

The Equator Principles, Project Finance and the Challenge of Social and Environmental Responsibility

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Abstract

The Equator Principles, launched in 2003 and revamped in 2006, are a set of voluntary principles designed to help private lenders make socially and environmentally responsible project financing decisions. This paper explores the impact of these principles on the disclosures of two signatory banks, focusing on type of information disclosures that have resulted and the substance of these disclosures. The work considers whether it is possible to ascertain from publicly available information how the practices of the banks may have changed in order to focus on their stated social and environmental responsibilities. It is concluded that although the Equator Principles have marked the beginning of the banking sectors acknowledgement of their role in social and environmental responsibility, at this stage insufficient information is being disclosed to determine the impact these principles are having on actual banking practices.

Key Words: *Ethical Banking, Responsible Finance, Corporate Social Responsibility, Equator Principles, Environmental Responsibility, Corporate Codes of Conduct.*

Introduction

Corporations are under increasing pressure to represent themselves to multiple audiences, using complex, contested and often competing criteria to assess the performance of the firm (Cooper & Sherer, 1984; Cousins & Sikka, 1993; Gray, 1992). No longer is it presumed that corporate performance can be made transparent through the provision of financial information to interested users (Andrew, 2001). The firm itself is more

complicated and the notion of a passive identifiable audience is insufficient (Macdonell, 1986; Agger, 1992). Not only is the very notion of transparency a matter for much public debate (evidenced by the public discussion generated by the collapse of private corporations such as Enron, WorldCom, HIH; Baker and Hayes, 2004), but the identity of the potential user can not be presumed (Young, 2006), much less the purpose of the reporting process (Adams, 2004). As a result, many firms

are attempting to respond to these complex expectations, not only to satisfy the requirements of the audiences for which the information is produced, but also to produce and constitute an audience for the information that the firm disseminates (Belkaoui & Karpick, 1989; Covalesski & Dirsmith, 1995; Hall, 1997; Husted & Allen, 2006).

Cultural practices that respond to, produce and reproduce social expectations have been considered within the field of cultural and media studies (Agger, 1992; Hall, 1997), and this work is beginning to inform research in emerging fields such as corporate social responsibility, sustainable reporting, environmental accounting and ethical finance. This paper utilizes Agger's (1992) work on media, culture and representation. I assume from the outset that information produced by corporations is framed discursively by the institutional and cultural structures that allow its emergence; it is constructed and constructing, productive and reproductive, constituted and constitutive. Accordingly, representations of and by the firm that fall into the category of corporate social responsibility are part of a process and are not an end in themselves as these can never be controlled entirely by the producer or the audience. This interactive process will be considered in more detail throughout the paper. It is hoped that this theoretical framing of voluntary corporate codes of conduct, specifically the Equator Principles, can help develop our understanding of the purpose, process and possible outcomes of these codes.

The Equator Principles

A financial industry benchmark

for determining, assessing and managing social & environmental risk in project financing (www.equator-principles.com)

In 2003, the Equator Principles were developed by private lending institutions as a way to encourage private lenders to consider social and environmental issues before funding projects¹. These principles have focused mainly on issues that arise as a result of project financing in developing countries and are defined as "a financial industry benchmark for determining, assessing and managing social risk in project financing" (www.equator-principles.com). They focus specifically on 'project finance' and although the definition of this may be contested within the banking and finance literature, for the purposes of the Equator Principles it is defined as

a method of funding in which the lender looks primarily to the revenues generated by a single project, both as the source of repayment and as security for the exposure... Project finance may take the form of financing of the construction of a new capital installation, or refi-

¹ Over 40 banks across the globe have adopted the Equator Principles including ABN AMRO Bank, N.V., ANZ, Banco Bradesco, Banco do Brasil, Banco Galicia, Banco Itaú, Bank of America, BMO Financial Group, BTMU, Barclays plc, BBVA, BES Group, Calyon, Caja Navarra, CIBC, CIFI, Citigroup Inc., Credit Suisse Group, Dexia Group, Dresdner Bank, E+Co, EKF, FMO, Fortis, HBOS, HSBC Group, HypoVereinsbank, ING Group, Intesa Sanpaolo, JPMorgan Chase, KBC la Caixa, Manulife, MCC, Mizuho Corporate Bank, Millennium bcp, Nordea, Nedbank Group, Rabobank Group, Royal Bank of Canada, Scotiabank, SEB, Standard Chartered Bank, SMBC, TD Bank Financial Group, The Royal Bank of Scotland, Unibanco, Wachovia, Wells Fargo, WestLB AG, Westpac Banking Corporation. Many of these have only recently associated themselves with the principles, so it will be interesting to see how these banks illustrate their commitment in the future.

