



BANKTRACK

HUMAN RIGHTS IMPACT BRIEFING No. 1: LABOUR STANDARDS VIOLATIONS IN IOI CORPORATION'S MALAYSIAN PLANTATIONS

FEBRUARY 2016

Image: Wakx, Flickr

INTRODUCTION

IOI Corporation is one of Malaysia's largest conglomerates and one of the world's largest palm oil growers and traders, estimated as representing around one-tenth of the global trade in palm oil. A 2014 investigation by the Finnish corporate responsibility NGO Finnwatch found severe violations of labour standards in a number of the company's Malaysian plantations. These include withholding workers' passports, denying their rights to join trade unions, and failure to pay the minimum wage.

Fifteen of the world's largest commercial banks have been found to have been involved in financing IOI Corporation over the last five years, primarily by providing corporate loans, underwriting bond issuances for the company or owning or managing its shares.

Under the UN Guiding Principles on Business and Human Rights, adopted in 2011, all businesses have a responsibility to respect human rights, requiring them to "avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts where they occur", and to "seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships". Further, businesses have a responsibility to account for how they address such human rights impacts.

BankTrack has assessed how banks are integrating their responsibilities under the Guiding Principles into their policies and processes, in its 2014 report "[Banking with Principles?](#)". This briefing aims to investigate how banks linked to IOI Corporation have fulfilled their responsibilities to seek to prevent or mitigate the impacts on the human rights of palm oil plantation workers caused by their client or investee company in this specific instance.

We contacted the 15 banks identified as linked to the company to request details of the due diligence processes they have used to assess the risks of actual or potential human rights impacts caused by the company, and how they have responded to the issues identified. We analyse the response of the 14 banks which responded below.

BOX 1: BANKTRACK'S HUMAN RIGHTS IMPACT BRIEFING SERIES

This briefing forms the first of a series of BankTrack Human Rights Impact Briefings, which will investigate how banks manage specific adverse human rights impacts caused by companies or projects that they are involved in financing. With this series we hope to shed light on the extent to which banks are living up to their responsibilities under the UN Guiding Principles, which we consider present the clearest expression so far of the human rights responsibilities of business.

The cases we focus on in this series are companies and projects linked to significant, recent and well-documented human rights impacts, and financed by a number of large commercial banks.

The series of briefings intends to:

- » Draw attention to the specific human rights impacts and challenge banks linked to them through their finance to explain how this fits with their human rights policies and responsibilities;
- » Provide real-life examples of the human rights impacts of the banking sector to inform ongoing debates on implementation of the Guiding Principles (for example, the OECD Proactive Agenda Project);
- » Explore how banks respond to human rights impacts in practice, allowing for a comparison of responses and analysis of good and bad practice; and
- » Push for banks to meet their responsibilities under the UN Guiding Principles to account publicly for how they address specific human rights impacts.

BACKGROUND TO IOI CORPORATION

IOI Corporation is one of Malaysia's largest conglomerates and a major global palm oil grower and trader. Formed as Industrial Oxygen Incorporated in 1969, it began in the industrial gas industry, but today generates most of its earnings from its oil palm plantation business. It has a total of 179,000 hectares of oil palm plantations, 89% of which is located in Malaysia ([IOI Group Annual Report 2015](#)). The Forest Heroes campaign estimates that IOI represents more than a tenth of the global palm oil trade ([Mongabay, Feb 2015](#)).

The company [website](#) states that “its vast businesses are backed by a diverse workforce totalling over 30,000 people from more than 25 countries”, and that its main manufacturing facilities are in Malaysia, the Netherlands, the USA and Canada.

IOI is a co-founder of the Roundtable on Sustainable Palm Oil (RSPO), although it was partially suspended in April 2011 by being prevented from applying for new supply base certificates, due to specific concerns raised by a group of NGOs, including disputes over native customary land leased by IOI for palm oil production in Sarawak, Malaysian Borneo ([RSPO, April 2011](#)). In September 2015 IOI was again reprimanded by RSPO, and warned to address serious legal and policy non-compliances in Kalimantan, or face expulsion from the Certified Sustainable Palm Oil market ([Chain Reaction Research, September 2015](#)).

IOI Corporation also owns a 31.2% stake in Indonesian oil palm plantation company Bumitama, and IOI's Chief Executive Officer, Lee Yeow Chor, holds a position on Bumitama's Board of Directors ([Friends of the Earth Europe, November 2013](#)). Friends of the Earth and others have extensively documented Bumitama's involvement in production of palm oil from orangutan habitat, peatland and forest cleared illegally, contributing to the company being named “[the worst company you've never heard of](#)” by Forest Heroes in 2013, prior to its adoption of a “No Deforestation, No Peat, No Exploitation” policy the following year.

The scope of this briefing and the questions put to the bank financiers of IOI Corporation is limited to the allegations of labour standards violations in the company's Malaysian plantations. A profile of IOI Corporation can be found on the [BankTrack website](#).

HUMAN RIGHTS IMPACTS

Human rights impacted by IOI Corporation's activities in Malaysia include:

1. Freedom from forced labour
2. Right to freedom of association
3. Right to an adequate standard of living

In September 2014 a [report by the Finnish development NGO Finnwatch](#) investigated working conditions on IOI's estates in the southern region of Peninsular (West) Malaysia, in the states of Negeri Sembilan and Johor. Finnwatch conducted the research with the cooperation of the company, which facilitated access to its estates. The report found evidence of serious labour rights violations at IOI Group's plantations.

