SHAPING THE FUTURE OF

SUSTAINABLE FINANCE

MOVING FROM PAPER PROMISES TO PERFORMANCE

In association with

BANKTrack

SHAPING THE FUTURE OF SUSTAINABLE FINANCE:
MOVING THE BANKING SECTOR FROM PROMISES TO PERFORMANCE

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EXECUTIVE SUMMARY

Until recently, most major commercial and investment banks did not consider environmental and social concerns to be particularly relevant to their operations. Today, however, they and their key stakeholders agree that financiers bear significant responsibility for the environmental and social impacts of the operations they finance.

Within the banking sector, addressing environmental and social issues is now considered critical to the proper management of transaction, portfolio and reputational risks. The question is no longer *whether* commercial banks should address the sustainable development aspects of the activities they support, but *how* they should do it – what substantive standards should they apply? How should they implement them? And how should they assure compliance?

The banking sector's emerging recognition of environmental and social responsibility was driven to a large degree by outside pressures. Beginning in 2000, environmental organisations such as Friends of the Earth (FoE) and the Rainforest Action Network (RAN) challenged the industry with high-profile campaigns that highlighted cases in which commercial banks were "bankrolling disasters". In 2002, a global coalition of non-governmental organisations (NGOs) including FoE, RAN, WWF-UK and the Berne Declaration came together to promote sustainable finance in the commercial sector. This informal network subsequently evolved into BankTrack, whose vision for a sustainable finance sector was expressed in the Collevecchio Declaration of January 2003. Now endorsed by more than 200 organisations, the Collevecchio Declaration remains the benchmark by which civil society will measure the banking sector's commitment to sustainable development.

Collevecchio Declaration Commitments

1. **Commitment to sustainability**
2. **Commitment to 'do no harm'**
3. **Commitment to responsibility**
4. **Commitment to accountability**
5. **Commitment to transparency**
6. **Commitment to sustainable markets and governance**

WWF-UK and BankTrack* are publishing this report to help answer those difficult questions and to evaluate how the various commercial and investment banks are responding. The report's primary objective is to review the current (September 2005) environmental and social policies adopted by key institutions in the banking sector. This report reviews the publicly available environmental and social policies of 39 banks from around the world, chosen for their high visibility and global reach, their substantial presence in project finance markets, and/or their endorsement of the Equator Principles.

The Equator Principles provide a framework for banks to review, evaluate and mitigate or avoid environmental and social impacts and risks associated with projects they finance. The Principles are based on the International Finance Corporation's (IFC's) environmental and social safeguard policies. By December 2005, the number of signatories to the Principles had grown from the original 10 leading banks to 36. Together, the Equator Banks are responsible for arranging well over 75 per cent of worldwide project loans by volume. While adoption of the

Equator Principles has been a welcome development, it marks only the beginning of the path to sustainable finance. The Principles suffer from a number of serious flaws (which are highlighted in the full report) that limit their effectiveness both as an integrated policy response to environment and social concerns and as an effective tool for the banks to manage their risks. The report provides a detailed analysis of how these banks' policies compare with each other, and, more important, how they compare with international rights, standards and best practice.

When it was conceived, this report also had a secondary objective – to assess the implementation and application of the sustainable development policies adopted by the banks. However, a comprehensive evaluation was foreclosed by the near total lack of information the banks have placed in the public domain. Their lack of transparency regarding implementation not only makes independent evaluation impossible, but also leaves them open to legitimate charges of "greenwash"; they are adopting environmental rhetoric with little commitment to changing their performance.

Methodology

This study reviews the publicly available environmental and social policies of 39 banks from around the world. They were chosen because of their high visibility and global reach, their important presence in global project finance markets, and/or their endorsement of the Equator Principles.

We reviewed all the environmental and social policies and annual sustainability reports made publicly available by the banks. The study was based on policies available at the time, although we are aware of other policies in the final drafting stages such as a mining policy at HSBC and a dams policy at ABN AMRO.

We invited all the banks to participate in this survey. Based on the information they provided, we assessed their policies in 13 substantive areas of particular environmental or social concern:

- human rights;
- labour rights;
- indigenous people;
- climate and energy;
- dams;
- biodiversity;
- forests;
- fisheries;
- extractive industries;
- sustainable agriculture;
- chemicals;
- transparency and reporting by the clients; and
- environmental and social management systems.

The banks' policies and procedures were evaluated against independent benchmarks from two categories of sources. First and most important, we considered the rights and standards embodied in widely accepted international conventions, treaties, codes, action plans and other hard and soft law instruments. Next, we considered sectoral "best practice" standards –

particularly those developed through participatory, multi-stakeholder processes that included government and industry representatives, and that are therefore widely viewed as authoritative and legitimate.

In addition to a narrative analysis of the banks' policies, we scored each bank from 0 to 4 in order to provide a snapshot comparison of bank policies in each sector. This rating system also allows for evaluating changes and trends over time, as the commercial sector responds to the challenge of environmental and social sustainability. In general, the scoring reflects the following system:

Box 1: Scoring system for evaluating bank policies

0 No publicly available policy addressing the subject.
1 Vaguely worded or "aspirational" policy with no clear commitments.
2 Some clear commitments, but no part of the policy meets relevant international standards.
3 Some parts of the policy meet international standards, but other parts are either absent, vague or below relevant international standards.
4 All, or nearly all, of the policy meets or is in line with relevant international standards.

SUMMARY OF FINDINGS

The discernible shift in recent years that many banks have made towards addressing environmental and sustainability impacts of their operations is a welcome and important first step on the path to sustainable finance. The end of that path, however, will be measured not by good intentions or even by strong paper policies. Sustainable finance must seek improved performance and results on the ground in affected communities and environments. This can only be achieved through the adoption of strong policy frameworks, transparently and effectively implemented across all portfolios and departments.

POLICY FRAMEWORKS

As this review demonstrates, a growing number of banks are developing sector-specific policies that apply to transactions. Some were developed prior to the Equator Principles, while others were developed in part as a response to the Principles and thus reflect the Principles' inherent limitations. The increasing development, scope and diversity of policies is welcomed and provides significant promise for stronger policy frameworks in the future.

As our analysis indicates, with few exceptions bank policies are lagging significantly behind relevant international standards and best practices (see Table 1). The average numerical grades can be translated into a letter grade according to the following scale:

0.00 to 0.50	**E**	**2.26 to 2.50**	**C+**
0.51 to 0.75	**D-**	**2.51 to 2.75**	**B-**
0.76 to 1.25	**D**	**2.76 to 3.25**	**B**
1.26 to 1.50	**D+**	**3.26 to 3.50**	**B+**
1.51 to 1.75	**C-**	**3.51 to 3.75**	**A-**
1.76 to 2.25	**C**	**3.76 to 4.00**	**A**

Where banks have adopted specific policies, they are frequently aspirational and contain little language that can be actioned. In only two cases – Rabobank's adoption of the UN Draft Norms on Human Rights and HSBC's adoption of the World Commission on Dams standards – has any bank adopted policies that meet all or most of the relevant international standards or best practices.

The highest overall average score, achieved by ABN AMRO and HSBC Group, was a 1.31, which if translated to a letter grade is a D+.

Table 1: Summary of Policy Ratings

Bank	Human rights	Labour	Indigenous people	Climate and energy	Dams	Biodiversity	Forests	Fisheries	Agriculture	Extractive Industries	Chemicals	Transparency	E&S management	Average Score and Letter Grade
ABN AMRO	3	1	1	1	2	1	3	0	0	2	0	2	1	1.31 (D+)
Banco Bradesco	0	0	1	0	2	0	0	0	0	0	0	2	1	0.46 (E)
Banco de Brasil	0	1	1	0	2	0	0	0	0	0	0	2	1	0.54 (D-)
Banco Itaú	0	0	1	0	2	0	0	0	0	0	0	2	1	0.46 (E)
Barclays	1	0	1	1	2	0	1	0	0	1	0	2	1	0.77 (D)
BBVA	0	1	1	0	2	0	0	0	0	0	0	2	1	0.54 (D-)
BNDES	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00 (E)
BNP Paribas	0	1	0	0	0	0	0	0	0	0	0	0	0	0.08 (E)
Bank of America	0	0	1	3	2	0	2	0	0	0	0	2	1	0.85 (D)
Calyon	0	0	1	0	2	0	0	0	0	0	0	2	1	0.46 (E)
CIBC	0	0	1	0	2	0	0	0	0	0	0	2	1	0.46 (E)
Citigroup	0	3	1	2	2	0	2	0	0	0	0	2	1	1.00 (D)
Credit Suisse Group	0	1	1		2	0	0	0	0	0	0	2	1	0.54 (D-)
Deutsche Bank	0	1	0	0	0	0	0	0	0	0	0	0	0	0.08 (E)
Dexia	0	1	1	0	2	0	0	0	0	0	0	2	1	0.54 (D-)
Dresdner Bank	0	1	1	0	2	0	0	0	0	0	0	2	1	0.54 (D-)
HBOS	1	0	0	0	0	0	0	0	0	0	0	0	0	0.08 (E)
HSBC Group	0	1	1	1	4	2	3	0	0	0	2	2	1	1.31 (D+)
HVB Group	0	0	1	1	2	0	0	0	0	0	0	2	1	0.54 (D-)
ING Group	1	0	1	0	2	0	1	0	0	0	0	2	1	0.62 (D-)
JP Morgan Chase	0	1	3	3	2	1	2	0	0	1	0	2	1	1.23 (D)
KBC	0	1	1	0	2	0	0	0	0	0	0	2	1	0.54 (E)
Korean Dev. Bank	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00 (E)
Manulife	0	0	1	0	2	0	0	0	0	0	0	2	1	0.46 (E)

MCC	0	0	1	0	2	0	0	0	0	0	0	2	1	0.46 (E)
Bank of Tokyo-Mitsubishi	0	0	0	1	0	0	0	0	0	0	0	0	0	0.08 (E)
Mizuho Financial Group	0	0	1	0	2	0	0	0	0	0	0	2	1	0.46 (E)
Rabobank Group	4	3	1	0	2	0	2	0	0	0	0	2	1	1.15 (D)
Royal Bank of Canada	0	0	1	0	2	0	0	0	0	0	0	2	1	0.46 (E)
Royal Bank of Scotland	0	1	1	0	2	0	0	0	0	0	0	2	1	0.54 (D-)
Scotia Bank	0	0	1	1	2	0	0	0	0	0	0	2	1	0.54 (D-)
Société Général	1	1	0	0	0	0	0	0	0	0	0	0	0	0.15 (E)
Standard Chartered Bank	1	0	1	0	2	0	0	0	0	0	0	2	1	0.54 (D-)
Sumitomo Mitsui Financial Group	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00 (E)
UBS	0	1	0	0	0	0	0	0	0	0	0	0	0	0.08 (E)
Unibanco	0	0	1	0	2	0	0	0	0	0	0	2	1	0.46 (E)
Wells Fargo	0	0	1	0	2	0	0	0	0	0	0	2	1	0.46 (E)
West LB	0	0	1	0	2	0	0	0	0	0	0	2	1	0.46 (E)
Westpac	3	1	1	0	2	0	0	0	0	0	0	2	1	0.77 (D-)

Some banks are also taking tentative steps to apply the policies to all or most of their operations. Although we recognise that the application of environmental and social policies may need to be tailored to different financial products and services, we expect these policies to apply throughout the banking industry to all relevant activities.

Finally, it should be noted that the revision of the IFC's safeguard policy framework means significant changes for the policies underlying the Equator Principles. Before adopting the IFC's new Performance Standards system, the Equator Banks should evaluate it carefully and proactively address the weaknesses and gaps in the IFC's new approach by adopting the international standards and best practice set out in this report. Unfortunately, research suggests that only a small minority of Equator Banks have taken steps to supplement the inadequate policy framework of the Principles by adopting additional standards, let alone standards that meet international norms and best practice.

TRANSPARENCY OF IMPLEMENTATION

Even where banks have the best policies, little information is available about their systems or practices for implementation. It was therefore impossible to assess, let alone compare, their efforts at implementation. We know anecdotally that significant efforts are being made. We also know that even banks with relatively strong policies continue to support transactions with significant environmental or social impacts. This practice cannot continue without eroding the credibility of all banks committed to sustainable finance.

As we have now shifted from a “trust me” to a “show me” world in which corporations are the least trusted of institutions, banks should urgently adopt a reporting framework that demonstrates that they are actually implementing their policies in ways that make a meaningful difference to people and the planet. Only then will outside stakeholders gain confidence that the banking sector’s policy pronouncements are more than just rhetoric.

We suggest that banks report on their implementation by publishing annual sustainability reports in accordance with the Global Reporting Initiative, with particular reference to the emerging financial services sector supplement. This reporting protocol is currently in draft form and incomplete in scope; however, we hope that as it is finalised, and as technical protocols and implementation guides are developed, it will provide a comprehensive reporting framework for banks and stakeholders alike.

ADOPTING AN ENVIRONMENTAL AND SOCIAL MANAGEMENT SYSTEM

Of course, reporting on implementation simply ensures that banks are putting in place an effective environmental and social risk management system that reflects all potential impacts across all their activities. Each bank needs to adopt an environmental management system (EMS) that includes the following elements:

- Initial review to determine key environmental and social exposures, impacts and risks;
- overall environmental and social policy that sets the bank’s approach;
- annual action plans;
- committed organisational structure and personnel (staffing, oversight, compensation and training);
- environmental and social procedures and standards for transactions that include deal-level transparency, consultation and compliance procedures;
- documentation, including that required to facilitate implementation audits;
- internal information and training;
- external reporting, verification and consultation;
- EMS monitoring and corrective action; and
- management review and improvement, feeding back into the cycle and informing annual action plans.

In addition, banks should provide for the use of external transparency, compliance and accountability mechanisms for especially sensitive transactions. For banks that have agreed to a collective set of standards and procedures (the Equator Principles, for example), such a system could be applied collectively; this would include common information disclosure and reporting requirements, and a shared system for receiving third-party complaints from external actors.

EXERCISING LEADERSHIP IN SUSTAINABLE FINANCE

Banks committed to sustainable finance must also exercise leadership in the sector and in society generally. This report has identified some examples of this, including HSBC’s role in achieving carbon neutrality, and Rabobank’s role in supporting the Responsible Commodities Initiative. In addition, the banks must assert their leadership through the syndications or arrangements with other banks that have yet to join the sustainable finance movement. This will be increasingly important over time as banks from China and other developing countries that have no experience yet in sustainable finance become increasingly major players. Finally, to be recognised leaders in sustainable finance, the banks must also ensure that they do not use their

political influence to circumvent or undermine the development of regulatory and other approaches to sustainable development.

CONCLUSION

While some industry leaders have begun to infuse their operations with broad-based commitments to sustainability, even they (let alone the rest of the industry) still have far to go in terms of meeting international standards and best practices. If the financial industry is to be a reliable, effective and profitable catalyst for sustainable development, it must not only adopt strong and comprehensive policies, but must also introduce comprehensive risk management systems that ensure rigorous implementation of the policies. At this point, policy development is still too embryonic, and information about implementation too guarded, for us to determine whether the banking industry has crossed the threshold into a promising new era of green finance – or merely refined the discredited old tools of "greenwash".

* BankTrack is a global coalition of non-governmental organisations (NGOs) including WWF-UK, Friends of the Earth, the Rainforest Action Network and the Berne Declaration. It promotes sustainable finance in the commercial sector, and its vision for a sustainable finance sector was expressed in the Collevecchio Declaration of January 2003. Now endorsed by more than 200 organisations, the Collevecchio Declaration remains the benchmark by which civil society will measure the banking sector's commitment to sustainable development.

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"If financial institutions don't understand and reward sustainable behaviour, progress in developing more sustainable business practices will be slow" –

Bjorn Stigson, President of the World Business Council for Sustainable Development

I. INTRODUCTION

Until recently, most major commercial banks did not consider environmental and social concerns to be particularly relevant to their operations. Their environmental and social policies – to the extent that they had them – related almost exclusively to internal concerns such as recycling, waste management and employee relations. Today, however, the leading commercial banks agree that they bear significant responsibility for the environmental and social impacts of the operations they finance. Within the banking sector, addressing environmental and social issues is now considered critical to the proper management of project, portfolio and reputational risks. The question is no longer *whether* commercial banks should address the sustainable development aspects of the activities they support, but *how* they should do it – what substantive standards should they apply? How should they implement them? And how should they assure compliance?

The banking sector's emerging recognition of environmental and social responsibility was driven to a large degree by outside pressures. Beginning in 2000, environmental organisations such as Friends of the Earth (FoE) and the Rainforest Action Network (RAN) challenged the industry with high-profile campaigns that highlighted cases in which commercial banks were "bankrolling disasters". In 2002, a global coalition of non-governmental organisations (NGOs) including FoE, RAN, WWF-UK and the Berne Declaration came together to promote sustainable finance in the commercial sector. This informal network subsequently evolved into BankTrack,[1] whose vision for a sustainable finance sector was expressed in the Collevecchio Declaration of January 2003. Now endorsed by more than 200 organisations, the Collevecchio Declaration remains the benchmark by which civil society will measure the banking sector's commitment to sustainable development. See Box 2.

Box 2: Collevecchio Declaration Commitments

1. Commitment to sustainability
Financial institutions (FIs) must expand their missions from ones that prioritise profit maximisation to a vision of social and environmental sustainability. A commitment to sustainability would require FIs to fully integrate the consideration of ecological limits, social equity and economic justice into corporate strategies and core business areas (including credit, investing, underwriting, advising), so that sustainability objectives are placed on an equal footing with shareholder maximisation and client satisfaction; and to strive to finance transactions that promote sustainability.

2. Commitment to 'do no harm'
FIs should commit to do no harm by preventing and minimising the environmentally and/or socially detrimental impacts of their portfolios and their operations. FIs should create policies, procedures and standards based on the Precautionary Principle to minimise environmental and social harm, improve social and environmental conditions where they and their clients operate, and avoid involvement in transactions that undermine sustainability.

3. Commitment to responsibility
FIs should bear full responsibility for the environmental and social impacts of their transactions. They must also pay their full and fair share of the risks they accept and create. These include financial risks, as well as social and environmental costs that are borne by communities.

4. Commitment to accountability
FIs must be accountable to their stakeholders, particularly those that are affected by the activities of the companies they finance. Accountability means that stakeholders must have an influential voice in financial decisions that affect the quality of their environments and their lives through ensuring that stakeholders' rights are protected by law, and through practices and procedures voluntarily adopted by the FI.

5. Commitment to transparency
FIs must be transparent to stakeholders, not only through robust, regular and standardised disclosure, but also through being responsive to stakeholder needs for specialised information on FIs' policies, procedures and transactions. Commercial confidentiality should not be used as an excuse to deny stakeholders information.

6. Commitment to sustainable markets and governance
FIs should ensure that markets are more capable of fostering sustainability by supporting public policy, regulatory and/or market mechanisms which facilitate sustainability and foster the full cost accounting of social and environmental externalities.

Governments and intergovernmental organisations have made similar calls for a shift towards "sustainable finance". In the early 1990s, the United Nations Environment Programme (UNEP) launched what is now known as the UNEP Finance Initiative. This is a "global partnership" between UNEP and more than 170 companies in the finance sector to understand the environmental and social dimension of financial performance and risk. And in 2002, the United Kingdom unveiled the London Principles on Sustainable Finance. These seven principles addressed the environmental and social impact of the financial sector and emphasised such issues as transparency, risk management and equitable access to capital.[2]

Although several banks had already adopted environmental and social policies, commercial banks took their first significant step towards developing a common set of environmental and social standards in June 2003 with the launch of the Equator Principles. The Equator Principles provide a framework for banks to review, evaluate and mitigate or avoid environmental and social impacts and risks associated with projects they finance. The Principles are based on the International Finance Corporation's (IFC's) environmental and social safeguard policies. By December 2005, the number of signatories to the Principles had grown from the original 10 leading banks to 36.[3] Together, the Equator Banks are responsible for arranging well over 75 per cent of worldwide project loans by volume.[4]

While adoption of the Equator Principles has been a welcome development, it marks only the beginning of the path to sustainable finance. The Principles suffer from a number of serious flaws that limit their effectiveness both as an integrated policy response to environment and social concerns and as an effective tool for the banks to manage their risks.[5] First, the Principles have significant substantive weaknesses, failing to address many critical substantive issues such as human rights and climate change. Even where they do address a critical issue, they are too often vague and aspirational and do not reflect applicable international norms or best practice.

Third, and perhaps most critically, the Principles neither require transparency nor any mechanism for monitoring implementation or ensuring compliance. Their actual implementation has remained largely opaque to outside observers. It is not evident how the Principles have influenced financing decisions, shaped the overall portfolios of signatories, or how they have been interpreted and applied in any given project. What is clear is that their adoption has not prevented Equator Banks from financing some of the most environmentally and socially risky projects that have sought support from international project finance markets in recent years. For example, just weeks after signing on to the Principles, nine Equator Banks supported the Baku-Tbilisi-Ceyhan pipeline. More recently, several Equator Banks have expressed interest in joining the consortium financing the Sakhalin II oil project in the Russian Far East, arguing that the project is compatible with the Principles.[6]

As a result, many observers, including BankTrack and some leading private sector analysts, have concluded that the Equator Principles are an insufficient response to the challenge of sustainable finance.[7] Some banks have adopted more stringent policies in certain substantive areas, and have begun to apply them beyond the narrow parameters of project finance. Moreover, the IFC has drafted a new set of environmental and social "Performance Standards" that will replace the present safeguard policies in early 2006. Although some aspects of a few commercial banks' policies (and of the proposed IFC Performance Standards) are improvements over the existing Equator Principles, most lag behind applicable international standards and

industry best practice principles and do not adequately address weaknesses in the transparency and effectiveness of implementation.[8]

Thus, despite the adoption of the Equator Principles, there is still a pressing need for bank policies that are consistent with international standards and best practice and that are applied transparently and effectively. Only in that way can the banking sector make the long and urgent journey towards sustainability.

PURPOSE OF REPORT

The primary objective of this report is to review the environmental and social policies adopted by key institutions in the commercial banking sector (as of September 2005). It provides a detailed analysis of how these policies compare with each other, and, perhaps more crucially, how they measure up to international rights, standards and best practice. The report assesses the environmental and social policies of 39 banks, including all the private sector banks that had signed the Equator Principles by September 2005, plus eight others.[9]

As originally conceived, this report also had a secondary objective – to assess the implementation and application of the sustainable development policies adopted by the banking sector. However, a comprehensive evaluation of the banks' implementation was foreclosed by the near total lack of information they have placed in the public domain. The banks' lack of transparency regarding implementation not only makes independent evaluation impossible, but also leaves them open to legitimate charges of "greenwash" – that they are adopting environmental rhetoric with little commitment to changing their performance.

METHODOLOGY

The 39 banks were included in this review on the basis of their high visibility and global reach, their acceptance of the Equator Principles, and/or their important presence in global project finance markets.[10] Banks most active in project finance were chosen because project finance is often the most obvious and well-known financial link to damage caused to people and the environment. But many other bank operations also have profound, if sometimes hidden, impacts on sustainability, and the review considers whether banks apply the same standards across their wider portfolios of activity.

We reviewed all the environmental and social policies and annual sustainability reports made publicly available by the banks. In addition, we invited all 39 banks to participate in this survey. First, we asked them to provide basic information about their policies. Using their responses and information in the public domain, we produced draft summaries of their policies. We then asked the banks to comment on these drafts and to answer questions designed to resolve any lingering ambiguities or information gaps. In both rounds of questions, banks were given a minimum of three weeks to respond. Our summaries of the banks' policies can be found on the BankTrack website.[11]

Only 15 banks responded to the first set of interrogatories, and 23 to the second. Some banks, including CIBC and Scotia Bank, responded by refusing to provide information beyond that already in the public domain. Others, such as Barclays, Credit Suisse, Mizuho, Royal Bank of

Canada and Standard Chartered, explained that they would not share information publicly about their environmental and social policies. At a minimum, these banks' refusal to provide basic information about their approach to environmental and social issues reflects a failure to

Box 3: Banks reviewed in this report

ABN AMRO Bank (Netherlands)
Banco Bradesco (Brazil)
Banco de Brasil (Brazil)
Banco Itaú (Brazil)
Barclays (UK)
BBVA (Spain)
BNDES (Brazil)
BNP Paribas (France)
Bank of America (US)
Calyon (France)
CIBC (Canada)
Citigroup (US)
Credit Suisse Group (Switzerland)
Deutsche Bank (Germany)
Dexia (France/Belgium)
Dresdner Bank (Germany)
HBOS (UK)
HSBC Group (UK)
HVB Group (Germany)
ING Group (Netherlands)
JPMorganChase (US)
KBC (Belgium)
Korean Development Bank (Korea)
Manulife (Canada)
MCC (Italy)
Bank of Tokyo-Mitsubishi (Japan)
Mizuho Financial Group (Japan)
Rabobank Group (Netherlands)
Royal Bank of Canada (Canada)
Royal Bank of Scotland (UK)
Scotia Bank (Canada)
Standard Chartered Bank (UK)
Société Général (France)
Sumitomo Mitsui Financial Group (Japan)
UBS (Switzerland)
Unibanco (Brazil)
Wells Fargo (US)
West LB
Westpac

appreciate the importance of transparency regarding issues of public concern. More fundamentally, it also raises concerns about the commitment of these institutions to address sustainable development in any meaningful, consistent or publicly acceptable way.

