

BY EMAIL

30 September 2024

TO:

Ryan Brightwell, Director of Research and Communications, BankTrack.

Dear Ryan,

We write in response to your email of 29th August 2024 regarding the complaint letter you sent to the UN Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises on 25th April 2023. As you will know, we received a letter from the UN Working Group on 28th July 2024 and provided a response on 30th July 2024. We are yet to hear back from the UN Working Group on our input, which they have acknowledged.

As you will be aware from previous exchanges, including with Amit Puri, the Chair of the Equator Principles (EP) Steering Committee between 2019 and 2024, we consider that our obligations under the UN Guiding Principles on Business and Human Rights (UNGPs) are met through the commitments and activities undertaken by EP Financial Institutions (EPFIs). This includes those under Principle 30 of the UNGPs, which you raise in your complaint letter, regarding the requirement that effective grievance mechanisms (GM) are available in relation to human rights risks and impacts on all Projects financed under EP.

As you know and we repeat here, we expect Projects financed under the EPs to have effective GMs in place. Under EP requirements the GM forms an integral part of a Project's wider stakeholder engagement process by providing a process for grievances to be raised, assessed, tracked and resolved. We have invested a significant amount of our resources towards the development and provision of standards, guidance and training for EPFIs to utilise. These guidance notes and tools provide clarity regarding the development and management of effective grievance mechanisms at the Project Level, as well as place considerable emphasis on the processes, procedures and good practices which together would ensure that effective access to remedy is available for all relevant and affected parties that may be impacted by Projects financed under the EPs. The development of our 2022 publicly available tool, which involved advice and guidance from Shift (an organisation that is a leading centre of expertise on the UNGPs), is a key example of this:

https://equator-principles.com/app/uploads/Tools-Access-to-remedy_FINAL.pdf

In addition to Project Level GMs:

- EPFIs and/or Project Sponsors may have their own GM or other complaint mechanisms that would allow them to receive complaints in relation to potential human rights risks and impacts associated with Projects they finance, including under EP.

- Where concerns regarding the conduct of individual EPFIs are raised by third parties to the Office of the EPs, the Office of the EPs facilitates the initial correspondence between the potentially affected parties and/or Civil Society Organisations and that EPFI.

The current version of the EPs is dated July 2020 (termed 'EP4') and includes explicit references to the UN Guiding Principles as well as human rights obligations and commitments. The EPs have been an important steward for promoting and mainstreaming human rights due diligence by EPFIs and their borrowers in, for instance, Principle 2 where EP4 requires assessments of potential adverse Human Rights impacts as part of the "ESIA" or "other Assessment Documentation".

As you are aware, EP4 is currently undergoing a review, and work may include some of the items raised in the correspondence received from the UN Working Group. Any updates to the EPs require a vote of all EPFIs.

We understand the reasons you have given for the very considerable delay between the letter being sent and the EP Steering Committee being aware of the issue of this or having copy of the letter. However, as a general point, we want to note that we value our previously open and collaborative style of communication, which formed the basis of engagements between BankTrack and the EP. We would appreciate if future engagements could be done in a similarly collaborative manner to facilitate more meaningful and constructive dialogue.

Yours sincerely,

Sent on behalf of the EP Steering Committee