreak of the financial crisis, many commercial banks gradually loosened their lending standards in order to remain competitive in a booming leveraged buyout market. In 2007, Chuck Prince, the former CEO and chairman of Citigroup, famously defended this practice by saying that “as long as the music is playing, you’ve got to get up and dance.”¹ Against this backdrop, it may surprise many that in 2003, Prince was one of ten senior banking executives celebrated for launching the Equator Principles, a set of environmental and social principles and standards for promoting more environmentally and socially responsible lending.² They decided to base the Equator Principles on a public policy framework developed by the International Finance Corporation (IFC), the World Bank Group’s private sector financing division. This cooperative arrangement between fiercely competitive commercial banks emerged after a transnational network of NGOs had severely criticized them for funding large industrial projects in developing countries that had generated significant adverse impacts on the environment and local communities.³

This article will assess the impact of the Equator Principles on the environmental and social governance of project financing. More than seventy financial institutions (encompassing

¹ Michiyo Nakamoto and David Wighton, “Citigroup chief stays bullish on buy-outs”, *Financial Times*, 9 July 2007.

² Equator Principles 2003, 2006 (revised framework); FBD 2005; Richardson 2008, 411-420; van Putten 2008, 178-216; and Watchman et.al 2007. The banks were ABN AMRO Bank NV, Barclays plc, Citigroup, Credit Lyonnais, Credit Suisse First Boston, HVB Group, Rabobank Group, Royal Bank of Scotland, WestLB AG, and Westpac Banking Corporation.

³ Emel 2002; Richardson 2008, 411-420; van Putten 2008, 178-216; and Wright and Rwabizambuga 2006.

both public and private financial institutions) have thus far publicly declared a commitment to implement the Equator Principles in their project finance and advisory services worldwide. The IFC has called it “by far and away the biggest response by the private sector to the globalization debate”, and the *Washington Post* in a lead editorial stated it “demonstrated that the [World Bank Group] can remain relevant in a world awash in private capital.”⁴ Meanwhile, environmental and human rights NGOs remain deeply sceptical of its impact given the lack of external accountability and the continued lending to projects with significant environmental and social costs.

As the most talked about environmental governance initiative in the financial sector, the Equator Principles provide an interesting case for understanding the roles, responsibilities, and impacts of financial institutions in global environmental governance. The article assumes that the Equator Principles are effective if they have induced financial institutions to adopt and implement environmental and social commitments that have non-trivial costs and establish effective mechanisms for monitoring compliance.⁵ The remainder of the analysis will be structured as follows. The next section will explain the origins of the Equator Principles and briefly describe their content, governance structure, and mechanisms of implementation. The ensuing three sections will consider its governance impact by separately analyzing observed changes to project finance policies, actual practices, and the external accountability of financial institutions. The conclusion summarizes the main findings and considers whether the Equator Principles raise the prospect for improved environmental and social governance of international project lending.

⁴ Woicke 2003; “Managing Globalization”, *Washington Post*, Lead Editorial, Section B06, 19 February 2006.

⁵ Prakash and Potoski 2006, 150.

The Emergence and Evolution of the Equator Principles

Financial institutions significantly influence the global economy and the natural environment through their risk management and investment decisions.⁶ Long-term bank loans to projects (referred to as project financing) play a central role in funding industrial development in all countries and industry sectors. Since the late 1980s, annual investment volumes of project financing have grown from less than US\$10 billion to nearly US\$300 billion.⁷ Given the size, location, and economic characteristics of many projects, they are prone to generate significant adverse environmental and social impacts. Open-cast mines may undermine the resource base of small-scale miners and contaminate ground water. Hydropower dams often irreversibly change river ways and permanently displace riverside communities. Oil palm plantations may accelerate deforestation and deprive forest dwellers of their economic livelihoods. And oil and gas pipelines in tropical forests may accelerate biodiversity loss and increase the risk of soil and water contamination. As projects depend on long-term bank loans to fund planning and construction, banks enjoy significant leverage over the investors that own and operate them.

Historically, NGOs campaigning against the funders of large industrial projects have focused on the roles and responsibilities of government-backed financial institutions – notably multilateral development banks and export-credit agencies.⁸ But the growth in commercial bank lending in the early 1990s prompted a group of NGOs in North America and Europe to publicly criticize several commercial banks headquartered in their home countries for their financial

⁶ For studies of different classes of financial actors, see Emel 2002; Gutner 2002; Hardenbrook 2007; O’Sullivan and O’Dwyer 2009; Park 2010; Scholtens 2009; and Wright and Rwabizambuga 2006 (banks). Maurer and Nakhoda 2003; and Schaper 2009 (export credit agencies). MacLeod 2007; and Richardson 2008 (institutional investors). Haufler 1997 and Paterson 2001. (insurers)

⁷ Esty 2004.

⁸ For reviews of campaigns against multilateral development banks, see Bradshaw 2007; Bridgeman and Hunter 2008; Hochstetler 2002; Keck and Sikkink 1998; Park 2010; and van Putten 2008. For campaigns against export-credit agencies, see Maurer and Nakhoda 2003; and Schaper 2009.

involvement in projects abroad that had generated considerable local opposition.⁹ In a number of cases, including the Three Gorges Dam project in China and the Oleoducto Crudos Pesados (OCP) pipeline in Ecuador, commercial banks provided loans to projects even though one or more public financial institutions had withdrawn due to concerns over serious environmental and social harms.¹⁰ NGOs were commonly organized in transnational advocacy networks that drew on the “boomerang pattern of influence” that had underpinned their successful campaigns against the World Bank in previous years.¹¹ Applying this strategy to the world of private finance, local community groups and international NGOs sought to halt projects by confronting commercial banks at the project level in countries hosting their investments and at the corporate headquarters and consumer bank branches in their home countries.¹² As an example, the campaign against the Sakhalin II oil and gas project in the Russian Far East was driven by domestic civil society but included at least 146 NGOs across 22 countries that were directly or indirectly involved in pressuring governments, investors and lenders in North America, Europe, Japan, and Russia.¹³ Oftentimes, campaigns were supported by investor groups with an interest in promoting environmental and social sustainability that used their shareholder rights to demand changes to corporate policies and practices.¹⁴

In October 2002, IFC and ABN Amro co-hosted a workshop with a small group of commercial banks to informally discuss how to abate the negative criticism directed towards large-scale project financing in developing countries. During the ensuing year, a working group of four commercial banks with technical support from the IFC drafted a set of principles and

⁹ Chan 2010; Hardenbrook 2007; Missbach 2004; van Putten 2008; and Wright and Rwabizambuga 2006.

¹⁰ Hardenbrook 2007; Missbach 2004; and O’Sullivan and O’Dwyer 2009.

¹¹ Bridgeman and Hunter 2008; Emel 2002; Hochstetler 2002; and Keck and Sikkink 1998, 12-14.

¹² Chan 2010; Emel 2002; and Wright and Rwabizambuga 2006.

¹³ Bradshaw 2007; and Lee 2005, 27-45.