nancing of an existing installation, with or without improvements. In such transactions, the lender is usually paid solely or almost exclusively out of the money generated by the contracts for the facility's output, such as the electricity sold by a power plant (www.equator-principles.com)

Once a bank became a signatory, the lender is able to advertise that they associated themselves with projects with minimal social and environmental impact and correspondingly, these projects would be less likely to threaten the security of the lender (Kass & McCarroll, 2006). The principles acknowledge the substantial social and environmental impact that financiers can have as they often determine the types of projects that will progress to development stage. It is argued that they have the power to encourage "responsible environmental stewardship and socially responsible development" (www.equator-principles.com). Signatory institutions have become known as Equator Principles Financial Institutions (EPFIs) and in 2003 they agreed to adhere to the following principles:

1. **Review and Categorisation:** Conduct a social and environmental review of a proposed project and categorize it in terms of its impact.

Categorisation of Projects:

Category A: Projects with potential significant adverse social or environmental impacts that are diverse, irreversible or unprecedented;

Category B: Projects with potential limited adverse social or environmental impacts that are few in number, generally site specific,

largely reversible and readily addressed through mitigation measures;

Category C: Projects with minimal or no social or environmental impacts.

2. **Social and Environmental Assessment:** This does not have to be done by an independent expert unless it is a Category A project, social impacts assessed under the International Covenant of Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights ICESCR and the UN Convention on Human Rights.
3. **Applicable Social and Environmental Standards** must be followed (this includes host country laws, IFC Performance Standards)
4. **Action Plan and Management System:** This must address any finding in the assessment; it will describe any actions needed to implement mitigation measures, corrective actions and monitoring measures necessary to manage the impacts and risks. Borrowers must design a Social and Environmental Management System that addresses the management of these impacts, risks and corrective regulations.
5. **Consultation and Disclosure:** Consult with communities affected by the project.
6. **Grievance Mechanism:** Communities will have the right to have their grievances heard and addressed by the borrower (this is not independent of the lender and does not make provisions for an independent third party to oversee the process).
7. **Independent Review:** A social or environmental expert not directly associated with the borrower will

- review the assessment, action plan and consultation process.
8. Covenants: covenants linked compliance.
 9. Independent Monitoring and Reporting: Independent environmental or social expert monitor and report on compliance over the course of the loan.

In 2003, this provided a starting point for the Equator project, but there were some significant problems. Specifically, these principles did not include a review body and there were no formally identified disclosure or transparency requirements. This meant that financial institutions could become signatories without there being any formal mechanism to scrutinize the way the institutions had integrated the principles. Wright and Rwabizambuga (2006, p.91) argue that this meant “that all Equator banks gain some reputational benefits irrespective of their actual practices”. In order to address these concerns, a revised version of the Equator Principles were issued in 2006. A number of other changes were incorporated in these revised principles. Specifically, the applicability of the principles expanded to include projects more than \$10 million whereas previously the principle affected projects costing more than \$50million; the principles now apply to the expansion and upgrade of existing projects that result in new social and environmental impacts; EPFI’s need to report on the progress and implementation of the Equator Principles at least annually (as outlined below); there are tighter rules regarding public consultation and the handling of grievances; and there are stronger covenants to ensure compliance with the policies. Perhaps the most significant change has been the inclusions of the

10th principle on EPFI Reporting stating that

10. Each EPFI adopting the Equator Principles commits to report publicly at least annually about its Equator Principles implementation processes and experience, taking into account appropriate confidentiality considerations (www.equator-principles.com)