Based on the information made available, we assessed all the banks' policies in 14 substantive areas of particular environmental or social concern:

- human rights
- labour rights
- indigenous people
- climate and energy
- dams
- biodiversity
- forests
- fisheries
- extractive industries
- sustainable agriculture
- chemicals
- transparency and reporting by the clients
- environmental and social management systems

The banks' policies and procedures in each of these areas were evaluated against independent benchmarks borrowed from two categories of sources. First, we considered the rights, standards and norms embedded in widely accepted international conventions, treaties, codes, action plans and other hard and soft law instruments. Next, we considered sectoral "best practice" standards, particularly those developed through participatory multi-stakeholder processes that included government and industry representatives, and that are therefore widely viewed as authoritative and legitimate.

As a strictly legal matter, many of the standards derived from international conventions or other instruments may be non-binding or bind only governments, not private sector parties. Nevertheless, the fact that these standards have been adopted in or endorsed by such international instruments, or developed through such broad participatory processes, means they reflect a consensus of governments or other leading policy-makers on the importance of the issue, the need for international action, and the appropriate policy response. These goals, standards and norms thus provide authoritative guidance for all institutions, including non-state actors such as banks, for achieving environmental and social sustainability.

Each section includes both a narrative description and a numerical rating of the banks' policies, practices and performance. This is intended to provide a snapshot view for measuring and comparing the banks' policies in each sector. It also allows for evaluating changes and trends over time, as the commercial sector responds to the challenges of environmental and social sustainability. In general, the numerical scoring reflects the following system (any adjustments necessary to reflect the various policy contexts are reflected in each section of the report):

Scoring System for Evaluating Bank Policies

0 No publicly available policy addressing the subject.
1 Vaguely worded or “aspirational” policy with no clear commitments.
2 Some clear commitments, but no part of the policy meets relevant international standards.
3 Some parts of the policy meet international standards, but other parts are either absent, vague or below relevant international standards.
4 All, or nearly all, of the policy meets or is in line with relevant international standards.

We also attempted to evaluate the systems and processes each bank has adopted to manage environmental and social risk, ensure implementation of the policies (both by their clients and their own staff) and provide the public and affected communities with relevant information and opportunities to monitor bank performance. Unfortunately, the banks do not make sufficient information available to be able to assess adequately issues of implementation. As an alternative to an in-depth analysis of implementation, we provide a narrative description of implementation benchmarks for the banks.

II. EVALUATING BANK POLICIES AGAINST INTERNATIONAL STANDARDS

This part of the report evaluates the publicly available policies of the commercial banks against existing international norms, standards or best practices in each of 12 categories. As much as possible, we have selected norms, standards and best practices that have emerged from international conventions, multi-stakeholder processes or, in some cases, industry standards (all of which are collectively referred to as “internationally adopted standards”). In some areas, NGOs have called for more protective approaches; although our scoring criteria are based on international standards adopted or endorsed through international processes beyond the NGO sector, we nonetheless encourage the commercial banks to meet NGO-promulgated standards as well in developing and implementing future policies, particularly in those areas where no other internationally adopted standards yet exist.

1. HUMAN RIGHTS

A. Why a human rights policy is important

Since the ratification of the Universal Declaration of Human Rights in 1945, it has been generally agreed that states have the primary responsibility to respect, promote and secure human rights. However, state responsibility is neither exclusive nor sufficient. As the Universal Declaration makes clear, “every organ of society” has its own human rights obligations. This includes business enterprises, and as the reach and impact of such enterprises have grown, so too have their human rights obligations.

International human rights include civil, political, cultural, economic and social rights, and the right to development.[12] Business enterprises have the potential to impact upon these rights – both positively and negatively – in a multiplicity of ways. For example, the manner by which a company hires and fires its workers, structures and manages its production processes, purchases supplies and services, conducts itself in its host community, provides essential public services and interacts with governments and regulatory authorities can all profoundly affect the promotion or realisation of human rights.[13] Changing standards regarding “complicity” and “spheres of influence” are also increasingly exposing the private sector to legal liability

regarding human rights violations. For these reasons, financial institutions need to adopt policies to minimise the potential of any operations they support – directly or indirectly – from causing violations of human rights. This requires banks systematically to consider risks to human rights in the operations they support, and to take effective action to mitigate those risks.[14]

B. Best international standards

The most comprehensive and authoritative treatment of the human rights obligations of businesses is the Draft United Nations Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights (the Norms).[15] These apply existing international human rights principles to business operations. They also clarify the fact that transnational corporations and other business enterprises are obliged to promote, protect, respect and secure the fulfilment of human rights "within their respective spheres of activity and influence".

The Norms address standards in a number of substantive areas, including:

- the right to equal opportunity and non-discrimination;
- the right to security of the individual;
- the rights of workers;
- respect for national laws and sovereignty;
- economic, social and cultural rights;
- corruption;
- consumer protection;
- legal protections against forced evictions;
- environmental protection; and
- indigenous people.

In 2003, the Norms were unanimously adopted by the UN Sub-commission on the Promotion and Protection of Human Rights, and have been presented to the full Commission for consideration.

C. Application to the banking sector

The Norms and their commentaries prescribe a number of specific steps that companies must take to be in compliance. They provide that each transnational corporation or other business entity should adopt, publicly disseminate and implement internal rules of operation in compliance with the Norms. In addition, they should periodically report on and take necessary measures to implement the Norms; provide for independent investigation of complaints they receive; and apply and incorporate these Norms to their supply chains or other business relationships through their contracts, transactions or other arrangements to ensure that they only support businesses that follow these or substantially similar principles.[16]

Perhaps most important for financial institutions, before a business enterprise pursues a major initiative or transaction, it must study the human rights impact of that transaction in light of the Norms. A sponsor should therefore produce a human rights impact statement that includes a description of the transaction, its need, anticipated benefits, an analysis of any anticipated human rights impacts, an analysis of reasonable alternatives, and identification of ways to avoid any negative human rights consequences. The Norms further declare that the results of this

assessment should be made available to relevant stakeholders and that the sponsor should consider any reactions from stakeholders.[17]

D. Assessment of the banking sector

Because the IFC has declined to address human rights in its environmental and social policies, the banks that have agreed only to follow the Equator Principles have not taken on adequate human rights commitments. By the end of 2005, only eight banks had publicly adopted a human rights policy: ABN AMRO, Barclays, HBOS, ING, Rabobank, Société Général, Standard Chartered and Westpac.

The human rights policies of these eight banks vary widely in their scope and rigour. Only Rabobank has committed to follow the UN Norms and explicitly endorsed the Universal Declaration. ABN AMRO and Westpac do not reference the UN Norms, but do reference many of the most important conventions that are incorporated into the Norms.

Barclays has perhaps the most curious relationship with the Norms. Barclays is one of seven original members of the Business Leaders Initiative on Human Rights, which is intended in part to "road test" the Norms. But its policies do not specifically reference them. Instead, Barclays' current human rights policy is unhelpfully vague and aspirational, and provides little guidance for putting into operation a commitment to human rights.

Unfortunately, such shortcomings are not unique to Barclays. Indeed, a consistent problem with the human rights policies of many of the banks we reviewed is that they often fall short of a firm commitment to adhere to the standards they reference, and lack clear processes for applying the human rights commitments to their operations. For example, ABN AMRO is "guided by" a list of human rights standards, and ING "supports" the Universal Declaration and "endeavours" to apply it.

CONCLUSION

Only a handful of banks have recognised the importance of international human rights in their lending operations. By committing to adhere to the UN Norms, Rabobank has gone the furthest. However, none of the banks has adopted a human rights policy that clearly describes how it translates its commitment to its lending operations.

Ratings: According to our review of the policies, Rabobank's human rights policy incorporates the leading international standards as reflected in the UN Norms and therefore receives the highest possible score of (4) for its human rights policy.

ABN AMRO and Westpac have adopted significant parts of the international human rights regime, but have not yet endorsed all of those reflected in the UN Norms. They thus receive a rating of (3). The largely aspirational policies of Barclays, HBOS, ING, Société Général and Standard Chartered each receive a rating of (1).

Ratings

4: Rabobank
3: ABN AMRO and Westpac
1: Barclays, HBOS, ING, Société Général and Standard Chartered
0: All other banks

Even in the case of Rabobank's top-flight policy, the key question remains one of implementation. With such little information now available, it is impossible to determine whether Rabobank or any bank has developed an integrated system for implementing its human rights policy or for managing the risks that arise from transactions with potential human rights impacts. Nor has any bank yet demonstrated positive impacts on its portfolios or operations.

Summary Chart of Human Rights Standards		
Standard	**Origin**	**Examples of relevant adoptions**
Commit to the UN Norms	UN Norms	Rabobank
Endorse the UN Declaration	UN Human Rights Declaration	Rabobank, Westpac, ABN AMRO, ING
Commit to the norms in the UNCCPR	UNCCPR	Westpac, ABN AMRO, Rabobank (through the Norms)
Commit to the norms in the UNCESCR	UNCESCR	Westpac, ABN AMRO, Rabobank (through the Norms)
Require Human Rights Impact Assessments	UN Norms	
Commit to respecting or promoting human rights		ABN AMRO, Barclays, HBOS, ING, Rabobank, Société Général, Standard Chartered, Westpac, EBRD,[18] Export Credits Guarantee Department (UK)

2. LABOUR

A. Why a labour policy is important

Protecting people in the workplace is a fundamental responsibility of companies and governments. Workers have the right to be free of discrimination and abuse, to work in a safe environment, to associate freely with co-workers and representative organisations, and to earn fair wages and benefits. These basic conditions help to develop in-country human resources and thereby contribute to sustainable development more generally. These rights can also contribute to the development and growth of democratic societies, and thereby help create a more favourable operating climate for business.

A stable and satisfied labour force can have a significant impact on the economic success of the employer. According to the 1995 World Development Report, *Workers in an Integrating World*, union activities to promote non-discrimination and establish basic labour standards can lead to higher efficiency and productivity.[19] For example, ensuring health and safety protections, establishing communication channels between employer and employee, and maintaining robust grievance and arbitration processes, can all contribute to enhanced productivity and more stability in the workforce. Without clear standards and protection for workers, the relationship between employer and employee can become antagonistic and unproductive, leading to increased risk and decreased stability.

B. Best international standards

The framework for a sound labour policy is provided by the International Labour Organisation's (ILO's) Core Labour Rights and the Tripartite Declaration of Principles Concerning Multinational Enterprises & Social Policy, both of which are also reflected in the UN Norms.

The ILO's four fundamental or "core" labour rights are:

- Freedom of association and the right to collective bargaining;[20]
- a ban on forced labour;[21]
- a ban on exploitative child labour;[22] and
- a ban on discrimination in the workplace and in professions.[23]

The Tripartite Declaration, a result of consensus between governments, employees and corporations, addresses the responsibilities of corporations and their treatment of labour more specifically. In addition to re-affirming workers' rights to freedom of association and collective bargaining, and a ban on discrimination and forced labour, the agreement calls on corporations to:

- increase employment opportunities and standards, and give priority to the employment and advancement of nationals of the host country and to the use of local materials, manufacturing and processing;[24]

- promote equal opportunity and treatment by making qualifications, skill and experience the basis for the recruitment, placement, training and advancement of staff at all levels;[25]

- promote employment security and avoid arbitrary dismissals. If an employment change is necessary, to provide reasonable notice of such changes to the appropriate government authorities and worker representatives;[26]

- ensure that relevant training is provided for all levels of their employees and management;[27]

- provide the best possible wages, benefits and conditions for employees, which should not be less favourable than those offered by comparable local employers. These should be related to the economic position of the company and meet the basic needs of the workers and their families;[28]

- maintain the highest standards of safety and health, and make available information on hazards to government authorities and workers' and employers' organisations;[29]

- establish a process for regular consultation between workers and employer;[30] and

- establish a process to address grievances.[31]

C. Application to the banking sector

A best practice labour policy for financial institutions should comprise several elements. First, it should be *based on law and standards*. This means that the policy should be based on local, national or international law, whichever provides greater workers' rights protection. The policy should also clarify the bank's adherence to the four ILO core labour standards and the Tripartite Declaration in its own employment practices and screen all applicants for financial support according to whether they comply with these standards.

Second, the policy should *establish specific requirements for clients*, including requiring that the borrower pays fair wages and benefits, offers adequate training and protection of health and safety, and provides adequate advance notice in the case of employment changes.

Third, the policy should ensure that borrowers or other clients have *established clear procedures* for ongoing communication and consultation with their employees, fair grievance mechanisms, and transparent monitoring and supervision processes.

Fourth, the policy should include the bank's programme for *monitoring and supervising the client's implementation and compliance with the policy standards*. Such a programme should include regular, independent and transparent monitoring; independent audits that might include unannounced site visits; processes for learning about employee grievances directly; clear steps for remediation; and a mechanism for seeking resolution of violations or disputes.

Fifth, the policy should have clear procedures for *ongoing monitoring and supervision of the supply chain's adherence to the policy*. The client should include the policy requirements in the contractual agreements between itself and its suppliers. The FTSE Group has developed the FTSE4Good Supply Chain Labour Standards Criteria which provide a useful basis for such standards.[32]

Finally, each bank should develop a clear *strategy for successfully implementing* the policy. This requires each bank to disseminate a clear, written labour policy that has the full support of the bank's management and board. Moreover, the impact assessment process evaluating potential impacts of financial operations should identify potential impacts on the local workforce.

D. Assessing bank performance

By endorsing the Global Compact, many banks have committed to apply the four core labour standards/eight labour conventions to their own corporate operations – but none has developed a specific labour policy applicable to its lending operations. The banks endorsing the Global Compact include ABN AMRO, Banco do Brasil, BBVA, BNP Paribas, Credit Suisse First Boston, Deutsche Bank, Dexia, Dresdner, HSBC, JPMorganChase, KBC, Royal Bank of Scotland, Société Général, UBS and Westpac. Exactly how these banks guarantee that their

operations meet these core standards remains a mystery, as no supporting policies are publicly available.

As described above, Rabobank has endorsed the UN Norms, which include the labour norms contained in the core labour standards. In addition, Westpac acknowledges other international agreements by committing to respect and support the UN Convention on the Rights of the Child, the Declaration on Fundamental Principles and Rights at Work and the Tripartite Declaration. However, Westpac has not formulated a labour policy that describes how it applies these standards to its lending operations.

Dexia, Barclays and Société Général appear to extend labour concerns to their own suppliers of goods and services. Dexia's policy, for example, prohibits all its suppliers and subcontractors from relying on child or forced labour, or from engaging in any psychological or physical coercion or abuse, and requires them to comply with all legal requirements relating to discrimination and to all other labour laws in force. But again, the policies apply only to the three banks' own operations; they have not screened or required their clients to take measures to ensure supply chain compliance with any labour standards.

Other banks that have addressed labour issues have fallen short of affirming the four core labour standards. Citigroup, for example, only commits to the prohibitions on forced and child labour, and Standard Chartered states that while it supports the core labour standards, it is also mindful that not all countries have ratified these conventions – implying that the bank will only enforce the standards in countries that have ratified them. Banco Itaú commits to a workers' right to freedom of association and the right to collective bargaining.

Citigroup has taken one important step when compared with the others. It is the only bank to apply explicit labour commitments to its clients. Citigroup's policy states that it will not finance activities that employ harmful child labour or forced labour.

CONCLUSION

Only Rabobank and Citigroup have adopted labour standards that apply at least in part to the bank's clients. By adopting the UN Norms, Rabobank has embraced the four core labour standards, but has not necessarily addressed the other internationally recognised labour standards reflected in the Tripartite Declaration. It thus receives a base score of (3). Citigroup's policy lags behind Rabobank's because it reflects only two of the four international standards, but according to our criteria still receives a rating of (3).

The banks that have signed the Global Compact (and thus explicitly endorse the four core labour standards for their own operations) have taken a limited first step towards promoting international labour standards. But the Global Compact does not require banks to apply the core labour standards to their clients, and lacks meaningful compliance mechanisms. As a result, these banks are given a rating of (1). This reflects the fact that they have a policy that addresses labour issues – but that the policy is seriously flawed.

Ratings

3: **Rabobank, Citigroup**
1: **ABN AMRO, Banco do Brasil, BBVA, BNP Paribas, Credit Suisse First Boston, Deutsche Bank, Dexia, Dresdner, HSBC, JPMorganChase, KBC, Royal Bank of Scotland, Société Général, UBS and Westpac**
0: **All other banks**

With the limited information currently available, it is impossible to determine whether any of the banks have developed an integrated system for implementing their labour policy or for managing the risks that arise from transactions with potential labour issues. Nor has any bank yet demonstrated how its labour policies have positively impacted upon its portfolios or operations.

Summary Chart of Labour Standards		
Standard	**Origin**	**Example of Relevant Adoptions**
Four core labour standards: freedom of association; ban on child and forced labour and ban on discrimination	ILO Core Labour Conventions, OECD Guidelines[33]	Rabobank, Citigroup, 15 other banks that have adopted the standards for their own operations through the Global Compact, US Overseas Private Investment Corporation,[34] UK's Export Credit Guarantee Department[35]
Prioritise and generate local employment	Tripartite Declaration, OECD Guidelines[36]	
Avoid arbitrary dismissals and allow adequate time for notice of employment changes	Tripartite Declaration, OECD Guidelines[37]	
Training of employees	Tripartite Declaration, OECD Guidelines[38]	
Provide best possible wages, benefits and conditions that meet local needs and are no less favourable than those provided by comparable local employers	Tripartite Declaration, OECD Guidelines[39]	
Establish a process for regular consultations and grievance mechanisms	Tripartite Declaration, OECD Guidelines[40]	

3. INDIGENOUS PEOPLE

A. Why an indigenous people policy is important

Throughout the world, indigenous people have long been subjugated and disenfranchised. Today, they are still disproportionately vulnerable to human rights abuses, loss of culture, loss of land and access to territories, and even the threat of extinction. Because of their relationship with ancestral lands and territories, indigenous people also have strong claims under international law to sovereignty and self-determination. An extensive body of international law, instruments and norms recognise indigenous people as having a unique set of rights and protections, and provide guidance and direction to protect their societies, cultures and livelihoods. Moreover, companies and investors face major moral and risk issues when their investments adversely impact upon indigenous people. One aspect of managing this risk includes understanding and respecting the legal rights of indigenous people and establishing a meaningful dialogue process that respects these rights.[41]

B. Best international standards

International law recognises that indigenous people have inherent rights derived from their distinct identities and their close and special attachment to their ancestral lands. These rights establish the basis for the following standards or norms:

Right to self-identification

The right of indigenous people to self-identify as indigenous is crucial. The UN Draft Declaration on the Rights of Indigenous People recognises that they "have the collective and individual right to maintain and develop their distinct identities and characteristics, including the right to identify themselves as indigenous and to be recognised as such".[42]

Right to self-determination

The right to self-determination for indigenous people is set out in the 1966 International Human Rights Covenants, which recognise all people's right to freely determine their political status, pursue their economic, social and cultural development and dispose of their natural wealth and resources. [43]

Right to Free, prior informed consent

The right of indigenous people to free, prior informed consent (FPIC) has been recognised in international law and in the emerging consensus of states and companies. For example, the principle has been endorsed by ILO Convention 169, which states that "consultations [with indigenous people should be] carried out…in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent".[44] Further, the Convention declares that indigenous people "have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual wellbeing and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development".[45] It also requires the informed consent of indigenous people before any relocation.

FPIC has also been confirmed by the UN Committee on Economic, Social and Cultural Rights,[46] the UN Human Rights Norms for Business,[47] the World Commission on Dams,[48] the Inter-American Development Bank (IDB),[49] the UN Development Programme[50] and the UN Draft Declaration on the Rights of Indigenous People.[51]

Box 4: Free, prior informed consent versus consultations

Free, prior informed consent (FPIC) can be viewed as a natural evolution from current corporate practice – community consultation – that helps ensure more investment certainty and reduce corporate risks.

In preparing environmental and social impact assessments, companies are accustomed to holding a "consultation" with local communities and/or a notice and comment period to receive public input. The key difference is that consultations do not require companies to respond and address the input or concerns raised by local communities. Consultations are designed as more of a one-way street: input comes in but there are no guarantees that local concerns will be addressed. This process often leads to discontent and frustration on the part of community stakeholders if they believe their concerns have gone unaddressed.

FPIC differs because its goal is a determination of support, or not, for a particular investment. Unlike a consultation process, FPIC is a two-way, interactive negotiation that offers communities greater influence in decision-making, and is more likely to result in direct benefits for them. The process requires full and early disclosure of information and potential impacts of a proposed investment. It enables all parties to put forward their concerns, and should therefore lead to solutions or proposals for addressing community concerns and averting problems later for businesses. The process is also about fair compensation for impacts and risks and (of particular importance) improved benefits for a community.

Contrary to some criticisms, FPIC is not a process that allows individuals to speak for a community and stop projects and/or transactions from going forward, but is based on community processes and representations of groups of people. FPIC should be followed for any investment that poses risks or threats to a community.

Protection of land and territorial rights

The distinct cultural identity and existence of indigenous people hinge on protection of their ancestral lands and their unique relationship to that land. This is reflected in the UN Draft Declaration on the Rights of Indigenous People[52] and ILO Convention 169.[53]

The UN Draft Declaration affords indigenous people the right to own, control and use their land and territories (Article 26), including "the right to the full recognition of their laws, tradition, customs, land tenure systems and institutions for the development and management of resources..."[54] It also recognises full ownership and control of indigenous people's cultural and intellectual property as well as restitution of land, resources, cultural and intellectual property where these have been taken or damaged without their consent.[55]

Similarly, ILO Convention 169 establishes clear rights and protection for indigenous people to their lands and territories, including calling for the recognition of the "rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy… In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities".[56]

Participation and non-discrimination

The rights of indigenous people to fully participate in all decisions that affect their lives is recognised in a number of norms and legal instruments. For example, the Vienna Conference on Human Rights calls on states to ensure the full and free participation of indigenous people in all aspects of society, in particular in matters of concern to them.[57] The UN Draft Declaration on the Rights of Indigenous People also establishes the right to full participation[58] and the importance of fair procedures for resolving conflicts and disputes.[59]

Compensation and benefit-sharing

Indigenous people have the right to just and fair compensation for the use of their land, knowledge and resources, as confirmed by the UN Draft Declaration on the Rights of Indigenous People. A report by the Mining, Minerals and Sustainable Development (MMSD) initiative also calls for benefit-sharing arrangements that go beyond fair compensation for damages to ensure that indigenous people actually benefit.[60] Furthermore, the Convention on Biodiversity (CBD) addresses the fair and equitable use of biodiversity resources, including genetic material, and requires that the traditional knowledge of indigenous and local communities may only be used with their "approval". This has subsequently been interpreted to mean their prior informed consent.[61]

Involuntary resettlement

The right to consent to resettlement is another fundamental concern of indigenous people. This is addressed in the UN Draft Declaration on the Rights of Indigenous People, which states that indigenous people "shall not be forcibly removed from their lands or territories. No relocation shall take place without the free and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return".[62]

No-Go zones for uncontacted people

The livelihoods and culture of uncontacted people, or people living in voluntary isolation, must be protected from potential investment. The IDB recognises this in its indigenous people policy by agreeing not to support any project that poses adverse impacts on uncontacted people.[63]

C. Application to the banking sector

Banks should develop a separate policy that addresses the impacts on, and respects the rights of, indigenous people. These policies should be based on international laws and instruments, including the UN Draft Declaration on the Rights of Indigenous People, and address the following issues:

- the right to self-identification;
- the right to self-determination;
- the right to free, prior and informed consent;
- recognition and protection of territorial rights;
- the right to participation and non-discrimination;
- the right to compensation and benefit sharing;
- a prohibition of involuntary resettlement; and
- protection of uncontacted people and people living in voluntary isolation.

These policies should be developed collaboratively with representatives of indigenous people's organisations.

D. Assessing bank performance

Banks that have signed on to the Equator Principles have agreed to take additional precautions for projects that affect indigenous people. The Principles require that project sponsors assess impacts on indigenous people. Where projects will have significant impacts, signatory banks must ensure "that the borrower or third party expert has consulted, in a structured and culturally appropriate way, with project affected groups, including indigenous peoples…" These banks also require borrowers to follow the IFC's safeguard policy on indigenous people, which requires consultation and the establishment of an indigenous people's development plan. The IFC policies do not, however, require borrowers to obtain the free, prior informed consent of indigenous communities, nor does it adequately recognise the ancestral rights of indigenous people.

Only five banks currently have policies that explicitly address the rights and protection of indigenous people: ABN AMRO, Bank of America, Citigroup, HSBC and JPMorganChase. JPMorganChase has the strongest and most comprehensive policy. It commits the bank to finance projects only where:

- free, prior informed consultation results in support of the project by the affected indigenous people;
- indigenous people have been able to engage in informed participation and collective decision-making;
- where information has been provided in a culturally appropriate manner at each stage of the project preparation, implementation and operation;
- indigenous communities have been given adequate time to study that information;
- access to a grievance mechanism has been provided;
- where consultation approaches that rely on existing customary institutions have been used; and
- major indigenous land claims been appropriately addressed.

While JPMorganChase's policy fails to incorporate the right of indigenous people to give their free, prior informed consent, it does require that "free, prior informed consultation" leads to community support before it will finance a project.

HSBC also adopts this consultation terminology. In implementing the Equator Principles, HSBC has stated that it will only proceed with Category A and higher-risk Category B projects where free, prior and informed consultation has taken place with affected groups (not strictly indigenous people). In addition, HSBC addresses indigenous rights to land, territory and resources through its forest policy, which adopts the principles of the Forest Stewardship Council (FSC), and its Freshwater Infrastructure Policy, which adopts the recommendations of the World Commission on Dams.

