



Actions speak louder:

Assessing bank responses to human rights violations

BANKTRACK

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Part of the BankTrack Human Rights Benchmark Project

December 2021

We dedicate this report to the late Professor John Ruggie, the architect and author of the UN Guiding Principles on Business and Human Rights. His work has been the foundation of BankTrack’s human rights campaigning which focuses on challenging banks to acknowledge their responsibility to respect human rights and to fully implement the Guiding Principles he established.



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Introduction

The UN's new "[Roadmap for the Next Decade](#)" of Business and Human Rights, published in November 2021, begins by setting out the need to **raise the ambition and increase the pace** of implementing respect for human rights. The roadmap highlights the role of the financial sector to speed and scale up business respect for human rights and addresses the importance of engaging with stakeholders in the process.

More still needs to be done to achieve this in the banking sector, where ten years on from the endorsement of the UN Guiding Principles in 2011, much energy has been spent on developing policies, procedures, discussion papers, and in some cases human rights reporting, but there are vanishingly few examples of banks actually helping ensure remedy for rights holders after human rights violations have occurred in projects financed by banks.

This report assesses banks on their responses to specific allegations of human rights violations linked to their finance, raised by civil society or community organisations, to focus attention on the need for banks to actively engage and more frequently deliver remedy in these circumstances. In the report, we highlight nine cases in which severe human rights impacts are felt by local communities and affected people. The findings show how, in most instances, banks fail to take appropriate action to address the impacts, thus leaving affected communities without remedy.

The report also marks the start of our project to systematically evaluate banks on their responses to such allegations, as part of BankTrack's Human Rights Benchmark. With this project, we aim to build on our benchmarking of banks on human rights, with a greater emphasis on actual impacts on people and communities, and how banks respond, or fail to respond, to address such impacts.

In assessing banks, we focus not only on whether banks respond to allegations of human rights violations, but also on the extent to which they have responded substantively (addressing the issues raised); the extent to which they have taken appropriate action; and the extent to which they have monitored the impacts of the action taken.

From an analysis of 90 instances in which BankTrack or other civil society groups contacted banks regarding specific allegations of adverse human rights impacts, we find that banks responded in most instances (69 responses, or 77%), but that in over half of cases (36 out of 69, or 52%), the response neither addresses the substance of the issue raised nor acknowledges the bank's link to the impact. Further, banks rarely set out any specific action taken to resolve the impact, with only six responses providing details of a bank's own action or engagement with a client to resolve the issue. No instances were found in which banks provided details on whether or how they monitored the impact of any action to prevent, mitigate or address impacts.

“in over half of cases the [bank’s] response neither addresses the substance of the issue raised nor acknowledges the bank’s link to the impact”

Benchmarking: from policy to practice

BankTrack has been tracking and benchmarking bank policies, processes and reporting on human rights since our first [Human Rights Benchmark in 2014](#). We have published two subsequent benchmarks since then, in [2016](#) and most recently in [2019](#). Our most recent benchmark assessed and scored 50 of the world's biggest banks against criteria based on the UN Guiding Principles (UNGPs). A follow-up benchmark is planned for 2022.

To date, the benchmark has focused only on banks' written policies, processes, grievance procedures and human rights reporting. The benchmark has not assessed how banks respond in practice when they are alerted to allegations of specific human rights impacts. Instead, BankTrack has assessed how banks respond to such impacts in other ways, such as through campaigning on "[Dodgy Deals](#)" financed by banks.

One of the key findings of our latest benchmark in 2019 was that even the best performing banks are typically failing to demonstrate in their human rights reporting that they have played a role in remediating or addressing specific adverse human rights impacts. As a result, it is very difficult to see what, if any, positive impact bank human rights policies, processes and reporting have on rights-holders.

This report sets out the initial results of an effort to expand our benchmarking criteria to better evaluate impacts on rights-holders, based on bank responses to allegations of specific adverse human rights impacts.

New criteria for assessing responses

In order to better assess banks' responses to actual human rights impacts linked to their finance, we have developed a new set of criteria, following a similar methodology to our Human Rights Benchmark. These criteria evaluate whether a bank has publicly **responded** in a way that addresses the allegations raised; whether it has taken appropriate **action** to prevent, mitigate or address the impact (for example through engaging with its client, or responsibly divesting where appropriate); and whether it has **monitored** the steps it has taken to assess their effectiveness.

These criteria follow an approach that is designed to be compatible with the BankTrack Human Rights Benchmark, evaluating banks' responses to each impact against three criteria, with a score of 0, 0.5 or 1 for each. For the full assessment criteria, see "[Appendix 1: Criteria in full](#)". In this report, we present our initial findings from an assessment of 90 instances in which BankTrack or other civil society groups had previously contacted banks regarding specific allegations of adverse human rights impacts. These instances cover nine separate cases of adverse human rights impacts and 38 banks whose responses had been sought.

This assessment of bank responses to these specific impacts is also being built into BankTrack's [bank profiles](#), and we intend to incorporate an assessment of responses to new allegations of human rights abuses into the BankTrack website on an ongoing basis. In addition, we will incorporate these assessments into future BankTrack Human Rights Benchmarks, beginning in 2022.

Box 1: Bank responses and the UN Guiding Principles

BankTrack's Human Rights Benchmark takes as its starting point the criteria of the [UN Guiding Principles on Business and Human Rights](#) (the UNGPs), wherever they create responsibilities for businesses.

Principle 20 of the UNGPs states (with emphasis added):

“In order to account for how they address their human rights impacts, business enterprises should be prepared to communicate this externally, **particularly when concerns are raised by or on behalf of affected stakeholders**. Business enterprises whose operations or operating contexts pose risks of severe human rights impacts should report formally on how they address them. In all instances, communications should:

(a) Be of a form and frequency that reflect an enterprise's human rights impacts and that are accessible to its intended audiences;

(b) Provide information that is sufficient to evaluate the adequacy of an enterprise's response to the particular human rights impact involved;

(c) In turn not pose risks to affected stakeholders, personnel or to legitimate requirements of commercial confidentiality.”

Further guidance on this Principle and other aspects of the UNGPs is set out in the UN's [“The Corporate Responsibility To Respect Human Rights: An Interpretive Guide.”](#)

While our Human Rights Benchmark has historically assessed formal reporting by banks on human rights, the criteria we have developed for this research project seek to evaluate how banks communicate externally, outside of official reporting, when concerns are raised by or on behalf of affected stakeholders.

