

# Case Study: WestLB

## Sustainability Management at the WestLB

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## Sustainability management at the WestLB <sup>1</sup>

At the end of his presentation, Marek Wallenfels, Associate Director of WestLB's Sustainability Management unit, could not hide his pride: "Did you know that our unit was awarded the Sustainable Bankers of the Year Award 2006?" he said in a small executive education seminar of the Hertie School of Governance with a smile on his face.

The WestLB has come a long way from being at the centre of criticism for ill-advised investment decisions, political engineering, potential bribery and nepotism to presenting a showcase for sustainability management and CSR in just over 4 years. In 2000 the bank was infamous for refusing to respond to any criticism by NGOs for financing a highly controversial pipeline project in Ecuador. Today the bank not only has installed a sophisticated procedure of assessing the environmental and social implications of infrastructure projects but aims at further developing international industry standards for project financing as already started with the Equator Principles. It regularly holds stakeholder dialogues with major NGOs to discuss problems with projects it finances.

The main reason Marek Wallenfels gives for the bank's change of strategy is the management of risks. "Non-financial risks easily translate into financial risks and business risks" he points out while showing photos of marching protesters at rallies in Ecuador and Düsseldorf. Even a firm which does business to business and cannot be targeted by customer boycotts can be harmed by having a bad reputation in the sustainability world.

In his view, business responsibility goes far beyond the law. The bank assesses the track record of compliance with environmental and social standards of the firms applying for finance before it goes ahead. The sustainability unit systematically checks the reputation of its customers employing a "Conflict Radar". A bad reputation increases the risk. High risks might lead to a negative assessment of the project or to renegotiations of the loan. By developing an industry standard WestLB and other commercial banks themselves fill the regulatory gap that exists at the international level.

A rosy picture of the world of infrastructure financing?

## The story of the WestLB

The WestLB was one of the most prominent public banks in Germany, led for many years by Friedel Neuber. Neuber, who came from a working-class background, started his career as a regional politician for the Social-Democrats and moved into public banking only later on. His career sums up what is called the "Deutschland AG" ("Germany Inc."): a system of highly intertwined vested interests of public policy, local politicians and their public banks. Friedel Neuber headed the bank between 1981 and 2001. In 2001 Neuber was removed from his position as head of the public bank. He was accused of corruption and fraud but not convicted. He died in 2004.

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<sup>1</sup> This case is based on a study commissioned by the Bertelsmann Foundation, which is published in German "Verantwortung für die Gesellschaft - verantwortlich für das Geschäft. Ein Managementhandbuch", forthcoming. The financial assistance by the Bertelsmann Foundation for turning the research into a teaching case is kindly appreciated.

In 2002, WestLB was the biggest public bank in Germany ranking fifth among German banks. It was the central player in regional politics of North Rhine-Westphalia. Helmut Linssen, a member of the regional parliament for the conservative party and today's North Rhine-Westphalia's Minister of Finance said in 2000: "The real economic policy of the Land is made by WestLB".

It was also in 2002 that the first financial loss of 1.7 billion Euros incurred. The bank was then subjected to an inquiry by Bafin, the German federal financial supervisory authority in 2003, in the course of which the interim CEO Jürgen Sengera (2001 – 2003) had to resign. In that same year the general public became aware of the financial problems which plagued WestLB, most of which were due to a deal with the UK-based firm Boxclever, a company involved with TV leasing. The bad loan WestLB issued was the main but not the only reason for a period of losses beginning in 2002. This crisis was also one of the starting points for the subsequent paradigm shift of the bank, its complete reconstruction, namely the split in a commercial and a public bank and may also be the turning-point for the whole system of public banking in Germany.

In the course of the public debate, politicians – even the land's Prime Minister Peer Steinbrück - were accused of not taking their mandate in the bank seriously. The German financial supervision authority, Bafin, checked out on the whole Boxclever involvement and the broader allegations put forward by the press, some politicians and other critics that the banks governance was largely insufficient. In their final report on the bank's situation Bafin's experts supported the allegation. In the case of Boxclever, the executive board of WestLB had not informed the supervisory board effectively and its corporate governance and management were criticised.

Mid 2003, even the German public prosecution authority took action, suspecting management defalcation. Robin Saunders, head of the principle finance group in the UK and the main responsible person on the operative level, was next to leave the bank. The bank then sued the eight members of management involved in the Box-clever adventure. The lawsuit was later settled with some insurance companies paying a small part of the damage because they had insured the management against management liabilities.

The next interim CEO in the second half of 2003 was J. Ringel before Thomas Fischer of Deutsche Bank took over as the CEO of WestLB on the first of January 2004, then a commercial bank. He still leads the bank today.

Political links, potential bribery, nepotism, and the like were not the only accusations put forward against the public bank. One was its controversial role in financing infrastructure projects abroad, especially the OCP pipeline in Ecuador. The OCP project, which apparently had a deep impact on social and environmental welfare of Ecuador's population, was vividly discussed in the German press. But when an NGO campaign against WestLB started in 2000, WestLB refused any dialogue with NGOs. WestLB's unwillingness to speak with its critics became synonymous for the arrogant and incompetent behaviour some companies thought adequate with which to face competition in global capitalism, without making any effort at humane concessions.

In the midst of the bank's crisis, in 2002/2003, WestLB started developing the Equator principles together with Barclay's, ABN Amro, and Citibank. The four banks drafted the

standard in cooperation with the International Finance Corporation, IFC, a World Bank affiliate. The Equator principles were planned to become an industry standard for the financing of infrastructure projects. They still are guidelines for the financial sector that define social and ecological standards for the financing of international infrastructure projects. When seeking funding for infrastructure projects, the debtor must prove the legal compliance of his venture as well as the compliance with these principles in addition to the usual procedures of risks assessment. Today, 41 financial institutions have adopted the Equator principles.

A WestLB press officer said in June 2003 that WestLB's engagement for the Equator principles had nothing to do with the OCP project, but with a general commitment of WestLB to international project standards.

Especially the German NGO "urgewald" became a famous critic of WestLB's investments abroad. WestLB and urgewald first met in 2002 in a parliamentary session on the pipeline in North Rhine-Westphalia's parliament.