The other three banks – ABN AMRO, Bank of America and Citigroup – have chosen to address the rights of indigenous people in a very limited way through their forestry policies. ABN AMRO recognises customary and legal land rights of indigenous people, while Bank of America and Citigroup have nearly identical policies focused on ensuring culturally appropriate consultation and adequate representation for indigenous people. Bank of America makes an additional commitment not to finance any projects where indigenous people's land claims are unsettled. However, because these provisions are set out in their forest policies, their application beyond forest-related projects is unclear.

CONCLUSION

Neither the Equator Principles nor any of the specific indigenous peoples policies adopted by the banks fully meet the international standards and best practices with respect to indigenous people. The strongest policy appears to be that of JPMorganChase, which has committed to screening and supporting only those projects that are supported by indigenous people after free, prior informed consultation. Under our rating system, JPMorganChase's policy receives a (3) for incorporating some, but not all, important elements of international standards or best practices.

JPMorganChase's policy is significantly more detailed and operationally focused than those of ABN AMRO, Citigroup, Bank of America or HSBC. Moreover, the limitation to forest projects implied in HSBC's policy, and the policies of other banks, significantly limit their scope. Forestry projects are not the only transactions that impact upon the livelihood, culture and wellbeing of indigenous communities – mines, dams, pipelines, soy plantations or even tourism activities can have equally harmful impacts. Thus the rights of indigenous people and the associated norms identified above must be adopted in a comprehensive indigenous people policy for all banks. These banks each receive a (1) for their policies which are limited in scope and fall short of international norms; in fact, they provide little additional protection to that afforded by the Equator Principles. Because the IFC policies underlying the Equator Principles include an indigenous people policy, albeit one that falls short of international standards, the Equator Principle banks each receive a (1) as well.

Ratings

3: JPMorganChase
1: ABN AMRO, Bank of America, Citigroup, HSBC, other Equator Principle banks
0: All other banks

Summary Chart of Indigenous People Standards

Standard	**Origin**	**Example of Adoption**
Free, prior informed consent	UN Human Rights Norms for Business; ILO Convention 169, World Commission on Dams, UN Draft Declaration on Indigenous Rights	Inter-American Development Bank, United Nations Development Programme, Japan Bank for International Cooperation, Rio Tinto,[64] Anglo American,[65] International Business Leaders' Forum, Calvert Group
Right to self-determination	International Covenant on Human Rights	Calvert Group
Protection of land and territorial rights	Draft Declaration on the Rights of Indigenous People ILO Convention 169	Danish Agency for International Development,[66] JPMorganChase, HSBC, ABN-AMRO, Calvert Group
Right to self-identification	Draft Declaration on the Rights of	

Resettlement	Indigenous People Draft Declaration on the Rights of Indigenous People ILO Convention 169	German Federal Ministry for Economic Cooperation and Development (BMZ)[67]
Participation and non-discrimination	Draft Declaration on the Rights of Indigenous People	Dutch Foreign Ministry and Directorate General for Development Cooperation,[68] JPMorganChase
Compensation and benefit sharing	Draft Declaration on the Rights of Indigenous People Convention on Biological Diversity	
No-Go zones for uncontacted people		Inter-American Development Bank

4. CLIMATE AND ENERGY

A. Why a climate change policy is important

The climate is changing, and will continue to change, as a direct result of human activities that increase the concentration of greenhouse gases in the atmosphere. According to the Intergovernmental Panel on Climate Change (IPCC), failure to reduce greenhouse gas concentrations will result in a global temperature increase of nearly 6°C by the end of this century. Such global warming is likely to lead to substantial changes in glacial and polar ice, sea levels, the intensity of storms and the incidence and severity of droughts, and may even alter the basic patterns of ocean currents. These extraordinary and unprecedented risks to the global environment are likely to have profound and potentially disastrous economic, social and health impacts. The most direct way to alleviate and lessen the impacts of climate change is to reduce significantly greenhouse gas concentrations in the atmosphere.

Climate change has introduced new risks and opportunities for industry that will drive decisions on how to innovate and operate globally.[69] For investors, climate change presents new financial issues. Unlike other environmental risks, which are generally concentrated in certain sectors, climate risk cuts across sectors and even whole economies. The French insurance company AXA has estimated that about 20 per cent of global GDP is now affected by climatic events and that “climatic risk in numerous branches of industry is more important than the risk of interest rates or foreign exchange risk”.[70] Yet climate change also introduces new opportunities for industry: the renewable energy market could be worth an estimated US$1.9 trillion by 2020,[71] and the global carbon market up to US$250 billion.[72]

B. Best international standards

Because the climate change problem is global in nature, it requires an internationally coordinated set of responses. The 1992 UN Framework Convention on Climate Change (UNFCCC) and its 1997 Kyoto Protocol are the two most important international treaties addressing the threat of global climate change. The UNFCCC establishes overall global objectives and principles, and requires all member countries to report annually on their net greenhouse gas emissions. The UNFCCC has near-universal membership among the world’s

countries, including the United States. The Kyoto Protocol builds on the principles and objectives of the UNFCCC and establishes targets and timetables for industrialised countries to limit or reduce their emissions of greenhouse gases to an average of 5.2 per cent below 1990 levels. The Kyoto Protocol entered into force in 2005, with the participation of all industrialised countries except the United States and Australia. Developing countries, almost all of which have joined the UNFCC and Kyoto Protocol, are not obliged to set specific targets and timetables for addressing greenhouse gas concentrations and are not likely to do so until at least the next reporting period, which begins in 2012.

As a result of these international agreements, policies to regulate greenhouse gas emissions are being developed and implemented in major markets around the world. Companies in carbon-intensive sectors will be subject to regulations and standards in the EU, Australia, Canada, Japan, Russia, and some US regional markets.[73] In addition, these countries, as well as developing nations such as China, are introducing new regulations on fuel economy and CO_2 emissions in the automotive sector. Market-based emissions trading programmes, including the European Union Greenhouse Gas Emissions Allowance Trading Scheme (EU ETS), the UK Emissions Trading Scheme (UK ETS), and the Chicago Climate Exchange (CCX), are also emerging in a number of countries.

Three main elements of a corporate climate policy are now clear: assessing and reporting on climate emissions and impacts; reducing greenhouse gas emissions at the transaction and portfolio level; and shifting towards green technologies in carbon-intensive sectors, particularly energy and transport.

Assessing and reporting on climate emissions

The increasingly accepted standard for accounting, measuring and reporting on greenhouse gas emissions is the Greenhouse Gas Protocol (GHG Protocol) developed jointly by the World Resources Institute and the World Business Council for Sustainable Development.[74] A growing list of companies has adopted the GHG Protocol for tracking and reporting their emissions, including BP, Cargill, IBM, Norsk Hydro and Volkswagen. In the banking sector, Bank of America and Royal Bank of Scotland have adopted the GHG Protocol.[75] The GHG Protocol is consistent with the guidelines issued by the IPCC for reporting on emissions at a national level.

Reducing climate emissions

Of course, reporting on emissions does little to reduce the risks of climate change – actual decreases in emissions are required. Establishing emissions reduction targets is fast becoming standard practice for businesses today.[76] In fact, many companies have set more aggressive targets than those established by the Kyoto Protocol (on average 5.2 per cent from 1990 levels). See Box 5.

Box 5: Examples of corporate reduction targets

ABB: Reduce GHG emissions by 1 per cent each year from 1998 to 2005.

Alcoa: Reduce GHG emissions by 25 per cent from 1990 levels by 2010, and by 50 per cent from 1990 levels when its inert anode technology is fully commercialised.

Baxter International: Reduce energy use and associated GHG emissions by 30 per cent per unit of product value from 1996 levels by 2005.

British Petroleum: Reduce GHG emissions by 10 per cent from 1990 levels by 2010 (this has been achieved already) and hold net GHGs stable at 1990 levels to 2012.

DuPont: Reduce GHG emissions by 65 per cent from 1990 levels by 2010 (achieved 67 per cent reduction by 2002); hold total energy use to 1990 levels until 2010 and source 10 per cent of global energy use from renewable resources by 2010.

Polaroid: Reduce CO_2 emissions 20 per cent below 1994 levels by the end of 2005 and 25 per cent by 2010.

Rio Tinto: Reduce on-site GHG emissions per unit of production by 4.8 per cent from 1990 levels by 2001 (achieved already).

Royal Dutch/Shell: Reduce GHG emissions by 10 per cent from 1990 levels by 2002.

Shifting towards climate-friendly technology

To respond successfully to climate change, society needs to transform the most carbon-intensive sectors – energy and transport. The United Nations, for example, has identified renewable energy and improved energy efficiency as an important component of the Millennium Development Goals.[77] In some countries and regions, investment opportunities in renewable energy and energy efficiencies are rapidly increasing. The EU, for instance, has committed to double its share of renewable energy to 12 per cent of the gross energy consumption by 2010. Developing countries such as Brazil, China and India have also committed to increasing investment in renewable energy and energy efficiency (China has pledged to increase its investments to reach 10 per cent of its total energy output by 2010).[78]

C. Application to the banking sector

To avoid the most disastrous consequences of global climate change, the financial sector must be an innovative driving force towards a more climate-friendly economy.[79] Moreover, climate change presents costs and risks for the financial sector that must be considered in its risk management. It is thus important for banks to establish a climate or energy policy and strategy that addresses the following issues:

Climate risk

First, banks must incorporate climate risk into their overall client risk identification and assessment process, and develop a set of assessment tools to determine carbon reduction options. This will be particularly important for financial support of the energy, utilities, automotive, transport and extractives sectors.

Assessing and reporting on climate emissions

Second, banks must require their clients to adopt a greenhouse gas accounting and public reporting system such as the GHG Protocol, and to publish annual emissions reports. Through the Carbon Disclosure Project, a coalition of institutional investors already asks the world's largest companies to report voluntarily their annual investment-related and emissions information relating to climate change.[80] More than 70 per cent of Fortune 500 companies, including many financial institutions, completed the annual questionnaire. Based on their responses, the CDP judged nine banks included in this study to be "Climate Leaders": ABN AMRO, Barclays, Dexia, HBOS, HSBC, HVB, RBC, UBS and Westpac.[81]

The CDP is an important initiative to promote more transparency and disclosure about corporate actions, including bank operations, on climate change. However, the responses are voluntary (so there is no obligation to report or account for emissions) and the quality of the responses varies widely. As a result, the database does not yet provide a reliable overall inventory of emissions. Moreover, with one exception, the CDP covers mostly the emissions from the banks' internal operations, and not those from the activities they support. The lone exception asks financial services companies whether they consider the "emissions related risks and/or opportunities of the companies you invest in, lend to, or insure". This elicited a range of mostly unhelpful responses. For example, ABN AMRO states in its 2005 CDP3 response, "As a financial institution, our only relevant indirect emission is business air travel". The Royal Bank of Scotland merely states, "Commercial Banking financial products don't really lend themselves to measurement in these terms". HSBC more thoughtfully answers, "We are aware that our direct impact on climate change is small compared with the size of our business. Our most significant impact is the investment and lending decisions we make. Therefore, we are looking at solutions to climate change through our investments and funding."

Reducing climate emissions

Third, banks must require their clients to meet carbon reduction targets. For financial service providers this includes establishing transaction and portfolio level reduction targets that will not only reduce the direct emissions from their own operations, but also reduce the climate impacts of the transactions and other client activities that they support. At a minimum, the banking sector should adopt a policy requiring its clients to meet the Kyoto Protocol average target reductions of 5.2 per cent below 1990 levels.

Where emissions reductions are cost prohibitive, the industry can require carbon offsets – investing in outside projects that either avoid emissions in the first place or remove existing greenhouse gases from the atmosphere (carbon sequestration). In this regard, WWF has developed a "Gold Standard" for carbon investments, which is increasingly being accepted as the industry standard.[82]

Catalysing technology shifts

The fourth crucial element of an effective climate policy is to develop and fund a proactive strategy for investing in renewable energy and energy efficiency programmes and projects. In 2004, the 154 governments attending the International Conference for Renewable Energies called on the banking sector to offer more financing for renewable energy, and more risk-hedging financial tools to reduce investment risks in this sector.[83] The Climate Convention also emphasises the role of "organisations in a position to do so" to promote, facilitate and finance the transfer of environmentally sound technologies.[84]

Many financial institutions are starting to recognise the opportunities of investing in renewable energy and energy efficiency programmes. Through the OECD, the Export Credit Agencies (ECAs) recently agreed to provide favourable financing terms to help promote investment in renewable energy alternatives.[85] Likewise, in 2004 in response to the Extractive Industries Review, the World Bank Group committed to a 20 per cent increase in investments in renewables and energy efficiency programmes over a five-year period. The European Bank for Reconstruction and Development (EBRD) remains the leader among multilateral development

banks, having invested 22 per cent of its total energy portfolio between 1999 and 2004 in energy efficiency.[86]

An emphasis on shifting towards clean technologies also means that banks must shift their portfolios away from the largest greenhouse gas projects, particularly those aimed at expanding fossil fuel use. Banks must take a portfolio-wide effort to reduce the carbon impacts of their transactions, which requires a commitment to move away from, or phase out, high-carbon and fossil fuel investments.

Taken together, these steps – assessing and addressing climate risk, accounting and reporting on climate emissions, setting targets for reductions of greenhouse gas emissions, and actively reducing portfolio emissions while investing in clean technologies – comprise an effective strategy for addressing climate change. A strong policy should be complemented by proactive leadership in carbon funding and climate policy, as well as proactive efforts to educate and support the banks' entire client base in responding to climate change. Because banks are active in many parts of the financial sector, including insurance, they can be particularly influential voices for educating clients and others about the need to address climate change.

D. Assessing bank performance

Nothing in the Equator Principles or the IFC safeguard policies specifically addresses climate change, although Equator Banks should clearly be assessing the potential climate impacts of carbon-intensive projects as part of the required environmental assessments. Only three banks presently have a specific policy on climate change: Bank of America, Citibank and JPMorganChase. ABN AMRO and HSBC have indicated their intention to develop a climate policy in 2006.

The two banks with the best policies are JPMorganChase and Bank of America. JPMorganChase has committed to work with its largest greenhouse gas-emitting clients to develop carbon mitigation plans, which include measuring and disclosing greenhouse gas emissions and developing strategies to reduce or offset them. In the power sector, JPMorganChase will encourage the development of alternative energies by quantifying the financial costs of emissions and internalising them into the financial analysis of transactions. Starting in 2006, the bank will report annually on greenhouse gas emissions from its power portfolio and work with clients to develop new financial products that facilitate emission reductions.

Bank of America's policy is noteworthy because it includes a reduction target that commits the bank to report and reduce emissions from its own operations (and, more significantly, from its energy and utility portfolios) by 7 per cent by 2008.

Unlike JPMorganChase and Bank of America, Citigroup's policy does not include a commitment either to emissions reductions or carbon mitigation plans. Citigroup only commits to report on emissions resulting from its support of the energy sector. This could be a significant step if it included a comprehensive assessment of the emission intensity of all transactions undertaken by the bank, and a pricing policy that internalised carbon-related risks into the financing terms and conditions. Only with such a quantified basis could the actual costs from

emissions be passed on to the emitters either through higher risk premiums or other pricing policies.

Dresdner Bank reportedly has a screening process for carbon risks applicable to its project finance activities, and is developing a corporate-wide carbon risk strategy that would extend to the whole Allianz Group, including insurance, financing and asset management. This may provide the greatest leverage for reducing greenhouse gas emissions.

Several other banks are now implementing programmes to reduce greenhouse gas emissions from their own internal banking operations. These include ABN AMRO, Bank of Tokyo Mitsubishi, Barclays, HSBC, HVB and Scotia Bank. See Box 6. HSBC is clearly the leader in addressing climate reductions for internal operations, as it has reportedly already achieved its pledge to be the first financial service company to become carbon neutral by 2006.

Table 2: Carbon Reduction Commitments for Internal Bank Operations

BANK	**Carbon footprint (internal emissions)**	**Emission reduction**	**Targets**
ABN AMRO	366,293 tons of CO_2 in 2004	Reduced worldwide direct CO_2 emissions by 4 per cent, and indirect emissions by 9 per cent between 2003 and 2004.	Reduce absolute GHG emissions by 50 per cent from 1990 to 2005.
HBOS	29,240 tons of CO_2 in 2004	13 per cent reduction in CO2 emissions per full-time equivalent employee between 2001 and 2004. Providing 89.7 per cent of electricity from renewable sources.	Reduce CO_2 emissions by 10 per cent per full-time equivalent employee between 2001 and 2004. Set an additional 5 per cent reduction target for 2005-2010.
HSBC	585,000 tons of CO_2 in 2004	Emissions per employee decreased by 19 per cent between 2002 and 2004.	Carbon neutrality by 2006.
HVB	716,690 tons of CO_2 in 2004	Reduced CO_2 emissions from electricity use and heating by 29 per cent and 8 per cent respectively between 1996 and 2002.	19 per cent of energy from regenerative sources.
Royal Bank of	Not documented	Reduced energy-related	Reduce energy-

Scotland		emissions by more than 40 per cent between 1990 and 2000. Sourced 16 per cent of total energy from renewable electricity in 2004.	related emissions by 5 per cent between 2000 and 2005 (in UK and Ireland) per unit of income.
Westpac	136,400 tons of CO_2 in 2004.	Reduced GHG emissions by 2 per cent between 1996 and 2004.	Maintain an annual target of reducing GHG emissions by 5 per cent.

Source: *Carbon Down, Profits Up.* The Climate Group, 2005.

Although the commitment to carbon neutrality for the bank's operations is laudable, addressing the climate change impacts of the bank's financial services and investments is far more important. Financial support for climate changing activities is by far the most significant impact that banks have on climate change, and any policy must focus on reducing those impacts. Even at JPMorganChase, there is little evidence that concern about climate change is significantly influencing finance or investment decisions.

The picture for all banks is dim when it comes to leading a technological shift. With the exception of Bank of America's portfolio reduction target, no bank has visibly made a commitment to shifting its portfolios in carbon intensive sectors, although more and more are investing in renewable energy. While the levels vary significantly, banks already financially supportive of renewable energy include ABN-AMRO, Citibank, Deutsche Bank, Dresdner (through Allianz), HSBC, HVB, JPMorganChase, Mizuho, Rabobank, Royal Bank of Canada and Westpac. Wells Fargo, for example, has recently committed to fund more than US$1 billion in environmental technologies, including renewables, over the next five years. However, many of these same banks are routinely funding large-scale fossil fuel and other carbon-intensive projects that frequently more than offset the amounts and impacts of their renewable portfolios.

Banks also need to be proactive in leading others to take appropriate action on climate change; one welcome example of this is the participation of HSBC, ABN AMRO and Standard Chartered Bank in the Climate Leaders Group.[87]

CONCLUSION

Banks are clearly beginning to recognise the importance of addressing climate change in their own operations, but so far are less willing to require emission reductions from their clients. The two exceptions, JPMorganChase and Bank of America, have made important and strong commitments; even so, they still fall short of international standards and best practices in some respects. They therefore receive a rating of (3). Citigroup has made an important commitment to require its clients to report on greenhouse gas emissions, and thus receives a (2).

The efforts to reduce the carbon "footprint" of banking operations is welcome, but even such a bold step as HSBC's goal of carbon neutrality falls short of the steps needed to reduce climate

change resulting from its investments. Those banks need to apply the same leadership to their portfolios as they do to their operations. Those banks that have just committed to reducing internal climate impacts each receive a (1). Finally, all banks should develop a specific climate change policy because they are involved in financing sectors that affect the climate in some capacity, whether through their support of manufacturing, construction, transport, energy and utilities, the financial sector or automotive sector.

Ratings

3: Bank of America, JPMorganChase
2: Citigroup
1: ABN AMRO, Bank of Tokyo Mitsubishi, Barclays, HSBC, HVB and Scotia Bank
0: All other banks

Summary Chart of Climate Change Standards		
Standard	**Origin**	**Examples of relevant adoptions**
Climate emission accounting and reporting	UNFCC, Kyoto Protocol, GHG Protocol	JPMorganChase, Citigroup, Bank of America, Climate Disclosure Project, European Pollutant Emission Registry,
Setting targets for emission reductions	Kyoto Protocol	Bank of America (for energy sector). See Box 5 for examples.
Shifting portfolios towards climate-friendly technologies	Millennium Development Goals, Bonn Declaration, UN Climate Convention	Export Credit Agencies, EBRD, World Bank Group, General Electric-Ecomagination, Bank of America, HSBC, HVB, Mizuho, Royal Bank of Canada, Société Général

5. DAMS

A. Why a dams policy is important

Large dams and associated infrastructure are among the most controversial and potentially destructive of all internationally-financed projects. According to the World Commission on Dams (WCD), large dams have displaced between 40 and 80 million people worldwide. Millions more have been ousted by the construction of canals, powerhouses and other associated infrastructure.[88] Many of these people have not been satisfactorily resettled, nor have they received adequate compensation, and those who have been resettled have rarely had their livelihoods restored.[89] In the natural world, dams have fragmented and stilled 60 per cent of the world's rivers, leading to profound and often irreversible impacts on riverine and adjoining terrestrial environments.[90] Meanwhile, the economic benefits of large dams have often been elusive. Large dams tend to under-perform their targets for power generation, and lengthy construction delays and large cost overruns are routine.[91]

In addition to these environmental, social and economic concerns, the business case for applying strong environmental and social standards to dam projects is compelling. Proponents

of environmentally and socially disruptive dam projects have increasingly met effective resistance from committed, well-organised and often globally-connected grassroots advocacy campaigns. For an industry in which cost overruns are the norm, anticipated benefits are often not realised, and virtually all project costs are incurred upfront, the added burdens of community opposition can destroy the financial justifications for the project. As a result, potential conflicts are best resolved by negotiations between all those whose rights are involved and who bear the risks of proposed projects.

B. Best international standards

The most authoritative and broadly supported set of standards to be applied to dam and water projects are the guidelines articulated by the WCD. This body was convened by the World Bank and IUCN, the World Conservation Union, and comprised 12 eminent members drawn from a broad spectrum of stakeholders.[92]

The centrepieces of the Commission's recommendations were its "rights and risks" approach to project decision-making, and its seven strategic priorities and supporting principles. Four of these seven priorities can be applied to other sectors and are appropriate for inclusion in an environmental and social management system: (1) gaining public acceptance; (2) assessing all options; (3) recognising entitlements and sharing benefits; and (4) ensuring compliance. We have recommended that these core WCD recommendations be incorporated into an overall management system (see section II, part 13). The three guidelines more specific to the water and dam sector are:

1. *Addressing existing dams:* Opportunities should be taken to optimise benefits from existing dams, address outstanding social issues and strengthen environmental mitigation and restoration measures.

2. *Sustaining rivers and livelihoods:* Options assessment and decision-making around river development should prioritise the avoidance of impacts, followed by the minimisation and mitigation of harm to the health and integrity of the river system. Avoiding impacts through good site selection and project design is a priority.

3. *Sharing rivers for peace, development and security:* The use and management of resources should be the subject of agreement between states to promote mutual self-interest for regional cooperation and peaceful collaboration. Dams on shared rivers should not be built where riparian states raise objections that are upheld by international panels.

C. Application to the banking sector

Financial institutions that provide assistance to dams and associated infrastructure projects should adopt a sectoral policy based upon the WCD recommendations. This policy should apply to all dams (the WCD considered only dams more than 15 metres high) and to all associated infrastructure.

The WCD considered the implications of its findings for private sector financiers, and provided a set of recommendations for them to follow. First, it called upon financial institutions to use comprehensive options assessments as a risk mitigation tool. Second (and most important), it called upon financial institutions to incorporate the WCD principles, criteria and guidelines into their environmental and social policies, and to use the guidelines as minimum screens for

evaluating support for, and investment in, individual projects. Third, it recommended that financial institutions develop legally binding environmental and social provisions in their insurance coverage, and their debt and equity arrangements. Finally, the WCD recommended that banks develop criteria for bond-rating systems for use in financing all options, including large dams, in the water resources and electric power sectors.[93]

D. Assessing the banking sector

HSBC is the only bank in this survey that has developed a sector-specific policy on freshwater infrastructure, including dams. HSBC's policy references the WCD principles and requires that all new applicable project finance proposals fall within its requirements. HSBC will not provide facilities and other forms of financial assistance, including any involvement in debt and equity capital markets and advisory roles, to dams that do not conform with the WCD framework for decision-making. The policy further precludes support for dam projects that are located in, or substantially impact upon, critical natural habitats, Ramsar-listed wetlands and UNESCO World Heritage Sites.

The Equator Principles do not incorporate the recommendations of the WCD, and provide little sector-specific guidance. Rather, they address only environmental assessment issues, dam safety, and how to gain the approval of neighbouring states for projects with transboundary impacts.[94]

CONCLUSION

HSBC is the only bank to adopt a publicly available policy specifically aimed at the impacts of dams. By committing to the WCD principles, it receives the highest rating of (4) for its policy. Although the policy is strong, it is too early to determine how it will be implemented. The lack of an explicit dams policy is particularly troubling for banks such as Standard Chartered that are active in the industry. ABN AMRO and Barclays are also active in the sector, but Barclays has a confidential internal policy on the environmental and social risks associated with dams and ABN AMRO is currently developing a policy in consultation with interested public stakeholders. The Equator Principles and the underlying IFC safeguard policies, if fully implemented, would require options assessment, steps to ensure dam safety, and consultation with neighbouring states. However, because neither the Principles nor the IFC safeguard policies adopt the rights-based approach endorsed by the WCD, the Equator Banks generally fall short of the international standard and receive a (2).