The commentary to the UNGPs further notes, “communication can take a variety of forms, including in-person meetings, online dialogues, consultation with affected stakeholders, and formal public reports.” In this report, we assess communication in the form of written statements such as letters and emails, because these responses most clearly enable transparency and can be most readily analysed.

The UNGPs give substantial leeway to companies, including banks, on how and whether they respond to allegations around specific human rights impacts, although they emphasise the importance of accountability and of being able to account for their actions where human rights are impacted. Unlike the criteria of our Human Rights Benchmark, the criteria for analysing responses used in this reports do not seek to establish whether banks are meeting their basic responsibilities under the UNGPs, but whether they are meeting a level of good practice in how they respond to allegations of human rights allegations.

Key findings

- **Banks are responding to allegations of human rights impacts:** Out of 90 instances in which BankTrack or other civil society groups contacted banks regarding specific allegations of adverse human rights impacts, banks responded in 69 instances (77%).
- **However, their responses often avoid addressing the specific issue raised:** Over half of the 69 responses (36, or 52%) did not address the substance of the issue raised or acknowledge the bank's link to the impact. Only 11, or 16% of all responses, met the standard for a full score on our first criteria, by both acknowledging the bank's link to the impact raised, and responding to the substance of the issues.
- **Banks rarely set out any specific action taken to resolve impacts:** In 44 instances (64% of all responses), banks provided no detail of any action taken to prevent, mitigate or address the impact. Only six responses met the standard for a full score on our second criteria, by providing details of the bank's engagement with its client or of the banks' own action.
- **No banks showed that they monitor the impacts of any action taken:** There were no instances where a bank provided details on whether or how it monitored the impact of any action taken to prevent, mitigate or address the impact.

Allegations raised:



Responses received:



Responses with a full score for substance:



Responses with a full score for appropriate action taken:



Responses with a full or half score for monitoring progress:



- **There are clear differences by country, with French banks setting a (relatively) good example:** French banks responded in 11 instances out of 14, with the average response scoring 0.75 out of 3. Banks in the US and UK also responded often (14 responses out of 17 in the US, 14 responses out of 15 in the US), but these responses scored much lower for their quality (0.29 out of 3 in both cases). While Japanese banks responded in eight instances out of 10, only one response received a score above zero.¹

Total scores, selected countries (>5 cases)

Country	Instances (letters sent)	No. of responses	Average bank score (out of 3)
France	14	11	0.75
United Kingdom	15	14	0.29
United States	17	14	0.29
Switzerland	7	6	0.25
Japan	10	8	0.13
China	7	0	0
Other countries	20	16	0.57

¹ These country findings follow the pattern found in our 2019 briefing on client confidentiality; [“We are unable to comment on specific customers.”](#), e.g. see page 7.

Methodology

To conduct the assessment of banks' responses to specific allegations of human rights violations linked to their finance, BankTrack has developed a new set of criteria, following a compatible scheme to the criteria used in the BankTrack Human Rights Benchmark.

Scoring

For each case in which an enquiry has been raised to the bank regarding a violation, the bank is assessed against three criteria: **response** (has the bank responded in a way which addresses the allegations raised); **action** (has the bank taken appropriate action to prevent, mitigate or address the impact, for example through engaging with its client, or responsibly divesting where appropriate); and **monitoring** (has the bank assessed whether the steps it has taken have been effective).

We shared our draft criteria with banks and with several human rights experts from civil society and we made some changes to the criteria based on their feedback. The full criteria for evaluation can be found in [“Appendix 1: Criteria in full”](#).

For each response, the bank received a full score (1), half score (0.5) or no score (0) against each of the three criteria (as with the BankTrack Human Rights Benchmark), leading to a total score of between 0 and 3 for each response assessed. The assessment also notes whether a bank has provided a response - although providing a response is not, in itself, sufficient for a score.

Impacts included in scope

In this report we reviewed responses from private sector banks in nine cases in which enquiries in writing had already been made by BankTrack or our partners for the response of the bank to specific adverse human rights impacts linked to their finance. See details of each case in the section below.

Each bank has been assessed on its response to between one and six written enquiries, resulting in 90 individual assessments. Where a bank has been assessed on more than one response, we have presented their average score for each criterion. Details of the impacts within scope can be seen below. We plan to assess banks on their responses to additional impacts as they arise.

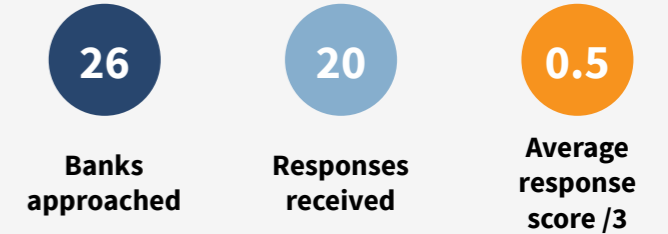
Engagement with banks

We invited all 38 banks included in the assessment to provide feedback on their draft scores. Eight banks (21%) responded with comments, while a further 12 banks (32%) responded with no comments or only acknowledged receipt. The remaining 18 banks (47%) did not respond. Based on feedback, five banks had their scores revised upwards and six banks' scores remained unchanged. For details on banks' feedback to their draft scores and a rationale for the scores given to each bank, see the full table of results with links provided in [“Appendix 2: Full table of results \(average scores\)”](#).

Human rights cases

Banks and Dirty Diesel: Vitol and Trafigura

In September 2016, the Swiss NGO Public Eye published a detailed investigation into the practice of Swiss trading companies, including Trafigura and Vitol, of exporting low-quality, high sulphur “toxic fuels” to countries across Africa. These fuels had sulphur levels far higher than those permitted in Europe and contained worrying levels of other health damaging substances. The report found that these companies are blending low-quality products to produce fuels that the traders know will damage human health. High-sulphur fuels are a major contributor to worsening air quality in African cities, as rapid urbanisation leads to increased car usage, which in turn has impacts on the environment and public health, contributing to respiratory diseases such as bronchitis and asthma.



