



WORLD HERITAGE FOREVER?

How Banks Can Protect the World's Most
Iconic Cultural and Natural Sites

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Introduction

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CASE STUDY LIST

PROJECT	SECTOR	COUNTRY	IMPACTED AREAS
Palm Oil and the Tropical Rainforest Heritage of Sumatra	Palm Oil	Indonesia	Tropical Rainforest Heritage of Sumatra, World Heritage site
Liquefied Natural Gas Development in the Quirimbas Biosphere Reserve	LNG	Mozambique	Quirimbas Biosphere Reserve
East African Crude Oil Pipeline and Protected Areas	Oil Infrastructure	Uganda & Tanzania	•Burigi-Biharamulo Game Reserves, IUCN Cat IV •Ngorongoro National Park, World Heritage site •Murchison Falls-Albert Delta Wetland System, Ramsar site •Lutembe Bay Wetland System, Ramsar •Taala Forest Reserve, Ugandan protected area •Bugoma Forest, Ugandan protected area •Pemba-Shimoni-Kisite Reserve, marine protected area •Tanga Coelacanth Marine Park, marine protected area •Wembere Steppe, Key Biodiversity Area
Oil Development in Yasuní National Park	Oil	Ecuador	Yasuní Biosphere Reserve IUCN category II site
Mongolian Dams and Lake Baikal	Hydropower	Mongolia	Lake Baikal, World Heritage site
Iron Ore Mining in Mount Nimba	Mining	Guinea	Mount Nimba, World Heritage site

EXECUTIVE SUMMARY AND KEY FINDINGS

To date, human activities have significantly altered 75% of land surface, with cumulative impacts affecting 66% of ocean areas¹.

Eighty five percent of wetlands have disappeared, and critical tropical forests continue to burn². Humanity is pushing against the planet's boundaries. But there are fewer and fewer places left to go.

Some of the few, undeveloped places left in the world are those located within internationally recognized areas, such as World Heritage, Ramsar, Biosphere Reserves, among others. However, these areas are under increasing threat. Given the twin crises of biodiversity loss and climate change, it is more important than ever that the world's most iconic places are protected from harmful development activities. For instance, World Heritage sites exemplify the most outstanding cultural and natural treasures on Earth, and yet they have remained continuously under threat, even despite international recognition and prestige. Although some companies have adopted policies prohibiting activities in World Heritage sites, there is still a great deal more to be done not only on a corporate level, but on a banking level.

Some banks have adopted policies that prohibit financing in well-recognized areas such as World Heritage sites. However, the international banking sector writ large has yet to fully develop protections on internationally recognized sites.

Drawing on six case studies, this report demonstrates how banks are falling short in doing their part – in both policy and practice – in protecting the most special places on Earth. This gap underscores the need for banks to expand and fortify their institutional exclusionary policies in order to prevent financing to harmful, unsustainable activities that negatively impact critically sensitive ecosystems and culturally irreplaceable sites.

Key findings of the report include:

- Multilateral, public, private sector, and Chinese banks have yet to develop consistent and comprehensive policies to safeguard internationally recognized areas, such as World Heritage sites
- Multilateral, public, private sector, and Chinese banks should prohibit indirect and direct financing to activities which negatively impact internationally recognized areas, such as World Heritage sites, even if not directly located in the site proper
- Multilateral, public, private sector, and Chinese banks should require free, prior, informed consent
- Multilateral, public, private sector, and Chinese banks all struggle to adequately implement environmental and social safeguards and policies
- Despite international prestige and recognition, internationally recognized areas face recurring risks, sometimes across decades, from harmful development activities
- Negative environmental and social impacts may be triggered or exacerbated by ill-conceived project locations
- Conversely, negative environmental and social impacts can be preempted by prohibiting projects located in internationally recognized and sensitive areas
- Banks should adopt the Banks and Biodiversity Initiative's No Go policy, which outlines eight areas where banks should prohibit harmful direct and indirect financing

Our ultimate ambition is to demonstrate why banks should prohibit harmful indirect and direct financing to activities which negatively impact internationally recognized areas, such as World Heritage sites, and adopt Area 1 of the Banks and Biodiversity Initiative's No Go policy¹. In doing so, we provide concrete, actionable solutions and recommendations to the banking sector so that we can indeed keep our world heritage forever.

¹ For more information on the Banks and Biodiversity Initiative, please see page 7.

INTRODUCTION

In 1998, a wave of harmful activities threatening World Heritage sites prompted the World Heritage Centre, International Union for Conservation of Nature (IUCN), and International Council on Monuments and Sites (ICOMOS) to call for stronger safeguards in “protected areas and other ecologically sensitive sites” from extractive industries³. By 2013, these discussions formalized into a “No-go commitment” supported by the World Heritage Committee, which called on State Parties to prohibit “extractives activities within World Heritage properties, and by making every effort to ensure that extractives companies located in their territory cause no damage to World Heritage properties, in line with Article 6 of the Convention”⁴. Today, however, many World Heritage sites continue

to face pressure from extractive industries. UNESCO has noted that mining, oil, and gas are the seventh most important factor impacting World Heritage sites⁵. In addition, harmful water infrastructure projects pose serious risks to a quarter of natural World Heritage sites, according to research from World Heritage Watch and Rivers Without Boundaries⁶.

World Heritage sites exemplify the most outstanding cultural and natural treasures on Earth, and yet they remain under threat even despite international recognition. Although some mining companies have adopted policies prohibiting activities in World Heritage sites, there is still a great deal more to be done not only on a corporate level, but on a banking level as well.

Although some banks have adopted policies that prohibit financing in well-recognized areas such as World Heritage sites, the international banking sector writ large has yet to fully develop protections on internationally recognized sites. As upstream, enabling actors in project and development financing, banks play an essential role in accelerating, slowing, or preventing harmful activities. The banking sector’s involvement (or complicity) in ill-conceived infrastructure development, energy, agribusiness, and extractive industries are root economic drivers of environmental degradation, habitat loss, and biodiversity loss impacting World Heritage sites. Conversely, when banks withhold financing based on environmental, social or biodiversity risks, many harmful projects become unviable.

Banks play a critical role in “screening out” high risk, low-quality investment proposals, and so developing policies and due diligence practices that prohibit investments which negatively impact internationally recognized areas can help banks protect their lending portfolio from financial losses, costly delays and public backlash.

At the same time, other internationally recognized areas tend to be afforded less attention and protections than World Heritage sites, such as Ramsar, Biosphere Reserves, and IUCN category sites. These areas represent critical ecosystems which may be

recognized for their important biodiversity, conservation, or climate regulatory value in their own right. However, in comparison to World Heritage sites, they typically enjoy fewer bank protections. In light of increasing biodiversity loss and climate change, it is vital that these areas are also effectively safeguarded.

Banks must play a critical role in ensuring protected areas stay protected, and there is growing international agreement in this regard. The World Heritage Committee “strongly encourages [sic] all banks, investment funds, the insurance industry and other

relevant private and public sector companies to integrate into their sustainability policies, provisions for ensuring that they are not financing projects that may negatively impact World Heritage properties and that the companies they are investing in subscribe to the 'No-go commitment'⁷. And according to Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES), "A key component of sustainable pathways is the evolution of global financial and economic systems to build a global sustainable economy, steering away from the current, limited paradigm of economic growth"⁸.

Accomplishing this will not be easy. But it will be worthwhile. With looming challenges of biodiversity loss and climate change, it is more important than ever that banks do their part.

As noted by IPBES:

By its very nature, transformative change can expect opposition from those with interests vested in the status quo, but such opposition can be overcome for the broader public good. If obstacles are overcome, a commitment to mutually supportive international goals and targets, supporting actions by indigenous peoples and local communities at the local level, new frameworks for private sector investment and innovation, inclusive and adaptive governance approaches and arrangements, multi-sectoral planning, and strategic policy mixes can help to transform the public and private sectors to achieve sustainability at the local, national and global levels⁹.



ABOUT THE BANKS AND BIODIVERSITY INITIATIVE

With more than 75% of land surface now significantly altered, and with cumulative impacts affecting 66% of ocean areas, **it is more important than ever to safeguard ecosystems which are critical to stopping biodiversity loss and averting climate change.** With fewer and fewer places left to develop, it is critical that a hard line is drawn in protecting some of the most important and valuable ecosystems left on the planet.

Endorsed by over 60 civil society organizations, the Banks and Biodiversity Initiative aims to hold banks accountable for their impacts on biodiversity and critical ecosystems. The goal of the initiative is to call on banks to adopt the Banks and Biodiversity's No Go policy; developed by the Banks and Biodiversity Initiative coalition group, the No Go policy calls on banks to prohibit direct and indirect financing to harmful activities that may negatively impact key critical ecosystems and areas.

Other international bodies have already recognized the value of developing No Go Areas, such as the World Heritage Committee and the UN Environment's Principles for Sustainable Insurance Initiative (PSI). The Chinese government has also explored the concept via its guidelines on "Ecological Red Lines"¹⁰. Furthermore, the Banks and Biodiversity No Go Policy aligns with banks and financial institutions' current practice of developing institutional Exclusion Lists for sensitive industries, activities, or areas.

We note that activities that do not fall within the No Go policy should still be subject to rigorous environmental and social due diligence, assessment, screening, planning, and mitigation policies and procedures.

The Banks and Biodiversity Initiative is led by a steering committee of civil society organizations which includes: BankTrack, Bank Information Center, Friends of the Earth US, Inclusive Development International, Latinoamerica Sustentable, and Rivers without Boundaries².

² More information about the Banks and Biodiversity Initiative can be found at www.banksandbiodiversity.org.