Although this principle acknowledges the importance of transparency, the statement also implies that the business case for non-disclosure can legitimately outweigh the social or environmental imperatives for disclosure. It doesn’t suggest how the information should be presented or the level of detail that is appropriate. In many ways the 10th principle allows banks to assert they are being transparent, without any pressure for substance. Some banks may choose to disclose information in a substantial way, but this is not an essential commitment. Although corporate disclosures are vital to an ongoing, informed dialogue between the community and the corporation about acceptable practices, it is important to acknowledge that claims of transparency can be problematic. As Hall (1997) has argued, everything in its communication is a representation. All information is mediated through language, discourse and institutional imperatives it can never be wholly revealing in the way that the word transparency implies (Andrew, 2001). If corporations are allowed to claim they are being transparent through their disclosures, it may assist in the constitution of a passive, uncritical audience adding to the challenges faced by those seeking to transform banking practices.

It is well documented there has been a significant increase in the number of firms seeking to demonstrate their ethical credentials (Neimark, 1995; Kapstein, 2001; Sethi, 2002). Although there is little doubt corporations are adopting voluntary codes as a strategy, the purpose and impact of that strategy cannot be presumed (Husted & Allen, 2006). The World Bank, the International Monetary Fund and the International Finance Corporation all assess the social and environmental risks of their lending decisions before funding projects. These assessments have been controversial, but there is no doubt that this approach to lending is fundamental to the legitimacy and identity of these multilateral institutions (Saravanamuthu, 2004; Annisette, 2004). In some cases, private financial institutions play a role in development projects. They may fund projects that the World Bank had decided not to finance, or they may supplement the funds provided by the World Bank. Either way, the lending practices of private institutions are increasingly scrutinized by non government organizations (NGO's) (Missbach, 2004).

As Branco & Rodrigues (2006, p. 234) have noted "studies focusing on social responsibility disclosure practices by financial institutions are scarce" and this work will assist in the development of research in this area. It will focus on the impact of the Equator Principles before the release of the June 2006 revisions as banks have yet to release information using these guidelines. This work will consider the information that has been available in the public domain up to the release of the revised principles and will not extend beyond this as there has not been sufficient time for banks to respond to the changes. This study will form a

foundation on which to consider that changes that may occur as a result of the revisions and this can be the focus of future research.

The Equator Principles and Project Financing Disclosures: Any News?

Cultural studies lays bare the deception encoded in these dominant cultural artifacts, It criticizes the needs these cultural practices purvey through the guileful representations of a frozen second nature – reality as it "must" be – and instead suggests alternative formations of both human needs and social reality (Agger, 1992, p.145)

In order to explore the impact of the Equator Principles on the practices of signatory banks, I have examined the public disclosures of HSBC and Westpac. These banks have been chosen as a starting point for this analysis because both HSBC and Westpac were actively involved in the design of the principles and have been associated with the principles since their inception in 2003. It should be acknowledged that this is an initial investigation and needs to be extended beyond these two banks in the future.

This examination is understood through the theoretical lens of works by Hall (1997) and Agger (1992). In order to consider the impact of the Equator Principles on the banks, the banks 'responsibility report' from 2003 (the year the Equator Principles began) until 2006 and publicly released information regarding the integration of the Equator

Principles into the banks practices. It became apparent that very little information of any substance was available, all banks made references to the principles and talked about what they were doing to integrate the principles but this research revealed that the information was shallow and did not enable a knowledgeable reader to work out just how the principles were impacting on the banks practices in any substantial way. The following section considers each bank in detail.

HSBC

According to (Agger, 1992, p.184) "representation is a political practice where it encodes its content in the illusion of authorless stanceslessness". And banks disclosures under the Equator Principles are a study in such representation. These disclosures are not apolitical, they are deliberate representations of the firm, but are presented and represented as benign, transparent statements about position and policies. However, as Agger argues they are not neutral, far from it they position the politics of the firm within the appearance of authorless representation. HSBC is the third largest bank in the world by market capitalization and they signed on to the Equator Principles in 2003, taking on more high profile roles as the chair of the Equator Principles Working Group in 2005 and as a participant in the redrafting of the Equator Principles in 2006. As such, they have positioned themselves as an author, but when reporting on practices relating to the principles their authorship is all but invisible.