As detailed in [BankTrack's Human Rights Briefing in May 2017](#), we engaged with 26 banks asking them to confirm whether it had conducted human rights due diligence on Vitol and Trafigura, and if so, to outline this due diligence process. We asked each bank to engage, if it had not already done so, with the companies active in blending and selling high-sulphur fuels it is exposed to, to insist that the companies stop exports of dirty diesel to Africa and elsewhere are a requirement of receiving further finance.

A Shell (Vivo Energy) petrol station in Accra, Ghana



Base Toliara mineral sands mining project



The Base Toliara project is a planned mineral sands mine located in south-west Madagascar, owned by the Australian mining company Base Resources. This project has been the subject of protests and public demonstrations because of its disastrous impacts on the human rights of affected people, including Indigenous forest-dwellers, as well as on the whole ecological system within and surrounding the mining perimeter. The requirement for the Free, Prior and Informed Consent of the affected Indigenous communities have not been met, and many other rights are at risk. See BankTrack's [dodgy deal profile](#) for more details.

Led by the Madagascan CSO "Research and Support Center for Development Alternatives - Indian Ocean" (CRAAD-OI), BankTrack and a group of other civil society organisations engaged with ten potential financiers of the project. Of these, three financiers were within the scope of this project.

Belarus: links to state and state-owned companies

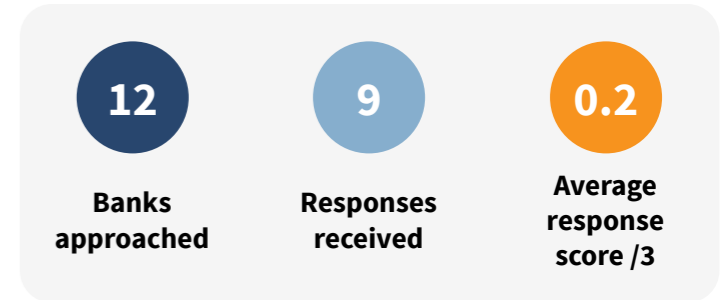


Following the August 2020 election results in Belarus, which were seen by many as being rigged, nationwide protests started. The protestors have faced violent persecution by the authorities and a number of workers and trade union leaders were arrested and detained. Concerned about this situation, Belarusian activists reached out to a large number of companies and financial institutions engaged with the Belarus government urging them to take immediate action in response to ongoing human rights violations.

The activists called on financial institutions that had relationships with the state and state-owned companies to stop all relations due to the unprecedented human rights crisis happening in Belarus. Details of the letters and responses can be found on the [Business and Human Rights Resource Centre](#) website.

Deforestation in the Amazon

In April 2019, Amazon Watch and Articulação dos Povos Indígenas do Brasil-APIB (National Articulation of the Indigenous Peoples of Brazil) published a report: "[Complicity in Destruction](#)" which found that European and North America businesses that finance and source from Brazil are connected to the Brazilian government's roll back of socio-environmental standards that are fundamental to preserving the Amazon's ecological integrity and the well-being of Indigenous peoples. The report calls on financial institutions to put in place a No Deforestation policy which should include, but not necessarily be limited to, commitments to require agribusiness companies to map all suppliers; report any investigations, indictments or fines issued for deforestation and/or land grabbing; and ensure monitoring of agribusiness companies operating in sensitive ecosystems like the Amazon rainforest for any evidence of deforestation. Where companies are unable or unwilling to cooperate with these requirements, the report calls on financial institutions to cease their relationship with the company.



In July 2019, the [Business and Human Rights Resource Centre](#) invited 55 companies and financial institutions to respond to the allegations of their involvement in the deforestation of the Amazon as well as human rights abuses.

Fire line moves through a degraded forest area in an undesignated public forest area in Porto Velho, Rondônia state.



Drummond and paramilitary violence in Colombia



Drummond is a coal mining company that operates predominantly in the Cesar mining region of Colombia. This region, including the area in the vicinity of the company's mines, has been beset by paramilitary violence, to impacts of which have been profound for the local population. The Dutch peace movement PAX has investigated reports of links between mining companies and the paramilitary violence in Cesar, finding that companies, including Drummond, support the paramilitaries in several ways, including requesting their establishment and providing financial support. PAX research exposes the egregious human rights abuses including selective killings, massacres, enforced disappearances and forced displacement.

As detailed in [BankTrack's Human Rights Briefing in May 2016](#), we approached seven banks asking them to outline the due diligence process they conducted to assess risks of human rights impacts caused by Drummond and details of actions it has taken to attain remedy for the victims of the human rights violations.

East Africa Crude Oil Pipeline



The East African Crude Oil Pipeline (EACOP) is a proposed 1,445-kilometer pipeline under development by China National Offshore Oil Corporation (CNOOC) and the French company TotalEnergies. If completed, it would be the longest heated pipeline in the world and would carry 216,000 barrels of crude oil per day. The start of commercial production in Uganda's Kingfisher and Tilenga oil fields is contingent on the completion of the pipeline. See BankTrack's [dodgy deal profile](#) for more details.

Both the oil fields and the EACOP pose serious risks to communities and nature throughout the region. Project-affected people have already been impacted by restrictions on the use of their land and delays to compensation, while local human rights defenders have faced harassment and arrest. BankTrack has engaged with banks financing Total and CNOOC urging them not to finance the project and to demand immediate and full compensation for affected people, including via a [2021 open letter](#) signed by 263 local and international organisations.



Protesters outside Standard Bank's Annual General Meeting, 21st May 2021.

Labour standards violations in IOI Corporation's Malaysian plantations

In September 2014, a report by the Finnish development NGO Finnwatch investigated working conditions on IOI Corporation's palm oil plantations in the southern region of Peninsular (West) Malaysia. It found severe violations of labour standards, including withholding workers' passports, denying their rights to join trade unions, and failure to pay the minimum wage.



As detailed in [BankTrack's Human Rights Briefing in February 2016](#), we approached fifteen banks asking them to outline the due diligence process they conducted to assess risks of human rights impacts caused by the company and to outline what actions they have taken to prevent and/or mitigate the impacts.

Nachtigal Hydropower project



The Nachtigal hydropower project is a 420-megawatt hydroelectric power plant being developed in Nachtigal, Cameroon by the Nachtigal Hydro Power Company (NHPC). Throughout the project's development, stakeholder consultation has been inadequate, and the company has failed to properly compensate affected community members who have been relocated and lost their livelihoods as a result of the project.