Ratings

4: HSBC
2: Equator Principle Banks
0: All other banks

Summary Chart of Standards Relating to Dams		
Standard	**Origin**	**Examples of adoption**
Sustainable river basin management (adoption of WCD priorities)	World Commission on Dams (WCD)	OPIC, European Investment Bank, EBRD, HSBC, US Export-Import Bank[95]
Optimise benefits from existing dams	WCD	International Hydropower Association (IHA)[96] International Energy Agency (IEA) Hydropower Agreement, HSBC
Avoidance and mitigation of impacts	WCD	IEA Hydropower Agreement,[97] HSBC
Comprehensive assessment, including precautionary approach	WCD	IHA, IEA Hydropower Agreement, HSBC, Equator Principles
Benefit sharing with affected communities	WCD	IHA,[98] International Commission on Large Dams (ICOLD),[99] HSBC
Public acceptance and consent	WCD	ICOLD,[100] HSBC

6. BIODIVERSITY PROTECTION

A. Why is a biodiversity policy important?

The planet's biological diversity – its ecosystems, species and genetic material – is an integrated and intricate web of life that provides substantial economic, cultural, recreational and ecological benefits to humanity. The relentless and accelerating loss of this biodiversity is one of the world's most pressing environmental concerns. Quite apart from the potential costs and risks of biodiversity loss – destruction of habitats, loss of ecosystem services and curative plant materials, and threats to food security – the stewardship of biodiversity is also the moral and ethical responsibility of humanity.

Virtually all countries in the world have ratified the Convention on Biological Diversity (CBD), which sets as an international goal the conservation and sustainable use of all biological diversity. The business sector is beginning to recognise the value and importance of protecting biodiversity, or at least the risk of ignoring biodiversity concerns. While companies in natural resource-dependent sectors – forestry, fisheries, oil, gas, mining and water – tend to be most aware of the potential risks, all types of companies are increasingly integrating biodiversity considerations into their management systems.[101] Some companies are even adopting a "net biodiversity gain" approach. In 2003, Rio Tinto, for example, announced it would pursue this approach when operating in areas of high conservation value – but it has not yet clarified how it intends to measure this.

B. Best international standards

The CBD requires signatories to ensure that biodiversity considerations are included in their environmental impact assessment procedures,[102] and that biodiversity impacts are routinely

included in both national and international environmental assessment procedures. The CBD also identifies three categories of biodiversity: ecosystems, species and genetic materials. Consistent with the CBD, a biodiversity policy should seek to protect, conserve and sustainably manage each of these categories.

Ecosystem and habitat protection

A number of international agreements require the protection of natural ecosystems and habitats. The CBD requires all member countries to establish a system of protected areas or areas where special measures must be taken to conserve biodiversity, and otherwise to promote the protection of ecosystems and natural habitats.[103] The Law of the Sea Convention obliges all signatories to protect and preserve the marine environment. Two other global treaties protect listed areas. The World Heritage Convention protects listed natural and cultural sites of global importance, and the Ramsar Convention provides for the protection, conservation and appropriate use of listed wetlands of international importance. Regional agreements also emphasise the importance of habitat protection generally,[104] and many governments have adopted action plans and other initiatives, such as the International Coral Reefs Initiative.

To consolidate and systematise those natural areas that should be protected for the conservation of biological diversity, IUCN, the World Conservation Union, has developed a category system for protected areas that provides important guidance for how the private sector should operate in these areas. In 2000 the IUCN World Conservation Congress adopted a resolution calling on all states to ban investments in extractive projects in protected areas set aside for conservation purposes (Categories I-IV, see Annex X).

Some public agencies, such as the US Overseas Private Investment Corporation (OPIC), have established policies not to finance projects in World Heritage Sites, Ramsar areas and IUCN category I-IV areas.[105] Similarly, some governments, such as the Philippines, have outlawed mining in IUCN I-IV areas.[106] Increasingly, extractives companies are committing not to develop mineral resources in specific "no-go zones". For instance, 15 mining companies active in the International Council for Metals and Minerals (ICMM) have agreed not to invest in, or open, mines in World Heritage Sites.[107]

Species protection

The IUCN Species Survival Commission produces *The Red List of Threatened Species*, the most comprehensive and authoritative global survey of plants and animals at risk. The Bonn Convention on the Conservation of Migratory Species of Wild Animals requires conservation of habitat and restrictions on the exploitation of any listed endangered migratory species. The Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) prohibits international commercial trade in all species listed as endangered and requires the strict regulation of such trade for species designated as threatened. Other global and regional conventions ban or restrict the commercial exploitation of whales, migratory birds, polar bears, sea turtles and fur seals, among others.[108]

In addition to protecting threatened species, protecting biodiversity requires that common species are not over-harvested and that the commercial exploitation of all living resources is sustainable. The CBD, for example, requires countries to regulate or manage all biological resources "with a view to ensuring their conservation and sustainable use". This requirement of

sustainable management and use appears in many other instruments addressing the whole range of living natural resources, including forests,[109] fisheries[110] and many species of wildlife and plants, and is thus firmly established as an international guiding principle.

Species diversity is also threatened by both the accidental and intentional introduction of invasive alien species. When introduced outside their natural habitats, these species have the ability to establish themselves, out-compete natives and take over their new environments. Invasive alien species are found all over the world, but are a particular problem for island ecosystems. Both the Law of the Sea Convention[111] and the Convention on Biological Diversity require member states to prevent, eradicate or control the introduction of invasive alien species.[112]

Genetic materials protection

The CBD requires its signatories to regulate, manage or control the risks associated with the use and release of living modified organisms. As part of this obligation, member states adopted the Cartagena Protocol on Biosafety in January 2000. The Cartagena Protocol sets out a framework for the safe transfer, handling and use of living modified organisms that may have adverse effects on the conservation and sustainable use of biological diversity, human health and transboundary risks, and requires the advance informed consent of any country before any living modified organism is imported.[113]

Access and benefit-sharing

The CBD requires companies seeking access to genetic resources to obtain the prior informed consent of the country of origin, and to operate under mutually agreed access and benefit sharing agreements. [114] See also the discussion of informed consent with respect to indigenous people in Part II.3. above.

C. Application to the banking sector

The banking sector has a significant impact on biodiversity, particularly those banks that provide financial support to high-impact sectors such as forestry, mining, oil and gas, fisheries, water delivery and infrastructure, or sectors that are using genetic resources such as biotechnology, pharmaceuticals, agriculture or cosmetics. Banks should adopt policies that take into account the protection of biodiversity (including ecosystems, species and genetic resources) as reflected in international conventions and national laws. Banks should establish biodiversity policies aimed at achieving the consensus goals of the CBD and other international instruments – namely, the conservation and protection of biodiversity, the sustainable management and use of biodiversity, and the fair and equitable sharing of benefits from biodiversity.

To meet international standards, such a policy should at a minimum include:

- an assessment process that evaluates cumulative biodiversity impacts upstream and downstream (including impacts on ecosystems, species and genetic resources);
- requirements that investments and financial services provided by the bank do not negatively impact upon any of the protected areas covered by the IUCN I-IV categories, UNESCO World Heritage and the Ramsar Convention. In particular, industrial extractive projects such as mining, oil, gas and forestry should not be financed within World Heritage Sites and IUCN I-IV protected areas, nor where they negatively impact upon those sites and areas;

- exclusions of any project that (i) could have an impact at a community or population level on a species identified on the IUCN Red List; (ii) could lead to the commercial trade of any species listed as endangered under CITES; or (iii) is likely to involve the intentional or unintentional introduction of invasive alien species;
- requirements that all living natural resources such as fish, forests, animals and plants be used and managed sustainably;
- prohibition on support for the production or trade in any living modified organism except with the approval of the importing country and as otherwise required under the Cartagena Protocol;
- requirement that any activity involving access to genetic resources meets the consent and benefit-sharing requirements found in the CBD;
- requirement that the project does not lead any member country to violate any international treaty relating to biological diversity; and
- requirement that the facility's management systems ensure the collection of baseline data and provide for the ongoing monitoring and reporting of impacts at least consistent with the guidelines found in the Global Reporting Initiative for reporting on biodiversity and land use.

D. Assessing bank performance

Banks that have agreed to the Equator Principles are committed to assessing the impacts of their projects on biodiversity and to avoiding significant conversion or degradation of critical natural habitats. However, the definition of what is "significant" leaves considerable room for interpretation and has led to criticism of the IFC's policy. The adoption of clear "no-go zones" for World Heritage Sites, IUCN Categories I-IV and habitats for species listed in the IUCN Red List would help correct this shortcoming, but few banks have supplemented their commitments to the Principles in this way. In addition, all banks need to consider impacts on biodiversity habitat areas affected by transactions as part of their risk management system.

Three banks – ABN AMRO, HSBC and JPMorganChase – go beyond what is required by the Equator Principles to address biodiversity issues through sector-specific policies such as forests and water. Each of these banks recognises certain no-go zones and undertakes not to finance some operations in these areas. HSBC's policy goes the furthest, committing the bank not to finance forest operations or infrastructure projects affecting World Heritage Sites and Ramsar wetland areas. Unfortunately, its policy does not extend to the extractives industry, or to other potentially harmful projects.

ABN AMRO states that it will not finance mining and, in principle, oil and gas projects in World Heritage Sites. Similarly, JPMorganChase will not finance extractives or commercial logging operations in World Heritage Sites. These policies can be strengthened if World Heritage Sites, Ramsar areas and IUCN categories I-IV were recognised as off limits for all extractive, infrastructure and forest-related investments or any other investment that would negatively impact the area's biodiversity values.

The only bank to address species protection directly is HSBC, which has committed not to finance commercial logging operations that affect species covered by CITES. However, the CITES lists are limited to those species endangered or threatened by international trade. It would therefore be preferable to have a policy that references species listed on IUCN's Red List and the FAO's list of overfished species. HSBC's policy could thus be strengthened if it were expanded beyond logging to include any impact or transaction affecting any endangered,

threatened or overexploited species covered by CITES, the IUCN Red List, or categorised by the FAO as overfished.

None of the banks' policies requires that access to genetic resources be based on a host country's consent and a benefit-sharing agreement, nor does any protect the rights of indigenous people to genetic and cultural knowledge, as addressed by the Biosafety Protocol and the CBD respectively.

CONCLUSION

None of the existing biodiversity-related policies reflects a comprehensive and adequate approach to biodiversity. Issues relating to invasive species and genetically modified organisms, for example, are not addressed in any of the policies. ABN AMRO, HSBC and JPMorganChase have surpassed their peers by recognising the importance of "no-go zones" in at least some circumstances. But even those three have put unnecessary restrictions on their approach to "no-go zones". Of the three, HSBC's policy is the most comprehensive because it includes provisions relating to the protection of endangered species listed under CITES. HSBC's policy thus warrants a (2), while ABN AMRO and JPMorganChase each receives a (1). Given the impacts on biodiversity from many different sectors, all banks must adopt a separate biodiversity protection policy to mitigate these impacts.

Ratings

2: HSBC
1: ABN AMRO; JPMorganChase
0: All other banks

Summary Chart of Biodiversity Standards		
Standard	**Origin**	**Examples of Adoption**
Assessment of biodiversity impacts	CBD, World Bank Group	World Bank Group, Rio Tinto, Equator Principle Banks
Ecosystem and habitat protection	IUCN I-IV	OPIC
	World Heritage Convention	ABN-AMRO, HSBC, JPMorganChase, Shell, Freeport, Placer Dome, OPIC
	Ramsar Convention	HSBC, OPIC
Protection of endangered species	IUCN Red List, CITES, CMS	HSBC (follows CITES)
Sustainable use of living natural resources	CBD, Straddling Stocks, UNCLOS, CITES	HSBC (follows CITES)
Prevention of invasive species	UNCLOS, CBD,	
Consent and benefit-sharing for access to genetic resources	CBD	
Genetically modified organisms	Biosafety Protocol	

7. FOREST PROTECTION

A. Why a forest policy is important

More than 30 per cent of the Earth's surface is covered by forests. Forests support rich biological diversity, are host to endangered and threatened species, improve water quality and store large quantities of greenhouse gases. When cleared, cut or burned, a forest's ecological services are destroyed, at least temporarily, and significant greenhouse gases may be released into the atmosphere. Forests also have a variety of direct uses to people, including the provision of home and shelter, wood and wood products, pharmaceuticals and recreation.

Rapid deforestation and conversion to agriculture or other uses threaten many of the world's natural forests. Industrial-scale logging and agriculture operations are capital-intensive endeavours, often requiring significant financial assistance. Just as many businesses have developed forest management policies to reduce their contribution to forest loss, commercial banks must also adopt policies that ensure they are not financing unsustainable practices in forest ecosystems.

B. Best international standards

The international community, including almost all governments, has agreed that forests and forest resources should be managed sustainably.[115] Critical aspects of sustainable forest management incorporate comprehensive assessment of environmental and social values and impacts associated with proposed transactions. This includes identifying and protecting High Conservation Value Forests (HCVFs) and eliminating any impacts on endangered species listed under CITES. Also critical to sustainable forest management is compliance with international and national laws, particularly those intended to end illegal logging, the adoption of independent certification processes, and the elimination of large-scale forest conversions for agricultural and other purposes.

Certification

The emergence of independent certification processes has been critical to sustainable forest management. Forest certification is a system of forest inspection and tracking timber and paper through a "chain of custody" – following the raw material through to the finished product, to ensure that it has come from forests that are sustainably managed. Forest certification is widely seen as one of the most important initiatives of the last decade to promote better forest management.

While an increasing number of certification schemes have emerged, the standards of the Forest Stewardship Council (FSC) are considered to be the most credible and have been widely adopted. The FSC Standards (see Box 7) apply to all tropical, temperate and boreal forests, as well as to plantations and partially replanted forests. By September 2005, more than 59 million hectares of forests had been certified for sustainable management practices by the FSC.[116]

BOX 6: Forest Stewardship Council standards

1. **Compliance with laws**
2. **Tenure and use rights**
3. **Indigenous people's rights**
4. **Community relations and workers' rights**
5. **Benefits from the forest**
6. **Environmental impact**
7. **Management plan**
8. **Monitoring and assessment**
9. **Maintenance of high conservation value forests**
10. **Plantations**

See www.fsc.org for full description of the principles.

Illegal logging

Illegal logging is a major problem in many forest-dependent countries, and is a significant obstacle to reducing deforestation. It not only results in a loss of forests, but also in substantial economic losses for forest-rich countries. It is estimated that these countries lose between US$10-15 billion a year in taxes, licences and royalties to illegal logging. In the Congo Basin and Russian Far East, as much as 50 per cent of felled timber is believed to be illegal; in Indonesia, it may be as high as 80 per cent.[117] Adopting the FSC standards and certification requirements is an effective way to combat illegal logging because of the requirements to track and disclose the chain of custody.

Conversion: palm oil and soy plantations

During the last two decades, more than 300 million hectares of tropical forests – an area larger than India – have been cleared for plantations (including palm oil and soy), agriculture, pasture, mining or urban development.[118] The conversion of forests to other land uses comes with severe environmental and social costs arising from forest clearing, uncontrolled burning, haze-induced public health problems and disregard for the rights and interests of local communities.

Palm oil and soybean cultivation are two of the largest culprits in this deforestation. Oil palm is the fastest growing crop in the tropics. Soybean cultivation has also exploded: the area cultivated in Argentina, Bolivia, Brazil and Paraguay has more than doubled over the past 10 years. While palm oil and soy plantations play an important role in the economic development of many countries, conservation and forest protection practices must be adopted to avoid exacerbating forest degradation and deforestation. Two multi-stakeholder initiatives – the Roundtable on Sustainable Palm Oil and the Roundtable on Responsible Soy – are under way to address the problems associated with palm oil and soy plantations. Both initiatives include active participation of the respective industries, as well as NGOs.[119]

C. Application to the banking sector

WWF has previously published a report that translates international standards and best practice related to the forest sector into recommendations for the financial sector. [120] Banks involved in such activities should develop sector-specific policies that require their clients at a minimum to:

- comply with all national laws and international conventions;
- commission an independent assessment of the proposed activities' environmental and social impacts relating to forests;
- require that all forest practices or products reflect sustainable forest management practices that are certified or in the process of being certified by FSC or another credible certification scheme;
- where FSC or equivalent certification is not in place, a commitment should be sought from the client to develop a time-bound certification action plan with independent third-party verification by the FSC;
- implement a transparent and systematic wood tracking system, with periodic reviews of the "chain of custody" to ensure that the client is not inadvertently involved in, colluding with or purchasing timber from illegal logging operations;
- avoid any activity that damages, degrades or negatively impacts upon primary or High Conservation Value Forests, or forests in proposed or legally designated protected areas or buffer zones. Banks should require clients to have an independent assessment of impacted areas to delineate any high conservation value forests and establish a plan for their protection;[121]
- avoid all activities and trade related to CITES-listed species;
- avoid forest conversion for commercial export products;
- respect local communities and the rights of indigenous people; and
- implement responsible labour policies and practices.

Such policies should apply to all sectors with activities that directly or indirectly affect the environmental and social qualities of forests. These include sectors with indirect impacts such as agricultural plantations (soy or oil palm plantations, for example), large-scale livestock grazing, aquaculture farming such as shrimp, extractive industries, land development, infrastructure development and tourism.

D. Assessing bank performance

The signatories to the Equator Principles have agreed to ensure that the operations they finance and that affect forests are consistent with IFC's existing forestry policy. The IFC's policy currently prohibits financing any logging in primary tropical moist forests – but it is likely that the IFC will drop this ban in its new Performance Standards. The IFC policy also prohibits support for any forest sector project that contravenes the international environmental agreements of the country.

Eight banks have promulgated policies to supplement their commitments under the Equator Principles. These are ABN AMRO, Bank of America, Barclays, Citibank, HSBC, ING, JPMorganChase and Rabobank. Of these, the policies of HSBC and ABN AMRO extend to a broader definition of forests and activities than do the others. HSBC's policy makes it clear that it will not support commercial logging operations in, or purchases from, primary tropical forests and High Conservation Value Forests, or any operations that impact upon species protected by CITES. ABN AMRO's policy is even broader, stating that the bank will not finance operations that result in resource extraction from, or the clearing of either primary or high conservation

value forests, which also includes impacts on primary forests in temperate and boreal regions. ABN AMRO also applies its policy to all projects that impact upon forests, including not only forest sector projects but also agricultural plantations and oil, gas and mining projects.
ABN AMRO, HSBC and JPMorganChase also recognise the importance of third party certification. HSBC and JPMorganChase give preference to the FSC – although HSBC allows an equivalent system in countries where the FSC certification is not available. HSBC also makes clear that it will consider exiting relationships if clients do not have FSC or equivalent certification, or can demonstrate that they are taking action to achieve it.

The American banks – Bank of America, Citibank and JPMorganChase – have very similar policies that share a more limited focus on avoiding projects in primary tropical moist forests only. Bank of America also includes a commitment not to finance in areas identified as intact forests by the World Resources Institute.

All banks with separate forest policies recognise the threat of illegal logging and commit to reviewing the client's record in this respect, as well as to following local, national and in some cases international law, to varying degrees. These policies should be strengthened by fully adopting the standards set out by the FSC for certification, managing and protecting primary forests and forests of high conservation value, as well as requiring third party monitoring and audits.

Several banks also address the problem of converting forests to agricultural uses. ABN AMRO's policy is by far the clearest: it prohibits ABN AMRO from financing projects on previously cleared forest land for five years and then only if no direct link to the original deforestation can be demonstrated. Citibank and JPMorganChase will finance plantations only on heavily degraded forest land or on non-forested land, but that can include previously planted areas. Bank of America's policy curiously applies the five-year waiting period as an exception for tree plantations proposed on what were illegally deforested lands. ING and Rabobank have narrower policies prohibiting support for palm oil plantations on previously forested land that has been cleared within the past three years. ING's policy also contains a clause that allows all plantations in Indonesia to be addressed on a case-by-case basis. Such a caveat allows lax application and creates loopholes that banks should avoid.

CONCLUSION

The existing IFC policies underlying the Equator Principles include important standards of forest conservation, including a ban on commercial logging in primary tropical moist forests.

Of the eight banks' forest-related policies, ABN AMRO's appears to be the most comprehensive with respect to the scope of activities it encompasses and of forests to which it applies. HSBC's policy is arguably stronger than the rest, with a more explicit approach to FSC certification – although it fails to address the conversion of forest land to agriculture. ING and Rabobank have the weakest policies. Theirs primarily address palm oil plantations, due in part to their prior activity in financing oil palm plantations in countries such as Indonesia. Barclays' policy is difficult to compare with others or with international standards, as it has not been released to the public. The policy reportedly references FSC standards, but because of the lack of public disclosure it receives no higher than a (1).

Other banks lack a policy altogether, even though they invest extensively in the forest sector. These include BBVA, CIBC, KBC, Royal Bank of Canada, Royal Bank of Scotland, Scotia Bank and Standard Chartered. Scotia Bank has indicated that it is currently developing a forest policy and consulting NGOs.

Ratings

3: ABN AMRO and HSBC
2: Bank of America, Citibank, JPMorganChase, Rabobank
1: Barclays, ING
0: Barclays, BBVA, CIBC, KBC, Royal Bank of Canada, Royal Bank of Scotland, Scotia Bank, Standard Chartered and all other banks

Summary Chart of Forest Standards		
Standard	**Origin**	**Examples of Adoption**
FSC certification standards	Forest Stewardship Council	Ikea, Home Depot, OBI, B&Q, Big Creek Lumber, HSBC
Prevent illegal logging	FSC	ABN AMRO, Bank of America, HSBC, JPMorganChase
Protect critical forest habitats	FSC	OPIC[122] Belgian ECA[123], HSBC
Prevent harvesting of endangered species	CITES	HSBC
Minimising forest conversion from palm oil and soy	Roundtable for Sustainable Palm Oil (forthcoming) Roundtable for Responsible Soy	Unilever, Cadbury Schweppes, Malaysian Palm Oil Association[124] Coop Switzerland, Grupo Maggi, Unilever[125] ABN AMRO
Monitoring and reporting	FSC	

8. FISHERIES

A. Why a fisheries policy is important

Many of the world's fisheries are in dire condition. More than 76 per cent are overfished, fished to their limit or recovering from overfishing. Certain important commercial fisheries such as North Atlantic cod, Patagonian toothfish, swordfish and bluefin tuna have either crashed or are showing signs of significant decline. Some practices such as driftnet fishing, have huge impacts on many non-target fish species as well as sea turtles, seabirds and marine mammals, while others such as bottom-trawling destroy ocean habitats necessary for maintaining or recovering marine biodiversity. At the same time, the global fishing fleet is estimated to be more than twice as large as necessary to catch what the ocean can sustainably produce.

B. Best international standards

Several international treaties, as well as agreements, action plans and codes of conduct negotiated under the auspices of the FAO, set out a clear and comprehensive international consensus on many aspects of fisheries management. This consensus, enshrined in the Law of the Sea Convention,[126] the Straddling Stocks Agreement[127] and a variety of other instruments, [128] sets a clear goal of achieving the sustainable management and use of the world's fisheries. Widespread consensus also exists on the following principles and measures necessary for achieving that goal.

Certification of sustainable fisheries

The leading effort for certifying sustainable marine fisheries is the Marine Stewardship Council, which is based on the FAO Code of Conduct for Responsible Fisheries (the FAO Fisheries Code) and developed through broad international consultation. So far, the MSC has certified 13 fisheries and has 23 under review. The MSC also employs a product tracking mechanism that can help trace chain of custody and ensure fish are coming from legal sources.

Ecosystem approach to sustainable fisheries management

International standards for fisheries management have evolved from emphasising particular fish stocks to an ecosystem approach. Thus, for example, the Straddling Stocks Agreement not only requires the sustainable management of particular stocks, but also the assessment and conservation of non-target species in the same ecosystem.[129] Similarly, the FAO Fisheries Code requires users of living aquatic resources to "conserve aquatic ecosystems" and "not only [to] ensure the conservation of target species but also of species belonging to the same ecosystem or associated with or dependent upon the target species".[130] Additionally, the FAO has endorsed a comprehensive Ecosystem Based Management (EBM) framework for marine capture fisheries developed by WWF.[131] The FAO Fisheries Code also issues guidelines on measures to maintain livelihoods of inshore fishing in the poorest nations' communities.