¹⁴ Emel 2002; MacLeod 2007; and Richardson 2008.

standards for commercial banks to manage environmental and social risks in project financing.¹⁵ Separately, 102 NGOs signed and released the *Collevocchio Declaration* at the World Economic Forum in Davos in January 2003. In broad terms, it demanded that financial institutions commit to formulate clear sustainability objectives, introduce and enforce environmental and social compliance requirements, support debt-relief for highly-indebted developing countries, refrain from financing projects without local community consent, disclose policies and lending portfolios, and lobby in favor of stronger financial regulation.¹⁶ However, as commercial banks wanted a framework that was narrower in scope and ambition, they did not adopt most of these recommendations.

In June 2003, ten commercial banks launched the Equator Principles at a meeting hosted by the IFC at its headquarters in Washington D.C. After consultations with their corporate clients and other banks, they decided to make the IFC's *Safeguard Policies* a cornerstone of the Equator Principles. In March 2006, the IFC released a set of *Performance Standards on Social and Environmental Sustainability* to replace *the Safeguard Policies* in its portfolio of policies, and three months later, the financial institutions that had adopted the Equator Principles (formally referred to as Equator Principles Financial Institutions – EPFIs) introduced a revised version that reflected the changes made by the IFC, their desire to expand the scope of the framework to also cover project finance advisory services and smaller projects, and demands from NGOs for a reporting requirement.¹⁷ By having adopted the Equator Principles of 2006, financial institutions commit to “referring to” the *IFC Performance Standards*, the *World Bank Pollution Prevention and Abatement Handbook*, and the *IFC Environmental Health and Safety Guidelines* when

¹⁵ For details of the drafting process, see FBD 2005, 27; van Putten 2008, 178-184; and Wright 2009.

¹⁶ Missbach 2004; and O’Sullivan and O’Dwyer 2009. For the Collevocchio Declaration, see the Berne Declaration website, www.evb.ch.

preparing social and environmental assessments of projects in non-OECD countries and those located in OECD countries not designated as High-Income.¹⁸ The *IFC Performance Standards* identify minimum requirements across a range of thematic areas, including social and environmental assessment, natural habitats protection, land acquisition and involuntary resettlement, and pollution prevention and abatement.¹⁹

While the Equator Principles apply to both developed and developing countries, most of the former have national laws and regulations that make compliance with the most important elements of the framework mandatory. In contrast, many developing countries lack comprehensive and strongly enforced laws and regulations that protect the environment and the rights of vulnerable population groups.²⁰ In those jurisdictions, the Equator Principles essentially call on EPFIs to voluntarily “over-comply” by following stringent standards even though a legal requirement to do so may not exist.²¹ A central element of the framework is a process by which project proposals are classified according to the magnitude of potential social and environmental impacts and risks - “A” for high-risk, “B” for medium-risk, or “C” for low-risk - and according to the income level of the country in which each projects is to be based.²² In the case of all category “A” projects, and “as appropriate” for category “B” projects, EPFIs commit to require owners of projects (referred to as project sponsors) to publicly disclose a social and environmental impact assessment and consult with project-affected groups “for a reasonable minimum period in the relevant local language and in a culturally appropriate manner”, as a

¹⁷ Equator Principles 2006. For an analysis of the main differences between the 2003 version and the 2006 revised version, see Watchman et.al 2007, 35-53.

¹⁸ In the case of High-Income OECD countries, the baseline is compliance with local or national law alone.

¹⁹ IFC 2006.

²⁰ Vogel 2010, 164.

²¹ Kulkarni 2009.

²² See Equator Principles 2006, Exhibit 1.

means to ensure “their [affected communities] free, prior and informed consultation.”²³ For all category “A” and “B” projects in developing countries, project sponsors need to produce an action plan that takes the outcome of consultation processes into account and addresses mitigation, monitoring, and management of risk and schedules. In addition, they need “to comply with applicable host country social and environmental laws and regulations, and requirements of the applicable *Performance Standards* and environmental, health, and safety guidelines, as defined in the Action Plan”, and maintain an internal management system for handling environmental and social issues.²⁴ The action plan for all category “A” projects, and “as appropriate” for all category “B” projects, should be subjected to a review by an independent expert not directly associated with the project sponsor to assist the due diligence of the EPFI and assess Equator Principles compliance.²⁵ Again for all category “A” projects, and “as appropriate” for all category “B” projects, EPFIs have to require project sponsors to establish a grievance mechanism, “scaled to the risks and adverse impacts of the project”, that allow them “to receive and facilitate resolution of concerns and grievances about the project’s social and environmental performance raised by individuals or groups from among project-affected communities.”²⁶ Finally, each EPFI has also committed to “report publicly at least annually about its Equator Principles implementation processes and experience, taking into account appropriate confidentiality considerations.”²⁷

The initial response of NGOs to the Equator Principles was “positive, but cautious.”²⁸

Four months after the framework was launched, a number of NGOs that had campaigned against

²³ Equator Principles 2006, 3-4.

²⁴ Equator Principles 2006, 4.

²⁵ Equator Principles 2006, 4.

²⁶ Equator Principles 2006, 4.

²⁷ Equator Principles 2006, 5.

²⁸ Banktrack 2005, 1; Missbach 2004; and O’Sullivan and O’Dwyer 2009.

the commercial banking industry formed Banktrack – a “horizontal membership-based network” of 18 members and 13 partners managed by a small secretariat that coordinates and supports campaigns, builds monitoring capacity among members, gathers and disseminates information about projects, and manages outreach with the commercial banking industry.²⁹ The embeddedness of the Equator Principles within a broader multilateral rule-making structure supported the view of Banktrack members that all financial institutions – whether public or private - should in broad terms have the same responsibilities relative to the environment and local communities when financing large industrial projects.³⁰

In July 2006, EPFIs decided to create a secretariat, a steering committee, and a set of working groups to manage the Equator Principles website, assist financial institutions with the adoption process, produce “best practice” guidelines, coordinate outreach, and discuss the future development of the framework. In July 2010, EPFIs formally transformed the Equator Principles into a “club” structure by creating a member association with its own objectives, rules, resources, and activities.³¹ It identified rules for representation and decision-making, stating that “the Principles operate by consensus as far as is practically possible, with internal consultation and processes designed to ensure that decisions have the support of the majority of EPFIs and, as appropriate, Associates.”³² As part of adopting the Equator Principles, EPFIs would be required to sign a legal agreement accepting the governance rules, including the payment of an annual fee “in a timely manner” and compliance with the reporting requirement within 18 months of adoption to avoid “de-listing”. In October 2010, EPFIs announced the launch of a strategic

²⁹ See Banktrack website, www.banktrack.org; and Missbach 2004.

³⁰ See van Putten 2008, 247-249 for survey results affirming this view among NGOs.

³¹ EPFI 2010a; and Prakash and Potoski 2006.

³² EPFI 2010a, 7. In the governance rules, “Associates” are EPFIs without active project finance portfolios.

review of the Equator Principles in anticipation of IFC's release of its revised environmental and social policy framework in 2011.