In January 2021, BankTrack and Cameroon-based organisation IFI Synergy Group approached two banks involved in financing the project, outlining the impacts of the project and calling on them to engage with the company to ensure that proper compensation is given, and a process of adequate stakeholder engagement is instigated by NHPC. You can see more details on the [BankTrack website](#).

Occupied Palestinian Territories



Research conducted by BankTrack and other civil society organisations has exposed the significant financial links between European financial institutions and companies on the UN's list of businesses supporting the maintenance and expansion of Israeli illegal settlements. These companies are involved in the illegal Israeli settlement enterprise and contribute to war crimes and the crime of apartheid as set out in international law.

BankTrack engaged with one bank and has further engaged with banks on this topic following the publication of the ["Don't Buy Into Occupation" report in September 2021](#), but the responses from banks on the details of this report have not yet been assessed.



Bethlehem area
Photo: Al Haq /
Don't Buy Into
Occupation

Criteria 1: Response

The requirement: The bank responds publicly and in sufficient detail to allegations of adverse human rights impact(s) linked to its finance.

Full score (1): The bank responds publicly to the allegations in a way which comments on and responds to the substance of the issues raised, and its response acknowledges its link to the impact.

Half score (0.5): The bank responds to the allegations and its response acknowledges its link to the impact, but without detailing specific actions taken;

OR the bank responds publicly to the allegations and its response details specific actions taken in response to the impact (e.g. engagement with the company) but without acknowledging the bank's link.

No score (0): The bank does not respond publicly, or its response does not comment on or respond to the issues raised. There is no score for responses which only confirm receipt, or which set out that the bank is unable to comment on the specific company concerned.

(Note: where the bank confirms there is no link to the impact, the impact will not be considered for scoring.)

Why this is important:

Where affected stakeholders and their representatives raise legitimate enquiries regarding human rights impacts, affected people deserve a considered response. Banks should not hide behind "client confidentiality" but should clearly set out how they are linked to the impacts and detail the actions they plan to take. When a bank does not confirm its relationship to an impact (e.g. whether it is indeed financing the company in question), then its responsibilities remain unclear, hindering further engagement on the issue.

Under the UNGPs (Principle 21), banks should be prepared to account for how they address their human rights impacts, "particularly where concerns are raised by or on behalf of affected stakeholders". They should ensure such communication is "sufficient to evaluate the adequacy" of their response to the particular human rights impact. To meet this standard most clearly, banks should respond in a way that deals substantively with the issues raised. Where a bank fails to substantively respond to such enquiries, affected stakeholders will be unaware of any steps the bank is taking to address the impacts they are facing, and will most likely conclude that the bank is not taking any such action.

What we found:

Of the 90 allegations raised with banks, no response was provided in 21 instances (23%) resulting in an automatic score of 0 for all criteria.

Banks did publicly respond in 69 out of the 90 instances (77%).² However, in 36 of those instances (52%), the bank's response received no score. In 25 instances, the bank cited "client confidentiality" as the reason it could not provide a substantive response (see box below). In the remaining 11 instances, the banks did not cite client confidentiality but still failed to acknowledge their link to the impact or to respond to the substance of the issues raised. In 16 instances, the bank referred to its sector policies, risk management procedures or human rights statements. However, while these may be relevant to the issues raised, the bank failed to explain how it is implementing such policies or procedures in the specific instance.

In 21 instances, banks received a half score (32%) for their responses. In 18 of these instances, banks acknowledged its link to the impact, but did not comment on or respond to the substance of the issues raised. For example, **Citi** responded to our briefing on the IOI Corporation confirming that the company is a client of the bank, therefore acknowledging its link to the impact, but otherwise the bank did not address the issues raised in the briefing in any detail. In the case of EACOP, six banks responded stating that they would not finance the project, which details a specific action being taken, but the banks did not comment on or otherwise respond to the human rights issues raised (which they remain linked to via their finance for the project sponsors), and the response met only part of the demands of affected rights-holders.

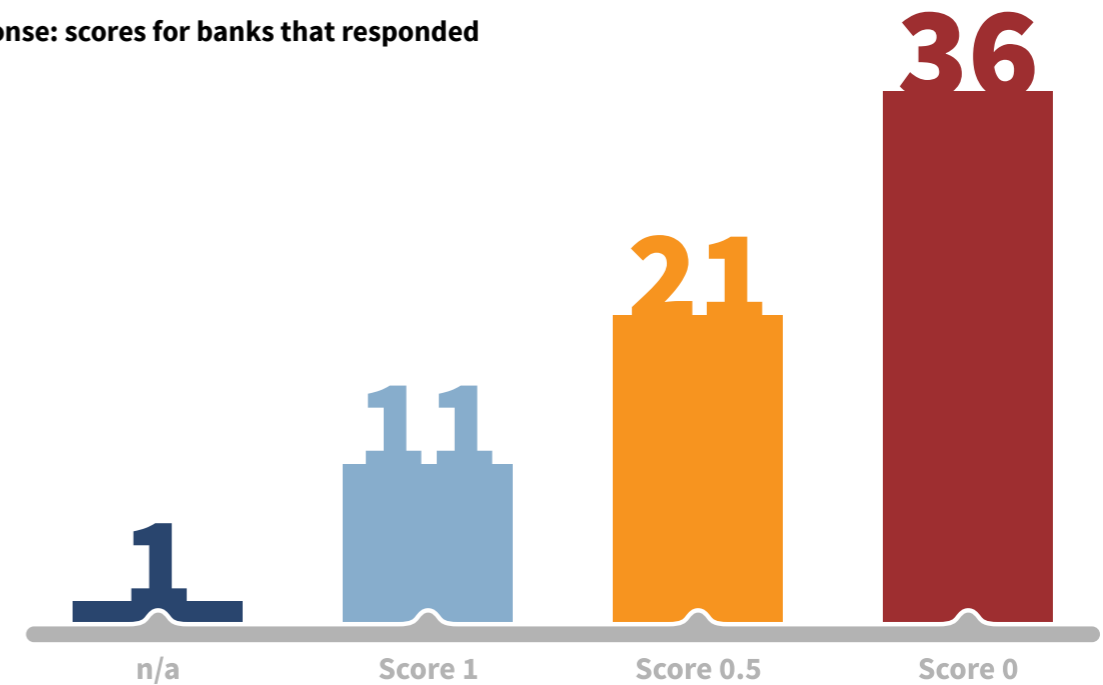
In the remaining three instances in which banks received a half score, the bank did not acknowledge its link to the impact but did comment on or respond to the substance of the issues raised. For example, **Credit Suisse** responded to our briefing on Vitol and Trafigura stating that "as part of our active involvement in industry associations we engaged among others with Trafigura...and asked them to provide us with their perspective on the report" and that, "based on these interactions and further research" they ascertained further information regarding the specific issues raised in the report. This clearly details specific actions taken by the bank in response to the impact, but it does not specifically acknowledge the bank's link to the impact.