BANKS AND BIODIVERSITY NO GO POLICY

In order to safeguard the rights of Indigenous and traditional communities in formally, informally, or traditionally held conserved areas – such as Indigenous and community conserved areas (ICCA), Indigenous Territories (TIs) or public lands not yet demarcated – as well as to better address and reflect the current crises of climate change, biodiversity loss, and emergence of zoonotic diseases, the Banks and Biodiversity campaign calls on banks and financial institutions to adopt a No Go policy which prohibits any direct or indirect financing related to unsustainable, extractive, industrial, environmentally, and/or socially harmful activities in or which may potentially impact the following areas:

AREA 1

Areas recognized by international conventions and agreements including but not limited to the Bonn Convention, Ramsar Convention, World Heritage Convention and Convention on Biological Diversity, or other international bodies such as UNESCO (Biosphere Reserves, UNESCO Global Geoparks, etc) or Food and Agricultural Organization (vulnerable marine ecosystems), International Maritime Organization (particularly sensitive areas), IUCN Designated Areas (Categories IA – VI)

AREA 2

Nature, wilderness, archaeological, paleontological and other protected areas that are nationally or sub-nationally recognized and protected by law or other regulations/policies; this includes sites which may be located in or overlap with formally, informally, or traditionally held conserved areas such as Indigenous and community conserved areas (ICCA), Indigenous Territories (ITs) or public lands not yet demarcated

AREA 3

Habitats with endemic or endangered species, including key biodiversity areas

AREA 4

Intact primary forests and vulnerable, secondary forest ecosystems, including but not limited to boreal, temperate, and tropical forest landscapes

AREA 5

Free-flowing rivers, defined as bodies of water whose flow and connectivity remain largely unaffected by human activities

AREA 6

Protected or at-risk marine or coastland ecosystems, including mangrove forests, wetlands, reef systems, and those located in formally, informally, or traditionally held areas, Indigenous Territories (ITs), or public lands not yet demarcated, or Indigenous and community conserved areas (ICCA)

AREA 7

Any Indigenous Peoples and Community Conserved Territories and Areas (ICCAs), community-based conservation areas, formally, informally, traditionally, customarily held resources or areas, Indigenous Territories, sacred sites and/or land with ancestral significance to local and Indigenous communities' areas where the free, prior, informed consent of Indigenous and Local Communities have not been obtained

AREA 8

Iconic Ecosystems, defined as ecosystems with unique, superlative natural, biodiversity, and/or cultural value which may sprawl across state boundaries, and thus may not be wholly or officially recognized or protected by host countries or international bodies. Examples include but are not limited to the Amazon, the Arctic, among other at-risk ecosystems

REPORT OBJECTIVE AND SCOPE

Drawing lessons from six case studies, this report aims to understand how banks are falling short in doing their part, in both policy and practice, in protecting the most special places on Earth. This gap underscores the need for banks to expand and fortify their institutional exclusionary policies in order to categorically prevent financing to harmful, unsustainable activities which would negatively impact critically sensitive ecosystems and culturally irreplaceable sites.

There are growing civil society calls that banks to do more in protecting internationally recognized areas, and just as importantly, also safeguarding the rights of the local and Indigenous Peoples who live there. Endorsed by over 60 civil society organizations, the Banks and Biodiversity Initiative (BBI), of which Friends of the Earth US is a part of, calls on banks to adopt a proposed No Go policy; developed by civil society, the No Go policy calls on banks to prohibit direct and indirect financing to unsustainable, extractive, industrial, environmentally, and/or socially harmful activities in or which may impact eight key areas³.

This report focuses specifically on how banks are financing harmful activities in Area 1 of the No Go policy, which includes several key international conventions and agreements, including but not limited to:

1. Bonn Convention
2. Ramsar Convention
3. World Heritage Convention
4. Convention on Biological Diversity
5. UNESCO Biosphere Reserves
6. UNESCO Global Geoparks
7. Food and Agricultural Organization recognized vulnerable marine ecosystems
8. International Maritime Organization recognized particularly sensitive areas
9. IUCN Designated Areas (Categories IA – VI)

As international financing structures have become more complex, we also aim to illustrate the various ways banks may be directly (i.e. providing project finance, issuing guarantees, or offering general corporate loans to a project proponent) or indirectly (i.e. their role as financial advisors, providing technical assistance funds, or supporting trade financing) involved in financing harmful activities in internationally recognized areas.

We hope this report can make clear why and how banks need to do better to protect these internationally recognized areas. Although the other areas of the Banks and Biodiversity's No Go policy are beyond the scope of this report, the environmental, biodiversity, and social impacts of the selected case studies do at times overlap with other prohibited areas of the proposed No Go policy, and are discussed when relevant. Our ultimate ambition is to demonstrate why banks should adopt the proposed No Go policy, and also provide concrete, actionable solutions and

recommendations to the banking sector so that we can indeed keep our world heritage forever.

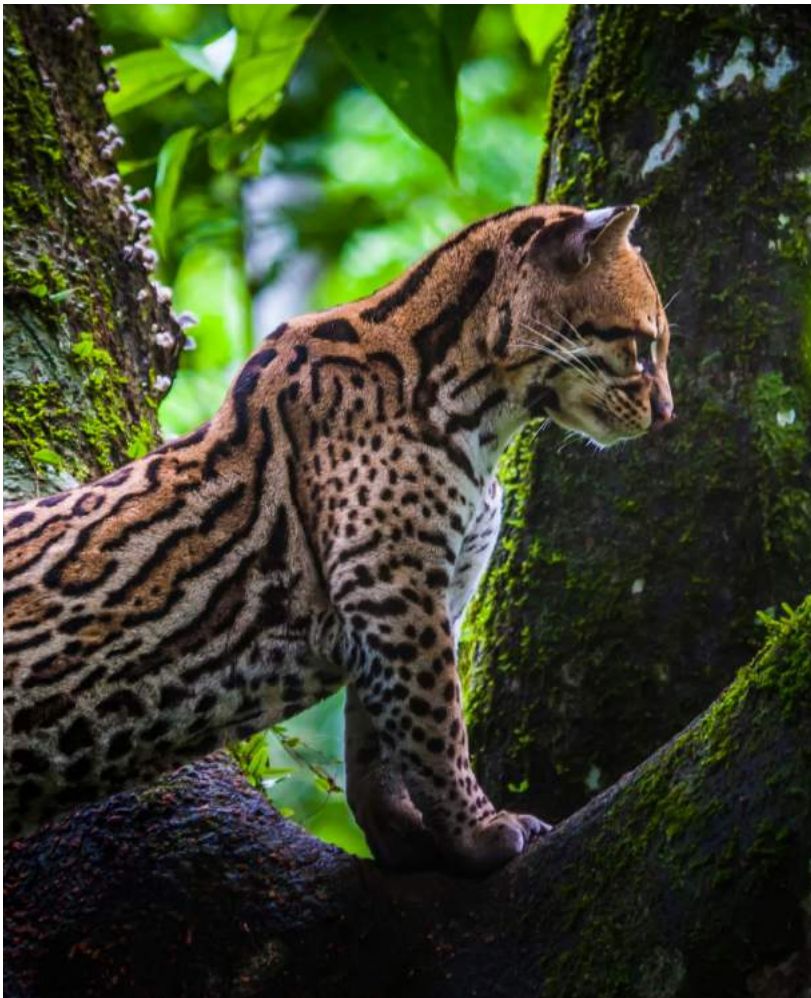
In the first part of the report, we discuss current policies regarding protected areas in the international banking sector, as well as examine six case studies related to harmful bank financing in World Heritage and other internationally recognized areas. In order to ensure sectoral and geographical diversity, case studies include mining, fossil fuel, dams, and agribusiness examples from Latin America, Africa, Asia, and Southeast Asia. We also include two special case studies on the controversial Lamu coal plant in Kenya's Old Lamu Town, and coal development in the Great Barrier Reef, as they offer unique insights on coal impacts on World Heritage sites. In the second part of the report, we discuss common trends and themes across the case studies. We conclude with policy recommendations for the international banking sector.

³ For more information on the Banks and Biodiversity's proposed No Go policy, please see page 7



ASSESSING CURRENT PRACTICES IN PROTECTING WORLD HERITAGE AND INTERNATIONALLY RECOGNIZED SITES

World Heritage sites represent the collective effort of the 178 State signatories to the 1972 Convention concerning the Protection of the World Cultural and Natural Heritage to safeguard the world's most valued and valuable places¹¹. International conventions have recognized additional areas for their unique ecological, cultural, and biodiversity importance, such as the Ramsar Convention, Bonn Convention, Convention on Biological Diversity, among others.



However, current practice in protecting World Heritage and other internationally recognized areas is inconsistent and limited. The international recognition of these sites as universally unique and irreplaceable in terms of their environmental, biodiversity, cultural, and climate regulatory value should serve as a strong signal that these places should be off limits to harmful, unsustainable, and extractive activities. Troublingly, banks have developed only partial, if any protections on these areas.

METHODOLOGY

Selected Banks and Banking Standards

For this report, we have assessed banks based on their policy protections for internationally recognized areas. We have selected the following banks due to their significant size and lending power, or for their influential role as standard setters within the banking industry. Financial institutions included are:

- World Bank (WB)
- International Finance Corporation (IFC), a member of the World Bank Group
- Multilateral Investment Guarantee Agency (MIGA), a member of the World Bank Group
- African Development Bank (AfDB)
- Asian Development Bank (ADB)
- Asian Infrastructure Investment Bank (AIIB)
- Inter-American Development Bank (IDB)
- European Bank for Reconstruction and Development (EBRD)
- European Investment Bank (EIB)⁴
- U.S. International Development Finance Corporation (DFC)
- China Development Bank (CDB)
- Export-Import Bank of China (China Exim)
- Equator Principles (EP) *

⁴ At the time of publication, the report based its assessment on the 2018 version of EIB Environmental and Social Standards. However, the EIB has recently announced a public consultation on a revision of the EIB's ESS, which will take place from June – August 2021. The new policy is expected to be published later in 2021. As such, this report accounts for the 2018 version of the policy, and not the draft currently under consultation.