The Impact of the Equator Principles on Lending Policies

In their current form, the Equator Principles are widely supported by the global banking industry. Many banking executives claim they have changed the way most financial institutions and project sponsors understand and execute their environmental and social responsibilities.³³ As the Equator Principles were initially drafted by and for commercial banks, they conform well to the purpose and structure of project financing and project risk management.³⁴ By December 2010, there were seventy EPFIs, compared to ten in June 2003. In a sense, the growth in numbers reflects how the minority of commercial banks with high exposure to reputational risks have successfully convinced competitors with relatively low exposure to bear some of the regulatory costs by agreeing to adopt a common standard that would “level the playing field”, at least with regards to commitments.³⁵ Since Unibanco of Brasil became the first non-OECD bank to adopt the framework in June 2004, financial institutions from Argentina, Brazil, Chile, China, Oman, South Africa, Togo, and Uruguay have adopted the Equator Principles. However, its center of gravity remains in Europe and North America, evidenced by the fact that only two of twenty official EPFI meetings held between June 2003 and December 2010 took place outside of the United States and Western Europe.³⁶ The Equator Principles have also been adopted by a number

³³ For industry views, see quotes in FBD 2005; IFC 2007a; Macve and Chen 2010; Newton 2006; and Watchman et.al 2007.

³⁴ For a technical introduction to project finance, see Esty 2004.

³⁵ Amalric 2005; O'Sullivan and O'Dwyer 2009; and Prakash and Potoski 2006.

³⁶ Based on consultation meetings, learning events, and training sessions mentioned on the Equator Principles website, www.equator-principles.com. The meeting commemorating the fifth anniversary of the launch of the Equator Principles was held in Sao Paolo in 2008, and the meeting launched the most recent strategic review was held in Beijing. The eighteen other meetings were held in; London (6), Washington D.C (5), Amsterdam (2), Hamburg, Vienna, Paris, Zurich, and Rome.

of public financial institutions, such as the Danish Export Credit Agency, Export Development Canada, the Industrial Bank of China, and the Arab African International Bank. While this diffusion is impressive, several public financial institutions with rapidly growing project finance portfolios have not adopted the Equator Principles, including Industrial Development Bank of India, the State Bank of India, and the Bank of Taiwan, the top three banks by project finance volume in 2010.³⁷

The intention of the Equator Principles is “to serve as a common baseline and framework for the implementation by each EPFI of its own internal social and environmental policies, procedures and standards related to its project financing activities.”³⁸ By implication, one would expect all EPFIs to have developed their own social and environmental lending policies, and as an aspect of demonstrating compliance, disclosed these to the public. Prior to the emergence of the Equator Principles, most EPFIs were operating with lending policies and procedures that were less systematic, comprehensive, and specific than what the Equator Principles prescribe.³⁹ In 2010, a Banktrack report that surveyed the policies of forty-nine financial institutions (of which thirty-nine were EPFIs) across seven industry sectors and nine thematic areas (such as biodiversity, climate change, and human rights) found that the vast majority had adopted several international principles and guidelines pertaining to environmental and social risks.⁴⁰ Compared to 2007, a greater share of financial institutions actively monitored by Banktrack members was publishing an externally audited sustainability report that conformed to the GRI Sustainability Reporting Guidelines and its Financial Services Sector Supplement.⁴¹ On average, EPFIs also

³⁷ Based on data for third quarter 2010. (Euromoney plc website, www.euromoney.com)

³⁸ Equator Principles 2006, 5.

³⁹ Jeucken 2001; and Scholtens 2009.

⁴⁰ Banktrack 2010b.

⁴¹ Banktrack 2010b, 185.

had more robust policies than non-EPFIs.⁴² Many EPFIs had incorporated the Equator Principles into internal credit and auditing procedures and implemented staff training programs.⁴³ For example, the Arab African Investment Bank has stated that upon adopting the Equator Principles, it commissioned a consultant to review its project portfolio for compliance and rewrite its internal policies and procedures in accordance with the framework.⁴⁴ Some EPFIs have also developed manuals, tool kits, and check lists to guide decision-making and created cross-departmental risk committees to oversee Equator Principles implementation in project finance operations.⁴⁵

Many EPFIs that adopted the framework during its first few years were already complying with many of its requirements. A minority of EPFIs has developed policies in certain areas that go beyond what the Equator Principles require, often in response to demands made by NGOs in their home countries.⁴⁶ In accordance with its *Forest Land and Forest Products Sector Policy*, HSBC has committed to refrain from financing companies engaged in illegal logging or operating in areas designated by UNESCO as world heritage sites or included on the RAMSAR list of wetlands of international importance.⁴⁷ Moreover, the policy requires companies in the forestry sector to obtain independent certification that timber operations and supplies of timber products are legal and sustainable, based on the principles and criteria of the Forest Stewardship Council (FSC), as well as the Equator Principles. Four EPFIs – HSBC, ING Group, Intesa SanPaolo, and Banco Bradesco - have policies that require project sponsors to manage toxic chemicals according to the precautionary principle and in compliance with EU regulations, even

⁴² Scholtens and Dam 2007.

⁴³ Aizawa 2007; FBD 2005; and Macve and Chen 2009, 897-898.

⁴⁴ AAIB 2010.

⁴⁵ EIRIS 2006.

⁴⁶ Missbach 2004; and Wright and Rwabizambuga 2006.

⁴⁷ HSBC 2008.

if projects are outside the EU. Three EPFIs – Rabobank, ING Group, and Unicredit – have policies banning the financing of controversial weapons production and trade, such as cluster munitions, anti-personnel landmines, and biological and chemical weapons.⁴⁸ Six U.S. commercial banks alongside several power companies and environmental NGOs have introduced the Carbon Principles for managing climate risk in the electric power sector, an issue that is increasingly motivating advocacy campaigns but that the Equator Principles do not comprehensively address. The Climate Group, in collaboration with Credit Agricole, HSBC, Standard Chartered, Swiss Re, F&C Asset Management, and BNP Paribas, launched the Climate Principles in 2008, which commits financial institutions to manage climate risk across a number of financial products and services, including project finance. More recently, EPFIs have urged IFC to incorporate into the next version of the *IFC Performance Standards* a “best available technology” standard and a greenhouse gas emissions reporting requirement for large emission-intensive projects.⁴⁹

Notwithstanding these examples, there is great variation in policy development across EPFIs, reflecting differences in commitment, resources, exposure to high-risk sectors, and vulnerability to reputational damages. In 2005, the law firm Freshfields surveyed the policies and actions of the first twenty-eight EPFIs and concluded that each fell into one of four groups; “the vanguard” of four commercial banks that led the initial drafting process of the Equator Principles and their subsequent development, a “chasing pack” which “has demonstrated a strong commitment”, “solid citizens” that are “not leading the way, but nevertheless contribute to the development of the framework”, and a fourth group of “free-riders” that “have done little more than put their adoption of the Equator Principles on their websites and free-ride on the efforts of

⁴⁸ Richardson 2008, 446.