Precautionary approach to sustainable fisheries management

Emerging international standards for fisheries management recognise the inherent uncertainties associated with questions regarding the health, reproductive rates or populations of, or fishing impacts on, target and associated species. As a result, the Straddling Stocks Agreement, the FAO Fisheries Code and the WWF EBM all adopt the precautionary approach to fisheries management. Uncertainty or an absence of adequate scientific information (over the exploitation of deep-sea species, for example) should not be used as a reason for postponing or failing to take conservation or management measures. Such uncertainty may exist in any fishery but particularly in new or exploratory fisheries.[132]

Eliminating overfishing and restoring stocks

Under the Straddling Stocks Agreement, states are obligated to "prevent or eliminate overfishing".[133] Conservation and management decisions for fisheries should be based on the best scientific evidence available and should be directed at maintaining or restoring stocks.[134] States and fisheries managers should make every effort to restore critical habitats or others adversely affected by human activities.[135]

Eliminating and avoiding overcapitalisation

Overcapitalisation of fishing fleets, often supported by large subsidies, is a recognised driver of overfishing in many regions of the world. Governments have consented in the Straddling Stocks Agreement to take measures to prevent or eliminate excess fishing capacity and to ensure that fishing efforts do not exceed those commensurate with the sustainable use of fishery resources."[136] Governments at the FAO agreed to "review the capacity of fishing fleets in relation to sustainable yields of fisher resources and where necessary reduce these fleets."[137]

Eliminating destructive fishing practices

The FAO Fisheries Code accords a general priority to selective and environmentally safe fishing gear and practices,[138] recommends measures to phase out the use of any irresponsible gear, methods or practices,[139] and calls for the assessment of impacts on habitats before new fishing gear is introduced on a commercial scale. International standards have also been identified for restricting or banning certain types of fishing practices or gear, including the use of explosives or cyanide fishing,[140] the use of driftnets,[141] high seas bottom-trawling, and shark-finning. [142]

Minimising by-catch

By-catch is the amount of non-target species caught and typically discarded while fishing for other species. The industry average for all fisheries is 250g of by-catch for every 1kg of target species.[143] Some fishing practices such as shrimp trawling lead to as much as 3kg of wasted fish or non-fish species for every 1kg of target species. The Fisheries Code states that users of aquatic ecosystems "should minimise waste, catch of non-target species, both fish and non-fish species, and impacts on associate or dependent species". Action plans have been adopted to reduce the impact on by-catch of certain species or groups of species, including seabirds and sea turtles. [144]

IUU fishing and flags of convenience

A significant problem in fisheries management is the illegal, unregulated or unreported (IUU) fishing conducted in violation of international or national fisheries conservation measures. This often involves vessels registered under "flags of convenience" in countries that are notoriously lax in their regulations. The FAO's Plan of Action on IUU fishing seeks to eliminate the practice in part by encouraging states to prohibit doing business with companies engaged in IUU fishing. The recent WWF Report on IUU fishing, *The Changing Nature of High Seas Fishing*,[145] highlights Citibank, HSBC and Merrill Lynch as among the 20 largest shareholders of Pacific Andes, a company with known links to IUU vessels. The report recommends that the banking sector should ensure it supports only legal operations by requiring the catch to be documented through the full chain of custody.

Marine Protected Areas

Marine Protected Areas (MPAs) are now recognised as critical for maintaining and restoring fish and other marine biodiversity. Some MPAs are designed to be "no-take zones" where fish and their habitat can be restored over time, thus serving as reservoirs for the rest of the ocean. Banks should help sustain these areas by not supporting any activity that would negatively impact upon any MPA.

Endangered species

Commercial trade in many fish species, including some that are commercially important, is now either banned or restricted under CITES (discussed in the section on biological diversity). The FAO Fisheries Code also recognises the particular importance of protecting endangered species.[146]

Sustainable aquaculture

Although aquaculture has been heralded as important for diversifying income and diet in many coastal communities, it can also have substantial impacts on sensitive coastal wetlands, water quality and the genetic diversity of native fish. The Fisheries Code calls on states to ensure that adverse environmental impacts of aquaculture are assessed and minimised.[147] Resources should also be used responsibly – for example, where some types of aquaculture have unsustainable protein conversion rations (salmon require 3kg of protein for every 1kg of salmon produced; tuna require 10kg). Aquaculture investments should be directed towards herbivorous fish species such as catfish and tilapia. Multi-stakeholder roundtables convened by WWF are working to develop consensus-based standards for salmon and shrimp aquaculture. If successful, these should form the basis for future bank lending.

C. Application to the banking sector

Banks active in this sector should adopt a policy that commits them to the internationally accepted goal of the sustainable management and use of fisheries. The policy should require fisheries to be sustainably managed according to ecosystem-based and precautionary approaches, and certified where possible by the MSC or other independent sustainability certification systems. Clients should be screened to ensure that they do not participate in overfishing any resource, use destructive or wasteful fishing practices, operate in an over-capitalised fishery, or practice illegal, unregulated or unreported fishing. The policy should also require catch documentation schemes to be used to verify the legality of fishing operations, support “no commercial fishing” zones in and around Marine Protected Areas, and prohibit trade in endangered or threatened species. In addition, the policy should address the environmental and social impacts of all fishing and related activities, including aquaculture.

The banking sector has an obligation, and is particularly well suited, to address issues of capitalisation and overfishing. Commercial bank screening for proposed fisheries investment should include a review of the capacity of fishing fleets in relation to the sustainability of the fishery. In this way, banks would be sure to avoid contributing to, or exacerbating, overcapitalisation in any fishery.

The FAO identifies bankers and insurers as important targets for efforts to combat fishing by vessels flagged under the authority of countries with lax resource conservation laws.[148] The FAO Fisheries Code, for example, discourages financial institutions from requiring as a loan or mortgage condition, fishing vessels to be flagged in a jurisdiction other than that of the country of beneficial ownership, where such a requirement would increase the likelihood of non-compliance with international conservation and management measures.[149] In general, banks should ensure that their support is not going to companies that operate under such flags of convenience.

Finally, it is critical that the banking sector considers the impacts of its investments in seafood throughout the chain of custody. Sustainable investment is required for seafood businesses whether at the catching, processing, transport, retailing or food service points of the chain. The banking sector can foster sustainability, for example by requiring proof of legal activity or by promoting MSC certification throughout the chain of custody.

D. Assessing bank performance

By signing the Equator Principles, banks have presumably accepted general obligations to assess the impacts of their projects on fisheries and other marine resources – but there are no standards in the IFC safeguard policies that address issues of overfishing or other marine conservation issues. Moreover, no commercial bank has yet to adopt a specific fisheries sector policy.

CONCLUSION

As noted above, the Equator Principles do not include any provisions specific to the challenges of the fisheries sector, nor has any bank reviewed in this report adopted any such policy. For those banks lending to the fisheries industry, such as Barclays, BBVA, Citigroup, HSBC, ING, KBC, Merrill Lynch, Royal Bank of Canada, Royal Bank of Scotland and Standard Chartered, reviewing current investments along the entire chain of custody and developing a fisheries policy for future investments is long overdue.

Ratings

0: All banks

Summary Chart of Fisheries Standards		
Standard	**Source**	**Application**
Sustainable fisheries management and certification	UNCLOS, Straddling Stocks Agreement, FAO Fisheries Code, Marine Stewardship Council	
Ecosystem approach to fisheries management	Straddling Stocks Agreement, FAO Fisheries Code	
Precautionary approach to fisheries management	Straddling Stocks Agreements, FAO Fisheries Code	
Eliminating overfishing and restoring fish species	Straddling Stocks Agreement, FAO Fisheries Code	
Eliminating destructive fishing practices	FAO Fisheries Code, UN driftnet ban, bottom trawling	IFC (driftnets)
Eliminating and Avoiding Overcapitalisation	Straddling Stocks Agreement, FAO Fisheries Code	
Minimise by-catch	Straddling Stocks Agreement, FAO Fisheries Code	
Limit flags of convenience	FAO Fisheries Code	

Respect Marine Protected Areas, including no-take zones		
Protect endangered species and species of concern	CITES	
Promote sustainable aquaculture	FAO Fisheries Code	

9. SUSTAINABLE AGRICULTURE

A. Why an agriculture policy is important

The agricultural sector raises significant environmental and social issues. Agriculture is the largest source of soil degradation, pollution and habitat conversion of any human activity. It uses more than twice as much water as all other human activities, and it has an enormous direct and indirect footprint associated with pesticides and toxicity. Agriculture is also responsible for between 25 and 40 per cent of all global climate change. Increased consumption of natural resources in new markets (Brazil, Russia, India and China – the BRICs) is increasing the economic demand for agricultural commodities.

In addition to environmental concerns, there are growing questions about labour and other social impacts of agriculture (terms of trade, asset development, equity and debt, for example) and questions about the role of banks as both positive and negative vehicles for social change. Because of the breadth and scale of impacts, and because not all impacts from agriculture are likely to be addressed in other policies, banks active in the agricultural sector should develop separate agriculture policies to promote more sustainable production and trade.

B. Best international standards

Some important international standards applicable to the agricultural sector are addressed in other policies such as forests (conversion), biodiversity (habitat protection and genetically modified organisms), fisheries (aquaculture), water (dams and irrigation infrastructure) and chemicals (pesticide management). Other standards are more narrowly applicable to agriculture. These include general standards that promote organic agriculture or product-specific standards that apply to palm oil, soy, cotton, sugar, plantation pulp, salmon and shrimp. An indicator of their success is the degree to which they generate measurable improvements in performance against baseline data for key social and environmental impacts of each commodity.

Promoting more sustainable agriculture through certification and ecolabels

The demand for more sustainable agricultural products is growing, although most fill only niche markets at present. These products are variously described as organic, GMO-free, reduced impact, integrated pest management (IPM) or locally grown. The International Federation of Organic Agricultural Movements (IFOAM) has developed and led international efforts to implement third-party certification of "organic" agricultural products according to an elaborate and comprehensive Organic Guarantee System. Under that system, IFOAM accredits certifiers who agree to apply the IFOAM Basic Standards for Organic Production and Processing. Similarly, the Rainforest Alliance, Protected Harvest, and Food Alliance, among others, provide independent certification of sustainable agriculture.[150] To date, however, the financial, social or environmental impacts of all these programmes are insufficiently documented to make a viable

business case for most financial institutions. WWF, Sustainable Finance and others are currently evaluating these various standards.

Genetically modified organisms

In terms of a biodiversity policy, the Cartagena Protocol to the Convention on Biological Diversity sets out some labelling and notification provisions with respect to genetically modified organisms (GMOs): for example, trade in living modified organisms is prohibited without the approval of the importing country. Signatories are also supposed to apply the precautionary principle to the production and use of GMOs. The parties to the Protocol continue to address and develop standards with respect to GMOs. The Protocol should be a starting point for developing standards for agricultural investments by financial institutions.

Product-specific standards

Efforts are now under way to articulate appropriate management practices for a range of agricultural commodities. Multi-stakeholder roundtables are developing standards for cotton, palm oil, sugar, coffee, cocoa, soy, salmon, shrimp and tilapia. WWF, ABN AMRO, Adidas, Cadbury Schweppes, GAP, HSBC, the IFC, Nutreco, Rabobank, Unilever and hundreds of other stakeholder groups are involved in convening and/or participating in these roundtables. Roundtable participants include the entire value chain of the respective industries, researchers, financial institutions, NGOs and other interested stakeholders. As these efforts progress, they should begin to define global, measurable standards for different commodities that could be adopted by banks. For example, as noted in the forestry policy, in late November 2005 the Roundtable on Sustainable Palm Oil adopted principles and criteria for more sustainable palm oil production that should now be adopted by banks active in the sector.[151]

C Application to the banking sector

Although it may be unrealistic to expect most commercial banks to finance only organic or GMO-free agriculture, they could and should promote more sustainable agriculture. Banks should make a special effort to understand how more sustainable forms of production can help the bottom line not only of producers but of financial institutions as well. More credit and hedge instruments should be made available to approved producers for more sustainable farming practices.

Perhaps the most promising initiatives from the perspective of financial institutions are the emergence of the product-specific commodity roundtables. One output will be investment screens for the financial sector. Prior to the development of standards, banks can be active participants in developing and supporting initiatives for those products in which their portfolios are largest. Support will also be needed to scale-up these initiatives once standards are developed and adopted, and to reward those producers who apply the standards and better practices that are developed by the round tables.

D. Assessing the banking sector

Banks with considerable exposure in agriculture include ABN AMRO/Banco Real, Banco Itaú, Barclays, BBVA, CIBC, Citicorp, Rabobank, Scotia Bank, Société Général, ING, KBC, Royal Bank of Canada, Royal Bank of Scotland and Standard Chartered. Yet, with a few exceptions, these banks have not adopted any sector-specific agricultural policies. Few have taken steps to support, much less promote, a sector shift to sustainability.

A few banks have supported or participated in commodity-specific roundtables. Rabobank, for example, has been very supportive of the roundtables in soy, cotton and sugar. ABN AMRO/Banco Real has participated in the cotton, sugar, and soy roundtables, and HSBC has been active in the palm oil and soy processes. The IFC has engaged in the roundtables on soy, cotton, palm oil, sugar and salmon.

Ratings

0: All banks

Summary Chart of Sustainable Agriculture Standards		
Standard	**Source**	**Application**
Promoting and certifying sustainable agriculture	IFOAM, Protected Harvest, Rainforest Alliance, Food Alliance	
Genetically modified organisms	Cartagena Protocol	
Developing and adopting sustainable commodity production standards	Responsible Commodities Initiative, Roundtable on Sustainable Palm Oil, and others	IFC, Rabobank, ABN AMRO/Banco Real, HSBC

10. EXTRACTIVE INDUSTRIES

A. Why an extractive industries policy is important

Oil pipelines, drilling platforms, gas refineries and opencast mines often contaminate land and water, destroy natural habitats and have severe and long-lasting impacts on public health and safety, local cultures and community-based livelihoods. Extractive resource industries also appear to distort macroeconomic development in many countries through what is increasingly being understood as a "resource curse". The combination of large unaccountable revenues, poor governance, corruption, inadequate distribution of revenues to local communities and local environmental and social costs, leave many countries poorer than before they developed their extractive resources.

Failure to address these environmental and social impacts adequately is affecting the operations and profits of oil, mining and gas companies. High-profile controversies have been costly for communities, project sponsors and the companies that insure and finance them. For instance, in Peru, a Canadian mining company, Manhattan Minerals, lost US$60 million when it was forced to abandon a proposed mine because it failed to respect the preferences of the host community.[152] In 2001, BHP wrote off US$416 million in Papua New Guinea after withdrawing from the area due to social and environmental concerns.[153]

B. Best international standards

Several international conventions indirectly set standards for oil, mining and gas projects, including the Convention on Biological Diversity, the Kyoto Protocol and the International Maritime Organisation's MARPOL conventions. In addition, a number of multi-stakeholder

processes, some industry-led and most with active industry involvement, have resulted in important standards being set for extractive operations.

Because oil, mining and gas projects raise issues common to many other sectors, we have addressed the standards relevant to extractives in other sections of this report, including those on human rights, indigenous people, labour, biodiversity, climate change and transparency. If these categories are not part of a financial institution's policies, they must be incorporated into its extractives policy. In addition, several issues are more specific to extractives.

Issues specific to extractives include:

- emergency response and planning
- revenue transparency

Issues specific to mining include:

- mining waste and disposal
- mine closure and reclamation
- mining certification

Issues specific to oil and gas development include:

- seismic surveys
- double-hulled tankers
- oil spill liabilities
- waste management
- gas venting and flaring
- decommissioning pipelines and platforms

Common issues for extractive industries

Emergency response and planning

Between 1983 and 2002, there were 150 significant environmental accidents in the mining sector alone. In many cases, companies, response bodies and communities were not fully prepared or sufficiently informed to deal with the incidents, thus exacerbating contamination problems and public health risks.[154] UNEP has convened a multi-stakeholder initiative for the mining industry as part of its Awareness and Preparedness for Emergencies at a Local Level (APELL) programme, which has made recommendations on good practice for emergency preparedness and response.[155] Oil spills and releases are even more common, and oil spill response plans are common requirements in national legislation.

Revenue transparency

Oil, gas and mining industries are a significant source of revenue for many governments. But in some countries where governance is weak, extractive investments may actually contribute to poverty, corruption and conflict. Ensuring that citizens and host communities benefit from extractives investments is essential – but this requires more transparency and accountability concerning revenue generated and provided to the government.

The Extractive Industries Transparency Initiative (EITI), which includes a coalition of governments, companies, civil society groups and investors, has established criteria for full publication and verification of company payments and government revenues from oil, gas and

mining. At present, some 20 countries dependent on oil and mineral development have pledged to follow the terms of the initiative.[156]

Issues specific to mining operations

Mining waste and disposal standards

Many environmental problems associated with mining are related to the generation and management of waste. Sediments from waste dumps and tailings may be disposed of or wash into waterways, causing harm to fish, the surrounding ecology and water quality. Tailings often contain heavy metals, as well as other chemicals used in processing (such as cyanide), which leads to contamination and health risks. Establishing responsible waste management systems that err on the side of caution is therefore essential.

Several international agreements and multi-stakeholder processes have addressed the problem of marine waste disposal and established standards and guidelines for the mining industry to follow. The 1972 Convention on the Prevention of Marine Pollution by Dumping Wastes and other Matters (the London Convention) prohibits the dumping of mercury and mercury compounds directly into the sea, and requires special permits for dumping cyanide and heavy metals into the sea.[157] The Extractives Industries Review (EIR), a multi-stakeholder process convened by the World Bank Group, recommended avoiding sub-marine tailings disposal, especially in island regions and areas with coral reefs.

Increasingly, riverine tailings disposal is considered by many stakeholders to be unacceptable. The EIR recommended that riverine tailings disposal be abandoned altogether. The Mining, Minerals and Sustainable Development initiative (MMSD) stopped short of recommending an outright ban, but did endorse a presumption against riverine disposal. Mining companies such as BHP, Falconbridge and WMC Resources have committed not to use riverine tailings disposal in future projects. Legislatures and regulatory agencies in countries such as the US and Canada have banned the practice of dumping directly into rivers.

The use of cyanide, primarily in gold processing, can contaminate water and pose other risks. The gold industry has developed an International Management Code for Cyanide, a voluntary agreement which emphasises minimising the use of cyanide, safe transport, worker health, safety and training, emergency response plans and third party audits.[158] Adopting the Code is an important step in addressing the problems posed by cyanide, even though the Code lacks guidelines on waste disposal. The EIR also recommended that companies explore safer alternatives to the use of cyanide and mercury.[159]

Closure standards and reclamation

The way in which a mine is closed can have an impact on the surrounding community and ecosystem for years – potentially in perpetuity. In the United States and some other jurisdictions, mine closure standards require the company to provide a financial guarantee for clean-up, restoration and ongoing monitoring. MMSD also called on companies to address how a mine closure would affect the host community’s development aspirations (such as through a Community Development Plan), and the allocation of resources and responsibilities that would be required to realise them.

Independent verification

Issues such as the role of mining in conflict and wars, and the overall sustainability of mining, have led to the development of new verification schemes. One is the Kimberley Process Certification Scheme, which requires governments to certify that shipments of rough diamonds are free from conflict diamonds. The Kimberley Process comprises 43 participants, including the EU, and accounts for as much as 99.8 per cent of the global production of rough diamonds.[160] The certification process is a useful first step, but lacks independent monitoring mechanisms. A similar certification process for gold and diamond jewellery is under development.[161]

WWF-Australia launched the Mining Certification Evaluation Project (MCEP) which has led to talks between the industry, governments and civil society regarding the feasibility of introducing an independent third-party certification programme to evaluate mines based on their environmental and social performance. This has attracted the interest and support of several major producers including Anglo-American, BHP Billiton, MPI Mines, Newmont, Placer Dome, Rio Tinto and WMC Resources.[162]

Issues specific to oil and gas operations

Double-hulling of oil tankers

The use of double-hulled oil tankers is the accepted standard of marine shipment, and is becoming mandatory under international law. In the wake of the *Exxon Valdez* disaster in 1989, the international community introduced requirements for the double-hulling of oil tankers. In 1993, the IMO amended Annex I of MARPOL to require new oil tankers to be double-hulled, and large single-hull tankers to be phased out. After the *Erika* sank off the coast of France in 1999, these requirements were strengthened to include the phase-out of smaller tankers and the elimination of single-hulled tankers by 2015. Unfortunately, the use of flags of convenience by some shipping companies has lowered safety and maintenance standards and crew training, and increased the risk of spills.

Seismic surveys and marine mammals

There is growing evidence that underwater seismic surveys can cause acoustic damage to whales and other marine mammals. Regional standards are being developed to reduce the impact from such surveys through, for example, "soft starts", reduction of blasting, and the reporting of marine mammals in the area. These emerging standards for seismic surveys should be followed and extended to other regions.[163]

Gas flaring and venting

The extraction of crude oil often brings to the surface associated natural gas. In many developing countries this is frequently released into the atmosphere, contributing a significant amount of greenhouse gases into the atmosphere, and resulting in staggering losses of potential energy.

To address this problem, the World Bank and the government of Norway launched the Global Gas Flaring Reduction Public-Private Partnership (GGFR) in August 2002,[164] developing a Voluntary Standard for Global Gas Flaring and Venting Reduction (the "Standard"). As an initial goal, the partners agreed to work to eliminate continuous flaring and venting of associated gas, unless there are no feasible alternatives. Once this has been achieved, the

Standard's ultimate goal is to bring about continuing reductions so as to minimise continuous and non-continuous production flaring and venting of associated gas. The Standard sets out monitoring and transparency guidelines, best practice for minimising flaring and venting, and a recommended timeframe to adopt and implement the Standard.

Decommissioning oil platforms and other infrastructure

The IMO and the OSPAR Convention have issued standards for decommissioning offshore oil platforms. Among other things, platforms under a certain weight and in shallower water must be removed completely. Larger platforms must normally be removed as well (the Convention specifically bars dumping of scrap parts at sea).

C. Application to the banking sector

Extracting and producing oil, gas and minerals raise a myriad of issues and potential risks to the community and environment at every stage, including exploration, extraction, processing, disposal and rehabilitation. As an international consensus emerges for standards and norms for improving extractives projects, the banking sector needs to adopt strong and clear policies that incorporate them. WWF and the Centre for Science in Public Participation have produced a Framework for Responsible Mining, which provides a comprehensive analysis of environmental, social, community and governance issues that must be addressed in a policy for the mining sector.[165] The banking sector should use this as a resource.

D. Assessing bank performance

Neither the Equator Principles nor the associated IFC safeguard policies provide standards specific to the extractives sector – although the assessment requirements in the Principles would presumably require assessments of the environmental and social impacts of many proposed extractives project. Although many banks support the extractives sector, they appear unwilling to move beyond the Equator Principles to address the unique risks and impacts posed by oil, mining and gas development.

Among the commercial banks, only ABN AMRO has developed a publicly available extractives policy. Its strengths include a filter the bank applies to determine substantial impacts. ABN AMRO has also committed not to finance any mines (and "in principle" any oil and gas projects) located in World Heritage Sites or mines that dump tailings in river systems. The bank also determines the adequacy of the client's environmental management system. That said, ABN AMRO's policy falls far short of a comprehensive approach to extractives. Among other shortcomings, it fails to address extractives projects in other protected areas (IUCN I-IV), sub-marine tailings disposal, community engagement, benefits and consent, mine closure or emergency response plans. Moreover, the gap between policy and implementation seems particularly high with respect to ABN AMRO's extractives policy, given its decision to support the consortium in the Sakhalin II oil and gas project.

The only other bank mentioning extractive industries in its public policies is JPMorganChase, which commits not to finance any extractive projects in World Heritage Sites. Barclays has internal policies that provide guidance for managing environmental and social risk in the mining, and oil and gas sectors. Because these policies have not been disclosed publicly, they cannot form the basis for meaningful comparison with ABN AMRO's policy.

CONCLUSION

Given the attention to the risks and impacts of investments in the extractive industries, the banks are trailing behind international consensus and industry best practice in the sector. The only bank to address extractives as a sector is ABN AMRO, and even that policy falls far short of best standards and is having little visible impact on its portfolio decisions. It received a score of (2). JPMorganChase's reference to extractive industries in World Heritage Sites, though adopting one international standard, is too narrow to warrant more than a score of (1). Having internal policies governing the extractive sectors earns a (1) for Barclays; this score is limited by the lack of policy disclosure. Particularly for banks supporting the extractives sector such as BNP Paribas, CIBC, Citibank, KBC, Royal Bank of Canada, Scotia Bank, Société Général and Standard Chartered, developing strong policies in this area should be prioritised.

Ratings

2: ABN AMRO
1: Barclays, JPMorganChase
0: BNP Paribas, CIBC, Citibank, KBC, Royal Bank of Canada, Scotia Bank, Société Général, Standard Chartered and all other banks

Summary Chart of Extractive Industry Standards		
Standard	**Origin**	**Examples of adoption**
Community participation, early and ongoing engagement and benefits	MMSD	Rio Tinto and Normandy[166] BHP Billiton in Peru[167] Minerals Council of Australia OPIC
Biodiversity protection/no-go zones	World Heritage Convention, Ramsar Convention on Wetlands, IUCN	ABN AMRO, Anglo-American, JPMorganChase, Newmont, Rio Tinto and Shell (World Heritage Sites), OPIC
Independent monitoring and reporting	MMSD GRI Mining Sector Supplement	Placer Dome (mine-specific reporting), ADB (policy to publish all monitoring reports)
Emergency response and planning	Convention on the Transboundary Effects of Industrial Accidents UNEP APELL	
Revenue transparency	Extractives Industries Transparency Initiative	Azerbaijan, Ghana, Nigeria. Anglo-American, Newmont, Shell, TOTAL G8 countries
Waste disposal standards: 1. ban on mercury dumping at sea; 2. ban on riverine tailings disposal;	London Convention, Extractive Industries Review, Cyanide Code	Falconbridge, WMC Resources, BHP Practice banned by US and Canadian governments,

3. avoid sub-marine tailing disposal, and no dumping in island nation territory, coral reefs or shallow waters; 4. minimise and regulate use of cyanide		BHP Billiton
Mine closure and reclamation	MMSD	United States
Independent verification	Kimberley Process Mining Certification Evaluation Project	Angola, Botswana, Democratic Republic of Congo
Double hulling	MARPOL	
Gas flaring and venting	Global Gas Flaring Reduction Public-Private Partnership	World Bank, Angola, Cameroon, Canada, Chad, Ecuador, Equatorial Guinea, Indonesia, Kazakhstan, Nigeria, Norway, United States, BP, ChevronTexaco, ENI, ExxonMobil, Marathon, Norsk Hydro, Statoil, Shell, TOTAL and Sonatrach.