** Although a voluntary initiative, we have included the Equator Principles as they are considered an international benchmark for environmental and social risk management in project related financing and bridge loans. However, civil society groups have called on EP banks to extend the EPs to other financial services, such as corporate loans or project-related bonds¹².*

Assessment Criteria

In examining banking policies, we based our assessment on Area 1 of the Banks and Biodiversity Initiative's proposed No Go policy⁵. Developed by a coalition of civil society groups, the Banks and Biodiversity Initiative (BBI) is a civil society effort to hold banks accountable to their biodiversity impacts, and identifies areas which should be ineligible for harmful, unsustainable financing activities due to the sensitive environmental, cultural, community, or climate significance of these sites¹³.

For the purposes of this report, we consider financing prohibitions to areas identified in Area 1 of the proposed No Go policy. These include those which are recognized by the following international conventions and agreements:

1. Bonn Convention
2. Ramsar Convention
3. World Heritage Convention
4. Convention on Biological Diversity
5. UNESCO Biosphere Reserves
6. UNESCO Global Geoparks
7. Food and Agricultural Organization (FAO) recognized vulnerable marine ecosystems
8. International Maritime Organization (IMO) recognized particularly sensitive areas
9. IUCN Designated Areas (Categories IA – VI)

Importantly, we note that the BBI's proposed No Go policy is not intended to restrict financing that can have positive impacts on internationally recognized sites. Financing that is sustainable, non-extractive, and meets free, prior, informed consent principles to Indigenous Peoples and local communities should be encouraged. As such, the No Go policy allows for financing that is used for conservation purposes, and those which have received the free, prior, informed consent of local communities.

Our assessment is based on publicly available documents, including investment and finance policies, annual reports, websites, codes of conduct, or other related materials.

⁵ For more information on the Banks and Biodiversity Initiative's proposed No Go policy, please see page 7.



Scoring Process

Scoring is based on whether bank policies prohibit harmful financing to sites recognized by the nine international conventions or agreements referenced above, and in terms of whether those bank policies contain exceptions to any prohibitions.

Bank policies for each internationally recognized site were then assessed on the following criteria:

CRITERIA	SCORING
1. Does the bank prohibit financing related to unsustainable, extractive, industrial, environmentally, and/or socially harmful activities located in the selected internationally recognized area?	Yes = 2 points Partially = 1 point No = 0 points
2. Does the bank's policy account for activities that may take place outside of the selected internationally recognized areas, but may still impact those sites (i.e. cumulative, transboundary, downstream impacts)?	Yes = 2 points Partially = 1 point No = 0 points
3. Are there any exceptions in the policy regarding protections for the selected internationally recognized areas?	Yes = 0 points No = 2 points
4. Does the policy apply to all direct financing?	Yes = 2 points Partially = 1 point No = 0 points
5. Does the policy apply to all indirect financing?	Yes = 2 points Partially = 1 point No = 0 points

Due to diverse interpretations regarding whether exceptions may be considered "minor" or "significant", we chose to forego qualifying identified policy exemptions. As such, in addition to scoring the overall strength of bank policies, we include examples of policy exemptions identified in our research for reference.

Lastly, we note that this assessment accounts for protections for internationally recognized areas in terms of policies, and not in terms of implementation levels. We examine implementation challenges of these policies in the Discussion and Key Findings section of the report.

BANK POLICY PROTECTIONS FOR INTERNATIONALLY RECOGNIZED AREAS

Strong

* 9-10 Score:
Bank policies
protect the
internationally
recognized area

Inadequate

* 5-8 Score:
Bank policies
are inadequate
in protecting
the selected
internationally
recognized area

Failing

* 0-4 Score:
Bank policies
are weak in
protecting the
internationally
recognized area

Finance Institution	BONN CONVENTION	RAMSAR CONVENTION	WORLD HERITAGE CONVENTION	CONVENTION ON BIOLOGICAL DIVERSITY	UNESCO BIOSPHERE RESERVES	UNESCO GLOBAL GEOPARKS	FAO: VULNERABLE MARINE ECOSYSTEMS	IMO	IUCN DESIGNATED AREAS - CATEGORIES IA - VI
World Bank	0	6	6	0	6	0	0	0	0
IFC	0	7	7	0	7	0	0	0	0
MIGA	0	6	6	0	6	0	0	0	0
ADB	0	8	8	0	0	0	0	0	8
AfDB	0	7	7	7	0	0	0	0	0
IDB	0	7	7	7	7	7	0	0	7
EIB	0	8	8	8	8	0	0	0	0
EBRD	0	6	6	0	6	0	0	0	6
AIIB	6	6	6	6	0	0	0	0	6
US DFC	0	8	10	0	0	0	8	8	10
CDB	0	0	0	0	0	0	0	0	0
China Exim	0	0	0	0	0	0	0	0	0
Equator Principles	0	6	6	0	6	0	0	0	0

GENERAL FINDINGS

No bank has developed robust enough protections to protect areas recognized under these international conventions and agreements. Only the DFC has developed strong protection policies for World Heritage and IUCN category sites. However, DFC's policies are still inadequate in protecting other internationally recognized areas, such as Ramsar, Biosphere Reserves, Global Geoparks, etc, from either direct or indirect project activity impacts.

Although many banks have developed some language for protecting World Heritage and IUCN category sites, like the DFC they overlook many other areas recognized by international agreements. This may be a reflection of the prestige of World Heritage properties and broader recognition of IUCN category sites. However, the fact that various other international instruments and soft law were used to conserve and highlight the importance of other diverse areas should warrant equal protections from international financiers.

The IDB, AIIB, and DFC comparatively scored highest among all banks, as they contained the most language regarding protecting at least five out of the nine selected internationally recognized areas. On the other hand, the EBRD and EIB have developed protections for only four internationally recognized areas, whereas the WB, IFC, MIGA, ADB, AfDB, and Equator Principles have developed protections for just three internationally recognized areas. Due to inadequate attention to other internationally recognized sites, as well as policy exemptions in their policies, their bank policies were found to be inadequate or as failing.

In contrast, the CDB and China Exim all scored as "Failing". For CDB and China Exim, we were unable to assess their policies as there was a lack of publicly available information. Regrettably, this led to a score of zero across the board for these institutions.

The assessment reveals that many banks have yet to develop strong policies which protect internationally recognized areas. Although most banks referenced World Heritage and Ramsar sites the most, the assessment shows that bank policies may or do allow for exceptions to those protections. As a result, these exceptions allow financiers to support activities in areas which may be in principle excluded from their financing portfolio.

Besides World Heritage and Ramsar sites, banks tended to have some language or protections regarding the Convention on Biological Diversity, UNESCO Biosphere Reserves, and IUCN Designated Areas. However, many of the banking policies tended to overlook the Bonn Convention, UNESCO Global Geoparks, vulnerable marine ecosystems as recognized by the FAO, and particularly sensitive areas as recognized by the IMO.

BANK POLICY EXCEPTIONS FOR PROTECTING INTERNATIONALLY RECOGNIZED AREAS

Below we provide additional context regarding some examples of policy exceptions identified in the assessment. It is not an exhaustive list of potential policy exemptions.

BANK OR BANKING STANDARD

EXAMPLES OF EXCEPTIONS

World Bank¹⁴

- If the World Bank does not assess a project as high risk, certain precautions are not required to be undertaken. Their policy states that, "The Bank will require the Borrower to carry out appropriate environmental and social assessment of subprojects, and prepare and implement such subprojects, as follows: (a) High Risk subprojects, in accordance with the Environmental and Social Standards; (b) Substantial Risk, Moderate Risk and Low Risk subprojects, in accordance with national law and any requirement of the Environmental and Social Standards that the Bank deems relevant to such subprojects". This is potentially problematic as there is the risk of abuse in discretion when classifying projects and their risk level.

- There are some exceptions for direct financing and indirect financing via financial intermediaries.

For instance, for direct financing, the policy "does not apply to operations supported by Development Policy lending or those supported by Program-for-Results Financing"; in this case, the environmental and social provisions are not necessarily bound to requirements under the Environmental and Social Framework.

In addition, the WB allows for potential dilution of restrictions in joint financing arrangements. The framework says: "Where the Bank is jointly financing a project with other multilateral or bilateral funding agencies, the Bank will cooperate with such agencies and the Borrower in order to agree on a common approach for the assessment and management of environmental and social risks and impacts of the project. A common approach will be acceptable to the Bank, provided that such an approach will enable the project to achieve objectives materially consistent with the ESSs".

For indirect financing via financial intermediaries, the bank also allows for potential dilution by using "requirements" from "other agencies". The policy states: "Where the Bank is providing support to a project involving a Financial Intermediary (FI), and other multilateral or bilateral funding agencies will or have already provided financing to the same FI, the Bank may agree to rely on the requirements of such other agencies for the assessment and management of environmental and social risks and impacts of the project, including the institutional arrangements already established by the FI, provided that such requirements will enable the project to achieve objectives materially consistent with the ESSs" [italics added].

International
Finance
Corporation¹⁵

- Based on whether a project is classified as A, B, or C, certain due diligence procedures may or may not be required.