⁴⁹ EPFI 2010b.

the other Equator Banks.”⁵⁰ In a more recent survey, Banktrack found that “the content of many policies is vague, hardly expresses any commitment, and usually lacks clear criteria and objectives.”⁵¹ Based on policy data gathered and disseminated by Banktrack, none or very few EPFIs have publicly disclosed in a substantive way how they are prepared to prevent biodiversity loss (none), support the plight of indigenous peoples (three percent), protect human rights (eighteen percent), and promote transparency and accountability (twenty-three percent).⁵² For Banktrack members, the poor quality of lending policies and the prevalence of “free-riding” provides justification for making compliance a legal requirement and subjecting EPFIs to independent monitoring and enforcement. As the introduction of the de-listing mechanism in 2010 demonstrates, EPFIs that have invested significant resources in implementing the Equator Principles are also concerned about “free-riding” because of its potential to undermine public confidence in the Equator Principles as an effective governance framework.⁵³

The Impact of the Equator Principles on Lending Practices

Assessing the impact of the Equator Principles on the selection, preparation and substantive outcomes of projects is made difficult by the virtual absence of public information about the terms and conditions of individual project finance transactions.⁵⁴ Moreover, EPFIs often get involved in projects only after major decisions regarding project location, scope, and technology have been made.⁵⁵ In 2005, Banktrack released a report titled “Unproven Principles” which claimed that over half of EPFIs had failed to disclose whether the Equator Principles had

⁵⁰ FDB 2005, 11. However, it did not speculate how many EPFIs fell into each of the latter three groups.

⁵¹ Banktrack 2010b, 185.

⁵² According to Banktrack methodology, these percentages reflect the share of banks that have done nothing more than simply adopt a voluntary standard and/or develop and disclose a vaguely worded policy with no clear commitments in the relevant issue areas. (Banktrack 2010b)

⁵³ Amalric 2005; and Gaskin 2007.

⁵⁴ Macve and Chen 2009; and van Putten 2008, 31.

triggered amendments to their internal systems, tools, and procedures for project finance transactions.⁵⁶ While external reporting of Equator Principles implementation has improved since then, most financial institutions remain reluctant to disclose the project-specific information that is necessary for external actors to hold them accountable for their lending decisions.⁵⁷ As a result, most information about the environmental and social dimensions of projects made available to the general public is based on local media stories and field reports gathered and disseminated by Banktrack members and their networks in developing countries. On its website, Banktrack provides profiles of all EPFIs, including assessments of the strength of their lending policies and information on specific projects.⁵⁸ Reflecting its political objectives, there is much more information about negative cases than positive ones.⁵⁹

Immediately following the launch of the framework, a number of large projects were singled out by multilateral development banks, EPFIs, and Banktrack as “test cases” for Equator Principles implementation. The Baku-Tblisi-Ceyhan (BTC) pipeline project - a 1,770-km pipeline built to transport crude oil from the Caspian Sea to the Mediterranean – was hailed by lenders as a “poster child” of the Equator Principles because of extensive impact studies, numerous multi-stakeholder dialogues, and stringent environmental and social safeguards.⁶⁰ In contrast, Banktrack members and local community groups criticized the project for its poor pipeline safety, inadequate resettlement plans, and faulty environmental impact studies.⁶¹ Since the start of operations in 2006, the pipeline has transported nearly one billion tons of crude oil, but the flow of oil has been disrupted by civil unrest in Georgia and multiple oil spills allegedly

⁵⁵ FBD 2005, 86.

⁵⁶ Banktrack 2005, 8.

⁵⁷ Banktrack 2010b, 185; and FBD 2005.

⁵⁸ www.banktrack.org.

⁵⁹ Hardenbrook 2007.

⁶⁰ FBD 2005, 110; and IFC 2003.

⁶¹ Project loans were provided by IFC, EBRD, and several EPFIs and national export credit agencies.

caused by inadequate safety monitoring of the pipeline.⁶² Similarly, the emergence of the Equator Principles did little to diffuse tensions over the funding of the Sakhalin II project in the Russian Far East. The transnational advocacy campaign confronting the project sponsor (Shell) and the chief lender (EBRD) had demonstrated the adverse impacts of the project on local fishing communities and marine wildlife, including the endangered Western Pacific grey whale. While activists played an important role in influencing the EBRD to stall loan disbursements because of environmental violations, they were unable to prevent Credit Suisse First Boston from becoming a financial advisor to the project.⁶³ Subsequently, ABN Amro (now part of Royal Bank of Scotland), Credit Lyonnais, and several other EPFIs provided general purpose corporate loans directly to Gazprom, which took over the ownership of the project in 2007. In another case, CEDHA, the Argentine NGO, documented that the Orion pulp and paper mill being constructed near the border of Argentina and Uruguay and financed in part by ING Group and Calyon, both EPFIs, violated the Equator Principles.⁶⁴ Many EPFIs – including ABN Amro, ANZ, and Standard Chartered - also provided loans to the Rapu-Rapu copper mine operated by Lafayette Mining in the Philippines despite it having temporarily lost its operating permit due to two separate tailing spills that severely damaged marine wildlife.⁶⁵

The persistent disagreements between Banktrack members and the EPFIs over the application of the Equator Principles to projects reflects how they differ in their perceptions of the main purpose of the framework, and related, the appropriate yardstick for measuring success.⁶⁶ The former tend to focus on the environmental and social outcomes of projects and

⁶² Simon Clark, "BP's Caspian Pipeline Needs Greater Scrutiny, U.S. Agency Says", *Bloomberg*, 6 February 2007.

⁶³ Bradshaw 2007; Lee 2005; and Platform 2004.

⁶⁴ Bridgeman and Hunter 2008; and Lee 2008. ING Group eventually withdrew its financing following intense public pressure.

⁶⁵ Oxfam Australia 2008, 11.

⁶⁶ Coulson 2009 summarizes this difference in perspective as "action versus veto."

associate responsible banking with the categorical exclusion of certain projects that are likely to generate significant environmental and social harms.⁶⁷ In 2007, a Banktrack study alleged that forty-five projects were “dodgy deals” because they violated either the Equator Principles or established principles and standards embedded in national and international environment and human rights law.⁶⁸ In contrast, EPFIs tend to focus on process and consider responsible banking primarily in the context of better managing environmental and social risks during the preparation of projects. In conformance with this view, the Equator Principles are much more explicit about how EPFIs should identify, assess, and attempt to mitigate the environmental and social impacts of projects than on what basis they should be selected and which specific outcomes they should have.⁶⁹ Symptomatically, in the interest of not constraining their lending options in regions with sensitive ecosystems and populations of indigenous peoples, EPFIs have not been willing to adopt standards that categorically exclude projects in certain areas or give project-affected communities a right to veto a new development project.⁷⁰

Another point of contention is that the Equator Principles allow EPFIs to financially support non-compliant projects through non-project-based forms of financing, and conversely, allow project sponsors to avoid Equator Principles compliance by raising such financing.⁷¹ While some EPFIs reportedly apply the Equator Principles to loans that are not strictly project finance, the narrow scope of the framework effectively leaves out 90 percent of the corporate lending portfolios of most commercial banks.⁷² As an example of this form of “leakage”, Citigroup provided a bridge loan of US\$ 1.1 billion to Vedanta Resources in support of its purchase of a

⁶⁷ Banktrack has argued the Equator Principles have allowed harmful projects to be funded with renewed legitimacy in “Equator compliant mode.” (Banktrack 2010a)

⁶⁸ See Banktrack 2010a, Appendix II, and www.banktrack.org.