Examples of clear adverse human rights impacts caused by IOI Corporation, as evidenced by Finnwatch research, include the following:

1. Freedom from forced labour: IOI Corporation was found to keep possession of employees' personal documentation, including passports. While estates documented "consent" given by the workers for management to hold passports, their freedom to give or withhold consent was limited by workers being given employment contracts which many were unable to understand. Many of the workers stated that they were not able to get their passports even when they requested them.

The employment contract for foreign workers stated that "the employer agrees to return the Employee's passport upon the request of the Employee due to important or emergency reason." This gives the IOI estates the power to decide whether to give the workers their passports. IOI Group's internal guidelines also state that "The passports of the workers are to be kept by the Operating Centre's representative at all times".

2. Right to freedom of association: The rights to freedom from forced or compulsory labour is enshrined in [ICCPR Article 8](#). Confiscation or retention of passports is considered an [indicator for forced labour](#) by the International Labour Organization.

The company was found to restrict employee access to trade unions, as well as restricting industrial action. The General Secretary of the National Union of Plantation Workers (NUPW), the only trade union in West Malaysia that represents workers in the plantation sector, reported that the union is denied access to foreign workers on IOI estates in order to provide training, to raise their awareness of their rights and organize them as union members. As workers do not have possession of their passports, they rarely leave the estates.



Land in Sarawak, Malaysia which is subject to a dispute between IOI Corporation and local communities. Image: Wakx, [Flickr](#).

The IOI Group's Employment Contract states that the employer has the right to terminate the work permit of any foreign worker who is involved in a strike or any industrial action or instigates other workers to do so. The right to strike is one of the principal means by which workers and their associations may legitimately promote and defend their economic and social interests.

The rights to freedom of association, to join a trade union and to strike are enshrined in [ICESCR Article 8](#).

3. Right to an adequate standard of living: Some workers earned a salary that was below the statutory minimum wage, and were not compensated appropriately for overtime work. Finnwatch reported that “the incidence of a small but significant number of workers earning less than the minimum wage is cause for concern. It was also not possible to ascertain the contribution of overtime and rest day wages that made up the wages of those who earned well above the minimum wage. However the fact that the employment contract states that “..the Employee is encouraged to work 10 to 12 hours a day” strongly suggests that the quantum of wages [...] is the result of working well beyond the 48 hour working week stipulated in the Employment Act.”

The right to an adequate standard of living is enshrined in [ICESCR Article 11](#).

DEVELOPMENTS SINCE THE FINNWATCH INVESTIGATION

In November 2014 IOI subsidiary IOI Lodgers Croklaan introduced a new policy to no longer source palm oil linked to deforestation and human rights abuses, and in February 2015 IOI Corporation [committed](#) to abide by the policy across all the group's operations. However the company has still not developed a formal policy at the group level, and the policy does not apply to Bumitama, 31% owned by IOI.

A follow-up report from Finnwatch in March 2015 found that the IOI Group had initiated measures to make amends to some of the problems brought to light, but that overall the measures were not yet sufficient for correcting the situation. In September 2015 IOI Corporation [announced](#) that it would work with Tenaganita, a Malaysian NGO, to review labour and working conditions in its plantations in Malaysia.



Images: IOI Corporation Berhad

BANK FINANCE FOR IOI CORPORATION

Research carried out by Profundo for BankTrack in October 2015 revealed the following involvement in finance for IOI Corporation by 15 large private-sector banks since the start of 2010. The research scope was restricted to a group of 45 large private-sector banks (see “[Appendix III: Banks in scope](#)” on page 22).

Bank	Finance since 2010	Finance details
Mitsubishi UFJ Financial	US\$730m	<ul style="list-style-type: none"> » US\$580m contribution to four corporate loans between 2010 and 2013 » US\$150m participation in 2012 bond issue » Shareholding (less than \$1 million) in 2015
Sumitomo Mitsui Financial	US\$334m	<ul style="list-style-type: none"> » US\$ 334m contribution to four corporate loans between 2011 and 2015
Standard Chartered	US\$270m	<ul style="list-style-type: none"> » US\$190m participation in 2013 share issue » US\$80m contribution to 2015 corporate loan
HSBC	US\$251m	<ul style="list-style-type: none"> » US\$150m contribution to 2012 bond issue. » US\$100m contribution to 2010 corporate loan » Shareholding (less than US\$1 million) in 2015
Citigroup	US\$150m	<ul style="list-style-type: none"> » US\$150m participation in 2012 bond issue
Morgan Stanley	US\$150m	<ul style="list-style-type: none"> » US\$150m participation in 2012 bond issue
Bank of China	US\$40.4m	<ul style="list-style-type: none"> » Contribution to 2011 corporate loan
Mizuho Financial	US\$28.6m	<ul style="list-style-type: none"> » Contribution to 2011 corporate loan
JPMorgan Chase	US\$24.2m	<ul style="list-style-type: none"> » Total shareholdings and bondholdings, 2015
Deutsche Bank	US\$8.1m	<ul style="list-style-type: none"> » Total shareholdings and bondholdings, 2015
Credit Suisse	US\$3.4m	<ul style="list-style-type: none"> » Total shareholdings, 2015.
UBS	US\$2.6m	<ul style="list-style-type: none"> » Total shareholdings and bondholdings, 2015
Intesa Sanpaolo	US\$2.2m	<ul style="list-style-type: none"> » Total shareholdings, 2015
Société Générale	US\$1.7m	<ul style="list-style-type: none"> » Total shareholdings, 2015
Crédit Agricole	US\$1.5m	<ul style="list-style-type: none"> » Total shareholdings, 2015

BANK RESPONSIBILITIES AND RESPONSES

As the human rights impacts described in this briefing are directly linked to the financial services of the banks financing IOI Corporation, these banks have a responsibility to seek to prevent or mitigate these human rights impacts under the UN Guiding Principles (see Principle 13, on the right), for example by conducting human rights due diligence.