In 2004, the bank reinvented itself. Under the lead of the new CEO, "the new WestLB" took first steps to open a dialogue with its critics. The division "sustainability management" was created employing five experts. "WestLB seeks to become a national leader in sustainability matters" said Marek Wallenfels one of the new heads. In 2005, the bank issued its first sustainability report and carried out its first stakeholder survey.

At the same time, the public banking sector had been pressurised by private banks as well as by the European Commission because of "illegitimate subsidies". After the deep losses the bank incurred in 2002 and 2003, WestLB accepted to pay back 1.4 billion Euros to the State of North Rhine-Westphalia in 2004. The money was considered an illegitimate subsidy by the EU Commission and the private banks. In 2005, institutional liability and guarantor liability, the legal instruments which protected public banks against credit failures in Germany, were removed. This meant higher costs in terms of interest rates and a higher degree of dependence on rating agencies. The new framework "Basel II" which will be effective from 2007 in Europe points in the same direction. Banks – including public banks – now have to assess credit risks individually and put risk-adequate amounts of money aside to secure them.

Stakeholders such as employees, government representatives, NGO's, clients or savings bank employees still put the bank under continuous stress today but appreciate the bank's efforts in achieving transparency and more openness to the public. Although they are not yet convinced of the merits of the new banking policies, they expect major steps for the future. WestLB and urgewald hold talks about five or six times per year. In the eyes of WestLB, at least some of the urgewald activists have become more pragmatic.

## **Background**

### **WestLB AG**

The publicly listed WestLB AG is a European commercial bank having its roots in North Rhine-Westphalia, Germany's largest federal state. With total assets of € 265 billion as of December 31, 2005, it is one of Germany's leading financial service providers. It is

the central institution for the savings banks in North Rhine-Westphalia and Brandenburg, and as an internationally operating commercial bank it acts as their link to the global financial markets. Working in close partnership with the savings banks, WestLB offers the full range of products and services of a universal bank, focusing on lending, structured finance, capital market and private equity products, asset management, transaction services and real estate finance. WestLB made a net profit of 414 million Euros in 2005 (as compared to a loss of more than 1 billion Euros in 2004) and employs 6,353 staff (full-time equivalent as of December 30, 2005).

WestLB was created in 1969 by the merger of its established predecessor institutions, Landesbank für Westfalen Girozentrale, Münster, founded in 1832, and Rheinische Girozentrale und Provinzialbank, Düsseldorf, founded in 1854. In 2002, WestLB was split in two. WestLB AG, the commercial bank, is now a joint stock company. The main shareholders are the savings banks and the state of North Rhine-Westphalia. There is no free float. The entire commercial business activities of the former WestLB are now concentrated in WestLB AG. The Landesbank NRW (now NRW.BANK) took over the public mission activities and remains a public bank.

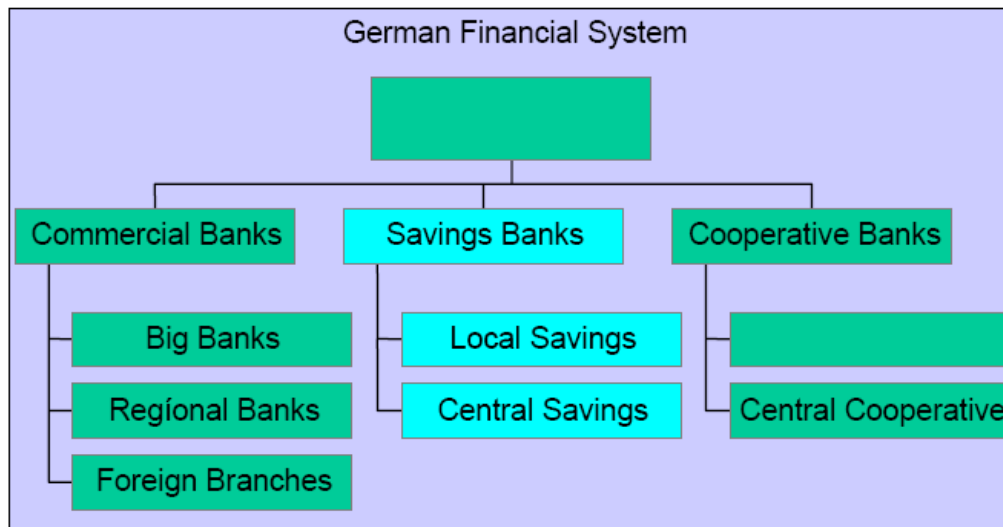
### **The German Financial System**

Although other European countries have privatised their savings banks (Italy and Spain) and transformed their financial systems (France), in Germany, the public banking sector still flourishes. The German system is quite unique. It has been a three-pillar system for more than one century, the first being the so-called public sector – savings banks (retail) and their heads, the Land banks (refinancing and clearing, Landesbank) and their central bank, the DGZ-Deka Bank. In the savings bank sector, according to the regional principle which limits their activities to specific geographic zones, there is no competition among the individual savings banks. The other two pillars are the cooperative and the commercial banks.

The savings banks and the “Landesbanken” (state banks of the federal states) own 35% of the domestic assets (2005), an additional part of 12 % is owned by the cooperative sector. Still, neither the savings banks nor the cooperative banks are strictly profit-oriented.

The finance sector in Germany suffers from small margins. Most analysts claim that the German banking system performs poorly. Although the commercial banks have especially suffered from the decline of interest margins, their margins are still slightly higher than those of the savings banks. This is an indicator that in case that a funding advantage (through institutional liability and guarantor liability) existed, savings banks either passed their advantages on to consumers, or “wasted” it elsewhere. For example, German saving banks are the important sponsors of the arts in Germany and have the largest foundations.





Many experts claim that the German financial system is in a transition phase from a bank-based system to a capital market-based system in the Anglo-Saxon tradition, but some question this claim as the German financial system has proven surprisingly stable despite the considerable movement in the different sectors. Germany is generally seen as “overbanked” (bank branches per capita) in international comparison. As a possible consequence, both groups savings banks and cooperative banks, experienced a major process of concentration (a declining number of banks and branches) in the last decade.

Regulation and supervision is much the same in Germany as in other countries. The financial regulation authority, Bafin assures smooth functioning, monitors and licenses banks and carries out individual regulatory measures while Germany’s shrinking central bank, the “Bundesbank” is responsible for the general banking supervision and international affairs.