11. CHEMICALS

A. Why a chemicals policy is important

With more than 75,000 chemicals in commercial use, the chemicals industry is another sector that challenges environmentally and socially sustainable development. Many chemicals have never been tested for their safety on the environment or public health. The negative impacts of others have been identified only after significant problems have surfaced.

Some chemicals commercially manufactured or produced as by-products have led to severe global environmental and public health impacts. Ozone depletion, DDT's impacts on birds and wildlife, bioaccumulation of PCBs and other persistent organic pollutants in the Arctic and elsewhere, and lead contamination in many urban areas, are just some examples of the negative impacts arising from the chemical sector. Many more chemicals, such as phthalates used to soften plastics and brominated chemicals to make flame retardants, are increasingly contaminating humans and wildlife. The known and potential impacts of these chemicals are stimulating new regulatory approaches, particularly in Europe, that may change how the chemical industry operates in future.

B. Best international standards

A chemicals policy needs to address several aspects, including adequate knowledge of chemicals in order to determine the degree of control needed (for example, toxicity data on their intrinsic properties); the need to control chemicals during their production, use and end of life; and the need for post-marketing surveillance to ensure all potentially harmful chemicals have been properly controlled. The policy must also act as an early warning system for future areas of

concern. The international community has addressed and developed benchmarks for some of these concerns, as described below.

Regulating the production and consumption of dangerous chemicals

International agreements have banned or are phasing out a number of particularly dangerous or toxic chemicals. For example, the Montreal Protocol on Substances that Deplete the Ozone Layer, and its related amendments and revisions, prohibits the production and use of ozone-depleting substances such as chlorofluorocarbons, hydrochlorofluorocarbons, halons and methyl bromide.[168] The Stockholm Convention on Persistent Organic Pollutants (POPs) bans certain chemicals including dieldrin, chlordane, heptachlor and PCBs.[169] Other agreements ban chemicals intended for use in warfare,[170] and pesticides that are classified as highly or extremely hazardous.[171] In addition, widely adopted action plans require the phasing-out or the strict regulation of other chemicals such as DDT,[172] dioxins and furans,[173] leaded petrol and asbestos.[174] Moreover, many countries have restricted or banned even longer lists of chemicals. The FAO publishes and regularly updates a list of banned substances. Internationally restricted chemicals should no longer be widely produced or consumed, and all manufacturers, exporters and users should comply with national prohibitions and restrictions.

Assessing the impacts of new and existing chemicals

The international community is increasingly recognising the need to ensure more effective assessment of the long-term impacts of chemicals on public health and the environment. Thus, the EU and the global multi-stakeholder Strategic Approach to International Chemicals Management process (SAICM) are considering proposals for much stronger assessment and regulation of all new and existing chemicals, particularly those that are persistent and bioaccumulate in the environment. Such approaches will reflect a more precautionary approach to the introduction, manufacture and use of chemicals in products where impacts are uncertain.

Sound management of chemical by-products and waste

The international community also requires the sound management of chemicals and their by-products and waste so as to minimise risks to public health and the environment. The Johannesburg Plan of Implementation has set a goal of achieving this sound chemical management throughout the world by 2020.[175] To meet this target, the SAICM process will set detailed goals and standards for the chemical industry that should form the basis of future chemicals policies in all industry sectors, including the financial sector. Banks should therefore require all clients in the chemical sector to show their demonstrated commitment to implement SAICM.

In addition to the general requirement for the sound management of chemicals, international agreements entail more specific requirements. Under the Basel Convention, most governments have agreed to “minimise the generation of hazardous wastes and other wastes,” ensure adequate disposal and the environmentally sound management of hazardous waste, and ensure that all people managing hazardous waste prevent pollution.[176] Stockpiles and waste containing listed chemicals under the Stockholm Convention must be managed in a way that is “protective of human health and the environment”. Hazardous waste cannot be exported to developing countries except in limited circumstances,[177] and certain chemicals and pesticides cannot be exported without the prior informed consent of the importing country.[178] In addition, the FAO has issued an International Code of Conduct on the Distribution and Use of Pesticides, which

sets out internationally accepted standards for the handling, storage, use and disposal of pesticides.

C. Application to the banking sector

With the international negotiations of SAICM and Europe's negotiation of REACH (Registration, Evaluation and Authorisation of Chemicals) under way, chemicals regulation and management is changing considerably. The growing acceptance of the precautionary approach and increasing concerns of long-term impacts on human health, reproduction and the environment means that banks supporting the chemicals industry will need to pay closer attention in future and ensure that their clients are following the emerging standards set forth above.

D. Assessing bank performance

Although many banks are active in the chemicals sector, including BNP Paribas, Citibank, KBC and Sociéte Général, the only bank with a sector-specific chemicals policy so far is HSBC. HSBC will not provide facilities, advice or other forms of financial assistance, including any involvement in debt and equity market activities, to companies involved in the production of chemical weapons or the manufacture, storage and transport of persistent organic pollutants, or certain hazardous pesticides and industrial chemicals as defined in the Rotterdam Convention.[179] HSBC also states a preference to deal with customers that operate to international standards, including the Stockholm POPs Convention, the Rotterdam Convention, the WHO Recommended Classification of Pesticides by Hazards, and the Montreal Protocol. It also mentions it is "aware" of the REACH programme.

HSBC should be commended for developing a chemicals policy, even though it addresses only those that are already strictly regulated by international law. Moreover, it is not clear how a policy that states a "preference" and an "awareness" will be implemented. It would be better to have clear requirements and a more general approach as outlined above.

Those banks that have signed on to the Equator Principles would also have agreed generally to the assessment of environmental and social impacts, which would presumably include impacts from chemical releases. Such general assessment requirements, however, do not address other issues of chemical management, production or use. The IFC's exclusion list excludes chemicals phased out through the Montreal Protocol and Stockholm POPs Convention, but it is not clear to what extent Equator Banks follow the IFC's exclusion list.

Ratings:

2: HSBC
0: BNP Paribas, Citibank, KBC, Société Général and all other banks

Summary Chart of Chemical Sector Standards		
Standard	**Origin**	**Examples of Adoption**
Assessment of chemical impacts	European REACH Precautionary principle	OECD Guidelines, Equator Principles (for chemical releases)
Waste minimisation and	Basel Convention	

pollution prevention		
Prohibition on production or consumption of restricted chemicals	Montreal Protocol, Stockholm POPs, IAEA (Radiation)	IFC Exclusion List.
Prior informed consent for importing	Rotterdam PIC Convention, Basel Convention	
Pesticide management and labelling	FAO Pesticide Code, WHO	
Emergency planning and response plans	OECD Guidelines	
Pollution emission standards	PPAH	
Pollutant release and transfer reporting	Aarhus Convention	
Chemical stockpile management	Stockholm POPs	
Environmentally sound management of chemicals and waste	SAICM; Basel Convention, Stockholm POPs	
Prohibition on chemical weapon manufacturing		
Occupational health and safety		

12. TRANSPARENCY AND REPORTING BY CLIENTS

A. Why a transparency and reporting policy is important

People have a right to know about the impacts and risks of projects that may directly affect them, because disclosure of such information leads to more effective participation and better project decision-making.[180] Unless affected people are fully apprised of an activity's environmental, social and economic benefits, and its costs, risks and potential alternatives, they cannot hope to advance their interests. Access to project information is also necessary to ensure accountability – to hold project sponsors and their financial supporters to account for their activities, and to hold governments to account for how they respond to that conduct.

Greater transparency also serves important interests of the client. It can, for example, help create a shared base of information on which various stakeholders can build trust and negotiate outcomes. Often, it is the absence of such a shared knowledge base, and the public perception that project sponsors are attempting to hide potential impacts, that leads to conflict and local opposition. Greater transparency can also reduce opportunities for corruption or for using revenues to build up military or other expenditure against the public interest.

B. Best international standards

The principle that the public has a right to information in order to participate meaningfully in environmental and social decision-making has been enshrined in several international instruments, including the Universal Declaration of Human Rights,[181] the Rio Declaration,[182] the Aarhus Convention[183] and the OECD Guidelines for Multinational Enterprises.[184]

C. Application to the banking sector

Banks can play an important role in ensuring their clients disclose adequate information about environmental and social impacts. In addition to supporting the right of affected communities to participate meaningfully in project decision-making, transparency also serves the banks' interests by ensuring that public concerns are raised and resolved before they become conflicts. Such concerns have led each of the multilateral development banks to adopt access to information policies, and many export credit agencies also provide substantial information regarding the environmental and social impacts of proposed projects. Commercial banks, too, should have clear policies regarding the environmental and social information their clients must disclose.

For banks, a commitment to transparency requires at the very least a presumption of disclosure with respect to environmental and social information. This presumption itself requires a narrow interpretation of what information can be withheld under claims of business confidentiality. While confidentiality is a legitimate business concern, it should primarily protect material that could be advantageous to competitors, such as trade secrets or certain financial information.

Very little information regarding environmental, social, health and safety impacts would meet this criterion. But even where it does, a client's interest in confidentiality should not be overriding unless it outweighs the public's right to know about impacts that may directly affect them. A bank's decision to allow a client's preference for secrecy to trump a community's right to know is incompatible with an organisational commitment to conduct its business responsibly and sustainably.

In addition to the presumption of disclosure, banks should also require the release of at least the following information in a timely and culturally appropriate manner:

- Full draft and final environmental and social assessments for all transactions with significant impacts;
- draft and final environmental and social management plans;
- environmental and social covenants in financial documents (banks should disclose whether the client is fully covenanted to the environmental management plan (EMP), and whether any additional social and environmental covenants exist. This will allow communities to help hold the client accountable for environmental and social commitments);
- any EMP compliance reports required from the client regarding commitments made in the EMP. Disclosure of these reports will improve public awareness of how the project sponsor is fulfilling its environmental and social obligations and help improve community participation in monitoring compliance;[185]
- amounts and conditions of all material payments by borrowers to host governments and all material revenues received by governments from royalties, taxes, and concessions;[186] and
- foreign investment contracts, including host government agreements, power purchase agreements and any other contracts between the company and the host government.[187]

D. Assessing bank performance

None of the banks has specific policies that address transparency issues, although those that follow the Equator Principles have adopted minimal transparency requirements embedded in the underlying IFC safeguard policies. As part of the consultation requirements for Category A and some Category B projects, the Principles require banks to ensure that "the [Environmental Assessment], or a summary thereof, has been made available to the public for a reasonable minimum period in local language and in a culturally appropriate manner". Beyond this limited requirement, the Equator Banks have refused to adopt the IFC's or any other disclosure policy. For having at least some (albeit limited) requirements for disclosure of environmental assessments, the Equator Banks receive a (2) in our rating system.

CONCLUSION

Lack of transparency in the commercial banking sector remains a critical issue, and one in which the private sector banks are lagging behind their public sector counterparts, the multilateral development banks and export credit agencies. Developing a specific disclosure policy which sets out the requirements for disclosure for their clients is urgently needed.

Ratings:

(2): Equator Principle Banks
(0): All other banks

Summary Chart for Transparency and Reporting Standards		
Standard	**Origin**	**Examples of Adoption**
Draft and final environmental and social assessments	Aarhus	World Bank Group
Draft and final Environmental management plans	Aarhus	IFC Draft Performance Standards (Final Action Plans)
Environmental and social loan covenants		IBRD/IDA
Material payments and royalties	EITI	IFC Draft Performance Standards (limited)
Foreign investment contracts	EIR	IFC Draft Performance Standards (limited)

13. ENVIRONMENTAL AND SOCIAL MANAGEMENT SYSTEMS

A. Why a policy on environmental and social management is important

Establishing an effective management system is perhaps the most important challenge of addressing environmental and social risks and impacts for all corporations. The environmental and social (E&S) management system is the institutional and policy basis for implementing all other policies. Some elements of a comprehensive and effective E&S management system must be reflected in policies, but other elements reflect institutional structures or operations that extend beyond what can be put in a written policy. The policy is a necessary, but not sufficient, step for implementing a strong management system.

B. Best international standards

Elements of an effective E&S management system have been identified in a number of international instruments and multi-stakeholder processes, including the OECD Multinational Enterprise Guidelines and the World Commission on Dams.[188] The International Standards Organisation has also developed ISO 14001, the commonly-used standard for environmental management systems (ISO 14001).

The following principles, derived from international best standards, should animate and guide the development of an E&S management system:

1. Adoption of a rights-based approach. The E&S management system should reflect a rights-based approach to environmental and social issues, including economic, social, cultural, political and civil rights as covered in UN conventions, as well as the rights of workers and indigenous people.[189]

2. Adoption of a precautionary approach. Precaution is now a well-established principle of environmental governance: it is prominent in numerous law, policy and management instruments at national and international levels.[190] According to the Rio Declaration, the Precautionary Principle requires that where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.[191] This means that banks should avoid funding projects that have the potential for disproportionate and irreversible impacts, at least until more certainty regarding those impacts can be achieved. And where the project may have less severe but still uncertain impacts, the bank should treat the project as if it falls into the higher category of risk and impacts.

3. Exclusion of harmful activities. A bank's refusal to support activities with unacceptable impacts is critical to improving the overall sustainability of its portfolio. Banks should be upfront and clear about the types of activities that do not meet their minimum expectations for sustainability, and inform their stakeholders of these threshold requirements by means of an exclusion list. Banks should initially adopt the IFC's Exclusion List and supplement it with other types of projects that fail to meet international standards and best practice. This expanded list should include, for example, projects in or impacting upon World Heritage Sites, IUCN I-IV areas, critical habitats for species on the IUCN Red list, and recognised Marine Protected Areas; projects involving the use or production of persistent organic pollutants; riverine or shallow submarine tailings disposals for mining wastes; aquaculture that converts coastal mangrove areas; and projects that harm significant coral reef systems. A complete list of projects that should be excluded in the initial bank screening is provided in Annex 4.

4. Ensuring a participatory decision-making process. Banks should establish clear requirements and benchmarks for an informed and participatory decision-making process by their clients. This should include requiring the client to release the information identified in the transparency policy (see Part II.12. above). Affected communities should have the right to be fully informed from the early stages of project development, and to participate freely and safely throughout all stages of development. Timelines should allow for local involvement and community input.

Those consulted should include all members of society – not least those often marginalised such as indigenous people, women and the elderly. Finally, public acceptance of key decisions is essential. The project should not proceed without the demonstrable agreement of affected people, and the free, prior and informed consent of affected indigenous people.[192] Any decision to change the project must require additional consultation with, and acceptance by, the affected community. As part of the bank's due diligence, it should independently verify the adequacy and completeness of the participation process and of the community's consent.

In later stages, affected communities should be integrated into the monitoring system by being provided with copies of all monitoring reports and by being solicited for their input and information.

5. Benefit sharing. The concept of fairness and benefit sharing is recognised in many international norms, including the World Commission on Dams guidelines and the Aarhus Convention, and should be embedded in a bank's E&S management system. As part of its due diligence, the bank should ensure that the project provides appropriate benefits to any affected local communities. Agreements between the company and those communities should be provided to the bank and covenanted to loan agreements. The bank should make clear that material violations of the agreement by the client will be considered a default of the financial agreement with the bank.

6. Fostering sustainability and continuous improvement. A key element of an ISO 14001-certified environmental management system is the commitment to "continuous improvement." Moving the portfolio towards environmentally and socially sustainable practices and projects is fundamental. Banks must proactively support sustainable practices that improve environmental and social conditions, including for example, shifting energy investments away from fossil fuels to renewables; the capitalisation of sustainable enterprises; programmes for discounting loans for energy reduction; investments in independently certified sustainable forestry, agriculture, fishing or similar resource- or commodity-related activities; and clean technology investment funds.

7. Exercising leadership in the sphere of influence. International business organisations, from the World Business Council on Sustainable Development to Business for Social Responsibility, recognise that the notion of corporate social responsibility extends throughout a firm's sphere of influence beyond the activities and operations of the company itself to its suppliers and clients. Thus banks should, and should require their clients to, require effective environmental and social management from their suppliers. They should also exercise independent due diligence to ensure that inputs purchased or received from others do not violate their own environmental and social policies is a necessary principle for sustainability.

Banks committed to sustainable finance must also exercise leadership in the sector and in society generally. In addition, they must assert their leadership through the syndications or arrangements with other banks that have yet to join the sustainable finance movement. This will be increasingly important over time as banks from China or other developing countries that have little experience of sustainable finance become increasingly important players on the international stage. Finally, to be recognised leaders in sustainable finance the banks must also

ensure that they do not use their political influence to circumvent or undermine the development of regulatory and other approaches to sustainable development.[193]

C. Application to the banking sector

Like all corporations concerned with sustainability, banks must have their own management system in place, based on the elements identified above, to provide a basis for a strong bank-wide sustainability programme. They must also exercise their own due diligence to ensure their clients have adopted E&S management systems that include these basic elements. In this way, banks can gain confidence that the policy commitments of their clients (and the commitments they have made in their financial covenants with the banks) are more likely to be effectively implemented.

The following is a list of 10 common elements of a comprehensive E&S management system:

1. An initial environmental and social review to determine key environmental and social exposures, impacts and risks;
2. an environmental and social policy that sets the bank's overall approach and issue-specific policies to address its portfolio;
3. annual action plans;
4. committed organisational structure which includes staffing, oversight and compensation matters;
5. environmental and social procedures and standards for transactions, including deal-level transparency, consultation and compliance procedures;
6. documentation, including that required to facilitate implementation audits;
7. internal information and training;
8. external reporting, verification and consultation;
9. compliance monitoring of the E&S management system and corrective action; and
10. management review and improvement (feeding back into the cycle and informing annual action plans).

Simply having each of the 10 components in an E&S management system is not enough to ensure sustainability; the following are some strong characteristics of a Management System:

1. Independence. Independence is a key characteristic that should inform various aspects of an E&S management system. For example, while environmental assessment is primarily the responsibility of the client, banks have a parallel responsibility independently to assess the adequacy of the client's environmental and social due diligence. Similarly, an effective monitoring system for projects requires information to be provided regularly and reported by an independent third party.

2. Independence, rigorous accountability and compliance oversight. The efficacy of any E&S management system rests on compliance and implementation and thus on establishing a comprehensive compliance mechanism, both for transactions and the bank's overall E&S management system. Banks should therefore adopt, and require their clients to adopt, mechanisms that ensure effective compliance for transactions. This means establishing independent mechanisms for ensuring that their policies are well implemented, that important environmental and social conditions of investments are being met, and that the activities they finance are not causing significant adverse impacts. This should include internal audit systems

and corrective protocols, and independent grievance mechanisms that enable affected people to raise compliance concerns.

In addition, there must be annual reviews of the E&S management system itself to identify and correct problems and enable organisational learning and continuous improvement. This might include opportunities to establish annual goals, expand board-level oversight, and ensure appropriate levels of staffing and responsibility.

3. Comprehensive understanding of sustainability impacts. Banks must understand their own sustainability impacts on the transaction, as well as at the portfolio level. For example, comprehensive environmental and social assessment is the baseline for virtually all other steps in implementing sustainability. At a minimum, every assessment must include provision of baseline data, assessment of all impacts including cumulative, transboundary and indirect impacts, a full options assessment and evaluation of all alternatives, including those with lesser environmental and social risks. Related to this, banks will also need to begin measuring the environmental and social impacts of their portfolio in all of their core business areas.

4. Creating a culture of sustainability. Banks should strive to create a culture of sustainability. For example, they should develop a systematic approach to training and rewarding employees, so that over time the company reinforces a strong management culture of sustainability. Each bank should, and should require its clients to, develop and implement an effective training programme for relevant staff. Staff incentives should be adjusted to ensure rewards for decisions that promote environmental and social sustainability, even if that means that some financially attractive opportunities are delayed or dropped

D. Assessing bank performance

The Equator Banks have adopted an initial framework for an environmental and social management system. The Principles and the underlying IFC safeguard policies require banks to screen projects and categorise them according to their environmental and social risk. The clients are also required to provide environmental assessments that address to the bank's satisfaction any adverse environmental and social issues. For projects with significant adverse impacts, clients will be required to consult affected communities, develop an environmental management plan, and report regularly on compliance with the plan.

The Equator Principles are relatively vague and general. They apply only to project finance where the total capital cost exceeds US$50 million. More generally, the Principles emphasise assessment and mitigation of harm, rather than an integrated proactive approach to sustainability. For this reason, an environmental and social management system based only on the Equator Principles warrants a (1).
Unfortunately, we could not determine to what extent the various banks have developed E&S management systems beyond what is reflected in the Equator Principles. Many elements of the banks' internal E&S management systems were impossible to evaluate, given the lack of information about implementation. We have anecdotal evidence that some banks have implemented significant portions of an effective E&S management system, but we are unable to rate them either individually or collectively. The need for greater transparency with respect to implementation is discussed further in Part IV.

Many banks claim a leadership role in sustainability, but actual leadership is hard to discern. This report has identified some examples of banks taking a proactive leadership role in sustainability – for example HSBC's role in achieving carbon neutrality and Rabobank's role in supporting the Responsible Commodities Initiative. These and other examples are set out in previous sections.

Rating

(1): Equator Principle Banks
(0): Other banks

Summary Chart of Standards on Environmental & Social Management Systems		
Standard	**Origin**	**Examples of Adoption**
Require E&S assessment		Equator Principles
Independence: Independent review of assessments		Equator Principles
Exclusions list	Various international instruments	IFC; OPIC
Requiring participatory decision-making	Aarhus Convention	Equator Principles (limited)
Ensuring community benefits		
Culture of Sustainability: Training and rewarding staff		Unclear from information available.
Rigorous Accountability: Ensuring internal compliance monitoring		Unclear from information available.
Rigorous Accountability: Establishing external accountability or dispute resolution mechanisms		World Bank; EBRD; AsDB; IDB; IFC; Japan Bank for International Cooperation; OPIC; Export Development Canada
Sphere of Influence: Requiring clients and suppliers to have an E&S management system with the above elements		Equator Principles (limited)

III. OVERALL POLICY FINDINGS

A. The banking sector's environmental and social policies

As this review demonstrates, a growing number of banks are developing sector-specific policies that apply to transactions. Some policies were developed prior to the Equator Principles, while others were developed in part as a response to the Principles and thus reflect the Principles' inherent limitations. The increasing development, scope and diversity of policies is welcome and provides significant promise for stronger policy frameworks in the future.

As our analysis indicates, with few exceptions bank policies are lagging significantly behind relevant international standards and best practices. Table 1 provides a summary of all ratings for each bank across each of the 13 policies analysed. The average numerical grades can be translated into a letter grade according to the following scale:

0.00 to 0.50	**E**	**2.26 to 2.50**	**C+**
0.51 to 0.75	**D-**	**2.51 to 2.75**	**B-**
0.76 to 1.25	**D**	**2.76 to 3.25**	**B**
1.26 to 1.50	**D+**	**3.26 to 3.50**	**B+**
1.51 to 1.75	**C-**	**3.51 to 3.75**	**A-**
1.76 to 2.25	**C**	**3.76 to 4.00**	**A**

The highest overall average score, achieved by ABN AMRO and HSBC Group, was a 1.31, which if translated to a letter grade is a D+.

Banks that have adopted the Equator Principles, but have not supplemented the Principles with other policies, received a score of only 0.46 (E). Moreover, even where banks have adopted specific policies, they are frequently vague and aspirational. And in only two cases – Rabobank's adoption of the UN Draft Norms on Human Rights and HSBC's adoption of the World Commission on Dams standards – has any bank adopted policies that meet most or all of the relevant international standards or best practices.