For instance, the Environmental and Social Review Summary (ESRS) of Category A projects is required to be disclosed within 60 days prior to a board meeting. In contrast, Category B projects requires only 30 days before the board meeting. This time difference allows stakeholders less time to respond to the ESRS and flag potential risks or impacts, such as those which may affect internationally recognized sites via cumulative, trans-boundary, or downstream impacts. Because a difference in classification may essentially weaken the scope and depth of a due diligence process, it allows for potential abuse in discretion in classifying projects as A or B.

- Policy exceptions allow for financing in internationally protected areas via financial intermediaries. This is particularly notable as IFC investment in FI lending has increased in recent years.

Multilateral
Investment
Guarantee
Agency¹⁶

- Certain precautions are not required to be undertaken, based on whether a project is classified as categories A, B, and C. For instance, "Proposed projects that are determined to have moderate to high levels of environmental and/or social risk, or the potential for adverse environmental and/or social impacts will be carried out in accordance with the requirements of the Performance Standards [which includes Category A and B]." Furthermore, Category A and B projects "have an Environmental and Social Action Plan or reporting requirements. On the other hand, Category C projects do not. In addition, "The disclosure period for 'Category A' projects is 60 days, whereas 'Category B' projects [is] 30 days." This time difference allows stakeholders less time to respond to the ESAP and flag potential risks or impacts, such as those which may affect internationally recognized sites via cumulative, transboundary, or downstream impacts.

- Policy exceptions allow for financing in internationally protected areas via financial intermediaries.

Equator
Principles¹⁷

- Per Principle 3, the EPs do not fully apply to all projects, as those in designated countries are exempt: "Designated Countries are those countries deemed to have robust environmental and social governance, legislation systems and institutional capacity designed to protect their people and the natural environment." This distinction has been critiqued as "arbitrary" as it "allows EPFIs to rely on host country law in designated countries, even where requirements under such laws have been loosened"¹⁸. For example, controversy from the Dakota Access Pipeline in the United States re-emphasized why the EPs should apply to both designated and non-designated countries¹⁹.

- Based on a project's categorization, fewer precautions may be required.

For instance, EP2 states that " For Category A and, as appropriate, Category B Projects, the Assessment Documentation includes an Environmental and Social Impact Assessment (ESIA). One or more specialised studies may also need to be undertaken. For other Category B and potentially C Projects, a limited or focused environmental or social assessment may be appropriate, applying applicable risk management standards relevant to the risks or impacts identified during the categorisation process" [italics added]. Because a difference in classification may essentially weaken the scope and depth of a due diligence process, it allows for potential abuse in discretion in classifying projects as A or B.

**Asian
Development
Bank²⁰**

- Full application of bank's safeguards is dependent on the initial classification of the project as Category A, B, or C: "Depending on the significance of project impacts and risks, the assessment may comprise a full-scale environmental impact assessment (EIA) for category A projects, an initial environmental examination (IEE) or equivalent process for category B projects, or a desk review". Requiring different levels of environmental and social assessments for different project categories allows for potential abuse in discretion when classifying project as A or B.

**African
Development
Bank²¹**

- The AfDB allows for national regulations to override internationally recognized protected areas. Their policy states that "Where national regulations permit a project to encroach on legally protected areas or internationally recognized areas or on areas that are proposed for protection or international recognition, the borrower or client complies with national and local regulations for appropriate environmental management, and consults with relevant stakeholders during the preparation of management and mitigation measures". International laws and norms are typically stronger than host country law. However, this language defaults to host country law, rather than defaulting to the stronger law or norm (whether host country or international).

- The AfDB groups projects are based on a categories system of 1, 2 and 3. Depending on the categorization, different environmental and social assessments may be required. For instance, Category 3 projects are defined as those with "negligible adverse environmental and social risks", and so "do not require an environmental and social assessment. Beyond categorisation, no action is required". However, the policy further states, "Nonetheless, to design a Category 3 project properly, it may be necessary to carry out gender analyses, institutional analyses, or other studies on specific, critical social considerations to anticipate and manage unintended impacts on the affected communities". The simultaneous presumptions of both "negligible" and "unintended negative outcomes on the affected communities" of Category 3 projects seem to be at odds with each other. This is problematic, and effectively creates another exception in the policy.

Furthermore, for Category 2 projects, the Environmental and Social Management Plan only has to be published 30 days in advance before board consideration. This is in contrast to the 60 or 120 days for Category 1 projects. The difference in categorization of projects again leads to potential abuse of discretion, given the varying requirements for environmental and social due diligence and information disclosure.

- The AfDB only prohibits sourcing from IUCN categories I-V (not VI) and UNESCO Biosphere Reserves. It does not account for projects that are located in, let alone those which would impact, these areas.

**Inter American
Development
Bank²²**

- The IDB require an Environmental and Social Review Summary Report for Category A, B, and FI projects. It does not require one for Category C projects. This exception again poses the risk of abuse in discretion in classifying projects.

- In addition, the IDB allows for another exception in cases where the client possesses "limited technical or financial constraints or other specific project circumstances". In those cases, the IDB asks clients "to provide full and detailed justification for any proposed alternatives through the appropriate instruments" to "IDB's satisfaction, that the choice of any alternative performance level is consistent with the objectives of the ESPF and the applicable EHSG and is unlikely to result in any significant environmental or social harm". This essentially leaves the door open for the use of weaker environmental and social requirements for clients with weaker technical capacity.

- The framework does not fully apply to all indirect financing.

**United States
Development
Finance
Corporation²³**

- Only projects that are classified as Category A will be fully assessed on environmental and social impacts, and require third party audits. For Category B projects, the DFC requires less stringent environmental and social assessments and uses a discretionary approach in deciding whether to require third party audits. "Applicants are required to conduct and certify that third-party audits for all Category A projects and Special Consideration projects have been completed. DFC may require third-party audits of some Category B projects". The different environmental and social requirements for category A and B projects may thus lead to abuse in discretion in the project categorization process.

**European
Investment
Bank²⁴**

- There is the potential for exceptions, as the standards allow for case-by-case decisions on the need for an environmental and social assessment. Their policy states, "For those projects classified as Annex II of the EU EIA Directive or elsewhere in the national legislation, the need to carry out an environmental and social assessment is determined on a case-by-case analysis and/or based on the application of certain criteria or thresholds". The allowance for case by case decisions again leads to the potential for abuse in discretion.

**European Bank
for Reconstru-
ction and
Development²⁵**

- The EBRD only requires the environmental and social assessment for Category A projects, not Category B or C projects. For Category B projects, the scope of environmental and social assessments are "determined by EBRD on a case-by-case basis". This can lead to inadequate environmental and social assessments for Category B projects due to abuse of discretion in the project categorization process.

- EBRD's policies further contain a number of exceptions which may circumvent protections. One example includes the use of waivers, as the Board of Directors may "grant a derogation to a requirement of this Policy that is not explicitly permitted by the terms of this Policy". The policy also exempts advisory services and technical cooperation. Another exception is that the EBRD allows exceptions in cases where "the client can demonstrate that there are no technically and economically feasible alternatives" for projects which "could have significant, adverse and irreversible impacts to priority biodiversity features". This is significant, as it does not require robust studies or proof in demonstrating that no other technical or economically feasible alternatives are possible. It also allows for potential abuse of discretion.

- Standards of co-financiers may be applied to direct and indirect financing, which may potentially dilute protections.

Asian
Infrastructure
Investment
Bank²⁶

- Although the bank's Environmental and Social Exclusion List (ESEL) prohibits knowingly financing activities which contravene the World Heritage Convention, Ramsar Convention, Bonn Convention, and the Convention on Biological Diversity, its policy allows for potential exceptions.

For instance, its policy states that, "The Bank may, *on a case-by-case basis, in lieu of the ESP, ESSs and ESEL* apply the environmental and social policies and procedures of MDBs, bilateral development organizations and development finance institutions that are co-financing the Project, provided that the Bank is satisfied that these policies and procedures are consistent with the Bank's Articles of Agreement and materially consistent with the ESP, ESSs and ESEL and that appropriate environmental and social arrangements and monitoring procedures are in place for the Project" [italics added]. Although the bank qualifies that the use of other standards should be "materially consistent" with their policies, it nonetheless allows for potential exceptions by not explicitly requiring the ESEL in co-financing arrangements. In the same vein, standards of co-financiers may be applied to direct financing, which may also potentially dilute protections.

- Furthermore, only Category A, and not Category B or C projects, are fully assessed on their environmental and social impacts. For Category A projects, the AIIB allows for "other similar Bank-approved documentation" to substitute for an ESIA, ESMP, or ESMPF. This enables potentially inadequate, arbitrary assessments to be considered as valid.

AIIB's environmental framework also allows for a significant variation in assessing environmental and social assessments for Category B projects. The framework states that Category B assessments "may vary from Project to Project, but it is narrower than that of the Category A ESIA." In addition, forthcoming analysis from the NGO Forum on Asian Development Bank has observed that Category B projects may not "anticipate seasonal variations in local livelihoods, migratory shifts in flora and fauna which lead to unanticipated harms due to lack of proper environmental and social assessment"⁶. This flaw thus allows for potentially significant risks to remain overlooked.

In sum, these exceptions allow for potential abuse in discretion when categorizing risk level of projects.

China
Development
Bank

No policy identified.

China Export
Import Bank

No policy identified.

⁶ This is excerpted from a forthcoming analysis from NGO Forum on the Asian Development Bank.