German public banking had for a long time mainly been characterised by “institutional liability” and “guarantor liability”, two instruments of state guarantees which reduce the banks’ risk because their liabilities are secured by the state. As state entities, these guarantees make it easy for them to refinance themselves cheaply. In turn, the government profits from cheap refinancing, because their lending is cheaper than commercial loans. Of course, refinancing is also cheaper for commercial loans, mortgages or consumer credits, because the guarantees encompass the whole business of public banks which means that a higher spread can be attained in case the advantage is not passed on to the banks’ clients.

In 1999, the European banking federation addressed the European Commission and claimed that two German instruments harmed competition in banking because they lead to better ratings and lower interest rates for public banks and had thus to be considered as subsidies. The European Commission followed their argumentation and had the German government abolish both.

Another new means of regulation in the international financial sector is Basle II. Started by the G 10 countries, the Basel II regulations were accepted for the EU and are scheduled to take effect in 2007 (the US joining the set of rules later). International

banks will be required to align their capital backing of credit risks with the actual and specific risks incurred (in contrast to current capital backing rules, which rather generalise these risks). The required amount of capital backing will largely depend on a borrower's internal and/or external rating. Operational risks will have to be backed with equity capital as well. The new regulations have begun to cast a shadow on European economies. Especially small and medium-sized enterprises throughout Europe complain about the "credit squeeze", meaning increasing difficulties in finding banks still willing to offer affordable loans.

The latest example for the challenges public banking is facing is the EU commission's attempt to take away another privilege: German savings banks will not be allowed to call themselves "Savings Banks" and make exclusive use of their trade mark. This attempt might prove to have far-reaching consequences, because it might facilitate privatisation of public banking.

### **International Project financing**

Banks issue loans for big infrastructural projects on a global scale. The borrower (debtor) is the project itself and the interest is paid out of the cash flow the project realises. There are about 200 such projects in the world every year.

### **Urgewald**

Urgewald is a small German NGO for the protection of human rights and environmental protection with eight employees. It is financed by grants and donations. It is specialised in campaigning against banks financing big infrastructure projects which are socially or environmentally detrimental. Another main focus is the global paper industry and its role in devastating the rain forests. Urgewald only takes action where German players are involved and thus came into the game when the WestLB case was discussed in an expert hearing of the North Rhine Westphalian parliament in 2002. WestLB became one of their main adversaries. Urgewald holds that in terms of sustainability the Equator principles constitute a step aback rather than a step ahead for German banks. "Until now German banks have relied on the World Bank's standards which are tougher", said director Heffa Schücking. Urgewald stated that WestLB declined to discuss its policy with NGOs at least 20 times.

### **The reaction of politics**

From 1995 to 2005, North Rhine-Westphalia was governed by a coalition of the green party Bündnis 90/Die Grünen and the Social Democratic Party SPD. The minister for environmental affairs at the time was Bärbel Höhn, member of the Green Party.

In January 2002, there was a parliamentary expert hearing on the OCP pipeline in the course of which many experts voiced extensive criticism. The committee decided to send two members of parliament – one green, one social democrat - to Ecuador for a closer examination of the pipeline project. In the resulting report, Ute Koczy and Bernhard von Gründberg stated that the project was not carried out according to the World Bank standards and that the project should be stopped (moratorium) so that an assessment and amendments to the procedures could be made.

At the same time, the Green Party put pressure on the politicians who were representatives of the supervisory board of the firm to minimise risks in the project. In 2003, the Green Party in the North Rhine Westphalian parliament issued a motion of the parliamentary group (Fraktionsbeschluss) on banking and sustainability. The motion criticised WestLB for its business strategy, for the OCP project and for its intransparent communication. The paper also voiced clear claims concerning a new and more responsible policy of WestLB. It requested the regional government to make the bank implement social and environmental standards. It asked local savings banks to develop sustainable strategies.

It was the government of North Rhine-Westphalia, mainly at the instigation of the Green Party that removed Sengera, the interim CEO and Seibert, the “Arbeitsdirektor”, another member of the board at WestLB in 2003 and in the end appointed Fischer as the new CEO.

The state had been governed by social democrats (and their partners in coalitions) for 39 years. The elections in 2005 put the conservative party into power, which was the beginning of the end of the red-green government at the federal level in Berlin. Just as the beginning of the red-green coalition in North Rhine-Westphalia in 1995 marked the beginning of the red-green era in federal politics, its end entailed the end of the red-green coalition at the federal level.

### **The OCP pipeline project**

The OCP pipeline project was a major investment in Ecuador. The project company OCP (Oleoducto de Crudos Pesados) was registered on the Cayman Islands; it was a consortium of oil companies. The new pipeline was meant to replace an old state-owned pipeline, which had been built for Chevron Texaco, in the medium run. The main criticisms voiced were that the new pipeline was superfluous, that the country's resources were sold out, that the pipeline touched several ecologically sensitive areas in the rainforest, that the rights of indigenous people were neglected, and that emergency plans in the earthquake area were insufficient, while social and ecological risks were huge. Urgewald claims that the bank used biased expert reports to state ecological compliance.

WestLB assured its critics that the project adhered to World Bank standards. However, the World Bank refused to acknowledge this in a letter to WestLB in 2001. In 2002, Robert Goodland, expert on the World Bank Standards, wrote in his expert report that the OCP projects violated the standards in four major points, namely: the choice of the least impact route was carried out without public consultation, there was involuntary resettlement without the necessary resettlement plans and compensation, the natural habitat was harmed without finding effective means to minimise the losses of land and habitat and indigenous people were affected in a manner which did not comply with the standards.

Critical NGOs such as “Amazon Watch” said “Wide-ranging opposition has taken a heavy toll on the OCP project. In August 2002, controversy forced former OCP President Hernan Lara to resign, while industry estimates show that delays from environmental and social controversies have already put the OCP nearly \$ 200 million

over budget. In October 2002, one of the two financial rating agencies for the project, Moody's, downgraded the OCP's investment rating to borderline junk status (Baa3) citing, inter alia, growing environmental, political and economic risks."

In 2003, it was taken out of the rating altogether. Moody's also lowered the financial strength rating of WestLB in two steps to E in 2003, during WestLB's most intense crisis, which was characterised by public uproar, financial losses, prosecution and reconstruction of the entire institution. Today, the overall rating of the commercial bank is back to A1 status.