Banks may in some circumstances be considered to *contribute* to a human rights impact through their finance, in which case the UN Guiding Principles confer a higher level of responsibility. In this briefing we do not claim that the banks financing IOI Corporation are contributing to the human rights impacts covered here, as this would require a higher level of evidence than is available, but focus on assessing their responsibilities as a result of their direct link to the impact.

The Guiding Principles also give businesses including banks a responsibility, under Principle 21, to report on how they address their human rights impacts, particularly when concerns are raised by or on behalf of affected stakeholders, and in particular to make sure such information is sufficient to evaluate the adequacy of the response to the particular human rights impact.

To assess the extent to which banks have taken adequate steps to prevent or mitigate the impacts outlined in this briefing, BankTrack presented all banks involved in the financing of IOI Corporation with a draft version of this document together with the following questions:

- » Can the bank outline the due diligence process it conducted to assess risks of actual or potential human rights impacts caused by the company?
- » Can the bank provide an overview of its response to the issues identified and its efforts to prevent and/or mitigate the adverse impacts?

BOX 2: UN GUIDING PRINCIPLES 13 AND 21

Principle 13 of the UN Guiding Principles states: “The responsibility to respect human rights requires that business enterprises:

(a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur;

(b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.”

Principle 21 states: 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. [...] 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.

OVERVIEW OF RESPONSES

While all but one of the 15 banks responded to BankTrack’s letter regarding IOI Corporation, half of the banks did not discuss the specific concerns raised. The majority of banks provided no information about their assessment of risks presented by the company, and no bank provided information about the steps it had taken to prevent or mitigate the impacts described. However, a small number of banks did provide more constructive responses, for example accepting the financial link between the bank and the company and confirming engagement with the company.

Bank responses varied significantly. We have categorised them broadly into four camps for the purposes of analysis, however this should not be taken as a simple hierarchy or score. Responses varied within these categories as well as between them. The full response of each bank is presented in Appendix I.

HOW BANKS RESPONDED

1. No response

Bank of China

2. Response with no comment on specific case

Credit Suisse

HSBC

Mitsubishi UFJ Financial

Mizuho Financial

Morgan Stanley

Sumitomo Mitsui Financial

UBS

3. Confirmation of link with IOI Corporation, but no response to issues raised

Citigroup

Intesa Sanpaolo

Société Générale

Standard Chartered

4. Response outlining some action taken in response to the issues raised

Crédit Agricole

Deutsche Bank

JPMorgan Chase

1. No response

Only one bank, **Bank of China**, did not respond to BankTrack's questions on the IOI Corporation at all. We did not receive a confirmation of from Bank of China that our letter was received. We have made every effort to contact the most appropriate individuals at the bank.

BOX 3: TRANSPARENCY AND “THE FARCE OF CLIENT CONFIDENTIALITY”

Four of the banks we contacted cited concerns around customer confidentiality as reasons for not providing further disclosure. **HSBC** and **Morgan Stanley** both stated that they could not comment on specific relationships, with HSBC going further and saying that they could not confirm whether an individual company is a customer. Other banks also did not confirm whether IOI Corporation is a customer, although they did not cite customer confidentiality directly. **Deutsche Bank** and **Standard Chartered** confirmed that IOI was a client, with consent from the customer, but cited confidentiality concerns as preventing them from disclosing further details about the nature of their relationship or interaction with the company.

Banks are in fact able to disclose certain details about their relationships with specific clients, with the consent of the client, as is shown by the responses of some of the banks in this briefing. They also discuss particular relationships routinely in their own reporting. **HSBC**, for example, discusses its finance for the Greater Gabbard offshore wind farm in the UK and for the highway company Autovia Necaxa-Tihuatlan in Mexico, in its 2013 Sustainability Report.

The details of bank finance for IOI Corporation presented in this briefing have been accessed primarily from subscription databases provided by Thomson ONE and Bloomberg. As Oxfam Australia reported under the title “the farce of client confidentiality” ([Banking on Shaky Ground, 2014](#)), this information is provided by banks themselves for marketing purposes.

For banks to meet the requirements of the UN Guiding Principles, particularly under reporting, will require greater levels of disclosure than have been the norm until now. While banks have a duty to their customers to keep certain commercially sensitive information private, they must square this duty with their responsibility to provide information on how they have responded to particular human rights impacts linked to their activities. If client consent is needed for such disclosures, bank provision of finance should be conditional on such consent being provided. If customers are unwilling to consent to information on their human rights impacts being disclosed, this should be seen by banks as a red flag.

2. No comment on IOI Corporation

Of the 14 banks which responded, half did not comment on the specific case of IOI Corporation. These were: **Mitsubishi UFJ**, **Sumitomo Mitsui**, **HSBC**, **Morgan Stanley**, **Mizuho**, **Credit Suisse** and **UBS**. Most of these banks did provide a general overview of their approach to human rights due diligence, or an overview of their approach to the palm oil sector (or both). The two largest financiers of IOI Corporation, the Japanese banks Mitsubishi UFJ and Sumitomo Mitsui, responded only to say that they could not comment, reflecting a particularly low level of engagement.