Table 1: Summary of Policy Ratings

Bank	**Human rights**	**Labour**	**Indigenous people**	**Climate and energy**	**Dams**	**Biodiversity**	**Forests**	**Fisheries**	**Agriculture**	**Extractive Industries**	**Chemicals**	**Transparency**	**E&S management**	**Average Score and Letter Grade**
ABN AMRO	3	1	1	1	2	1	3	0	0	2	0	2	1	1.31 (D+)
Banco Bradesco	0	0	1	0	2	0	0	0	0	0	0	2	1	0.46 (E)
Banco de Brasil	0	1	1	0	2	0	0	0	0	0	0	2	1	0.54 (D-)
Banco Itaú	0	0	1	0	2	0	0	0	0	0	0	2	1	0.46 (E)
Barclays	1	0	1	1	2	0	1	0	0	1	0	2	1	0.77 (D)
BBVA	0	1	1	0	2	0	0	0	0	0	0	2	1	0.54 (D-)
BNDES	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00 (E)
BNP Paribas	0	1	0	0	0	0	0	0	0	0	0	0	0	0.08 (E)
Bank of America	0	0	1	3	2	0	2	0	0	0	0	2	1	0.85 (D)
Calyon	0	0	1	0	2	0	0	0	0	0	0	2	1	0.46 (E)
CIBC	0	0	1	0	2	0	0	0	0	0	0	2	1	0.46 (E)
Citigroup	0	3	1	2	2	0	2	0	0	0	0	2	1	1.00 (D)
Credit Suisse Group	0	1	1		2	0	0	0	0	0	0	2	1	0.54 (D-)
Deutsche Bank	0	1	0	0	0	0	0	0	0	0	0	0	0	0.08 (E)

Dexia	0	1	1	0	2	0	0	0	0	0	0	2	1	0.54 (D-)
Dresdner Bank	0	1	1	0	2	0	0	0	0	0	0	2	1	0.54 (D-)
HBOS	1	0	0	0	0	0	0	0	0	0	0	0	0	0.08 (E)
HSBC Group	0	1	1	1	4	2	3	0	0	0	2	2	1	1.31 (D+)
HVB Group	0	0	1	1	2	0	0	0	0	0	0	2	1	0.54 (D-)
ING Group	1	0	1	0	2	0	1	0	0	0	0	2	1	0.62 (D-)
JP Morgan Chase	0	1	3	3	2	1	2	0	0	1	0	2	1	1.23 (D)
KBC	0	1	1	0	2	0	0	0	0	0	0	2	1	0.54 (E)
Korean Dev. Bank	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00 (E)
Manulife	0	0	1	0	2	0	0	0	0	0	0	2	1	0.46 (E)
MCC	0	0	1	0	2	0	0	0	0	0	0	2	1	0.46 (E)
Bank of Tokyo-Mitsubishi	0	0	0	1	0	0	0	0	0	0	0	0	0	0.08 (E)
Mizuho Financial Group	0	0	1	0	2	0	0	0	0	0	0	2	1	0.46 (E)
Rabobank Group	4	3	1	0	2	0	2	0	0	0	0	2	1	1.15 (D)
Royal Bank of Canada	0	0	1	0	2	0	0	0	0	0	0	2	1	0.46 (E)
Royal Bank of Scotland	0	1	1	0	2	0	0	0	0	0	0	2	1	0.54 (D-)
Scotia Bank	0	0	1	1	2	0	0	0	0	0	0	2	1	0.54 (D-)
Société Général	1	1	0	0	0	0	0	0	0	0	0	0	0	0.15 (E)
Standard Chartered Bank	1	0	1	0	2	0	0	0	0	0	0	2	1	0.54 (D-)
Sumitomo Mitsui Financial Group	0	0	0	0	0	0	0	0	0	0	0	0	0	0.00 (E)
UBS	0	1	0	0	0	0	0	0	0	0	0	0	0	0.08 (E)
Unibanco	0	0	1	0	2	0	0	0	0	0	0	2	1	0.46 (E)
Wells Fargo	0	0	1	0	2	0	0	0	0	0	0	2	1	0.46 (E)
West LB	0	0	1	0	2	0	0	0	0	0	0	2	1	0.46 (E)
Westpac	3	1	1	0	2	0	0	0	0	0	0	2	1	0.77 (D-)

Generally speaking, the Asian banks scored low, as did the French banks. Specific policies have been adopted by at least one bank in 10 of the 13 categories, the only exceptions being fisheries, agriculture and transparency. ABN AMRO scored points in the most categories (9 of 13). Seventeen have labour-related policies (including 15 that have adopted the Global Compact). Eight banks have adopted human rights policies, and eight have specific climate change policies. Seven have specific forest policies, five have policies relating to indigenous people and three have policies on biodiversity. Only one bank has a policy specifically for dams (HSBC), extractives (ABN AMRO) and chemicals (HSBC).

B. Moving beyond project finance to bank-wide policies

Many of the banks considered in this study only apply their environmental and social policies to traditional project finance transactions. This includes those banks that have adopted, but not gone beyond, the Equator Principles. Project finance is an obvious starting point for a bank to improve the environmental and social sustainability of its portfolio. But it is *only* a starting point: sustainable financing ultimately requires attention to the environmental and social impacts of all financial operations. Many other types of client support can have substantial environmental and social impacts. At the end of the day, the scale of the impact, not the nature or size of the transaction, should dictate whether a policy response is appropriate. Moreover, from the banks' perspective, other financial products may also entail significant financial, credit and reputational risks associated with environmental and social performance. Ultimately, then, banks should have E&S policies and management systems that are tailored to the imperatives and impacts of the full range of their operations.

It is true that policy-based responses may well be more difficult to develop and apply to some investment and financing arrangements than to others. Still, there are a number of clear opportunities to expand E&S policies beyond the narrow parameters currently applied by many of the banks.

First, current policies should be applied fully to all project finance deals. Thus, for the Equator Banks, the US$50 million threshold should be abandoned. It is arbitrary and does not adequately reflect that projects of less than US$50 million can cause substantial or irreparable harm, especially in developing countries. Some banks assessed in this report have already begun to apply at least some E&S policies to smaller-scale projects. For example, several Equator Banks – such as ABN-AMRO, Banco-Itau, Barclays, HSBC, HVB, JPMorganChase, KBC, Mizuho, RBC, Unibanco and Westpac – have agreed to apply their policies to projects below the Equator Principles' US$50 million threshold. Some banks, such as ABN AMRO, apply the Principles to all projects while others, such as JPMorganChase, have lowered the threshold to US$10 million for projects in certain environmentally sensitive sectors. Still others, such as HSBC and Barclays, apply the Principles to projects below US$50 million on a case-by-case basis.

Second, and of more importance, banks should apply their policies to all kinds of project-related support, including arranging, advisory services, equity interests, export finance, corporate loans and insurance.[194] Some banks, including ABN-AMRO, Barclays, Citigroup, HSBC, HVB, JPMorganChase, KBC, Mizuho, Standard Chartered, Unibanco and West LB, have begun to apply the Principles to a wider range of services. For example, HSBC applies its basic policy to "project advisory roles, corporate lending where the end use of proceeds is for a project, and to other forms of financial assistance such as bonding and guarantees directly linked to projects". Similarly, Citigroup applies a policy derived from the Principles to corporate loans and debt securities underwriting where the specific use of proceeds is known. JPMorganChase applies its basic environmental and social policy to all loans, debt and equity underwriting, financial advisories and project-linked derivative transactions where the use of proceeds is designated for potentially damaging projects.

Third, banks should develop policy-based analysis to address the environmental and social risks of other types of transactions. These policies should ensure that the appropriate level of due

diligence, stakeholder consultation and assessment is conducted, based on the particular risks of the transaction.[195] For example, client assessment tools and sector-specific policies should be adopted for corporate loans or bond issues for companies that operate in high-risk sectors such as forestry, extractive industries, chemicals or dams.[196] To this end, HSBC has developed sector guidelines for those industries it considers to have potentially high environmental and social risks. HSBC's forests and chemicals policies apply to all facilities and other forms of client assistance, including any involvement in debt and equity markets activities and advisory roles. ABN AMRO and BBVA have developed diagnostic tools to evaluate the extent to which clients in certain sectors apply sound environmental and social risk management practices, regardless of what type of assistance the client is seeking.

C. Conclusions

The environmental and social policies described in this report provide a comprehensive framework for promoting sustainability at commercial banks. Proposed standards go far beyond the IFC framework that underlies the Equator Principles, both in terms of existing and proposed standards. Bank policies should reflect the international standards laid out in this report and should be updated regularly to keep pace with evolving international norms. Every bank must prioritise the establishment of its own policies to reflect its specific portfolios. Not every bank will need to develop a policy reflecting best practice for investments in extractives or agriculture – for example, if they do not provide financial support for these sectors.

Finally, the revision of the IFC's safeguard policy framework provides a significant opportunity to address the gaps and weaknesses in the current Equator Principles. Unfortunately, only a small minority of Equator Banks have taken steps to adopt additional standards, and only in rare instances have banks adopted supplemental policies that meet international norms and best practice. Before adopting the IFC's new Performance Standards system, the Equator Banks should carefully compare its provisions with the international standards and best practice set forth in this report, and augment the IFC's system with whatever additional policies are necessary to meet these requirements.

IV. ASSESSING IMPLEMENTATION BY THE BANKING SECTOR

While it is important to evaluate the substance of the environmental and social policies of these banks, it is far more important to assess their consequences. All stakeholders agree that the true test of these policies is how they affect operations in the real world – that is, how the banks are implementing them in practice.

Unfortunately, given the near total lack of publicly available information on implementation, it is all but impossible to make qualitative judgments about how the banks are performing in terms of implementing their E&S management systems. While some banks do report limited amounts of aggregated information about the application of their policies, none provides adequate information to allow outside observers to evaluate how effectively they are implementing their environmental and social commitments. This is a major failing in the current approach of all the banks; without such transparency, even the more progressive banks leave themselves vulnerable to charges of "greenwash".

Because information about systems or practices for implementation is not routinely disclosed, the public can only assess performance based on sparse anecdotal evidence. Thus, on the one

hand, we know that many banks have made significant efforts to implement their policies in good faith. But on the other hand, we also know that even banks with relatively strong policies are still supporting high profile projects that have unacceptable environmental or social impacts. In the absence of any evidence of how the policies are routinely applied, it is impossible to discern whether this disconnection between the requirements of the policies and the way that they are sometimes implemented is aberrational or standard operating procedure. As a result, a sceptical public is likely to judge banks' performance on the basis of their least admirable projects. Over time, this can only erode the credibility of all banks committed to sustainable finance.

To ensure better implementation and to instill confidence in external stakeholders, banks need to address two main issues related to their E&S management systems: increased transparency in reporting on their implementation, and adoption of a strong compliance monitoring and accountability system.

A. Transparency of implementation

In order for outside stakeholders to be confident that the banking sector's policy pronouncements are more than just rhetoric, banks should urgently adopt a reporting framework that shows – rather than merely suggests – that they are implementing their policies in ways that make a meaningful difference to people and the planet. We suggest that banks issue annual sustainability reports in accordance with the Global Reporting Initiative, particularly the emerging Financial Services Sector Supplement. This reporting format is presently in draft form but as it is finalised, and as technical protocols and implementation guides are developed, it will provide a comprehensive reporting framework for banks and stakeholders alike.

The outlines of this disclosure framework can be sketched in advance of the GRI completing its work. At the corporate level, this would include reporting on the performance and sustainability impact of its financial decisions through an annual sustainability report. Such a report would include the number of projects rejected on environmental and social concerns, information about loans suspended or called in due to non-compliance with environmental and social requirements, a breakdown of core business activities by sector and region, and an assessment of implementation of E&S policies and management systems. Banks should disclose information about project transactions and the categorisation of projects, and require the client to disclose draft and final assessments as well as management/action plans.

Given that the banks offer varying levels of information on implementation, we recommend that they adopt a standardised approach (through the GRI or otherwise) by describing the following in their annual sustainability report:

- The scope and scale of their business to which their environmental and social policies apply;
- internal guidelines and processes for developing and applying the policies;
- internal structures and processes for assessing the environmental and social impacts of proposed project transactions, including a description of the level of management that is responsible for compliance, and the internal lines of reporting and accountability;
- the process for evaluating the client's past record, commitment to sustainability, and capacity for addressing the expected impacts;
- actions taken to ensure that staff, procedure and internal control structures have capacity to implement the E&S management system, including specifically budget information and information about staff training programmes;

- mechanisms to ensure an independent, comprehensive and substantive review of all technical documents, including assessments and management/action plans, as well as the adequacy of public consultation and acceptance in the project development process;
- systems for determining the borrower's compliance with the management/action plan, including the reporting process relating to loan covenants, and the approach to taking corrective action; and
- specific instances of material non-compliance with the EMP, including the nature of the non-compliance, action taken to rectify it, whether that action has been successful and, if not, what further action (including the calling-in of loans) has been taken. [197]

B. Compliance and accountability of bank operations

Implementation will require a robust system for resolving disputes and ensuring compliance. In addition to requiring their clients to adopt independent, objective and responsive grievance mechanisms at the project level (as discussed in the section on Environmental and Social Management Systems), the banks must establish a system for ensuring that their policies are implemented on the ground, that important environmental and social conditions of investments are being met, that the activities they finance are not causing significant adverse impacts, and that the banks have a mechanism for hearing concerns from affected communities unfiltered through their clients. Such a mechanism should include at least three elements:

1. INTERNAL COMPLIANCE SYSTEM. A compliance system should include an independent audit function to ensure that the bank and its clients are complying with the standards. It should also include clear provisions that the management plan, including the negotiated settlement agreement between the client and the community, is a covenanted part of the loan agreement.

2. INDEPENDENT ACCOUNTABILITY MECHANISM.[198] The banking sector needs a mechanism to ensure that its activities, and the activities it supports financially, can be held accountable by people who are affected. Such people need a forum where they can raise their concerns over policy implementation and the impacts of the resulting project or activities.

Such accountability mechanisms now exist at many international financial institutions including the World Bank (IDA/IBRD), the IFC and MIGA, regional development banks for Europe, Asia and the Americas, and export credit or risk insurance agencies in Canada, Japan and the United States. Although they vary, each mechanisms is designed to ensure compliance with E&S policies by allowing the concerns of affected people to be heard at the highest management levels. Some mechanisms (including, for example the IFC/MIGA's Compliance Adviser and Ombudsman) also try to use the leverage of the financial institution to help project-affected people resolve their concerns.

To meet the standards set by the mechanisms at the international financial institutions, the commercial banks should ensure that any accountability mechanism they create meets the following criteria:

- The process must be independent of bank financial operations;
- it must be transparent and include publication of all compliance reports and other findings;
- it must at the very least be accessible to project-affected communities and their representatives; and

- it must have the resources and authority to be fair, objective, responsive and effective in reviewing project compliance and in responding to the concerns of the affected community.

3. ENFORCEMENT SYSTEM. The banks should ensure that their environmental and social commitments are reflected in legally binding agreements by all clients as material aspects of the underlying financial agreements. Banks should not enter into any agreement with a client if they do not agree to meet the conditions of the bank's environmental and social policies and all the terms of the E&S management plan, which should be included as a legally binding covenant in the agreement. Violations of this agreement should be grounds for default and termination of the contract if unresolved.

It is of crucial importance that the enforcement of environmental and social conditions in the financial agreements should involve locally affected people. The banks should establish mechanisms, included in the financial agreement, that provide for the participation of affected people. The banks should identify a process (for example, an ombudsman) for receiving information from locally affected people about material violations of the financial agreements. That information should be considered by the bank in enforcing the loan conditions. In addition, affected people should be able to bring third-party complaints regarding the behaviour of either the bank or its clients under the dispute resolution procedures of the financial agreement.

Box 7: Equator Principle Banks and Accountability

Without doubt, there are different types of Equator Banks – the leaders and the laggards. Too many banks have adopted the Equator Principles without a commitment to putting them into practice, establishing a management system or developing their own policies. This problem must be addressed urgently because the credibility and value of the Equator Principle Initiative is at risk. We recommend that banks be given two years to meet the spirit and expectations of the Principles, after which their membership should be revoked. Measurements for evaluating effective adoption of the Principles should be developed jointly and include NGOs, and require transparent reporting on implementation.

Because of the joint nature of the commitment to the Principles, the Equator Banks should agree to take a coordinated approach to accountability in order to ensure greater adherence to their joint commitments and to improve implementation for affected people. The Equator Banks could establish a joint accountability mechanism, independent of any one bank. This could be funded collectively through a revolving fund which reflects each Equator Bank's size. Having only one mechanism would reduce confusion and be more easily understood by project-affected people. A joint mechanism would also be less costly, promote clear, coherent and consistent application of the Equator Principles and be perceived as more independent and objective than mechanisms beholden to any one bank.

V. CONCLUSIONS

There have been welcome improvements in recent years, with banks recognising the need to develop increasingly stronger and comprehensive environmental and social policies. So far, the approach has been somewhat ad hoc and limited to a relatively small number of banks. A larger number of banks have adopted the Equator Principles and linked themselves with IFC safeguard policies, but it is unclear how many of these banks are taking the requirements at all seriously.

However, the absence of any systematic and credible way to monitor implementation efforts from the outside is a critical conclusion of this report. Annual sustainability reports are varied and not necessarily objective in their presentation of the banks' efforts. Other information available to the public – particularly the participation of various banks in environmentally and socially suspect projects – raises serious concerns over implementation. ABN AMRO's agreement to support the Sakhalin II oil and gas project is just the latest in a series of problem projects.

Even those banks that have announced quite detailed policies are keeping the details of implementation to themselves. We know from personal discussions or through the grapevine that some banks have begun to implement serious environmental and social risk management systems, but there is no way to evaluate these systems from the outside. As we have moved from a "tell me" to a "show me" and "prove it" world, this is not good enough for the banks to carry the mantle of sustainability.

The advent of the Equator Principles was a welcome first step in the discussion – but *only* a first step. The Principles do not provide an adequate policy basis for E&S risk management, as

evidenced by the welcome adoption of more detailed policies by individual banks and by the broad revisions being undertaken by the IFC to the policies that underlie the Principles.

As the Equator Banks prepare for and respond to the IFC's new standards, they should update and revise their overall framework to reflect the elements of an E&S management system noted above, including establishing an internal compliance system, a shared external accountability mechanism, clearer requirements for informed and participatory consultation, including benefit sharing and negotiated settlements for communities and a transparency and disclosure policy identifying both what is required of the banks *and* their clients to disclose. The banks should abolish the arbitrary US$50 million level and a robust, policy-based environmental and social risk management system should be applied to all financial transactions, depending on the nature of the impact.

As the IFC finalises and adopts its new Performance Standards system, the banking sector should address weaknesses and gaps in this new approach. Banks should continue to develop their own policies which reflect their own priorities and practices in the area of sustainable development. Individual bank policies should be based on international best practice, including (but not limited to) what is reflected in the IFC's Performance Standards. Deficiencies in the IFC approach are already apparent – for example with respect to human rights, climate change, biodiversity protection and illegal logging.

More transparency and dialogue with civil society will be important if those banks committed to environmental and social risk management are to distance themselves from others in the industry who are not so committed. Not only have some banks signed on to the Equator Principles with little or no additional change in their policies or practice, but many banks, particularly in developing countries such as China, India and Malaysia, are emerging as major players in developing country finance. They have yet to express any commitment to environmental and social sustainability, and there is an increasing risk that they will bottom-feed on those projects and transactions that would not otherwise receive support from any banks with even minimal environmental and social sustainability criteria. Industry leaders must use their influence, through syndicates and the interlocking ownership found in the industry, to ensure that the entire banking sector begins to reflect sustainability policies and practice.

In conclusion, while some industry leaders have begun to infuse their operations with broad-based commitments to sustainability, they still have far to go to meet international standards and best practices – as does the rest of the industry. If it is to serve as a reliable, effective and profitable catalyst for sustainable development, the financial industry must not only adopt strong and comprehensive policies, but it must also put into place comprehensive risk management systems that ensure rigorous implementation of the policies. Present policy development is still too embryonic, and information about implementation too guarded, for us to determine whether the banking industry has crossed the threshold into a promising new era of green finance – or merely refined the discredited old tools of greenwash.

ANNEX I: TOP BANKS RANKED BY VOLUME OF PROJECT FINANCE AND TIER ONE CAPITAL

Top Ten Project Finance Banks 2004

Bank	Equator/Non-Equator Bank	Volume of Projects (US$ billions)
BNP Paribas	Non-Equator Bank	5.1
Citigroup	Equator Bank	4.8
Barclays	Equator Bank	4.7
Royal Bank of Scotland	Equator Bank	4.1
Credit Suisse	Equator Bank	3.6
Société Général	Non-Equator Bank	3.5
Korea Development Bank	Non-Equator Bank	3.1
Calyon	Equator Bank	2.9
Sumitomo Mitsui Banking Group	Non-Equator Bank	2.8
ABN AMRO	Equator Bank	2.6

Source: Dealogic

Top 12 Tier One Capital

BANK	COUNTRY	US$MILLIONS 2004	RANK: 2004	RANK: 2003	RANK: 2002
CITIGROUP	USA	66,871	1	1	1
CREDIT AGRICOLE GROUPE	FRANCE	55,435	2	5	7
HSBC HOLDINGS	UK	54,863	3	3	5
BANK OF AMERICA CORP	USA	44,050	4	2*	2*
JP MORGAN CHASE	USA	43,167	5	4*	4*
MIZUHO FINANCIAL GROUP	JAPAN	37,786	6	6	3
MITSUBISHI TOKYO FINANCIAL GROUP	JAPAN	37,003	7	N/A	N/A
ROYAL BANK OF SCOTLAND	UK	34,623	8	7	13
SUMITOMO MITSUI FINANCIAL GROUP	JAPAN	34,244	9	8	6
BNP PARIBAS	FRANCE	32,458	10	10	15
HBOS	UK	29,349	11	12	19
DEUTSCHE BANK	GERMANY	27,303	12	12	12

Source: The Banker
* pre-merger

ANNEX 2: THE EQUATOR PRINCIPLES AND IFC PERFORMANCE STANDARDS

In 2003, 10 of the largest commercial banks in the world agreed to the so-called Equator Principles – a common set of policies for financial institutions to determine, assess and manage environmental and social risks in project finance. By the end of 2005, 37 of the world's largest private financial institutions had signed on to the Principles.

The Principles set out an overall framework for banks to review and evaluate environmental and social impacts and risks, to reduce and mitigate those risks, and to ensure that the borrower is meeting the terms of the agreement. The Equator Principles' overall framework is based on the environmental and social Safeguard Policies,[199] pollution standards[200] and environmental and social risk categorisation system of the International Finance Corporation (IFC) – the private sector arm of the World Bank Group. Signatories to the Principles are also expected to adopt their own internal policies, procedures and management systems for implementing the framework.

The centrepiece of the Equator Principles approach is its environmental assessment requirements. Projects are classified as Category A, B or C (high, medium or low environmental or social risk). For all Category A and Category B projects, a borrower must carry out an environmental impact assessment (EIA), which addresses the environmental and social issues identified in the categorisation process.

The EIA must demonstrate that the project complies with host country laws, regulations applicable to the project, and World Bank Group Pollution Guidelines for the relevant industry sector. For projects in low and middle income countries (listed in a World Bank database), the EIA must also address the relevant Safeguard Policy, including issues such as natural habitats, indigenous people, involuntary resettlement, forestry and cultural property.

For all Category A and some Category B projects, the borrower or a third party expert must prepare an Environmental Management Plan (EMP) which addresses mitigation and monitoring of environmental and social impacts. For these projects, the bank must be satisfied that the borrower has carried out a public consultation process among groups affected by the project. The terms of the EMP will be covenanted, and the bank will work with the borrower to ensure compliance.

The content of the Equator Principles is expected to be substantially revised to account for revisions in the IFC's policy framework. In 2004, the IFC began overhauling its environmental and social policies and procedures. This revision process was shaped in part by a review by the IFC's Compliance Adviser/Ombudsman (CAO), which criticised the IFC for falling behind best practice in some areas, particularly in addressing social impacts.

The CAO report also called for significant improvements in internal IFC procedures for compliance, oversight and supervision of projects, and challenged the IFC to review more effectively the capacity and commitment of its clients in meeting environmental and social standards.

The IFC's proposed policies introduce eight new "Performance Standards" applicable to the client, and an environmental and social policy applicable to IFC staff. The latest publicly

available draft (December 2005) is controversial for failing to articulate clear minimum standards of client performance, introducing substantial degrees of discretion for IFC approval of projects, refusing to reflect international legal standards and, in some instances, weakening existing policies.

The IFC is expected to finalise its new policies in early 2006, at which time the signatories to the Equator Principles will have to decide how to incorporate the changes. For the reasons stated above, the revised policies are unlikely to reflect best practice in most substantive areas. They should thus be viewed as a minimum set of standards upon which the Equator Banks can build a stronger and more comprehensive environmental and social framework that reflects best practice and international standards.

ANNEX 3: BIBLIOGRAPHY OF SOURCES FOR INTERNATIONAL STANDARDS

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ANNEX 4: EXCLUSION LIST

As discussed in the text, a number of activities, products or production methods have been banned, prohibited or severely curtailed by international treaties or other instruments. A strong environmental and social management system would screen out these types of activities from financial support. The adoption of an "exclusion list" (see below) sends a clear message to potential clients that transactions involving these activities would not be supported.

a. Activities deemed illegal under under host country laws or regulations or international conventions and agreements;
b. production or activities involving forced labour, exploitative or harmful child labour, or discrimination in the workplace;
c. production or trade in weapons and munitions;
d. trade in wildlife or wildlife products regulated as threatened or endangered under CITES;
e. production or trade in radioactive materials;
f. production or trade in or use of unbonded asbestos fibers;
g. production or trade in products containing PCBs;
h. production or trade in pharmaceuticals subject to international phase-outs or bans;
i. production or trade in pesticides/herbicides subject to international bans or phase-outs;
j. production or trade in ozone-depleting substances subject to international phase-out;
k. fishing using drift nets in excess of 2.5km in length or any other fishing techniques banned under international law;
l. projects in or impacting on World Heritage Sites, IUCN Areas I-IV, or critical habitat for IUCN Red-Listed species;
m. projects that will significantly damage non-replicable cultural property;
n. projects involving the use or production of persistent organic pollutants regulated under the Stockholm Convention on Persistent Organic Pollutants;
o. projects involving the intentional introduction of alien species into the environment;
p. projects involving the intentional introduction of any living modified organism without the prior informed consent of the recipient country;
q. aquaculture in undisturbed coastal mangrove or wetland areas;
r. mining projects that use cyanide heap leaching to extract metals;
s. mining projects that use submarine or riverine tailings disposal to discard wastes;
t. energy sector projects that flare significant amounts of associated gas;
u. transboundary trade in hazardous wastes;

v. production or trade in any activity that risks significant transboundary environmental or social impacts without the prior informed consent of the other potentially affected country.