⁶⁹ Richardson 2005.

⁷⁰ Coulson 2009; Johnson 2007; and Lee 2005.

⁷¹ O’Sullivan and O’Dwyer 2009, 566-567.

majority stake in Sesa Goa and arranged a share issue (IPO) of US\$ 2 billion to enable Vedanta's subsidiary, Sterlite Resources, to trade on the New York Stock Exchange.⁷³ Previously, the Norwegian Pension Fund Global, the Dutch Pension Fund PGGM, and the Church of England had divested from Vedanta Resources due to its poor environmental record.⁷⁴ In the case of the Orion pulp and paper mill, the Dutch bank ING Group opted to eventually withdraw its project financing reportedly because it felt the project did not comply with the Equator Principles, whereas the French bank Credit Agricole (formerly Calyon) argued that its debt-financing could not be strictly regarded as project finance and thereby did not formally require compliance.⁷⁵ Finally, EPFI financing of Gazprom through corporate loans that were not explicitly earmarked for the Sakhalin II project are technically not governed by the Equator Principles, but certainly boosted its ability to complete the purchase of Shell's equity stake. While it is impossible to judge whether general purpose corporate loans are provided by EPFIs to circumvent the Equator Principles, the narrow application of the framework to project financing does undermine its potential influence on the environmental and social governance of projects.

The External Accountability of Equator Principles Financial Institutions

External accountability is frequently cited as a precondition for ensuring that financial institutions promote the public interest.⁷⁶ The credibility of voluntary commitments also rises if they are independently monitored. Banktrack members have argued that IFC's decision to disassociate itself from the World Bank's *Safeguard Policies* and replace them with the *IFC*

⁷² EPFI 2010a,3; Missbach 2004. For example, Barclays states that it also applied the "spirit of equator" for 268 non-project finance deals in 2006. (Macve and Chen 2009, 899)

⁷³ "Vedanta raises Sesa Goa Bridge", *Project Finance Magazine*, 28 August 2007.

⁷⁴ Mark Cobley, "Dutch Pension Fund Exits Vedanta on Ethical Grounds", *Wall Street Journal*, 7 July 2007.

⁷⁵ Lee 2008.

⁷⁶ Bridgeman and Hunter 2008; Park 2010; and van Putten 2008, 22-31.

Performance Standards in 2006, a process which was begun shortly after the launch of the Equator Principles in 2003, signified a “shift from explicit, mandatory policies, to which [it] can be held accountable, to flexible principles permitting the investor and/or the borrowing government to determine the project’s social and environmental requirements.”⁷⁷ The aim of the *IFC Performance Standards* (according to IFC) is to “define [project sponsor’s] roles and responsibilities for managing their projects and the requirements for receiving and retaining IFC support.”⁷⁸ In accordance with this client-centered view, the grievance mechanism introduced in the revised framework of 2006 did not enable project-affected communities to lodge claims against lenders, only project sponsors, and thus falls short of fully addressing the lack of accountability in Equator Principles implementation.⁷⁹ In contrast to EPFIs, all multilateral development banks (including IFC) have developed independent accountability mechanisms that allow individuals or groups to lodge formal complaints directly with them and receive an assessment by an independent body in cases where they feel they have been adversely affected because environmental and social lending policies have not been followed.⁸⁰

The emergence of the Equator Principles as a broadly accepted structure of norms has made it easier for NGOs to credibly argue that certain lending practices are illegitimate.⁸¹ However, the external accountability of EPFIs is undermined by non-binding rules of implementation that grant them significant discretion in determining what constitutes compliance.⁸² Most significantly, an EPFI’s decision to categorize a project as a “C” instead of

⁷⁷ Lawrence 2005, 2. IFC defended the latter as more effective in diffusing environmental and social responsibility and in line with its clients’ understanding of corporate social responsibility. (see Banktrack 2010a and IFC 2006)

⁷⁸ IFC website, www.ifc.org.

⁷⁹ Lee 2008, 361; and Watchman et.al 2007.

⁸⁰ Park 2010; and van Putten 2008.

⁸¹ Lee 2008, 357.

⁸² As is stated, “institutions are adopting and implementing [the] Principles voluntarily and independently, without reliance on or recourse to IFC or the World Bank”, in ways that “do not create any rights in, or liability to, any person, public or private.” (Equator Principles 2006, 5)

“B”, or a “B” instead of an “A” - both of which would reduce the scope and depth of environmental and social compliance requirements imposed on project sponsors –cannot be readily challenged by the public.⁸³ A precise reading of the Equator Principles suggests that EPFIs may be allowed to accept social and environmental assessments submitted by project sponsors that do not conform to the requirements of the Equator Principles if they themselves feel that such a deviation is justified.⁸⁴ As one law firm notes, the Equator Principles are “general rules that do not eliminate discretionary action or the need for interpretation by the banks.”⁸⁵ In one instance, the German banks HVB and Dresdner Bank reportedly reached opposite conclusions as to whether a mining project in Africa was in compliance with the Equator Principles.⁸⁶ The “de-listing” mechanism introduced in July 2010 does not address and sanction implementation lapses at the policy or project-level. Only EPFIs that fail to comply with the modest annual reporting requirement and pay their annual fees to the Equator Principles secretariat may face exclusion.

In response to demands for an independent accountability mechanism, EPFIs have argued that the high level of public scrutiny and media attention directed at large projects ensures that breaches in compliance will be exposed and used to undermine the reputation of both the project sponsor and a project’s financial backers. While project finance is much more susceptible to public scrutiny than general purpose corporate loans due to the size and impacts of projects and the visibility of lenders, a general lack of project-level transparency and the large number of projects undermines the extent to which public scrutiny alone will expose and sanction

⁸³ Amalric 2005; and Richardson 2008, 415.

⁸⁴ Equator Principles 2006, 2.

⁸⁵ FBD 2005,106.

⁸⁶ Susanne Bergius, “Environmental standards loom ever larger in banks’ lending decisions”, *ENDS report*, Volume 12, 19 December 2008.

compliance breaches in a fair, consistent, and effective manner.⁸⁷ The IFC's *Policy on Public Disclosure of Information* requires it to publicly announce new projects under consideration for financing, including information on social and environmental impacts and associated mitigation measures. This allows stakeholders to engage the IFC and potentially influence its loan decisions and agreements before projects have been approved by its Board. But EPFIs have chosen not to adopt this policy or similar disclosure provisions, citing confidentiality concerns. The guidance document on reporting produced by the EPFI Best Practice Working Group does not recommend disclosure of project-level information.⁸⁸ While EPFIs regularly hold consultations with Banktrack members to discuss Equator Principles revision and implementation, these have only resulted in modest progress in terms of expanding transparency and accountability. In 2010, a Banktrack-coordinated letter signed by nearly 100 NGOs called on EPFIs to publicly disclose which projects they are financing, the environmental and social commitments the respective project sponsors are bound by, and the corrective actions they have taken with respect to projects found to be in breach of their lending policies.⁸⁹

In response to such demands, EPFIs contend that “the business case” for adoption and implementation, and the use of independent auditors and environmental consultants to prepare and review impact studies, makes external enforcement of compliance unnecessary.⁹⁰ Compared to a decade ago, there is a greater recognition among EPFIs and project sponsors that obtaining a “social license to operate” from local communities can reduce disruptions and delays to project construction and operation. Moreover, in national jurisdictions with strong environmental regulations, banks have long paid careful attention to environmental risks as they can under

⁸⁷ Missbach 2004.