The OCP pipeline has in the meantime been completed, but critics may still be heard. In 2005 critics, such as the Rainforest Information Centre Australia, said explosives were not removed and threatened indigenous people. Furthermore, natural resources are now exploited even faster, pollution is ubiquitous, new roads are built and harm the rainforest further. At the same time, 70 to 80 % of the incoming money must be spent on interest. NGOs claim that the business is not a complete success – the pipeline transports less oil than planned and is not as profitable as projected. This is disputed by the bank.

## **Ecuador**

Ecuador is a democracy but is one of the world's most corrupt countries according to the the Transparency International Corruption Perceptions Index: 113 out of 133. It has a population of about 12.5 million. GDP: \$ 12 billion, per capita GDP is about \$ 1.000 (rank 71 in the world), growth 3.5 %, inflation 8 %. Distribution of income: wealthiest 10% / poorest 10 %: 49.7/2.2 (1995). Share of population earning less than \$ 2 per day: 52.3%

## **The World Bank, the IFC, and the Equator principles**

The International Finance Corporation, IFC, is the private sector branch of the World Bank Group. Its mission is to promote sustainable private sector investment in developing countries, helping to reduce poverty and improve people's lives. To achieve this, IFC provides loans, equity, structured finance and risk management products, and advisory services to build up the private sector in developing countries. IFC invests in enterprises majority-owned by the private sector throughout most developing countries in the world. In fiscal 2005, IFC invested in 236 projects in 67 countries covering all developing regions. The IFC emphasizes five strategic priorities for maximising its sustainable development impact:

- Strengthening its focus on frontier markets, particularly the SME sector;
- Building long-term partnerships with emerging global players in developing countries;
- Differentiating IFC from its competitors through sustainability;
- Addressing constraints to private sector investment in infrastructure, health, and education; and

- Developing domestic financial markets through institution building and the use of innovative financial products.

For all new investments, IFC articulates the expected impact on sustainable development, and, as the projects mature, assesses the quality of the development benefits realised.

IFC offers an array of financial products and services to its clients and continues to develop new financial tools that enable companies to manage risk and broaden their access to foreign and domestic capital markets. It also offers a range of technical assistance and advisory services in support of private sector development in developing countries.

IFC coordinates its activities with the other institutions of the World Bank Group but is legally and financially independent. IFC's 178 member countries provide its authorised share capital of \$ 2.4 billion, collectively determine its policies, and approve investments. IFC's current President is Paul Wolfowitz. It has 2,400 staff and its headquarters are in Washington CD.

The World Bank is not a normal bank but consists of two development institutions, the International Bank for Reconstruction and Development, IBRD, and the International Development Association, IDA. Its aim is poverty reduction and an improvement of living standards around the world. The World Bank was established in 1944 in Bretton Woods together with the International Monetary Fund, IMF, as one pillar of the world's financial architecture after World War II. The World Bank has 10,000 employees, has offices around the world and entertains several "special purpose" agencies such as the IFC.

### **Standards, principles, guidelines**

There are basically three standards (clarified on a sector specific level by guidelines) that are often mentioned in the discussion.

- World Bank standards
- IFC standards
- Equator principles

The World Bank uses ten standards called "Safeguard Policies", or "World Bank Standards". World Bank Standards are fixed in the World Bank Pollution Prevention and Abatement Handbook (PPAH) from 1998. For the use of the World Bank these were complemented by older IFC guidelines from 1991-1993 on sectors not included in the former.

The current IFC standards are called "performance standards" which have replaced the previous "IFC Safeguard Policies". As the IFC's partners are commercial banks, a voluntary approach was adopted to reach similar standards of procedure in project financing. The IFC safeguard policies on environmental assessment on which the Equator principles are based, were issued 1998 by the IFC for its own projects. They can be seen as a parallel effort to the World Bank's policy to bind public development spending.

The IFC convened a meeting of banks in London in October 2002 to discuss environmental and social issues in project finance. At that meeting, the banks present decided to try to develop a banking industry framework for addressing environmental and social risks in project financing based on the IFC “performance standards”. This led to the drafting of the Equator Principles.

In 2003, the Equator principles – a reformulated version of the IFC performance standards - were released. They apply to projects financed by loans in developing countries that cost more than \$ 50 million.

The relationship between the IFC safeguard policies and the World Bank and IFC guidelines can be described as follows: The safeguard policies generally represent an approach to critical issues that cut across industry sectors, such as the protection of natural habitats or the physical or economic displacement of people (resettlement), where it is important to apply a consistent set of environmental and social principles. The guidelines, on the other hand, are sector-specific environmental rules that are applicable to the processes, technology, and issues that apply in specific industries, and represent good practice within that sector. As such, the policies and guidelines are mutually supportive of one another.

The most important point for the Equator principles is that the banks apply the principles themselves. Only banks are able to say if the projects meet the IFC standards, which is based on the IFC’s assessment (on the basis of its own performance standards). In some fields, e.g. effects of project financing on the biodiversity or cultural heritage of the host country, external supervision is required by IFC.

In its preamble, the financial industry recognized that project financing offers substantial opportunities to the creditor to promote responsible environmental stewardship and socially responsible development. The principles thus provide a common framework for procedures and standards in global finance.

The Equator Principles use a screening process for projects which is based on IFC’s environmental and social screening process. Projects will be categorised as A, B or C (high, medium or low environmental or social risk) by the banks, using common terminology. For A and B projects (high and medium risk), the borrower will complete an Environmental Assessment addressing the environmental and social issues identified in the categorisation process. After appropriate consultation with affected local stakeholders, category A projects, and category B projects where appropriate will prepare Environmental Management Plans which address mitigation and monitoring of environmental and social risks.

Issues addressed are among many others

- assessment of the baseline environmental and social conditions;
- requirements under host country laws and regulations;
- Sustainable development and use of renewable natural resources;
- Protection of human health, cultural properties, and biodiversity, including endangered species and sensitive ecosystems;
- Use of dangerous substances, major hazards, occupational health and safety.

The international law firm Freshfields Bruckhaus Deringer evaluated the effects of the principles in 2005 and came to a positive conclusion. They had had a positive effect on the attitudes of lenders as well as on other aspects of responsible banking. Furthermore the Equator principles were becoming an industry standard for international project finance. Even non-Equator banks had altered their business through competitive pressure, said Freshfields. Freshfields is sure that the Equator banks now must practise what they preach and address a number of pressing questions.