IFC PERFORMANCE STANDARDS AND GUIDANCE NOTE

In 2012, the IFC published the “Guidance Notes to Performance Standards on Environmental and Social Sustainability”, which aims to support clients in interpreting and implementing the IFC Performance Standards. The Guidance Notes are periodically updated, and by the time of publication, they were last updated in June 2021. According to the Guidance Notes, they “offer helpful guidance on the requirements contained in the Performance Standards”. However, the IFC also states that “These Guidance Notes are not intended to establish policy by themselves; instead, they explain the requirements in the Performance Standards”²⁷.

As the Guidance Notes do not “establish policy by themselves”, we did not include them in our assessment. This is unfortunate, as the IFC Guidance Notes at times contain stronger protections. For instance, the IFC PS allow for activities located in internationally recognized sites, such as World Heritage sites, through the use of offsets and principle of ensuring “no net loss” (IFC PS Paragraphs 14-15). In contrast, Guidance Note (GN) 55 says that “some areas will not be acceptable for financing, with the possible exception of projects specifically designed to contribute to the conservation of the area”, which explicitly includes World Heritage (WH) sites and Alliance for Zero Extinction (AZE) sites²⁸. It is unfortunate this recommendation is not included in the PS, as it would significantly strengthen protections for WH sites.

When the IFC PS are next revised, an additional consideration to further strengthen GN 55 would be to include explicit language regarding how projects may still impact WH or AZE sites even if they are not directly located within the boundaries. For example, projects located outside of a WH or AZE site may still be affected due to cumulative, transboundary, or downstream impacts.

The GN also contains additional language on critical habitats and specific species protections. It provides useful information on how clients should identify and determine critical habitats, as well as account for a project’s total area of influence (rather than only immediate impacts) in critical habitats. For instance, GN 59 states that a “client should define the boundaries of this area taking into account the distribution of species or ecosystems (within and sometimes *extending beyond the project’s area of influence*) [italics added] and the ecological patterns, processes, features, and functions that are necessary for maintaining them”. This is helpful, as project EIAs and assessments may not by

default account for impacts extending beyond a project’s immediate area of influence.

In addition, the Guidance Note provides criteria for assessing critical habitats not only including endangered and endemic species, but also migratory and congregating species. Accounting for impacts on migratory and congregatory species should be encouraged, as migratory species may be overlooked in environmental and biodiversity assessments given their extensive range.

Furthermore, GN 73 notes that “special consideration” should be given to great apes and primates. Notably, it states that “Projects in such areas will be acceptable only in exceptional circumstances, and individuals from the IUCN/SSC PSG SGA must be involved in the development of any mitigation strategy”. Requiring consultation with independent experts should again be encouraged. Importantly, the GN suggests that such projects are *by default* not acceptable for financing unless specifically for conservation purposes. Given the wide range of endangered species, extending this process to all endangered and endemic species, and not only great ape species, would be a step forward, particularly in light of the world’s rapidly disappearing biodiversity.

The GN also encourages clients to consult with IUCN/Species Survival Commission (SSC) Primate Specialist Group (PSG) Section on Great Apes (SGA) as early as possible. However, this language could be further strengthened so as to ensure that expert opinions remain independent, and to anticipate and prevent any potential conflicts between clients and independent species experts. For instance, clients may interpret potential findings or recommendations from independent experts as “blocks” to accessing financing, and may thus attempt to (directly or indirectly) intimidate such experts.

Lastly, although IFC staff and borrowers do rely on the Guidance Notes in deciding project scope and implementation, they are not considered mandatory. This discrepancy can be problematic given the PS are weaker in some areas than the GN, as referenced above. It is also unclear if the IFC’s Office of the Compliance Advisor Ombudsman would consider recommendations outlined in the GN when assessing compliance levels in IFC funded projects. Furthermore, it should be noted that differences in protections between the GN and PS becomes more critical in cases where projects may formally commit to using IFC PS as the benchmark, even if they are not receiving IFC financing support.

02

Case Studies



Palm Oil Encroachment in the Tropical Rainforest of Sumatra

Overview

Current Status of relevant palm oil plantations: Operational

Location: Leuser Ecosystem in Sumatra, Indonesia

Sector: Agribusiness – Palm Oil

Type of Financing: Direct Financing and Financial Services

- \$336 USD million loan provided Mitsubishi UFG Financial (MUFG)

Financial Services have been provided by a number of investors, including:

- Mitsubishi UFG Financial (MUFG)
- Raiffeisen Bank International
- BlackRock
- Vanguard
- Dimensional Fund Advisors
- Kopernick Global Investors
- Silchester International Investors
- Safra Group

Project Developers/Contractors:

- Golden Agri Resources, a subsidiary of Sinar Mas Group*

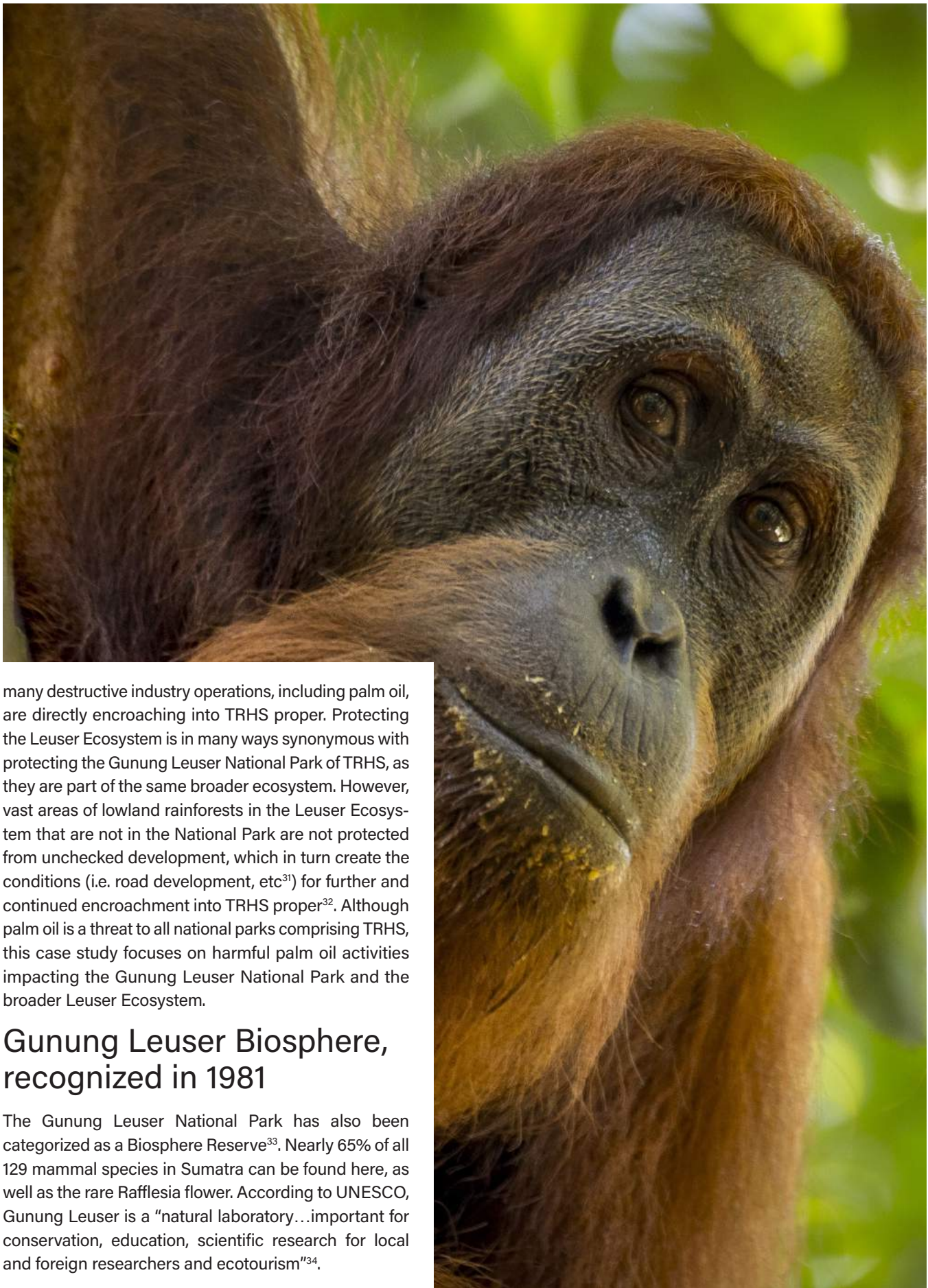
** Golden Agri Resources is the second largest palm oil company in the world and part of the Sinar Mas Group, one of the largest conglomerates in Indonesia, operating subsidiaries in a number of high risk sectors, including palm oil, pulp and paper, mining, as well as real estate, financial services and telecommunications.*

Impacted Protected Area

Tropical Rainforest Heritage of Sumatra, recognized in 2004

The 2.5 million hectare Tropical Rainforest Heritage of Sumatra (TRHS) site is unparalleled in its biodiversity value. It is the last place on Earth where Sumatran orangutans, rhinos, tigers, elephants and Sunbears naturally coexist in the wild. It includes three, noncontiguous national parks: Gunung Leuser National Park, Kerinci Seblat National Park and Bukit Barisan Selatan National Park. TRHS contains an extremely diverse range of ecosystems including lowland evergreen forests, mountain rain forests, peat swamps, sub-alpine meadows and heathlands, freshwater lakes and rivers, and sulphur mineral pools²⁹. Due to harmful and illegal activities in the infrastructure, logging, and agribusiness sectors, namely palm oil, TRHS has been placed on UNESCO's "In Danger" list since 2011. Part of the TRHS lies within the Leuser Ecosystem, long recognized and valued for its unparalleled biodiversity, scientific, and cultural value. It encompasses the Gunung Leuser National Park, which serve as some of the last natural habitat for orangutans³⁰. The boundaries of TRHS lie within the Leuser Ecosystem.