In 11 instances, banks received a full score (17%), meaning that they both acknowledged their link to the impact and commented on or responded to the substance of the issues raised. For example, in the case of the Nachtigal hydropower project, both **Société Générale** and **Standard Chartered** confirmed that they are financiers of the project and stated that they were aware of the community concerns and challenges related to the project. In their responses both banks explained that, in collaboration with the other financiers of the project, they are monitoring the environmental and social performance of the project and referred to a detailed letter sent by the company to affected stakeholders.

² In the case of the Base Toliaria mineral sands mining project, Standard Bank responded confirming that it was not linked to the impact raised to the bank. As such, it was not scored on any of the criteria and has been marked as n/a in the full table of results.

Score distribution

Public response: scores for banks that responded



Box 2: Overcoming client confidentiality to improve transparency

A common obstacle cited by banks when responding to allegations of environmental and social impacts linked to their finance activities is "client confidentiality". BankTrack explored this topic in some depth in a 2019 briefing paper, titled "[We are unable to comment on specific customers...](#)".

This briefing showed that banks often respond to enquiries about specific transactions by saying they are unable to comment, often citing a legal duty of client confidentiality. However, this practice is used inconsistently, with some banks relying on client confidentiality all of the time, while others routinely do find a way of commenting on specific customers. These discrepancies cannot be explained simply by looking at legal differences between countries.

While in most jurisdictions, banks do have a duty of confidentiality towards their clients, this can typically be overcome by seeking client consent to make disclosures. Some banks already routinely seek consent to make such disclosures, although this practice needs to be mainstreamed if transparency and accountability in the banking sector are to be improved.

The OECD's 2019 guidance on [Due Diligence for Responsible Corporate Lending and Securities Underwriting](#) recognises that banks can "take steps to promote greater transparency with respect to client relationships without being in breach of this duty". The guidance encourages banks to seek client consent to disclose specific information, such as the existence of a client relationship, at the outset of a relationship. It also urges banks to adapt the standard loan agreements they use to allow for standardised disclosure. This reinforces calls from BankTrack and other civil society partners for banks to "write the right to disclose" these relationships into their lending agreements, which would enable them to better meet their responsibility to respect human rights and help enable more constructive engagement, and ultimately remediation, for rights-holders that are impacted by bank finance.

Criteria 2: Action

The requirement: The bank takes appropriate action towards resolving the impact (either by itself or through engagement with its client or investee company).

Full score (1): The bank sets out publicly that it has engaged with the client or investee company regarding the allegations of adverse human rights impacts linked to its finance AND sets out that it has required the company to take specific actions tailored to the situation at hand with a reasonable timeline for the actions to be taken;

OR the bank sets out how it has taken appropriate action sought by affected rights-holders; for example, by disengaging with the company or project at hand (where this constitutes an appropriate action according to rights-holders) or by participating in remediation which is considered appropriate by rights-holders involved in raising the issue with the bank;

OR if the bank denies the allegation, it still engages in a dialogue with the company reportedly involved in the allegation to ensure that it has engaged with affected stakeholders AND provides evidence of having management systems in place that are sufficient to prevent such impacts from occurring in the future.

Half score (0.5): The bank sets out the details of its engagement with the client or investee company regarding the allegations of adverse human rights impact(s) linked to its finance;

OR the bank provides evidence of having reviewed its management systems to prevent such impacts from occurring in the future, but without this being considered an appropriate and sufficient remedy by rights-holders involved in raising the issue with the bank;

OR if the bank denies the allegation, it still engages in a dialogue with the company reportedly involved in the allegation to ensure it has engaged with affected stakeholders.

Why this is important:

Once a bank has been made aware of a specific human rights impact, it should take appropriate action, for example by engaging strongly with its client to ensure that it takes steps to address the impact, by responsibly disengaging from the company or project responsible or engaging in the process of remedying the impact. The bank should inform affected stakeholders about the steps it has taken.

In line with the UNGPs (Principle 13), banks have a responsibility to perform human rights due diligence, including assessing actual human rights impacts, acting upon the findings, accounting for how they have addressed the impacts and providing access to remedy for those whose rights are impacted. To clearly meet this standard, banks should set out what action they are taking to mitigate, prevent or address adverse impacts.

What we found:

Of the 69 responses from banks analysed, 44 received a score of 0 as the bank did not detail any action towards resolving the impact, either independently or through engagement with its client or investee company.

This includes 25 instances where the bank cited client confidentiality, and 11 instances where the bank failed to substantively respond but did not cite client confidentiality. In the remaining eight instances, although the bank scored for criteria 1 (acknowledging its link to the impact or responding to the substance of the issues raised, or both), it did not provide details of appropriate action taken to address the impact.

There were instances in which banks provided information about actions taken, but where these were not deemed to contribute towards addressing the impact in question. For example, **BBVA** informed us in the course of our research that Drummond is no longer a customer of the bank, as the bank has sold the subsidiary that maintained the financial relationship. However, this does not contribute towards addressing the impact itself.