Having reviewed the information available regarding HSBC's Equator Principles

commitment, in general the level of substance supporting their claims was lacking. The bank used innumerable opportunities to refer to the Equator Principles without providing anything more than a stated commitment. In so doing they position themselves as committed, without having to produce evidence of such commitment. In this context, it is difficult to assess the way the principles are impacting on HSBC's practices, let alone the impact these may have on the actual social and environmental consequences of these practices.

However, we can see that the representational performance is vital to HSBC's identity as they refer to the Equator Principles whenever an opportunity arises. For instance, HSBC claim that "we do not see this as an "add-on" to our business, but a key part of a much wider approach to managing the sustainability of our lending" (<http://www.hsbc.com/hsbc/csr/our-sustainable-approach-to-banking/equator-principles>, Accessed: 9th February, 2007). However, a detailed search of the banks publicly available information revealed little to substantiate this claim. HSBC also states that they have "established internal procedures that require all relevant project related loans to be categorised in accordance with the Equator Principles" (<http://www.hsbc.com/hsbc/csr/our-sustainable-approach-to-banking/equator-principles> Accessed: 9th February, 2007) but, again there is no way to externally verify this stated commitment and there is no legal obligation on HSBC to do so as the principles are not mandatory.

In an attempt to substantiate their commitment they claim that they report annually on the equator principles transactions in their CSR Report, and they pro-

vide aggregate information but this information lacks substance, it reveals nothing about the nature of the projects they are engaging, or the internal processes in place to assess them against the Equator Principles. There is little concern about the ways the banks decisions may have changed the social and environmental outcomes experienced at the project site. This kind of detail would enable a user to understand how the bank is creating a 'better world', rather than just internal procedures to meet the principles with little external verification.

On closer inspection of HSBC CSR Reports they are disclosing some information in relation to the principles. In HSBC's 2003 CSR Report they are committed to report summary numbers for the total value and volume of project finance deals booked. In their discussion on the implementation of the Equator Principles they say they'll update their procedures manual and train staff involved in the project finance and that demonstration that they are adhering to the Equator Principles will be provided through the previously mentioned summary report. This is their commitment to public information. This is a cultural practice that can "situate the creation of cultural artifacts in complex and economic spaces within which creative activity is conditioned, even determined" (Agger, 1992, p.13). The assertion of the corporate agenda on the processes possible through the Equator Principles can be revealed in the limits, the invisible spaces that are not represented by the firm. Following on from this, HSBC's CSR reports also focus considerably on their commitment to training staff on the Equator Principles, but again, these are statements and there is

little evidence to support these claims or information in order to understand how the training is being conducted and what aspects of the principles are being implemented, at what level and for what purpose. The intention is delimited, and the focus is created – irrespective of how this can be traced to improved social and environmental performance.

To a large extent the Equator Principles are self referential in that the banks can employ "independent experts" or "independent consultants" to advise them. This advice is not made public, and the level of independence is not ensured, they purely make the statement that they "retain a panel of consultants covering various industry sectors, environmental and social risk capabilities, and geographic locations, which our Project Finance teams can draw upon. The selection of consultants is managed centrally by Project Finance, with guidance from the Environmental Risk Unit as appropriate." (<http://www.hsbc.com/hsbc/csr/our-sustainable-approach-to-banking/equator-principles> Accessed: 9th February, 2007). There is no way of externally verifying the quality of this advice, or the level of bias that may ensue from the commercial arrangements agreed to when providing the advice and so on. However, the firm is able to represent itself as legitimate, with external experts verifying their internal procedures seamlessly creating a discourse of legitimacy to which they can fulfil and control.

HSBC also reveals they are focused on the reputational benefits the Equator Principles provide, as opposed to the social and environmental contribution that banks can make through improved commitment to responsible lending. For

instance, they state that they want “to help mitigate environmental credit risk and adverse impacts on our reputation” so they “have developed guidelines and have adopted internationally recognised codes of conduct, such as the Equator Principles, to help us in our decision-making.” (HSBC, Key CSR issues 30, June 2006, www.hsbc.com). The banks perception that an association with the principles has positive reputational benefits is evident in the way they refer to the Equator Principles every time they release information about any project that is associated with responsible behaviour. Again, the self referential nature of the Equator Principles is evident upon any detailed consideration of the banks statements regarding the principles. It became apparent that everything HSBC did that linked to the community or the environment presented an opportunity to promote the Equator Principles. For example:

1. The release of their forest sector guidelines allows them to say “the guideline announced today demonstrates our commitment to the Equator Principles in relation to the forest land and forest products sector” (HSBC launches forest sector guideline, 28 May 2004), even though there is no direct relationship.
2. When discussing their effort to be a ‘carbon neutral’ bank they say “this complements the actions it is already taking to address the indirect impact it has on environmental and social issues arising when financing projects for customers. For example, in 2003, HSBC adopted the Equator Principles.” (HSBC world’s first major bank to go carbon neutral, 6 December 2004), in so doing, they

readvertise their commitment to the principles although there is no direct link between the two.

3. The release of HSBC’s chemical industry sector guidelines is an opportunity for them to note that it reinforces the “the Group’s adoption in 2003 of the Equator Principles - a set of voluntary guidelines applied to project finance activities.” (HSBC launches chemicals industry sector guideline, 03 August 2005).
4. They also claim that their freshwater infrastructure guidelines “reinforce HSBC’s commitment to the Equator Principles, a set of voluntary guidelines providing a common framework for major banks to address environmental and social issues arising from financing projects.” (HSBC launches freshwater infrastructure guideline, 27 May 2005).
5. The launch of a climate change partnership with Newcastle University and the University of East Anglia enabled them to say that “in 2003, HSBC adopted the Equator Principles” (HSBC launches climate change partnership, 08 December 2004) even though there is no direct link between these two projects.

Obviously, HSBC is representing their bank as a socially and environmentally responsible lender. The strategies outlined above would suggest they are using any given opportunity to use the Equator Principles to reposition the firm in this light. Unfortunately, at the stage it is impossible to tell if these are having a positive impact on the internal practices of the bank, a situation that may change as the disclosure requirements of the Equator Principles change.

Westpac

“A radical cultural studies intervenes politically where it challenges representation to theorize itself, understanding how the repertoire of interpretive activities in which we habitually and thoughtlessly engage is, in fact, a careful political construction – call it ideology” (Agger, 1992, p.183)

Westpac is the only Australian bank to adopt the Equator Principles, having become a signatory in 2003. Westpac's 2004 Stakeholder Impact Report, acknowledges the bank's commitment to the Equator Principles but provides no material evidence of the incorporation of these into their practices. They state the “we felt it was important to support this initiative so that standards such as these are adopted by all banks in the marketplace and the likelihood of competition between banks on environmental and social grounds is minimised” (SIR 2004, p.35). In this statement, the bank clearly articulated a strategic interest in the development of the Equator Principles, but such an interest would leave any interested party to wonder whether such this interest was to further development, innovation, commitment. The emergent representations are political (Agger, 1992)

In Westpac's 2005 Stakeholder Impact Report, they reaffirm their commitment to the Equator Principles, again they use this opportunity to emphasise that they are the sole Australian signatory. Like HSBC, Westpac offers some aggregate information outlining projects impacted on by the Equator Principles. They state

that 13 projects were financed in the year (all in Australia and the Pacific Islands), 6 new projects, 1 to buy an existing asset and six were for the refinancing of an existing asset. They state that 4 had capital costs below \$50million, but they do not say if these underwent the same assessment process or not. The summary information is very ambiguous, giving detail but not substantial enough to consider how the Equator Principles are working. They declined “a number of transactions” but claim this was not because of breaches of the Equator Principles offering no insight into the internal processes used for assessment, whether any projects underwent additional investigation based on the Equator Principles, whether they hired external advisers to assist in the assessment of the projects, or whether the projects needed to undergo any changes to meet the bank's standards. In essence, very little information was provided.

In Westpac's 2006 Stakeholder Impact Report, they congratulate themselves on making their commitment to the “Actually quite stunning” (their words 2006, p.7) Equator Principles and that they had successfully marketed themselves as an environmentally responsible bank through their 2006 advertising campaign. They claim this has led to request for more information and that it has been met “with an astounding response” (2006, p.27), but they do not disclose whether they are providing this additional information and in what form. The aggregate information proves no more substantial than the previous year, with them claiming that they closed 14 deals, 6 new, 1 an expansion of an existing asset, and 7 refinancing of an existing asset. Equator Principles applied to

all except one as it was below \$10million. Again they state that “a number of transactions were declined during the past year, several for reasons including environmental concerns” (p.31) but do not elaborate on this. Interestingly, unlike HSBC, they don’t tell the audience how much the projects are worth to them. We have no idea of the size of this section of Westpac’s business and how substantially it will impact on the firm. We are to believe they are doing a good job as the external audit report stated that “as a result of testing Equator Principles implementation we concluded that the overall approach and process is robust. In addition, we identified a small number of improvement opportunities” (p.91).