⁸⁸ EPFI 2007.

⁸⁹ Banktrack 2010a, 3.

⁹⁰ Gaskin 2007; IFC 2007b, 11; and Newton 2006.

certain conditions be held liable for environmental clean-up costs associated with companies and projects they have financed.⁹¹ There is also some reason to believe that the frequency and depth of inter-bank cooperation associated with loan syndication encourages “self-policing” and upward harmonization of environmental and social risk management practices.⁹² Instead of negotiating separate loan agreements with multiple financial institutions, the project sponsor normally appoints a single financial institution to arrange a loan syndicate (referred to as a “mandated arranger”) that pools together debt-financing from multiple financial institutions and negotiates with the project sponsor on their behalf. In turn, if the mandated arranger makes loan disbursement contingent on Equator Principles compliance, all the debt-financing in the syndicate – whether it is provided by an EPFI or a non-EPFI - would be subjected to the rules. There are also claims that non-EPFIs selected as mandated arrangers by project sponsors voluntarily incorporate Equator Principles compliance into loan agreements in order to induce EPFIs to join the syndication.⁹³ Others have noted that some project sponsors deliberately choose EPFIs over non-EPFIs as mandated arrangers so as to benefit from their environmental and social risk management competence.⁹⁴ Finally, many of the more recent EPFIs are not directly subjected to demands for greater accountability in their home countries. An optimistic reading of these developments would be that diffusion in the market place has reached a “tipping point” in which adoption of the Equator Principles is increasingly considered by market participants – whether they are EPFIs or project sponsors – as an important aspect of being a legitimate market actor.

⁹¹ Jeucken 2001; Kulkarni 2009; Macve and Chen 2009; and Richardson 2008, 347-355.

⁹² Gaskin 2007; and Macve and Chen 2009.

⁹³ EIRIS 2006, 6.

⁹⁴ FBD 2005, 118-121; Hardenbrook 2007; Richardson 2008, 420.

Moreover, while the Equator Principles are voluntary, the central role of legal contracting in project financing may help them gain legal force.⁹⁵ By adopting the framework, each EPFI commits to “not provide project finance loans to projects where the borrower will not or is unable to comply with the Equator Principles and/or with [its] respective social and environmental policies, procedures and standards that implement the Principles.”⁹⁶ Guidance on drafting loan documentation produced by the EPFI Best Practice Working Group proposes that EPFIs make compliance with environmental and social laws and regulations and the project’s Environmental and Social Action Plan a “key covenant of project finance agreements.”⁹⁷ If followed by EPFIs, this recommendation would make compliance with key elements of the Equator Principles a legal requirement for project sponsors. In case of compliance breaches, the Equator Principles commits EPFIs to “work with the [project sponsor] to bring it back into compliance to the extent feasible, and if the [project sponsor] fails to re-establish compliance, each EPFI reserves the right to exercise remedies, as considered appropriate.”⁹⁸

Concluding Remarks – The Way Ahead

The article has identified how the emergence and diffusion of the Equator Principles has coincided with a gradual, although greatly uneven, development of environmental and social lending policies among global banking institutions. At the project-level, the practice of environmental and social impact assessment and public consultation has become regularized for large industrial projects, but disputes between banks and civil society over their quality and scope remain common. The ambiguity of the framework combined with the lack of transparency

⁹⁵ FBD 2005; Richardson 2008, 420.

⁹⁶ Equator Principles 2006, 1.

⁹⁷ EPFI 2009, 2.

⁹⁸ Equator Principles 2006, 4.

at the project-level has both undermined consistent application of the framework and made it difficult to assess levels of compliance and its impact on the ground.⁹⁹ With regards to external accountability, the Equator Principles have not altered the imbalance that currently exists in international investment regulation between the expansive legal protections given to foreign investors and the comparatively limited legal rights of individuals and groups adversely impacted by their investments. However, as the IFC undertakes public consultation when it revises the *IFC Performance Standards*, civil society has gained an indirect opportunity to influence the rules governing commercial banking institutions. Moreover, the fear of reputational damages has made many EPFIs more responsive to institutional pressures in their home countries, and the Equator Principles have provided transnational advocacy networks with an important yardstick to measure and criticize the legitimacy of corporate practices.

The Equator Principles have been adopted by a large share of financial institutions operating in the project finance market and encouraged social learning among them by facilitating the sharing of knowledge, ideas, and experiences. Whereas EPFIs in countries with Banktrack members continue to face considerable public scrutiny despite having made the most far-reaching and specific commitments, their competitors in other parts of the world (both EPFIs and non-EPFIs) are often not confronted with similar demands.¹⁰⁰ While the high degree of cooperation among financial institutions may facilitate “self-policing” and encourage compliance, differences in the domestic institutional environments of banks will continue to drive variations in policy commitments. With regards to preventing “free-riding” and clarifying the rules, it will become increasingly difficult for EPFIs to collectively agree on new compliance

⁹⁹ Bridgeman and Hunter 2008, 219; Richardson 2005.

¹⁰⁰ Kulkarni 2009; and Wright and Rwabizambuga 2006. As an indication, the home countries of the 18 member organizations of Banktrack are Argentina (1), Australia (2), Belgium (1), Brazil (1), China (1), France (1), Germany (2), Italy (1), Netherlands (1), Spain (1), Switzerland (1), U.S (4), and U.K. (1).

provisions on a consensus basis as they grow in numbers and diversity. Furthermore, broad disclosure of confidential information about specific project finance transactions may also be illegal in some jurisdictions and attract disciplinary actions from professional bodies.¹⁰¹ An independent accountability mechanism that monitors EPFIs and enforces Equator Principles compliance at the project-level would necessarily have to be nested within an external structure of authority and enforcement to be credible and legitimate. Because of these obstacles, it is doubtful whether EPFIs have the capability and commitment to fully meet external demands for greater transparency and accountability without government support.

The Equator Principles have facilitated increased engagement between a variety of public and private financial institutions on matters related to environmental and social governance, something that seemed a distant prospect only a decade ago.¹⁰² For example, EPFIs increasingly regard themselves as a stakeholder group of the *IFC Performance Standards* and frequently meet with IFC to discuss policy development and implementation. The link between the Equator Principles and the IFC provides a unique opportunity for governments (as IFC shareholders) and NGOs (as norm entrepreneurs and participants in IFC policy consultations) to strengthen environmental and social governance of project financing across industry sectors and geographic regions at a time when global governance in many policy areas is increasingly fragmented.¹⁰³ However, three factors may prevent IFC from playing such a role. First, proposals to expand accountability, such as giving the right of “free, prior, and informed consent” to indigenous peoples or prohibiting the funding of projects of a certain type (such as coal-fired power plants) or in a certain location (such as sensitive ecosystems), remain divisive issues among governments on the IFC Board of Directors. The Equator Principles do more to protect a variety

¹⁰¹ FBD 2005, 109; and Lee 2008, 365.