While the Leuser Ecosystem is recognized under Indonesian national law as a National Strategic Area for its Environmental Protection Function, not all forest areas within its boundaries are formally protected from conversion and degradation, and



many destructive industry operations, including palm oil, are directly encroaching into TRHS proper. Protecting the Leuser Ecosystem is in many ways synonymous with protecting the Gunung Leuser National Park of TRHS, as they are part of the same broader ecosystem. However, vast areas of lowland rainforests in the Leuser Ecosystem that are not in the National Park are not protected from unchecked development, which in turn create the conditions (i.e. road development, etc³¹) for further and continued encroachment into TRHS proper³². Although palm oil is a threat to all national parks comprising TRHS, this case study focuses on harmful palm oil activities impacting the Gunung Leuser National Park and the broader Leuser Ecosystem.

Gunung Leuser Biosphere, recognized in 1981

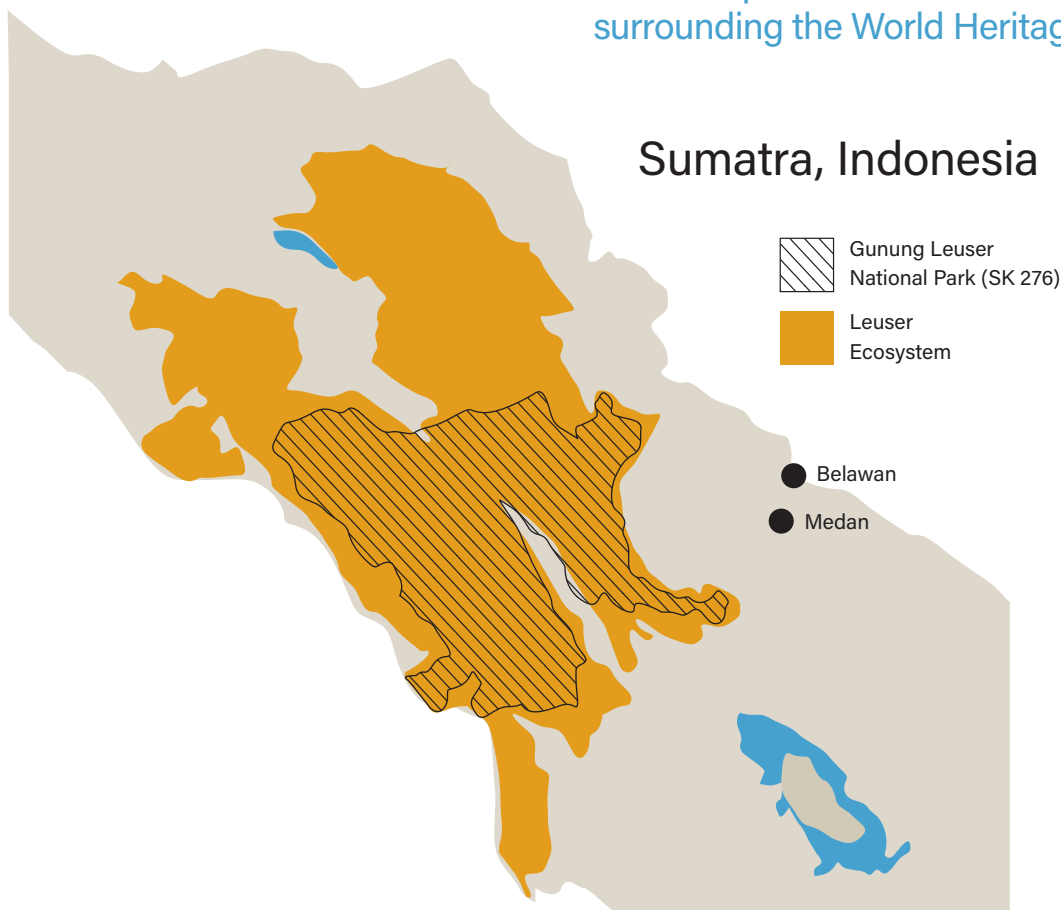
The Gunung Leuser National Park has also been categorized as a Biosphere Reserve³³. Nearly 65% of all 129 mammal species in Sumatra can be found here, as well as the rare *Rafflesia* flower. According to UNESCO, Gunung Leuser is a "natural laboratory...important for conservation, education, scientific research for local and foreign researchers and ecotourism"³⁴.

Project Description

Banks and investors have provided loans and financial services to Golden Agri-Resources (GAR), whose palm oil operations are notorious for causing negative environmental and social impacts³⁵. Its operations have been found to be driving encroachment and destruction of the Tropical Rainforest Heritage of Sumatra (TRHS) World Heritage site and surrounding lowland rainforests in the Leuser Ecosystem. GAR operates a refinery in Belawan in North Sumatra, sourcing palm oil from plantations located in and nearby TRHS. Research conducted by Rainforest Action Network (RAN) shows that GAR's Belawan refinery acquires palm oil from a network of crude palm oil mills, which in turn source palm oil from the surrounding sourcing regions in Aceh and North Sumatra³⁶. This demand from the Belawan refinery drives illegal palm oil production and encroachment into the Gunung Leuser National Park. The refinery in turn further increases the number of palm oil concessions and illegal small scale oil palm development located in the greater Leuser Ecosystem³⁷.

GAR's own sustainability report states that the Belawan refinery sources from third party mills that have "difficulty in aspects related to environmental management, protection of high conservation value (HCV) areas, legal compliance, traceability, transparency, and respecting workers' rights"³⁸. In addition, its latest supply chain data for the refinery shows that it has still not achieved full traceability to the plantation or farm level for all sources³⁹. This means that GAR is unable to guarantee that it is not sourcing palm oil from illegal plantation areas nearby, let alone within TRHS.

Numerous reports and research from international and Indonesian civil society groups additionally show that GAR knowingly acquires palm oil from mills that are unable to fully trace the origin of their oil palm fruit due to a lack of robust and reliable management systems⁴⁰. As a result, demand from the Belawan refinery is contributing, if not incentivizing, illegal palm oil development in the lowland rainforests surrounding the World Heritage site.



Environmental and Social Risks

The palm oil industry is linked to habitat loss and fragmentation, deforestation, fires, and fueling social conflicts. In particular, deforestation has been documented as a direct threat to TRHS, and is a key reason why the site has remained on the List of World Heritage In Danger since 2011. According to the 2021 World Heritage report regarding the state of conservation of In Danger sites, the World Heritage Committee reiterated its request that the Indonesian “State Party take urgent measures to immediately halt encroachment linked to logging, plantation development or mining and to scale up forest restoration activities, with priorities given to ecologically sensitive areas, wildlife corridors and roadsides and refrain from considering any further project leading to further deforestation in and around the property”. In fact, **the World Heritage Committee has maintained that the only way for the property to be removed from the In Danger list is to stop any “further loss of primary forest and [ensure] no net loss of secondary forest cover in the property”⁴¹.**

In terms of biodiversity impacts, TRHS alone is home to an estimated 10,000 plant species; more than 200 mammal species; and some 580 bird species, of which 21 are endemic⁴². Within the Gunung Leuser National Park alone, there are at least 92 endemic species. TRHS was recognized as a World Heritage site for its superlative biodiversity in serving as a critical in-situ conservation site⁴³, and so encroachment and habitat loss has already led to detrimental impacts on its biodiversity.

In 2018, the World Heritage Committee noted the importance of extending Indonesia’s recent palm oil moratorium in order to ensure the protection of key wildlife habitats⁴⁴. For instance, the **Leuser Ecosystem and TRHS contain natural migration corridors for endangered Sumatran elephants, and the Leuser Ecosystem is known as the world’s “capital” of Sumatran orangutans⁴⁵.** It is well established that

habitat loss, fragmentation, and deforestation caused by palm oil operations are thus endangering some of the most iconic species on the planet, such as the Sumatran orangutan, Sumatran tiger, Sumatran rhino, and Sumatran elephant⁴⁶.

Palm oil expansion causes other harmful environmental impacts. For instance, fires are typically used to “slash and burn” land before developing palm oil plantations on Sumatra’s peatlands⁴⁷. The increased fire risk is made worse by draining water from peatlands; this process of draining, burning, and oxidation essentially converts the region’s peatlands from carbon sinks into carbon sources⁴⁸. These practices carry global consequences. **Peatland fires, combined with other drivers of deforestation, are a major source of Indonesia’s total annual carbon emissions and in turn threaten the Indonesian government’s commitment of reducing emissions⁴⁹.** Deforestation of Indonesia’s high carbon forest stock directly influences the world’s ability to prevent and manage climate change⁷. For instance, forest fires in Indonesia in 2019 released 708 million tons of CO₂⁵⁰.

Just as concerning, **deforestation driven by industrial agricultural commodities is routinely tied to land grabbing, violations of Indigenous Peoples and local communities’ rights, and gross human rights abuses.** A 2020 Global Witness study found that agribusiness was the second deadliest sector for local communities, finding that four land and environmental defenders are killed every week for protecting their traditional lands and resources⁵¹. Palm oil plantation companies like GAR are well documented to have directly led to the loss of land and livelihood opportunities of Indigenous Peoples^{52, 53, 54}. Among communities whose traditional or customary lands are located in or near TRHS, land grabbing associated with palm oil expansion is common, fueling social conflicts and dispossessing Indigenous communities of their livelihoods⁵⁵.