3. Confirmation of link to IOI Corporation, but no response to issues raised.

Standard Chartered, the third largest financier of IOI Corporation among the banks analysed, confirmed that it has “acted for IOI on a number of transactions” but stated that “client confidentiality, a legal obligation, does nonetheless prevent us from discussing specifics of a possible relationship with any particular company.” The bank acknowledged its responsibility to respect human rights, and provided general details about its policies and process, but provided no details of its response to the issues identified.

Citi outlined details of its policy and due diligence process, and confirmed that “as you know, IOI Corporation is a client of Citi (...)”. The bank also stated that it had shared BankTrack’s letter with the company. It did not detail a response to the specific issues in the briefing.

Intesa Sanpaolo and **Société Générale**, which manage shareholdings in IOI Corporation of US\$2.2m and US\$1.7m respectively, confirmed their involvement with the company. **Société Générale** also discussed their responsibilities under the Guiding Principles with regard to the management of minority shareholdings. Neither provided any details of a response to the specific issues identified with IOI Corporation.

4. Some action taken

Only three of the fifteen banks we contacted described some action they had taken in response to environmental and social impacts at IOI Corporation. **Deutsche Bank** and **JP Morgan Chase** both confirmed that they had contacted IOI Corporation to discuss sustainability issues, which is a welcome step. However in neither case was it possible to assess whether the bank’s engagement was adequate to the issues raised. For example, we do not know if the company was asked to make specific improvements in its labour standards practices, or if follow-up engagements are planned to monitor such improvements.

JP Morgan Chase provided information on the bank’s view of IOI Corporation’s current level of compliance with RSPO criteria, which it uses as the assessment framework for an “Enhanced Review” for palm oil related transactions. The bank’s response compares positively with others in that it discusses the bank’s view of IOI’s actual sustainability performance. The bank confirms that its Corporate & Investment Bank division has “not had any opportunity to discuss with IOI Corporation the allegations made”, but that the Asset Management division has engaged with the company within the week prior to its response (i.e. after receiving our letter).

The bank’s asset management division emphasised that it monitors environmental and social risk issues because “we believe increasingly that non-financial issues, such as environmental and social risk issues can have an economic impact on the share price and the reputation of companies”. While considering these issues from the perspective of

share prices is better than not considering them at all, the UN Guiding Principles are clear that human rights due diligence needs to focus on risks to rights-holders, and not simply risks to the business itself.

Deutsche Bank stated that “with regards to IOI Corporation we have agreed with the client that we can confirm to you that we are of course in contact with the client to understand its approach to certain sustainability topics and we will monitor the further developments. For confidentiality reasons we are not able to disclose details on the extent and the way of interaction.” Again, the confirmation of engagement is welcome, but it is not possible to evaluate whether the bank has responded adequately to the issues raised.

Finally, **Crédit Agricole** described a concrete response to the environmental and social issues raised in the briefing, stating that “as IOI Corporation appeared in some RepRisk reports (at a low level) it was internally downgraded in order to be excluded from all our SRI funds. If it remains in some non SRI funds managed, the latter portfolios are mostly passive investments (index investing).” This exclusion of the company from the bank’s SRI (socially responsible investment) funds at least represents a response to the issues identified in this briefing - however this does nothing to prevent or mitigate the adverse impacts decried, as the bank still holds shares via its other (“non-socially-responsible”) funds.



Guard check-point on an IOI estate. Image: Finnwatch.

CONCLUSION

IOI Corporation has been singled out in this briefing, not as the company with the worst human rights record in the palm oil sector, but as an example of a company linked to recent, well-substantiated and serious human rights impacts, and which receives finance from a number of the largest private sector banks. The company employed vulnerable foreign workers in its Malaysian palm oil plantations, failed to properly explain their terms of employment, and restricted their freedom of movement and freedom to join a trade union, as well as paying some less than the minimum wage.

The 15 banks found to have financed IOI Corporation in the last five years are all linked to these serious labour standards violations, and although they have not caused them directly, they have responsibilities under the UN Guiding Principles (which some of them explicitly recognise) to take steps to prevent or mitigate such impacts. Sadly, this briefing finds no evidence that any bank linked to IOI Corporation has indeed taken such steps. If any bank has done so, it has not disclosed the steps it has taken.

Half of the banks we contacted did not acknowledge their links to the company, and had nothing to say on the specific case we raised. This includes **Credit Suisse** and **UBS**, two banks whose human rights policies and procedures we rated in the top three in BankTrack's benchmarking report, [Banking with Principles?](#). It also includes the largest two single financiers of IOI Corporation, **Mitsubishi UFJ** and **Sumitomo Mitsui**, banks which achieved among the lowest scores in our recent assessment.

We find it positive that seven banks did acknowledge their financial links to IOI Corporation. We also hope that the examples of the three banks, **Deutsche Bank**, **JPMorgan Chase** and **Crédit Agricole**, whose responses indicated they had taken some (albeit insufficient) action in response to the impacts outlined here, encourage greater disclosure and action from others in the banking sector. We also note that these three banks were mid-table also-rans in our recent assessment of bank policies. To the extent that it is possible to draw conclusions from investigating one company, we find no observable link between good human rights policies and processes on the one hand, and willingness to disclose a response to specific human rights impacts on the other. We hope that subsequent Human Rights Impact Briefings are able to shed more light on this.

IOI Corporation has taken [some steps](#) to remedy the impacts described here, following the advocacy work of FinnWatch. However we have no evidence to indicate that the banks financing IOI Corporation have taken any meaningful steps to encourage or demand that IOI Corporation improve the situation of its workers, or ensure that similar violations do not occur in future.