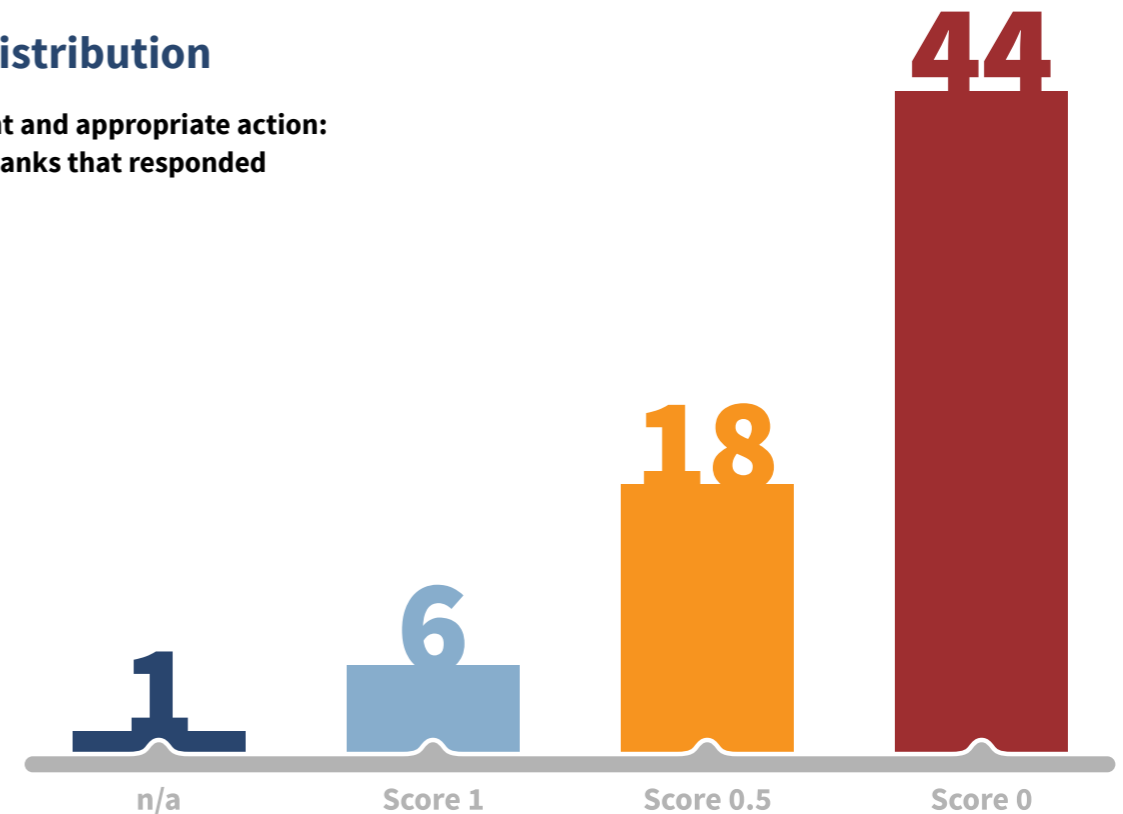
In 18 instances, banks received a score of 0.5 for the criteria on “action”. In 15 instances this was because the bank provided details of its engagement with the company but did not state whether it required the company to take specific actions or if the bank itself had taken any appropriate action. In the remaining three instances, this was because the bank took action which fell short of what was considered appropriate by rights-holders involved in raising the issue with the bank.

For example, **BNP Paribas** responded to its draft scores for its response to the "Complicity in Destruction" report stating that, in 2021, the bank revised its Agriculture sector policy, resulting in it only providing financial products or services to companies with a strategy to achieve zero deforestation in their production and supply chains by 2025 at the latest. This is a positive step but falls short of the action sought by rights-holders to implement a wider No Deforestation policy which would address the bank’s role in driving illegal deforestation.

In six instances, banks scored a full point for setting out actions in response to a specific impact. Five of these instances were responses from banks confirming that they would not finance the EACOP project, in line with the wishes of the affected rights-holders and their representatives that raised the issue with the bank. The remaining instance was a response by **BNP Paribas** in relation to Drummond - see box below.

Score distribution

Engagement and appropriate action: scores for banks that responded



Box 3: Current good practice examples

Drummond and paramilitary violence in Colombia

The highest scoring instance assessed as part of this report, with 2 out of a possible 2, was for **BNP Paribas'** response to our Human Rights Impact Briefing on the coal-mining company Drummond in relation to paramilitary violence in the Cesar mining region of Colombia. The bank stated that, after financing Drummond in 2010, it declined to provide further finance in 2012, and decided in 2014 not to provide financial services to the company until further notice, due to "ongoing ESG (including human rights) controversies". This suspension of finance was in line with the recommendations made to banks in collaboration with rights-holders and considered an appropriate step to ensure the bank is no longer linked to the human rights impacts in this case. BNP Paribas could improve on this position by explicitly linking its suspension of finance to a demand that the company contribute substantially to a process to remediate human rights abuses in Colombia, and by showing how it can ensure that its disengagement takes into account the interests of the affected population.

In response to the same briefing, **Citi** outlined details of its engagement with Drummond in which the bank sought to understand issues including stakeholder engagement, security management and performance against the IFC Performance Standards, which includes human rights issues, concluding that the company is "adequately managing human rights issues". The details provided by the bank were sufficient for a half score on criteria two, but it did not receive a full score as the bank did not indicate that it had made any steps towards ensuring or encouraging remedy for the victims of human rights violations in Cesar.

Nachtigal Hydropower project

Société Générale and **Standard Chartered** both scored 1.5 out of a possible 2 for their responses to the Nachtigal hydropower project. Both banks confirmed that they were financiers of the project and that they were aware of the specific community concerns and challenges related to the project. Société Générale stated that "actions have been taken and we believe that these issues are being satisfactorily addressed by the lenders pool". Standard Chartered stated that, together with the other financial lenders, it is using its leverage to ensure the concerns of the communities are prioritised by the company. Both banks included as reference in their responses a detailed letter from the company which addresses the issues raised by affected communities. These responses could be improved by the bank explaining in more detail the specific actions it has sought from the company to address the human rights impact.

East African Crude Oil Pipeline

Barclays, Credit Suisse, HSBC, Mizuho and **Royal Bank of Canada** all responded in the case of EACOP confirming that they would not finance the project; a specific action that is considered appropriate by rights-holders involved in raising the issue with the bank. Each of these banks score 1.5 out of a possible 2 points. For a full score, the response would need to address the substance of the issues raised. The responses could have been improved, for example, by banks setting out plans to engage with the project sponsor for full, fair and adequate compensation to people already affected by the project, as rights-holders and civil society groups have called for.