### **Criticism of the Equator principles**

The criticism which is mainly voiced by NGO's implies that the principles rely on self-regulation by the finance industry. They claim that as the money-borrower has to submit an assessment for the creditworthiness of his project it is very likely that the effect of the principles will in many cases be a conflict of (biased) experts – with foreseeable results and no official referee. This was also the case in the OCP debate. The survey WestLB put forward was criticised on many grounds. It was contradicted by an expert survey by Robert Goodland, a former World Bank employee that said the OCP project did at no time correspond with the World Bank standards.

Some NGO's, the Green Party of North Rhine Westphalia, and academics discuss the standards themselves and put forward that the World Bank standards - the so called safeguard policies - go further than the Equator principles. The NGO's fear that a process of downgrading of standards is on the way.

The debate often narrows down to the question of whether the Equator principles are less sharp than the IFC and World Bank standards.

One of the most important criticisms is that the Equator Principles cannot be enforced by legal action. A judgement whether the companies comply with the standards is only possible when companies themselves are accountable and accept a high level of transparency and control. The question whether the banks have made real progress remains open.

It is also unclear whether the banks implemented the principles properly. Do they really make a difference when banks assess new ventures? Controversy occurred over the Baku-Tbilisi-Ceyhan pipeline in 2004 when banks said they stuck to the Equator principles and NGOs said they did not.

There is also a free-rider problem: some banks have explicitly put forward that they are no Equator banks and have thus solicited business from less scrupulous clients. They are taking advantage of the goodwill created by the others.

Another point is that the scope of the Equator principles is limited, they only address project finance (and not financing by loans), whereas big infrastructural projects are financed in other ways.

### **What is new?**

Heffa Schücking of Urgewald is still not convinced of WestLB's change of policy and disappointed that Thomas Fischer did not explicitly condemn the OCP project. Moreover, Urgewald claims that WestLB learnt nothing: In January 2004, WestLB signed a

contract for the financing of the Baku-Tbilisi-Ceyhan oil pipeline, which threatens Borjomi National Park in Georgia and crosses several acute conflict areas.

Banktrack, an NGO platform on bank policies located in the Netherlands says in its “Anniversary Assessment” of the Equator Principles<sup>2</sup> that WestLB provides insufficient Equator reporting and offers no data on financed projects, describes neither goals nor challenges to be met by the bank but points at the bank’s internal monitoring. It is still unclear how the Equator Principles are implemented in new projects such as the loan for a subsidiary of the Russian oil company Lukoil.

On the other hand, Oekom research, an independent German rating agency and researcher specializing in sustainable investment, sustainability indices and ratings, states in 2005 that there was a clear trend of withdrawal from project financing of projects associated with social or cultural risk within German financial institutions.

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<sup>2</sup> Unproven Principles, The Equator Principles at Year Two, An Anniversary Assessment, 2004, pdf on [www.banktrack.org](http://www.banktrack.org)



## Resources

- Press release by WestLB: **WestLB wins Financial Times "Sustainable Bankers of the Year" Award**
- stakeholder survey of WestLB
- members of the advisory Board of WestLB
- text on public banking in Europe and the European legislation
- press release by Urgewald
- original text of the equator principles from June 2003,
- list of relevant CoC
- link list for further reading

## Further Information

- **Bertelsmann Foundation**, Handbook of CSR Case Studies – to be published in fall 2006
- **Equator principles**, NGOs, fact sheet on Equator principles by the NGO's
- **Equator principles**, Freshfields, executive summary of the evaluation survey of the Equator principles by Freshfields, July 2005
- **Green Party**, "Fraktionsbeschluss" of the Green party in the parliament of North Rhine Westphalia, January 2004
- **WestLB**, fact sheet
- **Tennyson, Ros**, The Partnering Initiative, 2004 "The partnering toolbox", free download with registration:  
<http://thepartneringinitiative.org/mainpages/rb/login/index.php?> International und katastrophal, Das Projektfinanzierungsgeschäft der WestLB, Südwind, Urgewald, 2004. free download <http://net-news-global.de/pdf/west-lb-studie2004.pdf>
- **Urgewald**: Die Weltbank und der Privatsektor, Hilfe für die Reichen und leere Versprechen für die Armen, Sept. 2005

## Link List

### On West LB AG

- Fact sheet:  
[http://www.westlb.de/cms/sitecontent/westlb/ui/en/finanzinfo/factsheet.standard.gid-N2FkNDZmMzU4OWFmYTIyMWM3N2Q2N2Q0YmU1NmI0OGU\\_.html](http://www.westlb.de/cms/sitecontent/westlb/ui/en/finanzinfo/factsheet.standard.gid-N2FkNDZmMzU4OWFmYTIyMWM3N2Q2N2Q0YmU1NmI0OGU_.html)
- Web site contains West LB sustainability report 2005  
[www.westlb.de/sustainability](http://www.westlb.de/sustainability) or use  
[http://www.westlb.de/cms/sitecontent/westlb/csr/en/Sustainability.standard.gid-N2FkNDZmMzU4OWFmYTIyMWM3N2Q2N2Q0YmU1NmI0OGU\\_.html](http://www.westlb.de/cms/sitecontent/westlb/csr/en/Sustainability.standard.gid-N2FkNDZmMzU4OWFmYTIyMWM3N2Q2N2Q0YmU1NmI0OGU_.html)
- Chronicle:  
[http://www.westlb.de/cms/sitecontent/westlb/ui/en/wir\\_ueber\\_uns/chronologie.standard.gid-N2FkNDZmMzU4OWFmYTIyMWM3N2Q2N2Q0YmU1NmI0OGU\\_.html](http://www.westlb.de/cms/sitecontent/westlb/ui/en/wir_ueber_uns/chronologie.standard.gid-N2FkNDZmMzU4OWFmYTIyMWM3N2Q2N2Q0YmU1NmI0OGU_.html)
- results of the lawsuits against West LB managers  
[http://www.ftd.de/karriere\\_management/koepfe/80212.html](http://www.ftd.de/karriere_management/koepfe/80212.html)
- stakeholder survey [http://www.WestLB.de/cms/sitecontent/WestLB/ui/en/Sustainability/dialog.-bin.acq/qual-StdArticleMarginalPar-Sys.0001.Cc20ParagraphBoxesParSys.0001.Cc13AttachmentList.0001.AttachmentFile/Stakeholder\\_Survey.pdf](http://www.WestLB.de/cms/sitecontent/WestLB/ui/en/Sustainability/dialog.-bin.acq/qual-StdArticleMarginalPar-Sys.0001.Cc20ParagraphBoxesParSys.0001.Cc13AttachmentList.0001.AttachmentFile/Stakeholder_Survey.pdf)

taken out of the West LB's stakeholder survey 2005:

### On the Equator principles and its critics

- Text of the principles, newest developments and list of banks which adopted the principles, further information on standards <http://www.equator-principles.com>
- evaluation of the equator principles by Freshfields 2005
- Chan-Fishel, Michelle 2005: Unproven Principles – the Equator Principles at Year Two, Utrecht, Bank Track,  
[www.banktrack.org/.../050606%20Unproven%20Principles,the%20Equator%20Principles%20at%20year%20two.pdf](http://www.banktrack.org/.../050606%20Unproven%20Principles,the%20Equator%20Principles%20at%20year%20two.pdf)
- A short evaluation of the Equator principles:  
<http://www.freshfields.com/practice/environment/publications/pdfs/12057.pdf>
- Urgewald, website only available in German  
<http://www.urgewald.de/index.php?page=2>
- This page gives a complete overview about the NGOs' positions.  
<http://www.banktrack.org> Joint NGO position paper on the revised Equator Principles, April 26, 2006.
- Rainforest news and information <http://www.rainforestinfo.org.au/newwrr.htm>
- <http://www.banktrack.org/?show=23&visitor=1> NGO website with fact sheet on the Equator Principles, critical comments and further information
- amazon watch website, [www.amazonwatch.org](http://www.amazonwatch.org) Environmentalists Call on German Bank to Cancel Loan for Ecuador Oil Pipeline Protest Held at WestLB's New York Headquarters. Passage cited in the text taken from:  
[http://www.amazonwatch.org/amazon/EC/ocp/index.php?page\\_number=5](http://www.amazonwatch.org/amazon/EC/ocp/index.php?page_number=5)

## On the OCP project

Critics on the OCP project:

- [http://www.rainforestinfo.org.au/ocp/background\\_files/ocp\\_ecuad.html](http://www.rainforestinfo.org.au/ocp/background_files/ocp_ecuad.html)
- [www.greenpeace.org](http://www.greenpeace.org)
- Robert Goodland's report 2002 <http://www.regenwald.org/pdf/ocp-assess.pdf>

Press clippings on the OCP project:

NGO's complained that there was a "news blackout" on the topic because they suspect an alliance of US finance industry with the big US newspapers such as the New York Times and the Washington Post. (Worldwitch)

Times [http://www.worldtwitch.com/ecuador\\_pipeline.htm](http://www.worldtwitch.com/ecuador_pipeline.htm) In fact, there are not many press clippings to be found.

- New York Times, 30 october 2002,
- Financial Times, 23 august 2002
- compilation of German newspaper articles here:  
<http://www.rainforestinfo.org.au/ocp/German-news.htm>

Report of the two representatives of the North Rhine Westphalian Parliament on the OCP project in German: <http://www.regenwald-institut.de/deutsch/index.html>

## On CoC

- pdf report on CoC for German federal government: adelphi report 02/05  
[www.adelphi-research.org](http://www.adelphi-research.org) sent by email

## On the IFC

- Brief information on IFC [www.ifc.org](http://www.ifc.org) <http://www.ifc.org/about>, Its president is Paul Wolfowitz.  
[http://www.ifc.org/ifcext/about.nsf/AttachmentsByTitle/IFC\\_in\\_Brief\\_2006/\\$FILE/IFC\\_in\\_Brief\\_2006.pdf](http://www.ifc.org/ifcext/about.nsf/AttachmentsByTitle/IFC_in_Brief_2006/$FILE/IFC_in_Brief_2006.pdf) free download „IFC in brief“, seven pages of text.  
IFC's safeguard policies <http://www.ifc.org/enviro>

[http://www.oekom-research.de/index\\_english.html](http://www.oekom-research.de/index_english.html)

## Short information on the German banking system

- IFW Kiel 2004, Koetter, Nestmann, Stolz, Wedow: structures and trends in German banking, <http://www.ifw-kiel.de/pub/kap/2004/kap1225.pdf>
- University of Frankfurt <http://www.wiwi.uni-frankfurt.de/schwerpunkte/finance/wp/1243.pdf> The transformation of the German financial system, Hackethal, Schmidt, Tyrell 2005.
- Regulation: <http://www.bafin.de/cgi-bin/bafin.pl?verz=&sprache=1&filter=&ntick=0>

## Press Releases

Press Release by WestLB on June 13 2006

### **WestLB wins Financial Times "Sustainable Bankers of the Year" Award**

WestLB AG has been awarded first place in the "Sustainable Bankers of the Year" category at the annual sustainable banking awards organised by the FT and the IFC (International Finance Corporation). The judges particularly praised the short timeframe during which WestLB had succeeded in embedding sustainability principles across its whole company and integrating them in the business process. In addition, WestLB was shortlisted in the "FT 2006 Sustainable Bank of the Year" and "Sustainable Energy Deal of the Year" categories.

"We are delighted to be honoured this way," said Dr. Thomas R. Fischer, Chairman of WestLB's Managing Board. "It both recognises what we have achieved already and encourages us to go further down the same road." As co-initiator of the Equator Principles" and a signatory of the United Nations' "Global Compact", the Bank is committed to upholding comprehensive environmental and social standards. This underscores its role as a globally responsible business. The Sustainability Management Group, established in 2004 as part of the CEO's office is responsible for implementing the Bank's Sustainability Principles and for achieving closer dialogue with stakeholder groups. As part of its commitment to transparency and responsibility, WestLB has published its current Sustainability Report in conformation with the guidelines of the "Global Reporting Initiative".