Acknowledgements

Author: Ryan Brightwell, BankTrack (email: ryan@banktrack.org)

Contributors: Johan Frijns, BankTrack; Andreas Missbach, Berne Declaration.

Design and layout: Raymon Van Vught, BankTrack

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Special thanks to Sonja Vartiala and Sanna Ristimäki at FinnWatch for their original research into labour standards impacts on IOI Corporation plantations, without which this work would not be possible, and for granting their permission for its use as the basis of this briefing.

APPENDIX I: BANK RESPONSES

BANK OF CHINA

No response received.

Note: every effort was made to contact a Bank of China at multiple email addresses, although as no confirmation of receipt was received BankTrack cannot be sure that the most appropriate staff members at Bank of China has received the draft briefing.

CITIGROUP

[\[Download PDF\]](#)

“Thank you for your letter dated November 23, 2015 regarding BankTrack’s upcoming IOI Corporation Case Study. Citi is a long-standing leader on human rights issues in the banking industry, and respect for human rights is critical to our vision of enabling our customers, clients and global communities to make progress. Citi is particularly active with human rights and environmental issues in the palm oil sector on both the client and industry levels.

Policy Commitment

Citi published its first Statement on Human Rights in 2007, and we released an updated Statement in 2014 (http://www.citigroup.com/citi/citizen/data/citi_statement_on_human_rights.pdf). In the Statement, Citi publicly states its support for the key international human rights instruments, including the Universal Declaration on Human Rights, the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work, and the UN Guiding Principles on Business and Human Rights. Citi’s Statement provides a summary of our policies and practices that help us fulfill our corporate responsibility to respect human rights. These policies and practices apply to Citi’s activities across the value chain, to our employees, suppliers, clients and communities, and countries where we do business. Prior to publishing the updated Statement in 2014, we engaged with several external human rights experts on the update and incorporated much of the feedback they provided.

Due Diligence Processes

An important element of our implementation of the UN Guiding Principles is our due diligence, particularly as it relates to client transactions covered by Citi’s Environmental and Social Risk Management (ESRM) Policy (<http://www.citigroup.com/citi/environment/policies.htm>). A core component of our ESRM Policy is to ensure compliance with the Equator Principles (EPs). In 2013, the EPs were updated to include more robust and specific human rights standards. Citi was the Chair of the Equator Principles from 2010-2012 and led development of the EP III updating process during our term. Using our influence and leadership in this role, we worked to focus greater attention on a variety of social issues, including Free, Prior and Informed Consent (FPIC) for projects adversely impacting indigenous peoples in emerging markets.

Citi is an active member of the Roundtable on Sustainable Palm Oil (RSPO) and participates on their complaints panel (the organization’s grievance mechanism). This experience has enhanced Citi’s due diligence with palm oil clients and allows Citi to participate in sector-wide human rights protection initiatives. Citi conducts screenings of high-risk sectors and countries and reviews all palm oil clients on both an ongoing annual basis

and before closing any new transactions. All palm oil clients must be RSPO members to conduct business with Citi and must make progress toward achieving 100% certification of their plantations and mills. We keep in regular contact with clients to stay ahead of any potential human rights issues. When issues do arise, Citi works with clients to put an action plan in place, monitors progress, and benchmarks our clients against their action plans when any requests for new transactions are initiated.

As you know, IOI Corporation is a client of Citi and is also a member of the RSPO. They are committed to meeting the RSPO principles and criteria, are actively increasing their certified sustainable palm oil area, and are active participants in the Roundtable's grievance mechanism. We have shared your letter and this response with them, and they are happy to have us reiterate these commitments."

CRÉDIT AGRICOLE

"You have drawn our attention to a human rights case study that relates to IOI Corporation, a company financed by investors whose assets are managed by a Credit Agricole SA Group subsidiary (Amundi).

We have given careful consideration to your analysis and the background information you forwarded to us.

As you are aware, the Group has a strong commitment to corporate social responsibility in general, and specifically human rights. We signed the Equator Principles in 2003, we acceded to the Climate Principles in 2008, and we released our Human Rights Charter in 2009.

With respect to IOI Corporation you have noted that the supposed Credit Agricole equity participation amounts to less than 0.1% of the company's market capitalization. Please note that as IOI Corporation appeared in some RepRisk reports (at a low level) it was internally downgraded in order to be excluded from all our SRI funds. If it remains in some non SRI funds managed, the latter portfolios are mostly passive investments (index investing).

I hope that I have responded satisfactorily to your enquiry."

CREDIT SUISSE

"Credit Suisse is aware of the potential environmental and human rights risks associated with plantation activities, including palm oil cultivation. Any lending, underwriting or advisory services in relation to such activities would be subject to a comprehensive review of the potential implications on humans and the environment on the basis of leading international standards and our own sector-specific policies and guidelines (in this case the [Forestry and Agribusiness Policy](#), and our [Statement on Human Rights](#)).

The present case study ascribes to Credit Suisse total shareholdings of USD 3.4m of IOI Corporation (corresponding to appr. 0.5% of the company's current market capitalization). With respect to shareholding positions attributed to Credit Suisse in public records we note that these are for the major part held by the bank on behalf of clients, who are the beneficial owners of such stock. Consequently, we do have virtually no leverage over the investment decisions of our clients where these are not clearly prohibited or restricted by any applicable legal regulations."

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“Reference is made to your above mentioned letter informing us on a new series of case studies related to banks’ approach to human rights impacts that you intend to undertake, starting with the one related to IOI Corporation of Malaysia.