⁷ It is worth noting that deforestation is the second largest contributor to the carbon emissions responsible for the climate crisis. If tropical deforestation were a country, it would be the third largest GHG global emitter. In fact, annual CO₂ emissions from tropical deforestation exceed the annual emissions from the European Union.

Summary of Legal and Compliance Risks

Palm oil sourced by GAR is associated with violations of a number of Indonesian laws, as well as the company's sustainability policies⁵⁶.

Examples of alleged violations to Indonesian law include:

- **Corruption Allegations:** In 2018, executives of GAR subsidiary companies were arrested for bribing members of the Central Kalimantan provincial government in Indonesia for covering up pollution to a local lake, as well as for failing to obtain proper plantation permits⁵⁷. Three company executives were sentenced to prison the following year⁵⁸.
- **OJK Regulation No. 51 of 2017 on Sustainable Finance:** This policy requires that companies apply sustainable finance in their business activities, including principles on responsible investment principle, sustainable business strategies and practices, and social and environmental risk management⁵⁹. GAR's extensive record of harmful environmental and social impacts

reflects a lack of compliance with this policy, as indicated in the number of complaints against GAR submitted to the Roundtable on Sustainable Palm Oil⁶⁰.

GAR has also violated its own environmental and social policy:

- **GAR Social and Environmental Policy:** GAR's operations and supply chains linked to clearance of globally-significant forests, including High Carbon Stock (HCS) forests and High Conservation Value (HCV) areas, directly contradicts its own Social and Environmental Policy and Forest Conservation policy. The company's lack of proper human rights due diligence, disregard for communities' customary land rights, and violations of FPIC similarly contradicts Social and Environmental Policy and Forest Conservation Policy. The policy further obligates the company to reduce greenhouse gas emissions and respect the UN Declaration of Human Rights⁶¹.

Summary of Lack of Alignment with International Norms and Practices

Free, Prior, Informed Consent (FPIC): GAR has a longstanding history of alleged violations of communities' land rights and the internationally recognized standards of free, prior, informed consent (FPIC)⁶². These conflicts in Indonesia are similar and consistent to documented cases of abuse in Liberia, where GAR's investee company Golden Veroleum Liberia operates⁶³. However, GAR's violations to FPIC persist in both Indonesia and Liberia, as the company's activities ignore communities' customary land rights, expanding and operating plantations without community consent⁶⁴.

Paris Agreement: Emissions and deforestation caused by palm oil expansion directly impact Indonesia's ability to meet its Paris Agreement targets and reduce its emissions by "26% of its greenhouse gases against the business as usual scenario by the year 2020"⁶⁵.

Roundtable on Sustainable Palm Oil Principles and Criteria: GAR is a member of the Roundtable on Sustainable Palm Oil, which requires the company to fulfill a number of requirements in order to receive and maintain certification⁶⁶. However, the company's longstanding role in driving

environmental and social risks have resulted in numerous RSPO complaints. For instance, grievances from 2020 allege that GAR is illegally operating palm oil plantations within Indonesia's protected Forest Zone, violating communities' land rights, and engaging in corrupt business practices including bribery of government officials.⁶⁷ Additionally, complaints have also been filed alleging that GAR is violating workers' rights and illegally clearing communities' lands.⁶⁸

UNESCO Convention on World Heritage: Indonesia's chronic failure to hold the company to account further violates the spirit of the World Heritage Convention. Article 5 states that State Parties must "take the appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation"⁶⁹ of their recognized World Heritage sites. Although the Indonesian government should be responsible for preserving THRS, GAR's longstanding record in allegedly damaging THRS and the surrounding lowland rainforests reflects a persistent disregard for upholding this international norm.

Liquefied Natural Gas (LNG) Development and Export in the Rovuma Basin

Coral South FLNG

Location: Cabo Delgado Province, Mozambique

Status of projects: Construction

Sector: Energy – LNG Extraction and Export

Project Cost: \$8 USD billion

Type of Financing: Direct Financing

- Korea Exim Bank
- KDB Financial Group
- Bank of China
- Industrial and Commercial Bank of China
- China Exim Bank

Export Credit Agencies

- Korea Eximbank
- Bpifrance
- SACE
- Ksure
- Kexim
- China Exim Bank
- Sinosure

Financial Advisors

- Crédit Agricole
- Portland Advisers

Project Developers/ Contractors

- ENI
- ExxonMobil Corp
- China National Petroleum Corp
- Empresa Nacional de Hidrocarbonetos de Mozambique
- Korea Gas Corp
- Galp Energia SGPS SA

Mozambique LNG

Location: Cabo Delgado Province, Mozambique

Status of projects: Construction

Sector: Energy – LNG Extraction and Export

Project Cost: \$24 USD billion

Type of Financing: Direct Financing

- JBIC
- US Exim
- EXIM Thailand
- African Development Bank
- African Export-Import Bank

- Development Bank of Southern Africa
- ICBC
- UK Export Finance
- Industrial Development Corporation of South Africa

Export Credit Agencies

- US Exim
- JBIC
- EXIM Thailand
- African Export-Import Bank
- NEXI
- Atradius DSB
- ECIC
- UK Export Finance
- SACE

Financial Advisors

- Société Générale
- Taylor DeJongh
- Project Developers/ Contractors
- Total
- Mitsui
- ENH
- ONGC
- Bharat PetroResources
- PTTEP
- Oil India

Rovuma LNG

Location: Cabo Delgado Province, Mozambique

Status of projects: Proposed

Sector: Energy – LNG Extraction and Export

Project Cost: \$30 USD billion

Type of Financing: Direct Financing

- US International Development Finance Corporation has approved up to \$1.5 billion in political risk insurance⁷⁰

Financial Advisors

- Crédit Agricole

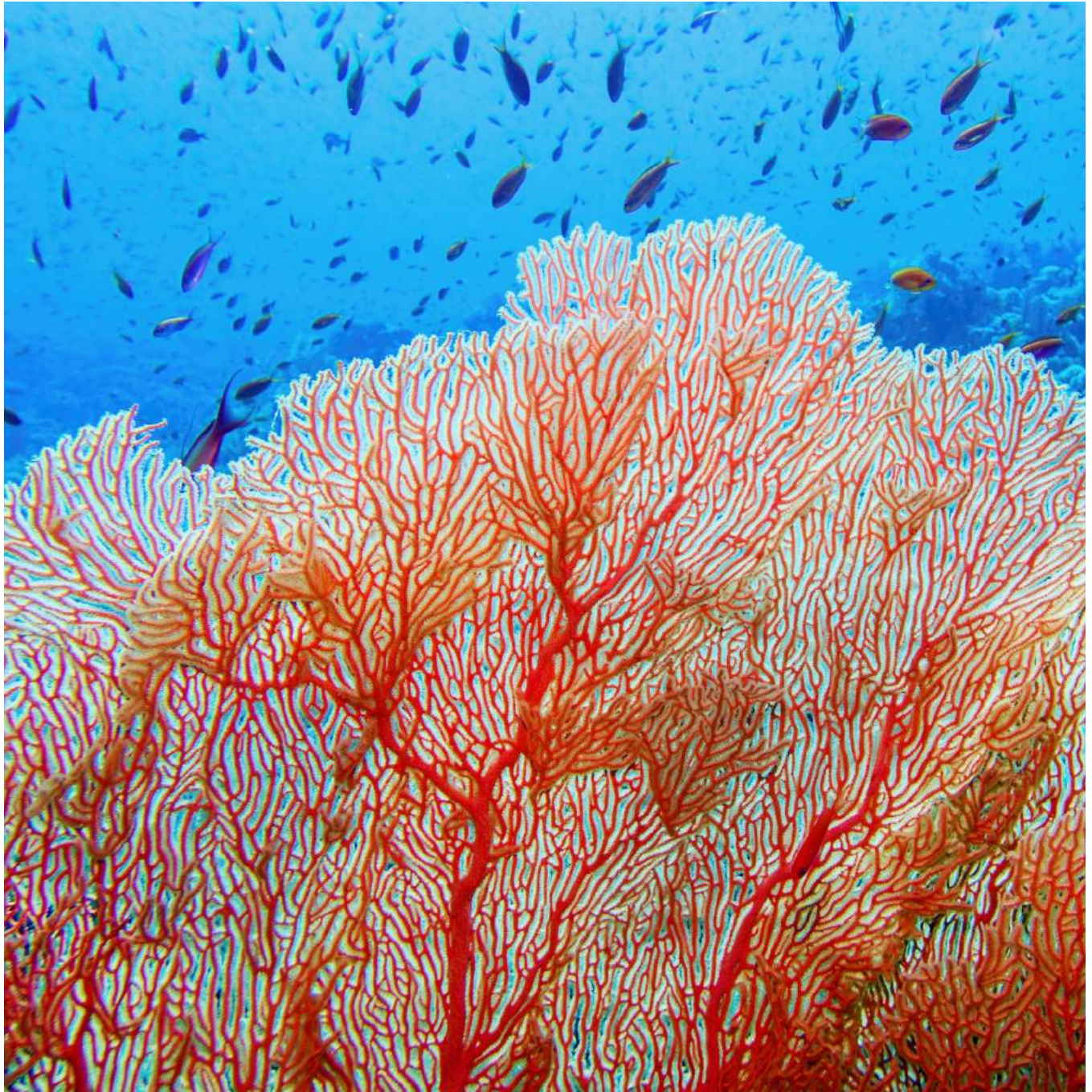
Project Developers/ Contractors

- Exxon Mobil
- Eni
- China National Petroleum Corp
- Galp
- KOGAS
- Empresa Nacional de Hidrocarbonetos

Impacted Protected Area

Quirimbas Biosphere Reserve, recognized in 2018

The Quirimbas Archipelago is a UNESCO designated Biosphere Reserve that contains species-diverse coral reefs and productive seagrass beds⁷¹. The archipelago encompasses eleven islands, boasting 3000 flower species, 23 reptile species, 447 bird species, and 46 mammal species such as elephants, lions, buffaloes, and leopards⁷². The area is home to imperiled marine species such as sei whales, Indian yellow nosed albatross, loggerhead turtles, green turtles, leather-back turtles, and hawksbill turtles⁷³.