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[1] See www.banktrack.org.
[2] See Forum for the Future & Corporation of London, London Principles – Three Years on from Johannesburg (2005).
[3] Original banks included ABN AMRO, Barclays, Citigroup, Credit Lyonnais (now Calyon), Credit Suisse First Boston, HVB, Rabobank, Royal Bank of Scotland, West LB and Westpac.
[4] www.dealogic.com for 2003.
[5] See BankTrack's and other analyses of the Principles at www.banktrack.org.
[6] More examples of projects that gained Equator bank support despite serious social and environmental issues are described at www.banktrack.org under "our work/on projects".
[7] See, for example, F &C Asset Management and KPMG, "Banking on Human Rights," Sept. 2004; FreshFields, "The World Bank Is Not Enough", Feb. 2005; Allianz Group and WWF, "Climate Change and the Financial Sector," June 2005.
[8] A further description of the Equator Principles and the ongoing process to revise the IFC's safeguard policies is included in Annex 2.
[9] Most of the Equator banks that joined before August 2005 are included in the study. Those not included are Banco Espírito Santo Group (BES Group), BMO Financial Group and NedBank. Banco Itaú and Banco Itaú BBA were treated as one bank for the purposes of this study. The study excludes the Danish Export Credit Agency, EKF and the Dutch Development Finance Company, FMO. The non-Equator banks include BNP Paribas (ranked 10 in top tier one capital in 2004 and among top 10 global project financiers in 2004); Deutsche Bank (ranked 12 in top tier one capital in 2004); HBOS (ranked 11 in top tier one capital in 2004); Korean Development Bank (ranked among top 10 project financiers in 2004); Bank of Tokyo-Mitsubishi (ranked 7 in top tier capital in 2004), Société Général (ranked among top 10 global project financiers in 2004); Sumitomo Mitsui (ranked 9 in top tier capital and among top 10 project financiers in 2004) and UBS (ranked 18 top tier one capital in 2004).
[10] The top 10 project finance banks (by volume) and the top 12 banks by tier one capital are both listed in Annex 1.
[11] See www.banktrack.org.
[12] See UN Declaration of Human Rights, UNGA Res. 217A(III), U.N.Doc. A/810 (10 Dec 1948); the International Covenant on Civil and Political Rights, UNGA Res. 2200A(XXI) (16 Dec 1966), UN Doc. A/6316 (1966); the International Covenant on Economic, Social and Cultural Rights, UNGA Res. 2200A (XXI) (16 Dec 1966), U.N. Doc. A/6316 (1966).
[13] Amnesty International, "The UN Human Rights Norms For Business: Towards Legal Accountability", at 5 (2004); Margaret Wachenfeld, Safeguard Policy Gap Analysis, at 6.
[14] Compliance Advisor Ombudsman, Extracting Sustainable Advantage? A review of how sustainability issues have been dealt with in recent IFC & MIGA extractive industries projects, Final Report, at 36 (World Bank: Washington DC, April 2003).
[15] Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights, E/CN.4/Sub.2/2003/12/Rev.2, (2003).
[16] Commentary on the Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights, UN Doc. E/CN.4/Sub.2/2003/38/Rev. 2 (2003).
[17] Ibid.
[18] Article 1of the EBRD Charter commits the EBRD to applying the principles of democracy, which is broadly interpreted to include respect for human rights. This principle has affected EBRD's lending to Uzbekistan, Belarus and Turkmenistan.
[19] World Development Report, "Workers in an Integrating World", page 80 (World Bank:1995).
[20] Freedom of Association and Protection of the Right to Organize Convention, ILO Convention No. 87 (1948); Right to Organize and Collective Bargaining Convention, ILO Convention No. 98 (1949).
[21] Forced Labour Convention, ILO Convention No. 29 (1930); Abolition of Forced Labour Convention, ILO Convention No. 105 (1957).
[22] Minimum Age Convention, ILO Convention No. 138 (1973); Worst Forms of Child Labour Convention, ILO Convention No. 182 (1999).

[23] Discrimination (Employment and Occupation) Convention, ILO Convention No. 111 (1958); Equal Remuneration Convention, ILO Convention No. 100 (1951).
[24] ILO, Tripartite Declaration of Principles Concerning Multinational Enterprises & Social Policy, Articles 16, 18, 20 (Nov. 1977).
[25] Ibid., Article 22.
[26] Ibid., Articles 25-27.
[27] Ibid., Articles 30, 32.
[28] Ibid., Article 34.
[29] Ibid., Article 37.
[30] Ibid., Article 56.
[31] Ibid., Article 57.
[32] See FTSE4Good Index Criteria Supply Chain Labour Standards.
[33] OECD Multinational Guidelines on Enterprises, Part IV, Art. 1(2000), at www.oecd.org.
[34] OPIC incorporates core labour standards into loan agreements.
[35] ECGD adopts core labour conventions as policy.
[36] OECD Multinational Guidelines on Enterprises, Part IV, Art. 5(2000), at www.oecd.org.
[37] Ibid. at pt IV, Art. 6.
[38] Ibid. atpt IV, Art. 5.
[39] Ibid. atpt IV, Art 4.
[40] Ibid. at pt IV, Art 2.
[41] For example, Business for Social Responsibility highlights the benefits to companies in a dossier found at: www.bsr.org/CSRResources/IssueBriefDetail.cfm?DocumentID=49771#importance
[42] Draft Declaration on the Rights of Indigenous People, UN Doc. E/CN.4/Sub.2/1994/2/Add.1 (1994), Article 8.
[43] Included in Article 1 of the International Covenant of Economic, Social and Cultural Rights, www.unhchr.ch/html/menu3/b/a_cescr.htm, and the International Covenant of Civil and Political Rights. www.unhchr.ch/html/menu3/b/a_ccpr.htm.
[44] Convention) Concerning Indigenous and Tribal People in Independent Countries, ILO Convention No. 169, Article 6.2 (1989).
[45] Ibid, Article 7.1.
[46] Concluding Observations of the Committee on Economic, Social and Cultural Rights: Colombia. 30/11/2001 E/C. 12/Add. 1/74 paras 12 and 33.
[47] Commentary on Norms on the Responsibility of Transnational Corporations and other Business Enterprises with Regard to Human Rights, UN Doc. E/CN.4/Sub.2/2003/38/Rev.2 2003, para 10(c)
[48] World Commission on Dams Report, Executive Summary, First Priority www.dams.org/report/execsumm.htm
[49] InterAmerican Development Bank, Strategies and Procedures on Socio-Cultural Issues as Related to the Environment (1990) (providing that "in general the IDB will not support … projects affecting tribal lands, unless the tribal society is in agreement…)"
[50] U.N. Development Programme, UNDP and Indigenous Peoples: A Policy of Engagement (Aug. 2001).
[51] Draft Declaration on the Rights of Indigenous People, UN Doc. E/CN.4/Sub.2/1994/2/Add.1, Article 26 (1994).
[52].UN Draft Declaration on the Rights of Indigenous People, UN Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, 46th Sess., Agenda Item 15, U.N. Doc. E/CN.4/Sub.2/1994/2/Add.1 (1994). The Declaration is currently being reviewed by the Commission on Human Rights.
[53]. Convention Concerning Indigenous and Tribal People in Independent Countries, No. 169, 27 June 1989, 28 I.L.M. 1382 (entered into force 5September 1991) [hereinafter ILO Convention No. 169]. Notwithstanding that the ILO Convention No. 169 supersedes the much criticised integrationist ILO Convention No. 107, it had only attracted 17 signatory states by October 2003.
[54] Draft Declaration on the Rights of Indigenous People, UN Doc. E/CN.4/Sub.2/1994/2/Add.1, Article 26 (1994).
[55] Draft Declaration on the Rights of Indigenous People, UN Doc. E/CN.4/Sub.2/1994/2/Add.1, Articles 27-28 (1994).

[56] Convention Concerning Indigenous and Tribal Peoples in Independent Countries, ILO Convention No. 169, Articles 13-15 (1989).Convention (ILO 169) Concerning Indigenous and Tribal Peoples in Independent Countries, Articles 13-15, www.unhchr.ch/html/menu3/b/62.htm
[57] Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights on 25 June 1993, Part I, at para. 10.
[58] Draft Declaration on the Rights of Indigenous People, UN Doc. E/CN.4/Sub.2/1994/2/Add.1, Article 19-20 and 27 and 30 (1994).
[59] Ibid, Article 39.
[60] "Finding Common Ground: Indigenous Peoples and Their Association with the Mining Sector" 84 (2003).
[61] Report of the Second Meeting of the Ad Hoc, Open-Ended, Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity. UNEP/CBD/WG8J/2/6/Add.1, at 11(27 November 2001).
[62] Ibid, Article 10; see also Convention Concerning Indigenous and Tribal Peoples in Independent Countries, ILO Convention No. 169 (1989).
[63] InterAmerican Development Bank, Indigenous Peoples D Policy (Sept. 2005) (Draft).
[64] According to Rio Tinto, "in all cases, this involves ongoing consultation with local people, public authorities and others affected. We accept that this may sometimes result in our not exploring land or developing operations, even if legally permitted to do so." *The Way We Work*. London. Available online at www.riotinto.com.
[65] According to Anglo-American publications, "Wherever we operate, we seek to do so with the cooperation and informed consent of local communities. In 2002, the Anglo Exploration team wished to drill in the vicinity of Suggi Lake in Canada, a significant fish habitat, but has held off from doing so until it has addressed the concerns of the local indigenous community." See "Towards Sustainable Mining: Report to Society 2002." Available online at www.eupolitix.com/NR/rdonlyres/3940BD43-2C2C-44AF-AE69-9A71DE5FBC4E/0/sdreport.pdf.
[66] Forest Peoples Programme "A Failure of Accountability Indigenous Peoples, Human Rights and Development Agency Standards: a reference tool and comparative review," page 75 (Dec. 2003).
[67] Ibid, page 86-88.
[68] Ibid, page 79-80.
[69] See several reports on this topic, including World Resources Institute, "Framing Climate Risk in Portfolio Management" (May 2005); Investor Network on Climate Risk, "Investors Guide to Climate Risk" (July 2004); Allianz & WWF, "Climate Change and the Financial Sector: An Agenda for Action" (June 2005).
[70] AXA Insurance, "Answer to Carbon Disclosure Project Greenhouse Gas Emissions Questionnaire," April 2004.
[71] See Government of the United Kingdom, Investing in the Future, Background Paper for European Conference on Corporate Social Responsibility and the Financial Sector, at page 14 (Dec. 2005).
[72] Allianz & WWF, "Climate Change and the Financial Sector: An Agenda for Action." at page 7 (June 2005).
[73] For a review of the different climate regulations countries have introduced, see World Resources Institue & CERES, "Framing Climate Risk in Portfolio Management" (May 2005).
[74] See www.ghgprotocol.org
[75] For a full list, see www.ghgprotocol.org/templates/GHG5/layout.asp?type=p&MenuId=OTc1&doOpen=1&ClickMenu=Corporate
[76] See WWF Climate Savers, www.wwfus.org/climate/projects/climatesavers/companies.cfm; Pew Center for Climate Change, Business Environmental Leadership Program.
[77] See www.undp.org/energy/engmdgtop7env.htm
[78] Jon Sohn, Nakhooda Smita & Kevin Blaumert,. Mainstreaming Climate Change Considerations at the Multilateral Development Banks, WRI Issue Brief (July 2005).
[79] See Allianz & WWF, "Climate Change and the Financial Sector: An Agenda for Action" (June 2005).
[80] See Carbon Disclosure Project: www.cdproject.net. In 2005, the following banks included in this report supported the CDP Project: ABN-AMRO, Banco Itaú, Bank of America, Barclays, BBVA, CIBC, Credit Agricole/Calyon, Credit Suisse, Dexia, HBOS, HSBC, HVB, KBC, Mitsubishi-Tokyo, Rabobank, Royal Bank of Canada, Royal Bank of Scotland, Scotia Bank, Standard Chartered, Société Général, UBS, Wells Fargo and Westpac.
[81] See Carbon Disclosure Project 2005, 3rd Annual Report, at page 9 (Sept. 2005).

[82]See www.panda.org/about_wwf/what_we_do/climate_change/our_solutions/business_industry/finance_investment/gold_standard/index.cfm

[83] Policy Recommendations for Renewable Energy. International Conference on Renewable Energy in Bonn, at page 18 (June 2004).

[84] UN Framework Convention on Climate Change, Article 4(5) (1992).

[85] Problems remain with the terms of this agreement, in particular the inclusion of large dams in the definition of renewable energy which the OECD is currently deliberating upon.

[86] www.ebrd.com/about/policies/sector/energy/ebrd.pdf

[87] www.admin.cam.ac.uk/news/press/dpp/2005052701.

[88] World Commission on Dams, Dams and Development: A New Framework for Decision-making, www.dams.org., at 104 (2000).

[89] Ibid., at 17-18, 129.

[90] Ibid., at 73.

[91] Ibid., at xxxi.

[92] International Rivers Network, Citizen's Guide to the World Commission on Dams, at 6 (2002); WWF, To Dam or not to Dam?: Five years on from the World Commission on Dams (2005).

[93] World Commission on Dams, Dams and Development: A New Framework for Decision-making, www.dams.org., at 315 (2000).

[94] World Bank, Safety of Dams, Operational Policy 4.37 (Sept. 1996); International Finance Corp., Project on International Waterways, Operational Policy 7.50 (Nov. 1998).

[95] US Ex-Im states: "Project participants also are encouraged to address, to the extent practical, relevant principles contained in the final report of the WCD." U.S. Export Import Bank, *Environmental Guidelines: Table 9 – Hydropower and Water Resources Management (Dams and Reservoirs)*, www.exim.gov/products/policies/environment/envtbl9.html.

[96] The International Hydropower Association underlines that refurbishment and upgrading of existing facilities should be the first priority in the assessment of hydropower alternatives and that the development of sites on already developed river basins should be prioritised over undeveloped basins. International Hydropower Association, op. cit. 53, February 2004, Table 2.

[97] The agreement states that impact avoidance is always more effective than applying mitigation measures. International Energy Agency Hydropower Agreement, op. cit. 35, p. 163.

[98] International Hydropower Association calls for "providing affected communities with improved living conditions" and "improving public health conditions for impacted communities".

[99] ICOLD states that "the people directly affected by a project should always be the first to benefit instead of suffering for the benefit of others". International Commission on Large Dams (ICOLD), Position Paper on Dams and Environment, p. 13, www.icold-cigb.org/chartean.html (1997).

[100] ICOLD requires that "all projects have to be planned, implemented and operated with the clear consent of the public concerned". International Commission on Large Dams (ICOLD), Position Paper on Dams and Environment, 1997, p. 13, www.icold-cigb.org/chartean.html

[101] See Earthwatch, IUCN & World Business Council on Sustainable Development, "Business and Biodiversity: A Handbook for Corporate Action." (2002).

[102] UN Convention on Biological Diversity, www.biodiv.org, at Article 14.1(a) (1992).

[103] Ibid., Article 8(a), 8(d).

[104] See, e.g., Council Directive 92/43/EEC of 21 May 1992 on the Conservation of Habitats and of Wild Fauna and Flora.

[105] See Overseas Private Investment Corporation, Environmental Handbook. Environmental Handbook (Feb. 2004).

[106] Marta Miranda, Philip Burris, Jessie Froy Bingcang, Phil Shearman, Jose Oliver Briones, Antonio La Viña, and Stephen Menard, Mining and Critical Ecosystems: Mapping the Risks (Washington DC: World Resources Institute 2003).

[107] These include Alcoa, Anglo American, AngloGold, BHP Billiton, Freeport-McMoRan Copper & Gold, Mitsubishi Materials, Newmont, Nippon Mining & Metals, Noranda, Pasminco, Placer Dome, Rio Tinto, Sumitomo, Metal Mining, Umicore and WMC Resources.

[108] See, e.g., International Convention for the Regulation of Whaling (1946); the Convention on the Conservation of Migratory Species of Wild Animals (1979); Agreement on the Conservation of Polar Bears (1973); North Pacific Fur Seal Convention (1911); Convention for the Conservation of Antarctic Seals (1972); Inter-American Convention for the Conservation of Sea Turtles (1996).

[109] Forest Stewardship Council, Principles and Criteria for Forest Stewardship (April 2004).

[110] United Nations Convention on the Law of the Sea, U.N.Doc.A/CONG.62/122, Article 119 (1982) (maximum sustainable yield); Agreement for the Implementation of the Provisions of the United Nations Convention of the Law of the Sea of 10 December 1982, Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, UN. Doc. A/CONF.164/38, Art. 2, 5(a) (1995) (the Straddling Stocks Agreement).
[111] United Nations Convention on the Law of the Sea, U.N.Doc.A/CONG.62/122, Article 196 (1982).
[112] www.biodiv.org/programmes/cross-cutting/alien/default.asp
[113] Cartagena Protocol on Biosafety to the Convention on Biological Diversity (2000).
[114] Convention on Biological Diversity, Article 15(5) (1992).
[115] See, e.g., Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests, U.N.Doc. A/CONF.151/26 (Vol. III), Principle 2(b) (1992); International Tropical Timber Agreement, Art.1 (2000).
[116] www.certified-forests.org
[117] www.panda.org/about_wwf/what_we_do/forests/our_solutions/responsible_forestry
[118] www.panda.org/about_wwf/what_we_do/forests/problems/conversion.cfm
[119] The Roundtable on Sustainable Palm Oil recently released its principles and criteria for sustainable palm oil production. To contribute to the development of international standards for soy production, WWF-Switzerland and Coop Switzerland, a food-based retail company, have developed the Basel Criteria for Responsible Soy Production.
[120] WWF, Guidelines for Investment in Operations that Impact Forests (Sept. 2003).
[121] WWF has developed a High Conservation Value Forest toolkit to support the independent assessment and monitoring of forest impacts. See WWF, Guidelines for Investment in Operations that impact forests, September 2003.
[122] OPIC has taken the IFC natural habitats safeguard policy one step further by stating that all "critical natural habitats" are off limits for industrial or extractive investment.
[123] Belgian ECAs do not support projects in "endangered" forests.
[124] These companies are all a part of the Executive Board of the Sustainable Roundtable. See www.sustainable-palmoil.org/members.htm
[125] These companies are part of the organising committee for the roundtable. See www.sustainablesoy.org Coop Switzerland has already adopted the Berlin Guidelines for its operations.
[126] UNCLOS, Articles 118-119.
[127] Straddling Stocks Agreement, Article 5(a).
[128] UN Food and Agriculture Organization, Code of Conduct for Responsible Fisheries Article 7.2.1 (1995) [hereinafter FAO Fisheries Code.
[129] Straddling Stocks Agreement, Article 5(d)-(e).
[130] FAO Fisheries Code, Article 6.2.
[131] T. Ward, T. Tarte, E. Hegerl & K. Short, Policy Proposals and Operational Guidance for Ecosystem-Based Management of Marine Capture Fisheries (2002).
[132] Straddling Stocks Agreement, Article 6; FAO Fisheries Code, Article 7.5.
[133] Straddling Stocks Agreement, Article 5(h); FAO Fisheries Code, Article 6.3.
[134] FAO Fisheries Code, Article 7.2.1.
[135] FAO Fisheries Code, Article 7.6.10.
[136] Straddling Stocks Agreement, Article 5(h); FAO Fisheries Code, Articles 6.3, 7.1.8.
[137] FAO, Rome Consensus on World Fisheries (1995).
[138] FAO Fisheries Code, Article 6.6.
[139] Ibid., Article 7.6.4.
[140] Ibid., Article 8.4.2.
[141] UN General Assembly Resolution Nos. 44-225, 45-197, and 46-215; ICCAT Recommendation by ICCAT Relating to Mediterranean Swordfish, ICCAT Rec. 03-04 (Nov. 2003) (banning all uses of driftnets in the Mediterranean Sea); European Union Ban on Driftnets in Mediterranean and Baltic Seas.
[142] International Commission for the Conservation of Atlantic Tunas (ICCAT), Recommendation by ICCAT Concerning the Conservation of Sharks Caught in Association with Fisheries Managed by ICCAT (Oct. 2004); Inter-American Tropical Tuna Commission, Resolution on the Conservation of Sharks Caught in Association with Fisheries in the Eastern Pacific Ocean, Res. C-05-03, 24 June 2005.
[143] A recent FAO report suggests levels of by-catch may be dropping, not because of improved fishing techniques but because fish formerly discarded are now being retained for fish meal.
[144] UN Food and Agriculture Organization, International Plan of Action.

[145] M. Gianni & W. Simpson, The Changing Nature of High Seas Fishing: How Flags of Convenience Provide Cover for Illegal, Unreported and Unregulated Fishing (2005).
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[147] Ibid., Article 9.
[148] FAO International Plan of Action to Prevent, Deter and Eliminate IUU Fishing, Article 73 (2001).
[149] FAO Fisheries Code, Article 7.8.1.
[150] See, e.g., Sustainable Agriculture Network, Sustainable Agriculture Standard (Nov 2005).
[151] The Roundtable on Sustainable Palm Oil recently released its principles and criteria for sustainable palm oil production. To contribute to the development of international standards for soy production, WWF-Switzerland and Coop Switzerland, a food-based retail company, have developed the Basel Criteria for Responsible Soy Production.
[152] Business News America, "Manhattan Pulls Out After $60 Million Tambogrande Loss," February 2005.
[153] Miranda Marta, Philip Burris, Jessie Froy Bingcang, Phil Shearman, Jose Oliver Briones, Antonio La Viña, & Stephen Menard, Mining and Critical Ecosystems: Mapping the Risks, at 1 (World Resources Institute:2003).
[154] Striking a Better Balance: The World Bank Group and the Extractives Industries. The Final Report of the Extractives Industries Review, at 26 (Dec. 2003).
[155] See APELL for Mining: Guidance for the Mining Industry in Raising Awareness and Preparedness at the Local Level (UNEP 2001); A. Emery, Good Practice in Emergency Preparedness and Response (ICMM & UNEP: Sept 2005).
[156] www.eitransparency.org/docs/factsheetaugust05.pdf
[157] For the convention, see www.londonconvention.org/documents/lc72/lc1972.doc
[158] See www.cyanidecode.org
[159] Extractive Industries Review "Striking A Better Balance" volume 1, January 2004.
[160] www.kimberleyprocess.com
[161] www.responsiblejewellery.com
[162] www.minerals.csiro.au/sd/SD_MCEP.htm
[163] Joint Nature Conservation Committee, Guidelines for Minimising Acoustic Disturbance to Marine Mammals from Seismic Surveys, (April 2004) (applicable to the UK Continental Shelf), www.jncc.gov.uk/pdf/Seismic_survey_guidelines_200404.pdf
[164] The partnership currently includes the World Bank, major oil producing nations such as Angola, Cameroon, Canada, Chad, Ecuador, Equatorial Guinea, Indonesia, Kazakhstan, Nigeria, Norway and the United States; and major oil companies including BP, ChevronTexaco, ENI, ExxonMobil, Marathon, Norsk Hydro, Statoil, Shell, TOTAL and Sonatrach.
[165] See www.frameworkforresponsiblemining.org
[166] Both companies have signed consent agreements with communities in Australia.
[167] For more information see www.oxfamamerica.org/whatwedo/where_we_work/south_america/news_publications/tintaya/art6261.htm
[168] Montreal Protocol on Substances that Deplete the Ozone Layer (1987).
[169] Stockholm Convention on Persistent Organic Pollutants (POPs), www.pops.int (2000).
[170] Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, www.opcw.org (1994).
[171] WHO Recommended Classification of Pesticides by Hazard Classes; IFC Draft Performance Standard 3 (Aug 2005).
[172] Stockholm Convention on Persistent Organic Pollutants, Article 3.1(b) (2000.
[173] Ibid., Article 5.
[174] Strategic Approach to International Chemicals Management, www.unep/ch/SAICM.
[175] Johannesburg Plan of Implementation (2002).
[176] Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1989).
[177] "The Basel Ban," Decision II/12, adopted at the Second Conference of the Parties of the Basel Convention (1994) (not yet in force).
[178] Rotterdam Convention on Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, www.pic.int (1998).
[179] Ibid.

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[183]Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Decision-making, Doc. ECE-CEP-43 (25 June 1998).
[184] Universal Declaration of Human Rights, U.N.G.A. Res. 217A(III), Article 19, 10 Dec. 1948; Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, Doc. ECE-CEP-43 (25 June 1998).
[185] BankTrack, Transparency and the Equator Principles: Proposals for EP Bank Disclosure (2004).
[186] Extractive Industries Transparency Initiative, www.eitransparency.org.
[187] International Finance Corporation, Draft Policy on Environmental and Social Sustainability, at 4 (Sept. 25 2005).
[188] OECD Multinational Guidelines on Enterprises, Part IV, at 22 (2000) (Enterprises should "…establish and maintain a system of environmental management appropriate to the enterprise…").
[189] This includes affirming and agreeing to comply with the terms of the Universal Declaration of Human Rights, the UN Draft Norms for Business, the ILO Declaration on Fundamental Principles and Rights at Work, the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises & Social Policy, and the UN Draft Declaration on the Rights of Indigenous Peoples.
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[191] Rio Declaration on Environment and Development, Report of the UN Conference on Environment and Development, A/Conf.151/26 (Vol. I), Annex I, Principle 15 (3-14 June 1992); OECD Multinational Guidelines on Enterprises, Part IV, at 23(2000).
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[196] Freshfields, Bruckhaus, Deringer, Banking on Responsibility, at 120 (2005).
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[198] This section is based on the recommendations of BankTrack in Principles, Profits or just PR – Equator Principles Anniversary Report (June 2004).
[199] Includes 10 safeguard policies, including forestry and natural habitats, indigenous people, resettlement and environmental assessment.
[200] The pollution standards are based on the World Bank Group's Pollution Prevention and Abatement Handbook, as well as the IFC's Environmental Health and Safety Guidelines.

The mission of WWF is to stop the degradation of the planet's natural environment and to build a future in which humans live in harmony with nature, by:
· conserving the world's biological diversity
· ensuring that the use of renewable natural resources is sustainable
· reducing pollution and wasteful consumption

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