With this letter we would like to provide you with information that we hope will support you in your study how we respond in general to human rights impacts.

Although you were able to find public information on specific share- or bondholding we ask for your acknowledgement and your understanding that information on specific transactions, that are publically available, does not generally release us from our legal obligation to treat client specific information confidentially.

With regards to your questions related to our due diligence process as well as to our policy frameworks for human rights issues we would like to draw your attention to the information on this topic in our 2014 corporate responsibility report as well as to our recently published Human Rights Statement. The information is available under the following links:

<https://cr-report.db.com/2014/en/our-controls/environmental-and-social-risk.html>

www.db.com/cr/en/positions/human_rights.htm.

As illustrated in our above mentioned statement a human rights due diligence can be complemented by direct interaction with the client. With regards to IOI Corporation we have agreed with the client that we can confirm to you that we are of course in contact with the client to understand its approach to certain sustainability topics and we will monitor the further developments. For confidentiality reasons we are not able to disclose details on the extent and the way of interaction.”

HSBC

“Many thanks for alerting us in advance to BankTrack's intention to issue a series of case studies on human rights. We look forward to reading them.

Unfortunately, HSBC will not be able to comment on individual companies, whether or not they are customers of HSBC, or the details of any relationship. Customer relationship details are confidential. It is much the same as we would not comment on your relationship with the bank, if you held an account with us, unless there was a legal, regulatory or similar reason to do so.

Nevertheless, we are more than happy to contribute to your research where we can. Let's take the case of how HSBC generally does business in the palm oil sector. I attach our [Agricultural Commodities Policy](#) below, which covers the due diligence procedures we have in place and about which you enquired. You will see, under Prohibited Business, that HSBC does not wish to finance companies that are involved in specified types of human rights violations. It is not always easy for a bank to assess the details of any allegations around human rights and neither would our analysis necessarily be publicly available. HSBC has therefore chosen to use credible certification schemes - where available - to assure us that our customers operate to good standards on human rights, as well as on other issues such as the environment. I attach a copy of HSBC's Statement

on Forestry and Palm Oil, which gives you further background on why we use certain certification schemes.

In the case of palm oil, HSBC places reliance on the Roundtable on Sustainable Palm Oil. Our palm oil customers have to be members of and certified under RSPO, the underlying Principles and Criteria of which require good practice on human rights. For example, Principle 2.1 refers to the Guiding Principles while 6.13 refers to growers and millers respecting human rights. RSPO also has a complaints system which can independently and transparently investigate any allegations that companies do not meet the RSPO Principles and Criteria. HSBC has, as a Board member of RSPO, spent considerable time over the last two years in making further improvements to the complaints system.

Therefore, when HSBC is approached by a concerned stakeholder about companies in this sector, we suggest they refer complaints to RSPO. The complaints will then be fully and openly investigated. You will also see from our policy that - where there are complaints - HSBC does raise the issue with its customers and encourages their speedy resolution.

You also asked about the external frameworks which influence HSBC's policies. Key ones are detailed in the attached [Statement on Human Rights](#).

I have been very happy to provide you with details of how HSBC approaches human rights, using palm oil as an example. However, I recognise that - given that we are unable to comment on individual companies - any answers to questions you raise in future BankTrack case studies are likely to focus on HSBC's policies without being able to comment on companies. In that sense, it probably makes sense that you refer to the various sector policies and the Equator Principles that are available publicly and which guide our approach.

I hope this has been helpful input for BankTrack. With RSPO's information about complaints (as well as membership and certification details) all available on its website, this transparency - when linked to HSBC's policies - should give BankTrack a good overview of the serious way in which HSBC treats these issues.”

INTESA SANPAOLO

“During our internal investigation we found out that our involvement in IOI Corporation is related to a smaller amount of shareholdings than what your statement shows, that is around 200,000 Euros. [See note].

The investment, which is underweight in comparison with the reference benchmark, is included in the funds Asia Emerging and Emerging areas only.

As far as Human Rights are concerned, Intesa Sanpaolo has adopted a Code of Ethics, which explicitly states that it is committed to helping safeguard human rights in accordance with the principles of the Universal Declaration of 1948 and recognizes the principles set out in the ILO (International Labor Organization) fundamental conventions, particularly the right of association and collective bargaining, the ban on forced and child labor and gender equality at work.

Furthermore we are signatories of the Global Compact, where Human Rights protection is broadly dealt with.

Finally, we have been working on a comprehensive Human Rights policy, that originates

from and will thoroughly refer to the Ruggie Principles.”

Note: In a subsequent discussion, BankTrack confirmed with the bank that its shareholding was in fact as BankTrack reported, albeit divided among two subsidiary asset management companies.

JPMORGAN CHASE

[\[Download PDF\]](#)

“In response to your letter of 23rd November 2015, we write to advise you of the following:

JP Morgan Chase’s Environmental & Social Risk Management Procedures require an Enhanced Review for transactions that involve palm oil production. We have selected the RSPO Principles & Criteria for Sustainable Palm Oil Production as the assessment framework for such Reviews. We rely on third-party RSPO certification as evidence that the relevant Principles and Criteria are being applied by the producer. We maintain a risk ranking of all clients in the palm oil sector, based on their level of adherence to the RSPO framework. We note that the RSPO Principles & Criteria include several elements which relate to protection of human rights, e.g.