Criteria 3: Monitoring

The requirement: The bank monitors the measures taken by its client or investee company and assesses the engagement process; OR the bank monitors the impact on rights-holders of the action it took itself.

Full score (1): The bank monitors the progress of the company against its Action Plan, checking in after at least 12 months and periodically each year, and discloses that it has done so AND the bank makes intermediate assessments on the engagement process, including the execution of the company's Action Plan and shares these with the company. The bank collects stakeholder views on at least the following questions: Have the human rights abuses been addressed; has the company provided victims with adequate remedy?

OR the bank monitors the impact on rights-holders involved in raising the issue with the bank of the action it took itself (e.g. disengaging from the project or participating in remediation).

Half score (0.5): The bank monitors the progress of the company against its Action Plan, checking in at least 12 months and periodically each year, and discloses that it has done so.

Why this is important:

Where banks take action regarding an adverse human rights impact, the bank should follow up to assess whether its action was appropriate and effective, to ensure the action leads to its intended outcomes. It is important for the bank to engage with stakeholders that have raised the issue, particularly where their rights are affected (and where further engagement does not expose rights-holders to risk), for example to seek clarity on the effectiveness of the actions taken.

Principle 20 of the UNGPs requires business enterprises to track the effectiveness of their response to adverse human rights impacts and this should include drawing on feedback from affected stakeholders. To clearly meet this standard, banks should show that they respect human rights in practice, including by communicating with relevant stakeholders.

What we found:

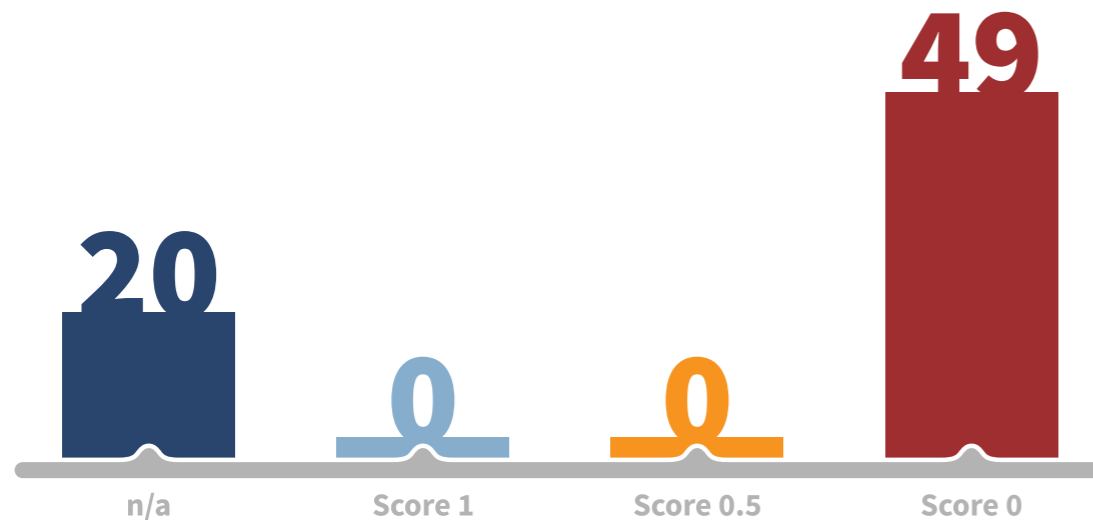
No points were awarded for criteria three on monitoring progress. In 20 of the 69 bank responses assessed, banks were not scored on the final criteria either because the impact was raised less than a year ago, or because the bank has confirmed that they are not involved in financing the project or company concerned.

In the other 49 instances, banks received a score of zero. In 45 of these, this was because we found no information on whether the bank monitored the progress of the client or investee company's action, or the impact of the bank's own action, and we received no information from the bank in response to draft scores which could be publicly disclosed for scoring. In the remaining instances, the bank did respond to draft scores with further information, but this did not make clear whether or how the bank monitored the progress of the company or the impact of its own action.

For example, in response to its draft scores, UniCredit stated that it had “engaged with the customer and gathered statements and positions on the allegation” but provided no details of this engagement or any specific actions it required of the company to address the impact. The bank provided no further information on whether or how it followed up on its engagement to ensure that any action taken was effective.

Score distribution

Monitoring



Call to action

The corporate responsibility to respect human rights means that businesses, including financial institutions, should avoid infringing on the human rights of others and address adverse human rights impacts with which they are involved. It is impossible to know whether banks are meeting this responsibility if they are not showing the steps they have taken to avoid or address specific human rights impacts. Ten years on from the publication of the UN Guiding Principles, examples of such transparency remain vanishingly rare.

[BankTrack's 2019 Human Rights Benchmark](#) ended with four clear priorities for bank action: to focus on the remediation of the most severe impacts; report on how specific adverse impacts have been managed and remedied; to develop effective grievance mechanisms; and to overcome client confidentiality concerns and move towards ‘open books’. These recommendations remain pertinent.

Further to this, the benchmark called for a more active role for regulators in driving progress in the sector. We continue to advocate for mandatory human rights and environmental due diligence from regulators, with an emphasis on ensuring channels are available through which people whose rights are affected by bank-financed projects can seek effective remedy.

The examples covered in this report all relate to adverse human rights impacts that can be considered severe. The required action from banks is clear from the criteria we have set out in this report:

- Banks must **respond** to communities and civil society organisations that raise genuine human rights concerns, and must do so in a way which constructively engages with the issue raised;
- Banks should then take appropriate **action**, where possible, towards resolving the impact, either by itself or through engagement with its client; and
- Banks should **monitor** any measures taken itself or by its client to assess whether it was appropriate and effective, and to ensure the action leads to its intended outcomes.

It is expected that financial institutions must make decisions about which adverse human rights impacts to prioritise, and that they will not be able to prioritise every issue raised by civil society groups and rights-holders. However, this report reveals a situation in which attempts to draw attention to severe human rights impacts receive no meaningful public response in at least two-thirds of cases.

Rights-holders deserve better than this. Actions speak louder than words - if banks' human rights policies and due diligence processes are to be considered meaningful, banks must set out how they are taking concrete steps to ensure severe human rights impacts linked to their finance are being addressed and remediated. Transparency and accountability are integral to the proper implementation of the UNGPs and thus it follows that, in order to meet their responsibilities, banks must ensure that impacted communities' rights are respected, and adverse human rights impacts are remedied through effective and appropriate channels.