As outlined in the case of HSBC, Westpac also uses any mention of anything related to corporate social or environmental responsibility provides them with an opportunity to mention the Equator Principles. These references provide little opportunity for external verification of internal change or commitment to the substance of the Equator Principles. Instead their lack of substance reinforces the impression that these principles are being exploited for their marketing potential. For example:

1. Westpac acknowledges the importance of carbon neutral business practices and then outlines the banks commitment to all environmental policies including its commitment “to the revised Equator Principles, a framework for assessing social and environmental risk in project finance - the only Australian bank to do so” (Westpac, 13 December 2006, Westpac report finds

risks and opportunities in climate change);

2. When discussing corporate environmental policy and governance on their website Westpac highlights their commitment to the Equator Principles stating that “environmental considerations are factored into our investment and lending decisions and we also adhere to the Equator Principles in managing environmental and social risk in project finance” (<http://www.westpac.com.au/internet/publish.nsf/content/wicrevpg%20our%20commitment>);
3. Westpac promotes its receipt of the award for the “Best Project Finance Bank in Australasia for 2006” by Global Finance magazine, with reference to their commitment to the Equator Principles’s. This reference has little to do with the award, but allows the bank to state that they are signatories to them and that they are committed to promoting responsible project finance. (<http://www.westpac.com.au/internet/publish.nsf/content/wicrln%20cr%20archived%20news%2023%20october%202006>, 23 October 2006, Westpac wins project finance award);
4. They also received a AAA (outstanding) rating from RepuTex Social Responsibility Rating, wherein along with other factors, Westpac was noted for the only Australian bank to sign the Equator Principles;
5. When discussing the opening of an educational residential eco-village funded by the bank in South East Queensland, the state “Westpac remains the only Australian bank to become a signatory of the Equator

Principles.” (<http://www.westpac.com.au/internet/publish.nsf/content/wimcmr06%20archive%20media%20release%2024%20july%20200b>, 24 July 2006, Westpac finances Australia's first educational residential eco-village). This reference to the Equator Principles has nothing to do with the project, but reinforces the image of a globally responsible lender.

This research shows that Westpac is deploying very similar strategies to that adopted by HSBC, using the Equator Principles to reposition the firm as socially and environmentally responsible. Just as HSBC may well be undergoing internal changes that can substantiate such a claim, Westpac may be engaging in similar internal transformations required to live up to these claims – but they are not making these clear to the public, so a reader could be forgiven for thinking that the Equator Principles lack substance. Time will tell, and more research will be required in order to assess the impact of the Equator Principles on banking practices.

Conclusions

We can phrase the political agenda of this cultural studies negatively: it wants to help people avoid domination – self defeating, self-reproducing practices that violate their own best interests (Agger, 1992, p.196)

The Equator Principles mark the beginning of the financial industries recognition of their social and environmental impact. When the disclosure practices of two banks were considered in light of

this voluntary code and the representational performance through which they operate, it has been revealed that banks are saying little of substance about their impact on the social and environmental practices of the bank. Instead they form part of a greater dialogue about how to represent the bank that is not devoid of real world consequences, some of which may have positive social and environmental outcomes. However, as Agger (1992) has pointed out the cultural logic of late capitalism pits the expansionist agenda of corporate strategy against the social and environmental responsibilities of the modern corporation. Codes such as the Equator Principles are not authorless, stanceless offerings in a politically neutral world. Instead, they are sophisticated attempts to position the firm within the contemporary pressures of the modern socio-political environment and they are inescapably political. They are a deliberate act of representation, but they are participatory and through an audiences critical readings of the disclosures of banks new representations will form, that may lead to changes that have positive social and environmental consequences.

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