- » Principle 2.1 - There is compliance with all applicable local, national and ratified international laws and regulations (including laws made pursuant to a country’s obligations under international laws or conventions (e.g. the ILO Core Conventions, UN Guiding Principles on Business and Human Rights)
- » Principle 2.2 – The right to use the land is demonstrated, and is not legitimately contested by local people who can demonstrate that they have legal, customary or user rights.
- » Principle 6.6 - The employer respects the rights of all personnel to form and join trade unions of their choice and to bargain collectively.
- » Principle 6.12 - No forms of forced or trafficked labour are used.
- » Principle 6.13 - Growers and millers respect human rights.

Our understanding of IOI Corporation’s current levels of compliance with RSPO P&Cs based on public communications is as follows:

Currently, 12 of IOI’s 14 palm oil mills in Malaysia have been RSPO-certified while the two remaining mills (which were acquired in 2013) will undergo their RSPO certification in 2018. IOI’s operating units and supply chain units in Malaysia and overseas have all obtained the RSPO Supply Chain Certification.

In the event that public domain allegations surface which call into question the validity of such certification, the relevant allegations would become an area of focus during due diligence at the next available opportunity (usually in preparation for a transaction), and a detailed response from management would be sought regarding the allegations. At the time of writing, we (JP Morgan Corporate & Investment Bank) have not had any opportunity to discuss with IOI Corporation the allegations made in your letter of 23rd November 2015.

As noted in your letter, JP Morgan Asset Management hold shares in IOI Corporation. We have discussed your letter with representatives from JP Morgan Asset Management. They have asked us to convey the following:

When we (JP Morgan Asset Management) manage investment for clients, whether in individual accounts or funds, our priority at all times is to uphold the best economic interests of our clients, thereby exercising our fiduciary duties. We believe increasingly that non-financial issues, such as environmental and social risk issues can have an economic impact on the share price and the reputation of companies, thus we expect companies to behave in a manner consistent with these obligations and monitor these closely where appropriate. However, we do not make decisions based on environmental and social issues alone.

We adopt a positive engagement approach when we engage with companies on environmental and social issues. Specific assets or sectors are not excluded explicitly on environmental, social or ethical criteria, rather, such issues are part of the mainstream analytical process. The exception to this of course is where we adopt our clients' specific guidance to satisfy their investment instructions.

With regards to IOI Corporation, we are not aware of any formal actions that have been instituted against the company in respect of alleged breaches of regulations. We have discussed this issue with IOI Corporation management in the last week, and continue to encourage best practice."

MITSUBISHI UFJ FINANCIAL

"Thank you for the informative case study on a palm oil company. We regret to inform that we are unable to comment on the specific issues/questions raised in the document."

MIZUHO FINANCIAL

"As per our policies, we cannot refer to any specific transaction."

MORGAN STANLEY

"Unfortunately Morgan Stanley cannot comment on specific relationships/transactions due to client confidentiality concerns.

Our public Environmental and Social Policy Statement is available at: http://www.morganstanley.com/about-us-governance/pdf/Environmental_Policy.pdf

Our statement on Human Rights is available at: http://www.morganstanley.com/about-us-governance/pdf/human_rights_statement.pdf

And our 2014 Sustainability Report is available at: <http://www.morganstanley.com/ideas/building-a-sustainable-future>

However, I would be happy to have a call with you to get further details about the project and the case itself."

Note: BankTrack responded positively to the suggestion of a further discussion, but a convenient time has not yet been agreed.

SOCIÉTÉ GÉNÉRALE

Thank you for your message. After researching internally the case study you have brought to our attention, we found out that IOI is not a client of Societe Generale.

Further, the limited number of shares in this corporation as identified in the table included in your letter does not belong to Societe Generale , but to investors through Societe Generale activity in passive asset management (Lyxor asset Management)*.

This is in line with Societe Generale E&S General Principles and sector policies.

*regarding passive investments, please refer to OECD guidance: “The nature of passive investment in conventional indices is such that the investor is by definition not able to adjust the amount it invests in individual companies, or to exclude individual companies from investment, on the basis of ESG factors. Where an investor is using a given index for the first time, it could in principle conduct ESG risk assessment before it makes its first investments. However, this is not current market practice. On the other hand, investors with policies that exclude certain types of investment (e.g. specific weapons) already communicate these to index providers in advance and request indices which align with their policies.

Once it has invested in the companies in the index, the investor has a ‘business relationship’ with them within the meaning of the Guidelines; is a minority shareholder in them; and will be ‘directly linked’ to ‘adverse impacts’ which they may cause or to which they may contribute. It is therefore clear that there is an expectation under the Guidelines for investors to conduct risk assessment on the companies in which they have become minority shareholders via the index, and where appropriate to pursue risk mitigation.

Where risks are identified, the expectation in principle to conduct risk mitigation should not differ according to whether the investment in the company concerned arises via a passive or active portfolio. However in practice the approaches available for risk mitigation will vary according to the type of investment that is made. For example divestment from a specific company will not be possible for passive investors in a conventional index. Other factors will determine the nature and extent of the risk assessment and risk mitigation through the use of leverage that it is in principle reasonable to expect.”

Note: BankTrack did not claim a client relationship between Societe Generale and IOI, but only an investment relationship. The OECD guidance document referenced is a draft document, which is still undergoing consultation. BankTrack noted these points in a follow-up email to the bank.

STANDARD CHARTERED

“Thank you for your letter dated 23 November. As your research indicates, Standard Chartered have acted for IOI on a number of transactions. Client confidentiality, a legal obligation, does nonetheless prevent us from discussing specifics of a possible relationship with any particular company; we recognise this does not allow the depth of response you are seeking.