¹⁰² Bradshaw 2007; Jeucken 2001; and Schaper 2009.

of local interests and concerns than what many governments are prepared to do through laws and regulations.¹⁰⁴ For example, governments with large export industries have been reluctant to strengthen the environmental and social mandates of their own export-credit agencies. In addition, many governments that depend on external financing would likely oppose a proposal to embed the Equator Principles into a legal accountability framework if this constrains the inflows of long-term capital to development projects.¹⁰⁵

Secondly, while IFC is required to ensure that its investments promote a variety of environmental and social development objectives, its core mandate remains to identify projects, companies, and funds that are commercially viable and with IFC support are capable of attracting additional capital from private sources.¹⁰⁶ It takes on the full commercial risks of its investments, accepts no government guarantees, generates profits, and regularly co-finances projects with commercial banks. While this commercially-oriented business model has proven conducive to forging strong relationships with the private sector and diffusing environmental and social risk management practices in global markets, it may compromise the degree to which IFC is willing and able to promote transparency and accountability standards that strongly conflict with the interests of commercial banking institutions. In addition, IFC's goal of expanding the pool of EPFIs to include large state-owned investment banks in China, India, and elsewhere has become more prescient given their rise in recent years, but will likely be made more difficult if more robust transparency and accountability standards are embedded into the *IFC Performance Standards*, and by extension, the Equator Principles. And finally, the institutional link between

¹⁰³ Wright 2009.

¹⁰⁴ For examples, see Bradshaw 2007 and Lee 2005 (Sakhalin II project in Russia); Hochstetler 2002 (the Hidrovia project in Brazil); and IFC 2003 and Richard Morningstar, "The New Great Game - Opportunities for Trans-Atlantic Cooperation in the Caspian Region", *Der Spiegel*, 3 May 2007. (the BTC pipeline in Azerbaijan, Georgia, and Turkey).

¹⁰⁵ Maurer and Nakhoda 2003; Richardson 2008, 565-566; Schaper 2009; and Vogel 2010.

the Equator Principles and IFC is not codified in a legal agreement but maintained at the discretion of EPFIs. Since IFC's policy framework enjoys industry credibility, is comprehensive, and has been successfully tested in the market, it lends itself to becoming a common standard across all financial institutions, industry sectors, and geographic regions.¹⁰⁷ However, if EPFIs decide that future revisions of the *IFC Performance Standards* conflict with their commercial objectives, they can in principle elect not to revise the Equator Principles accordingly. So while the Equator Principles have given the IFC an expanded governance role in the global project finance market, they have also served to make IFC more sensitive to the interests of commercial banks when drafting environmental and social policies and standards for itself and its own borrowers.

¹⁰⁶ Park 2010.

¹⁰⁷ van Putten 2008, 178; and Wright 2009.

References

- AAIB. 2010. Report on the Arab African International Bank's implementation of the Equator Principles, Arab African Development Bank, March 5. Available at www.equator-principles.com/reporting.shtml, accessed 10 October 2010.
- Aizawa, Motoko. 2007. The Equator Principles in action - Creating a community of learning, *Infrastructure Journal* 42 (June).
- Amalric, Franc. 2005. The Equator Principles – A step towards sustainability?, Working Paper 01/05, Center for Corporate Responsibility and Sustainability, University of Zurich.
- Banktrack. 2010a. Bold steps forward - Towards Equator Principles that deliver to people and the planet, open letter to the Equator Principles Financial Institutions (EPFIs) coordinated by Banktrack, January 14. Available at www.banktrack.org, accessed 12 October 2010.
- Banktrack. 2010b. Closing the gap - Benchmarking credit policies of international banks, Banktrack, April. Available at www.banktrack.org, accessed 12 October 2010.
- Banktrack. 2005. Unproven Principles; the Equator Principles at year two - 2nd anniversary Equator Principles implementation assessment, prepared by Michelle Chan-Fishel, (Friends of the Earth US) for Banktrack, June. Available at www.banktrack.org, accessed 12 October 2010.
- Barclays PLC. 2009. Barclays PLC 2009 Responsible Banking Review, Barclays PLC. Available at www.barclays.com/sustainability, accessed 12 October 2010.
- Bradshaw, Mike. 2007. The “greening” of global project financing: the case of the Sakhalin-II offshore oil and gas project, *Canadian Geographer*, 51(3): 255–279.

- Bridgeman, Natalie L., and David B. Hunter. 2008. Narrowing the accountability gap: Toward a new foreign investor accountability mechanism, in *Georgetown International Environmental Law Review* 20(2): 187-236.
- Chan, Michelle. 2010. Financial advocacy strategies: How NGOs have targeted financiers for project-level campaigns, Friends of the Earth. Available at www.banktrack.org, accessed 12 October 2010.
- Coulson, Andrea. 2009. How should banks govern the environment? Challenging the construction of action versus veto, *Business Strategy and the Environment*, 18(3): 149-161.
- EIRIS. 2006. Project finance – A sustainable future?, *Social, Ethical and Environmental Risk Briefing*, Ethical Investment Research Services (EIRIS), July. Available at www.eiris.org, accessed 12 October 2010.
- Emel, Jody. 2002. An inquiry into the green disciplining of capital, *Environment and Planning A*, 34(5): 827-843.
- EPFI. 2010a. New governance rules introduced for the Equator Principles, 1 July. Available at www.equator-principles.com, accessed 12 October 2010.
- EPFI. 2010b. EPFI steering committee's letter of submission to the IFC regarding the phase II consultation of IFC Performance Standards review and update, July 28. Available at www.equator-principles.com, accessed 12 October 2010.
- EPFI. 2009. Guidance to EPFIs on incorporating environmental and social considerations into loan documentation, the Equator Principles Financial Institutions (EPFIs) Best Practice Working Group, 3 August. Available at www.equator-principles.com, accessed 12 October 2010.

- EPFI. 2007. Guidance to EPFIs on Equator Principles implementation reporting, the Equator Principles Financial Institutions (EPFIs) Best Practice Working Group, released 14 May. Available at www.equator-principles.com, accessed 12 October 2010.
- Equator Principles. 2006. Equator Principles II, released 6 July. Available at www.equator-principles.com, accessed 12 October 2010.
- Equator Principles. 2003. Equator Principles I, released 4 June. Available at www.equator-principles.com, accessed 12 October 2010.
- Esty, Benjamin. 2004. Why study large projects? An Introduction to research on project finance, *European Financial Management*, 10(2): 213–224.
- FBD. 2005. Banking on responsibility - Part one of Freshfields Bruckhaus Deringer Equator Principles survey 2005: The banks, Freshfields Bruckhaus Deringer, July. Available at www.freshfields.com/publications/pdfs/practices/12057.pdf, accessed 12 October 2010.
- Gaskin, Kimberley. 2007. A Question of principles, *Infrastructure Magazine*, June.
- Group of Eight. 2007. Growth and responsibility in the world economy, Heiligendamm Summit Declaration, 7 June.
- Gutner, Tamar. 2002. *Banking on the Environment: Multilateral Development Banks and their Environmental Performance in Central and Eastern Europe*. Cambridge, MA: MIT Press.
- Hardenbrook, Andrew. 2007. The Equator Principles: the private financial sector's attempt at environmental responsibility, 40 *Vanderbilt Journal of Transnational Law*, 197, January.
- Hochstetler, Kathryn. 2002. After the boomerang: Environmental movements and politics in the la Plata River basin, in *Global Environmental Politics* 2(4): 35-57.