<http://www.westlb.de/cms/sitecontent/westlb/ui/en/Sustainability/Archive/ftsba.standard.gidN2FkNDZmMzU4OWFmYTlyMWM3N2Q2N2Q0YmU1Nml0OGU.html>

### **Leading Banks Announce Adoption of Equator Principles**

Original press release on June 4, 2003 taken from the Equator Principles' Website

<http://www.equator-principles.com/pr030604.shtml>

Ten leading banks from seven countries today announced the adoption of the "Equator Principles," a set of guidelines developed by the banks for managing social and environmental issues related to the financing of development projects. The banks will apply the principles globally and to project financings in all industry sectors, including mining, oil and gas, and forestry.

The banks adopting the Equator Principles today are ABN AMRO Bank, N.V., Barclays plc, Citigroup, Inc., Crédit Lyonnais, Credit Suisse First Boston, HVB Group, Rabobank Group, The Royal Bank of Scotland, West LB AG, and Westpac Banking Corporation. Together, these banks underwrote approximately \$14.5 billion of project loans in 2002, representing approximately 30% of the project loan syndication market globally in 2002, according to Dealogic.

The Equator Principles are based on the policies and guidelines of the World Bank and International Finance Corporation (IFC). The banks received extensive advice and guidance from IFC, the private-sector investment arm of the World Bank, in drafting the Equator Principles.

In implementing the Equator Principles, banks currently have or will put in place internal policies and processes consistent with the principles.

In adopting the Equator Principles, a bank undertakes to provide loans only to those projects whose sponsors can demonstrate to the satisfaction of the bank their ability and willingness to comply with comprehensive processes aimed at ensuring that projects are developed in a socially responsible manner and according to sound environmental management practices.

The banks will apply the Equator Principles to all loans for projects with a capital cost of \$50 million or more. Project finance, an important financing method in private-sector development globally, refers to the financing of projects where the repayment of the loan is dependent upon the revenues that a project is expected to generate once it is up and running.

The Equator Principles will use a screening process for projects which is based on IFC's environmental and social screening process. Projects will be categorized as A, B or C (high, medium or low environmental or social risk) by the banks, using common terminology. For A and B projects (high and medium risk), the borrower will complete an Environmental Assessment addressing the environmental and social issues identified in the categorization process. After appropriate consultation with affected local stakeholders, category A projects, and category B projects where appropriate, will prepare Environmental Management Plans which address mitigation and monitoring of environmental and social risks.

The Environmental Assessment will address such issues as:

- Sustainable development and use of renewable natural resources.
- Protection of human health, cultural properties, and biodiversity, including endangered species and sensitive ecosystems.
- Use of dangerous substances.
- Major hazards.
- Occupational health and safety.
- Fire prevention and life safety.
- Socioeconomic impacts.
- Land acquisition and land use.
- Involuntary resettlement.
- Impacts on indigenous peoples and communities.
- Cumulative impacts of existing projects, the proposed project, and anticipated future projects.
- Participation of affected parties in the design, review and implementation of the project.
- Consideration of environmentally and socially preferable alternatives.
- Efficient production, delivery and use of energy.
- Pollution prevention and waste minimization, pollution controls (liquid effluents and air emissions) and solid and chemical waste management.

The borrower will be required to demonstrate to the bank that the project complies with host country laws and the World Bank and IFC Pollution Prevention and Abatement Guidelines for the relevant industry sector. For projects in the emerging markets, the borrower would also have to demonstrate that the Environmental Assessment has taken into account the IFC Safeguard Policies, which provide guidance on issues such

as natural habitats, indigenous peoples, involuntary resettlement, safety of dams, forestry, and cultural property.

The full text of the Equator Principles and FAQ about the Equator Principles can be found at [www.equator-principles.com](http://www.equator-principles.com)

The World Bank and IFC Pollution Prevention and Abatement Guidelines are available at:

[World Bank - Pollution Prevention and Abatement Handbook](#)

[IFC - Environmental, Health and Safety Guidelines](#)

IFC Safeguard Policies can be found at:

[IFC - Safeguard Policies](#)

### Standard & Poors Long-Term Debt and Moody's Ratings Equivalent

<http://magazine.globeinvestor.com/servlet/ArticleNews/commentarystory/GIGOLD/20021028/dalemag/magazine/home>

Investment Grade/agency	Moody's	Standard & Poors
Exceptional	Aaa, Aaa1, Aaa2, Aaa3	AAA, AAA-, AA+
Excellent	Aa, Aa1, Aa2, Aa3	AA, AA-, A+
Good	A, A1, A2, A3	A, A-, BBB+
Adequate	Baa, Baa1, Baa2, Baa3	BBB, BBB-, BB+
Speculative Grade		
Questionable	Ba, Ba1, Ba2, Ba3	BB, BB-, B+
Poor	B, B1, B2, B3	B, B-, CCC+
Very Poor	Caa, Caa1, Caa2, Caa3	CCC, CCC-, CC+
Extremely Poor	Ca, Ca1, Ca2, Ca3	CC,CC-, C+
Lowest	C	C

### Press release urgewald on 22 february 2006

Taken from urgewald's website, [www.urgewald.de](http://www.urgewald.de)

Der Verwaltungsrat der Weltbank hat gestern die neuen Umwelt- und Sozialstandards seiner Privatsektor-Tochter 'International Finance Corporation' (IFC) verabschiedet. Nicht-Regierungsorganisationen (NRO) und unabhängige Experten kritisierten die geplanten Änderungen massiv.

„Besonders enttäuscht sind wir von Entwicklungsministerin Wieczorek-Zeul,“ stellt Knud Vöcking von der Umwelt- und Menschenrechtsorganisation urgewald fest. „Immer wieder hat das BMZ öffentlich erklärt, dass es mit ihm keine Abschwächung der Standards geben wird. Jetzt stimmt das Ministerium zu, dass unabhängige Umwelt- und Sozialverträglichkeitsprüfungen (USVP) de facto abgeschafft werden.“

Denn nach den neuen Richtlinien reicht es der IFC, wenn Firmen, die einen Kredit beantragen, Umwelt- und Sozialverträglichkeit in Eigenregie prüfen. „Damit kann sich jeder Bergbaukonzern selbst attestieren, dass Goldabbau mit Zyanideinsatz notwendig ist, oder dass Naturreserve unter den Bagger geraten müssen. Wenn ein Unternehmen sich selbst bescheinigt, es sei wirtschaftlich nicht anders machbar, können Menschen von ihrem Land vertrieben werden, Indigene ihrer kulturellen Wurzeln beraubt werden. Und alles im Namen der Entwicklung,“ empört sich Vöcking.