Standard Chartered acknowledges our responsibility to respect human rights, and expects the same from our clients. In accordance with our public commitments set out in our Position Statements, Standard Chartered takes the conduct of our clients seriously and expects them to uphold certain environmental and social standards. The Bank also seeks to actively contribute to the development and promulgation of these standards,

for example through our membership of the Roundtable on Sustainable Palm Oil's Financial Industry Task Force (FITF).

We have enclosed a short document explaining how our environmental and social assessment operates, and therefore how at a general level Standard Chartered seeks to prevent or mitigate adverse human rights impacts we become aware of. However, there will doubtless be areas where you would like to understand more. We would very much welcome the opportunity to meet with you to explain our approach in further detail, which would also provide an opportunity to understand BankTrack's views on, and expectations of, banks and their contribution to upholding human rights.

https://www.sc.com/en/resources/global-en/pdf/sustainability/Environmental_and_Social_Risk_Assessment.pdf

SUMITOMO MITSUI FINANCIAL

"SMBC abstains from providing any information related to individual transaction. We highly appreciate your understanding of this point."

UBS

"UBS has reportable positions in a large number of companies worldwide, usually held on behalf of clients / asset owners. Strictly speaking, it is therefore incorrect to conclude in such situations that UBS "is involved in financing" a particular company.

As regards asset management, please note that we have established a general approach to environmental and social factors and to corporate governance, subject always to any client-specific instructions or restrictions and/or following any local laws or standards applicable in the domiciles of assets or funds. Environmental and social risks are also considered in investment decision processes and when exercising ownership rights like proxy voting and engagement with the management of investee entities.

More broadly, we hope that the ongoing OECD project will clarify what can be reasonably expected from asset managers (vs. asset owners)."

APPENDIX II: BANK HUMAN RIGHTS POLICY FRAMEWORKS

- » Mitsubishi UFJ Financial: No human rights policy or due diligence process found.
- » Standard Chartered: [Human Rights Policy](#); [Environmental and Social Risk Assessment](#); [Standard Chartered Position Statement Palm Oil](#)
- » Sumitomo Mitsui Financial: No human rights policy or due diligence process found.
- » HSBC: [Human Rights Statement](#), [Statement on Forestry and Palm Oil](#), [Forestry Policy](#).
- » Citigroup: [Statement on Human Rights](#); [Environmental and Social Risk Management \(ESRM\) Policy](#).
- » Morgan Stanley: [Statement on Human Rights](#)
- » Bank of China: No human rights policy or due diligence process found.
- » Mizuho Financial : [Basic Policy on Respect for Human Rights](#)
- » JPMorgan Chase: [Human Rights \(web page\)](#); [Environmental and Social Policy Framework](#) (does not extend to asset management).
- » Deutsche Bank : Deutsche Bank Sustainability Policy and Reputational Risk Management Program (not publicly available)
- » Credit Suisse: [Statement on Human Rights](#); [risk review process](#)
- » UBS: [Environmental and Social Risk Management Framework](#); [UBS Environmental and Human Rights Policy](#)
- » Intesa Sanpaolo : [Code of ethics](#)
- » Société Générale: [Palm oil sector policy](#), [Environmental and social general guidelines for business engagement](#)
- » Crédit Agricole: [Corporate Human Rights Charter](#)

APPENDIX III: BANKS IN SCOPE

This series of case studies is limited in scope to focus on a group of 45 large private sector banks. The list of banks in scope is included below. Banks have been selected primarily with reference to the list of the world's largest 50 banks by assets. Banks without significant involvement in commercial banking, and national development banks, have been excluded. Some additional changes have been made for better geographic balance (e.g. inclusion of largest Latin American banks).

Bank name	Country	Assets US\$bn
Industrial & Commercial Bank of China (ICBC)	China	3328
China Construction Bank Corporation	China	2704
HSBC	United Kingdom	2634
Agricultural Bank of China	China	2580
JPMorgan Chase & Co	United States	2573
BNP Paribas	France	2527
Bank of China	China	2463
Mitsubishi UFJ Financial Group	Japan	2337
Crédit Agricole	France	2144
Barclays	United Kingdom	2114
Bank of America	United States	2105
Deutsche Bank	Germany	2078
Citi	United States	1843
Wells Fargo	United States	1687
Mizuho Financial Group	Japan	1641
RBS Group	United Kingdom	1636
Société Générale	France	1591
Banco Santander	Spain	1540
Sumitomo Mitsui Financial Group	Japan	1471
Lloyds Banking Group	United Kingdom	1331
UBS	Switzerland	1075
Unicredit	Italy	1027
ING Group	Netherlands	996
Credit Suisse	Switzerland	932
Goldman Sachs	United States	856
Rabobank	Netherlands	828
Toronto-Dominion Bank	Canada	814
Nordea Bank	Sweden	814
Royal Bank of Canada	Canada	810
Morgan Stanley	United States	802
Intesa Sanpaolo	Italy	786
BBVA	Spain	769
Standard Chartered	United Kingdom	726
National Australia Bank	Australia	723
Commonwealth Bank of Australia	Australia	696
Bank of Nova Scotia	Canada	694
Commerzbank	Germany	678
CM11-CIC Group	France	648
ANZ	Australia	632
Westpac Banking Corp	Australia	631
Banco do Brasil SA	Brazil	542
Bank of Montreal	Canada	507
Itaú Unibanco Holding	Brazil	419
Banco Bradesco, Brazil	Brazil	405
Caixa Economica Federal	Brazil	342