HSBC. 2008. Forest Land and Forest Products Sector Policy, HSBC, 5 September. Available at www.hsbc.com/1/2/sustainability/sustainable-finance/sector-policies, accessed 12

October 2010.

IFC. 2007a. IFC's Policy and Performance Standards on Social and Environmental Sustainability and Disclosure Policy: Progress report on the first 18 months of application, International Finance Corporation (IFC). Washington DC:IFC.

IFC. 2007b. Banking on sustainability: Research methodology and survey results, International Finance Corporation (IFC), Washington DC:IFC.

IFC. 2006. International Finance Corporation's Performance Standards on Social and Environmental Sustainability, International Finance Corporation (IFC), Washington DC:IFC.

IFC. 2003. BTC Pipeline and ACG phase 1 projects - Environmental and social documentation - IFC Response to submissions received during the 120-day Public Comment Period, International Finance Corporation (IFC), Washington DC:IFC.

Jeucken, Marcel. 2001. *Sustainable Finance and Banking*, London: Earthscan.

Johnson, Leo. 2007. Open season, *Wall Street Journal Online*, Business Europe, 5 July.

Kulkarni, Parashar. 2009. Pushing lenders to over-comply with environmental regulations: A developing country perspective, *Journal of International Development* 22: 470-482.

Lawrence, Shannon. 2005. Retreat from the Safeguard Policies – Recent trends undermining social and environmental accountability at the World Bank, Environmental Defense (EDF), January.

- Lee, Julian. 2005. Squaring off on Sakhalin: A “glocal” NGO campaign against big oil, Center for Applied Studies in International Negotiations, Geneva. Available at www.casin.ch, accessed 12 October 2010.
- Lee, Vivian. 2008. Enforcing the Equator Principles: An NGO’s principled effort to stop the financing of a paper pulp mill in Uruguay, *Northwestern Journal of International Human Rights*, 6(2): 354-373.
- MacLeod, Michael. 2007. Financial actors and instruments in the construction of global corporate accountability, in *Global Accountabilities*, edited by Alnoor Ebrahim and Edward Weisband, 227-251. Cambridge, UK: Cambridge University Press.
- Macve, Richard and Xialoi Chen. 2010. The “equator principles”: a success for voluntary codes?, *Accounting, Auditing & Accountability Journal*, 23(7) : 890-919.
- Maurer, Crescencia and Smita Nakhooda. 2003. Transition from fossil to renewable energy systems: What role for export credit agencies?, World Resources Institute (WRI) Policy Brief, 8 December.
- Missbach, Andreas. 2004. The Equator Principles: Drawing the line for socially responsible banks? An interim review from an NGO perspective, *Development*, 47(3): 78-84.
- O’Sullivan, Niamh, and Brendan O’Dwyer. 2009. Stakeholder perspectives on a financial sector legitimation process : The case of NGOs and the Equator Principles, in *Accounting, Auditing & Accountability Journal*, 22(4): 553-587.
- Oxfam Australia. 2008. Mining ombudsman case report: Rapu Rapu polymetallic mine. Available at www.oxfam.org.au/resources/filestore/originals/OAus-MiningOmbudsmanRapuRapu-1008.pdf, accessed 12 October 2010.

- Park, Susan. 2010. *World Bank Group Interactions with Environmentalists – Changing International Organisation Identities*, Manchester, UK: Manchester University Press.
- Paterson, Matthew. 2001. Risky business: Insurance companies in global warming politics. *Global Environmental Politics*, 1(4): 18-41.
- Platform. 2004. Principal objections - Analysis of the Sakhalin II oil and gas project's compliance with the Equator Principles, based on evaluation by Pacific Environment of Sakhalin II project compliance with World Bank Group standards, 1 May. Available at www.banktrack.org, accessed 12 October 2010.
- Prakash, Aseem, and Matthew Potoski. 2006. *The Voluntary Environmentalists: Green Clubs, ISO 14001 and Voluntary Environmental Regulations*, Cambridge, UK: Cambridge University Press.
- Richardson, Benjamin. 2008. *Socially Responsible Investment Law – Regulating the Unseen Polluter*, New York: Oxford University Press.
- Richardson, Benjamin. 2005. The Equator Principles: The voluntary approach to environmentally sustainable finance, in *European Environmental Law Review* 14 (November): 280-290.
- Schaper, Marcus. 2009. Non-State environmental standards as a substitute for state regulation? in *Non-State Actors as Standard Setters: The Erosion of the Public-Private Divide*, edited by Anne Peters, Till Förster, Lucy Koechlin and Gretta Fenner. Cambridge, UK: Cambridge University Press.
- Scholten, Bert. 2009. Corporate social responsibility in the international banking industry, in *Journal of Business Ethics* 86: 159–175.

- Scholtens, Bert, and Lammertjan Dam. 2007. Banking on the Equator. Are banks that adopted the Equator Principles different from non-adopters?, in *World Development* 35(8): 1307–1328.
- van Putten, Martje. 2008. *Policing the Banks: Accountability Mechanisms for the Financial Sector*. Quebec: McGill / Queens University Press.
- Vogel, David. 2010. Private regulation of global corporate conduct, in *The Politics of Global Regulation*, edited by Walter Mattli and Ngaire Woods, 151-188. Princeton: Princeton University Press.
- Watchman, Paul, Angela Delfino, and Juliette Addison. 2007. EP2: The revised Equator Principles: Why hard-nosed bankers are embracing soft principles, Client Briefing, LeBoeuf, Lamb, Greene & MacRae. Available at www.equator-principles.com/documents/ClientBriefingforEquatorPrinciples_2007-02-07.pdf, accessed 12 October 2010.
- Wells, Christopher. 2010. Universal lessons from Brazil, in *Sustainable Banking: Risk, Reward, and the Future of Banking*, edited by Joti Mangat. London: Thomson Reuters.
- Woicke, Peter. 2003. Prepared statement of Peter Woicke, executive vice president of the International Finance Corporation, Equator Principles press conference, 4 June. Washington D.C:IFC.
- Wright, Christopher. 2009. Setting standards for responsible banking: Examining the role of the International Finance Corporation in the emergence of the Equator Principles, in *International Organizations and Global Environmental Governance*, edited by Frank Biermann, Bernd Siebenhüner, and Anne Schreyögg, 51-70. Routledge: London.

Wright, Christopher, and Alexis Rwabizambuga. 2006. Institutional pressures, corporate reputation and voluntary codes of conduct: An examination of the Equator Principles, *Business and Society Review*, 111(1): 89-117.