Selbst die US-Regierung, nicht besonders sozial oder ökologisch sensibel, lehnt diese neuen Regeln der IFC ab und hat sich deshalb der Stimme enthalten. (...)

Für Vöcking stellt sich nun die Frage nach der grundsätzlichen Legitimität der IFC: „Diese Institution hat zwei Gesichter. Zum einen wird mit großer Rhetorik Armutsbekämpfung gepredigt. In der Praxis aber hat sich IFC zur Hauptaufgabe gemacht, großen Öl- und Bergbaukonzernen billiges Geld für die Ausbeutung der Rohstoffe Lateinamerikas, Afrikas, Asiens und Ozeaniens bereitzustellen. Umwelt- und Sozialstandards stellen dabei offensichtlich nur ‚bürokratische Hürden‘ dar. Für solch ein Geschäftsmodell dürfen aber unsere Steuergelder nicht herhalten.“

## Supervisory board of West LB

**Supervisory Board of West LB**, taken from the West LB Website on 9th may, 2006.

Chairman, Dr. Rolf Gerlach  
Praesident, Westfaelischer Sparkassen- und  
Giroverband  
48159 Muenster

Deputy Chairman,  
Gerd-Uwe Loeschmann  
Direktor, West LB AG  
40217 Duesseldorf

Dr. Karlheinz Bentele  
Praesident, Rheinischer Sparkassen- und Gi-  
roverband  
40217 Duesseldorf

Thorsten Ellwanger  
Prokurist, West LB AG  
20095 Hamburg

Bernd Fiegler  
Stellvertretender Landesbezirksleiter  
ver.di  
Landesbezirk NRW  
40210 Duesseldorf

Rolf Finger  
Gewerkschaftssekretaeer im  
Fachbereich Finanzdienstleistungen  
ver.di  
Landesbezirk NRW  
40210 Duesseldorf

Horst-Wolfgang Klophaus  
Bevollmaechtigter West LB AG  
40217 Duesseldorf

Joachim Kraemer  
Generalmoeglichlicher West LB AG  
40217 Duesseldorf

Dr. Helmut Linssen  
Minister Finanzministerium des Landes Nord-  
rhein-Westfalen  
40479 Duesseldorf

Dr. Siegfried Luth  
Ehem. stellv. Vorstandsvorsitzender der Ber-  
telsmann AG  
33311 Guetersloh

Manfred Matthewes  
Prokurist, West LB AG  
40217 Duesseldorf

Udo Molsberger  
Landesdirektor,  
Landschaftsverband Rheinland  
50679 Koeln

Dr. Hans-Ulrich Predeick  
Erster Landesrat, Landschaftsverband Westfa-  
len-Lippe  
48147 Muenster

Dr. Dietrich Ruemker  
Vorsitzender des Vorstandes Landesbank  
Schleswig-Holstein, a.D.  
c/o HSH Nordbank AG  
24103 Kiel

Heinz-Guenter Sander  
Bankangestellter, West LB AG  
40217 Duesseldorf

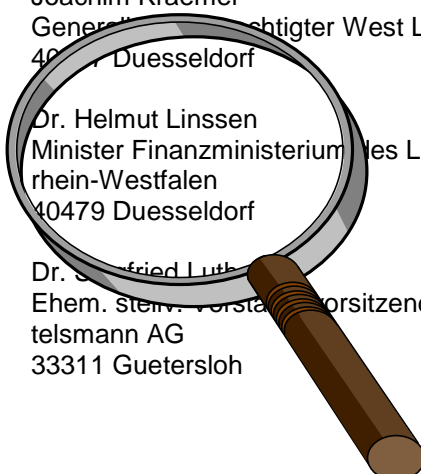
Gustav Adolf Schroeder  
Vorsitzender des Vorstandes, Sparkasse  
KoelnBonn  
50667 Koeln

Christiane Stascheit  
Stellvertretende Betriebschaftsfuehrerin fuer den  
Bezirk Duesseldorf  
ver.di  
40213 Duesseldorf

Hans-Georg Vogt  
Vorsitzender des Vorstandes Sparkasse Bie-  
lefeld  
33605 Bielefeld

Elisabeth Weber  
Prokuristin, West LB AG  
40217 Duesseldorf

Heinz Welter  
Vorsitzender des Vorstandes, Sparkasse  
Neuss  
41460 Neuss





## List of relevant CoC for companies

Taken out of the adelphi report 02/05, [www.adelphi-research.org](http://www.adelphi-research.org)

- Amnesty International Human Rights Principles for Companies (1998)
- Business Principles for Combatting Bribery, Transparency International and Social Accountability International, 2002
- Equator Principles, 2003
- European Parliament resolution on EU Standards for European Enterprises operating in developing countries, towards a European Code of Conduct (1999)
- Extractive industries Transparency Initiative (2004)
- Global Sullivan Principles (1977)
- International Chamber of Commerce. Rules of conduct to combat extortion and bribery (1999)
- International Council on Mining and Metals Principles (in development)
- OECD guidelines for multinational enterprises (1976, 2000)
- Global compact (this is not a real CoC but a network of companies to encourage policy dialogue but it operates on the basis of ten principles that are becoming a codex)
- UN norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights (2003)
- US-UK principles on security and human rights (2000)
- Wolfsberg anti money laundering principles (2002)

## Results of the stakeholder survey carried out by WestLB

Taken from the sustainability pages of West LB's website (complete link see above)

**Many stakeholders remember WestLB's involvement in the granting of privileges to politicians and other leading figures in North Rhine-Westphalia (e.g. VIP funds, "fishing trips"). Also, the criticism of the funding of the OCP Pipeline ("Oleoducto de Crudos Pesados") is directly associated with WestLB. In their opinion, the Bank was previously unwilling to respond to criticism and to enter into a dialogue.**

**The stakeholders have realised, however, that WestLB has repositioned itself, appointed new Managing Board members and set up a Sustainability Management Department, which directly reports to the Managing Board. Depending on the interviewee, they hope or assume that the Bank's repositioning will lead to clear improvements. The Bank must now act accordingly to live up to these hopes and expectations.**