Appendix 1: Criteria in full

Criteria 1: Response

Requirement: The bank responds publicly and in sufficient detail to allegations of adverse human rights impact(s) linked to its finance.

Requirements for full and half score

Full score: The bank responds publicly to the allegations in a way which comments on and responds to the substance of the issues raised, and its response acknowledges its link to the impact.

Half score: The bank responds publicly to the allegations and its response acknowledges its link to the impact, but without detailing specific actions taken,

OR the bank responds publicly to the allegations and its response details specific actions taken in response to the impact (e.g. engagement with the company) but without acknowledging the bank's link.

(Note: where the bank confirms there is no link to the impact, the impact will not be considered for scoring.)

No score: The bank does not respond publicly, or its response does not comment on or respond to the issues raised. There is no score for responses which only confirm receipt, or which set out that the bank is unable to comment on the specific company concerned.

Criteria 2: Action

Requirement: The bank takes appropriate action towards resolving the impact (either by itself or through engagement with its client or investee company).

Requirements for full and half score

Full score: The bank sets out publicly that it has engaged with the client or investee company regarding the allegations of adverse human rights impact(s) linked to its finance AND sets out that it has required the company to take specific actions tailored to the situation at hand within a reasonable timeline for the actions to be taken.

OR the bank sets out how it has taken appropriate action sought by affected rights-holders; for example by disengaging with the company or project at hand (where this constitutes an appropriate action according to rights-holders) or by participating in remediation which is considered appropriate by rights-holders involved in raising the issue with the bank.

OR if the bank denies the allegation, it still engages in a dialogue with the company reportedly involved in the allegation to ensure that it has engaged with affected stakeholders AND provides evidence of having management systems in place that are sufficient to prevent such impacts from occurring in the future.

Criteria 2 (continued)

Requirements for full and half score

Half score: The bank sets out the details of its engagement with the client or investee company regarding the allegations of adverse human rights impact(s) linked to its finance.

OR the bank provides evidence of having reviewed its management systems to prevent such impacts from occurring in the future, but without this being considered an appropriate and sufficient remedy by rights-holders involved in raising the issue with the bank.

OR if the bank denies the allegation, it still engages in a dialogue with the company reportedly involved in the allegation to ensure it has engaged with affected stakeholders.

Criteria 3: Monitoring

(for impacts that were raised to the bank at least a year ago)

Requirement: the bank monitors the measures taken by its client or investee company and assesses the engagement process.

OR the bank monitors the impact on rights-holders of the action it took itself.

Requirements for full and half score

Full score: The bank monitors the progress of the company against its Action Plan, checking in at least after 12 months and periodically each year, and discloses that it has done so.

AND the bank makes intermediate assessments on the engagement process, including the execution of the company's Action Plan and shares these with the company. The bank collects stakeholder views on at least the following questions: Have the human rights abuses been addressed; has the company provided victims with adequate remedy?

OR the bank monitors the impact on rights-holders involved in raising the issue with the bank of the action it took itself (e.g. disengaging from the project or participating in remediation).


Half score: The bank monitors the progress of the company against its Action Plan, checking in at least 12 months and periodically each year, and discloses that it has done so.

Appendix 2: Full table of results (average scores)

Bank	Country	No. enquiries	No. responses
ABN AMRO	Netherlands	1	1
Agricultural Bank of China	China	1	0
ANZ	Australia	1	1
Banco Santander	Spain	1	0
Bank of America	United States	4	1
Bank of China	China	3	0
Bank of Nova Scotia	Canada	1	0
Barclays	United Kingdom	4	3
BBVA	Spain	1	1
BNP Paribas	France	4	3
BPCE Group	France	1	1
China Construction Bank	China	1	0
Citi	United States	6	6
Commonwealth Bank	Australia	1	1
Crédit Agricole	France	3	3
Credit Suisse	Switzerland	5	4
Deutsche Bank	Germany	4	3
Goldman Sachs	United States	1	1
HSBC	United Kingdom	5	5
ICBC	China	2	0
ING Group	Netherlands	2	2
Intesa Sanpaolo	Italy	1	1
JPMorgan Chase	United States	3	3
Lloyds Banking Group	United Kingdom	1	1
Mizuho Financial Group	Japan	4	4
Morgan Stanley	United States	2	2
Mitsubishi UFJ	Japan	3	2
National Australia Bank	Australia	1	1
Rabobank	Netherlands	1	1
Royal Bank of Canada	Canada	1	1
RBS (NatWest)	United Kingdom	1	1
Sumitomo Mitsui Financial	Japan	3	2
Société Générale	France	6	4
Standard Bank	South Africa	2	2
Standard Chartered	United Kingdom	4	4
UBS	Switzerland	2	2
Unicredit	Italy	2	1
Wells Fargo	United States	1	1

Response (average out of 1)	Action (average out of 1)	Monitor (average out of 1)	Total average score (out of 3)	Link to full results
0	0	0	0	Results
0	0	n/a	0	Results
0.5	0.5	0	1	Results
0	0	0	0	Results
0	0	0	0	Results
0	0	0	0	Results
0	0	0	0	Results
0.13	0.25	0	0.38	Results
0.5	0	0	0.5	Results
0.25	0.38	0	0.63	Results
1	0	0	1	Results
0	0	n/a	0	Results
0.42	0.33	0	0.75	Results
0	0	0	0	Results
0.25	0.13	0	0.38	Results
0.2	0.3	0	0.5	Results
0.25	0.13	0	0.38	Results
0	0	n/a	0	Results
0.1	0.2	0	0.3	Results
0	0	0	0	Results
0.75	0.25	0	1	Results
0.5	0	0	0.5	Results
0.67	0.33	0	1	Results
0	0	0	0	Results
0.13	0.25	0	0.38	Results
0	0	0	0	Results
0	0	0	0	Results
0	0	0	0	Results
0.5	1	n/a	1.5	Results
0	0	0	0	Results
0	0	0	0	Results
0.58	0.17	0	0.75	Results
0.5	0.5	n/a	1	Results
0.5	0.25	0	0.75	Results
0	0	0	0	Results
0.25	0	0	0.25	Results
0	0	0	0	Results

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