Project Description

LNG development in northern Mozambique will extract, process, and export liquefied natural gas from three reservoirs in the Rovuma Basin – Mozambique LNG, Rovuma LNG, and Coral FLNG⁷⁴. Spanning across 17,000 acres, Mozambique LNG will be massive⁷⁵. If fully developed, Mozambique LNG will produce 23 million metric tons of LNG per year⁷⁶. Rovuma LNG extends 50 km offshore and involves the initial extraction of up to twelve trillion cubic feet of natural gas⁷⁷. Estimates suggest the reservoirs hold a total of 85 trillion cubic feet of gas reserves⁷⁸. The first phase of Rovuma LNG is currently planned to comprise two liquefaction trains of 7.6 Mtpa each, and the initial production life of Rovuma LNG is estimated to last 30 years⁷⁹. The impacts of the three projects are similar as they will negatively impact many of the same sensitive ecosystems and endangered species.

Notably, the gas development from all three projects will not improve the country's local energy access. This is because seventy five percent of the country is not connected to the grid, nor are there plans to build the required infrastructure needed to improve local energy access. Instead, most of the gas will be exported.

Furthermore, the projects will not lead to significant jobs for locals, as most of the workers are expected to be foreign. As a result, the projects will likely impoverish local communities as the project's extensive footprint will dispossess them of access to natural resources, fishing grounds, and farm lands⁸⁰. Although the area has already been the target of tourism investment, gas extraction and export will severely depress if not hinder the tourism industry due to pollution, noise, increased shipping traffic, destruction of coral reefs, and eliminating access to coastal areas⁸¹.

Environmental and Social Risks

The **extraction, processing, and transportation of gas from all three projects will directly harm the critical ecosystems of the Quirimbas Archipelago**. This is due to dredging, disposing waste materials offshore and onshore, and the construction of subsea, near-shore, and on-shore infrastructure⁸². According to the Environmental and Social Management Plan, these activities will cause noise disturbances, habitat destruction and modification, vessel strikes, and lighting impacts⁸³. The **increased marine traffic to and from the extraction wells and the floating LNG processing plant will also drive away various marine species**.

Due to the large scale of the projects in the Rovuma Basin, their climate impacts will be immense⁸⁴. According to environmental groups, the "climate impact will be significant as the production, transport, liquefaction, shipping, re-gasification, and power plant combustion of LNG is highly energy-intensive, and thus carbon-intensive; **the upstream greenhouse gas emissions from LNG are almost double the greenhouse gas emissions of conventional natural gas. The carbon emissions from the onshore and offshore projects will increase Mozambique's total emissions by at least 8 percent**"⁸⁵.

Although not yet in operation, **the projects' construction of onshore activities, led by Total, has already led to the involuntary dispossession of lands without proper compensation**. According to field studies conducted by Friends of the Earth Mozambique/Justica Ambiental in 2020, 556 families were forcefully relocated, with an additional 2000

scheduled for relocation shortly after. As a result of losing access to the sea and simultaneous shrinking of coastland areas, local communities who have relied on fishing, small-scale agriculture, and other natural resources for generations have essentially lost their livelihoods⁸⁶. This is particularly detrimental as these communities are extremely poor with little formal education, many of whom are illiterate and have no experience or transferrable skills to working in the private sector⁸⁷. At the same time, **communities who voice dissent face intimidation and threats from the government and private security forces**⁸⁸.

Complicating the matter is the presence of a local armed insurgency terrorizing and attacking communities, with reports of mass kidnappings, razing of entire villages, and even beheadings⁸⁹. Communities have voiced concern that the local insurgency will only lead to further militarization in the area, in which local villagers are caught in the middle⁹⁰. The **attacks from insurgents, impoverishment of local communities, and anger towards foreign companies has led to concerns that the sudden gas boom in Cabo Delgado may be exacerbating, if not driving, violence in the region**⁹¹. According to observers, there is a serious "security vacuum" in the area, with insurgents specifically attacking gas hubs⁹². The increasing violence has even led investors to hold off investment⁹³. **In April 2021, Total declared a force majeure**, stating: "Considering the evolution of the security situation in the north of the Cabo Delgado province in Mozambique, Total confirms the withdrawal of all Mozambique LNG project personnel from the Afungi site"⁹⁴.

Summary of Legal and Compliance Risks

If the projects are fully developed, they would violate a number of legal and compliance requirements:

- **Direito do Uso e Aproveitamento da Terra (DUAT):** Mozambiquan law dictates that all land belongs to the state. However, private or commercial entities may use the land and resources by acquiring government permission via a Direito do Uso e Aproveitamento da Terra (DUAT)⁹⁵. In the case of the Mozambique LNG project, Total is only allowed to operate onshore within a certain area, per the DUAT⁹⁶. However, according to field studies conducted by Friends of the Earth Mozambique/Justica Ambiental, Total is building beyond boundaries delineated in the DUAT.
- **IFC Performance Standards:** The projects have committed to following IFC Performance Standards (PS). However, the project would violate Performance Standard 4 (Community Health, Safety, and Security), Performance Standard 5 (Land Acquisition and Involuntary Resettlement) and Performance Standard 6 (Biodiversity).

In terms of PS 4, the projects have increased inequity in the region, which has fueled a violent insurgency that has caused hundreds of thousands of people to flee and thousands of deaths. According to Amnesty International, white project contractors were prioritized for evacuation ahead of Black locals, putting local peoples' lives at increased risk.⁹⁷ In terms of PS 5, the projects have caused forced evictions and has not "provided opportunities to improve, or at least restore, their means of income-earning capacity, production levels, and standards of living," as required by PS 5. The projects also violate PS 6, as it has not meaningfully consulted Affected Communities, Indigenous Peoples and other stakeholders on the proposed project," nor has it implemented programs which effectively carry out "conservation aims and effective management of the area, as stipulated by PS 6." Given the gas development's impact in directly destroying key conservation areas, such as coral reefs and mangroves, conserving these environmental ecosystems is fundamentally not possible, and thus cannot meet PS 6 requirements. Notably, PS 6 directly applies to UNESCO Man and Biosphere Reserves.

As the projects are not directly receiving funds from the IFC, it is unclear if they are expected to comply with the IFC's Guidance Notes, which provides additional recommendations on implementing the PS. For instance, the Guidance Note requires that projects located in legally protected or internationally recognized areas, which

includes Biosphere Reserves, should "result in tangible benefits to the conservation objectives of that area, and clear conservation advantages should be gained by the presence of the project"⁹⁸. However, given the documented existing and anticipated harmful impacts of the projects, this is clearly not the case.

- **Green Credit Guidelines:** Chinese banks that serve as financiers would be in violation of the Green Credit Guidelines. Published by the China Banking Regulatory Commission, this policy requires banks to comply with the local environmental, land, health, and safety laws and regulations in the project country, and further requires compliance with international norms and best practices.⁹⁹ However, the project does not comply with international standards, such as free, prior, informed consent, and the Paris Agreement. By converting parts of the UNESCO Quirimbas Biosphere Reserve into a mega-fossil fuel development area, it also contravenes the spirit of the program, as studying and preserving the area's pristine coral reef systems and rich biodiversity will be severely compromised, if not destroyed, by gas extraction.
- **Guidelines on Environmental Protection and Foreign Investment:** Published by China's Ministry of Commerce, these guidelines require Chinese enterprises to adhere to the concept of environmentally friendly and resource conservation, and observe provisions of laws and regulations of the host country concerning environmental protection¹⁰⁰. As referenced above, gas development will be inherently environmentally damaging, and thus destroy many of the natural resources and ecological value of the Quirimbas Biosphere Reserve. Article 4 requires "win win" relationships between Chinese enterprises and local communities. However, the project will impoverish communities, which has already resulted in local anger, dissent, and opposition.
- **Guidance on Promoting Green Belt and Road:** Published by China's Ministry of Environment and Ecology, this policy obligates Chinese enterprises to "observe international regulations on economy and trade and the laws, regulations, policies and standards of the host countries on eco-environment protection, [and] attach great importance to the appeals of the local residents on environment protection"¹⁰¹. However, the projects do not follow international regulations and standards, such as free, prior, informed consent and compliance to the Paris Agreement. Neither have projects' proponents adequately considered or accounted for local residents' concerns regarding the projects' environmental and social impacts.

Lack of Alignment with International Norms and Standards

- **Paris Agreement:** Pursuant to its Intended Nationally Determined Contributions (INDC), Mozambique made a commitment to reduce its emissions and mitigate its carbon emissions¹⁰². Given the projects' high climate impacts, developing the massive Rovuma Basin gas reserves would not align with the government's stated climate ambitions, but would instead hinder its ability to meet its INDCs.
- **Free, Prior, Informed Consent:** The principle of free prior and informed consent is recognized in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Convention on Biological Diversity (CBD). However, villagers who were forcibly resettled were not consulted based on FPIC standards.
- **The UNESCO Man and Biosphere (MAB) programme and network of Biosphere Reserves (WNBR):** Biosphere reserves, such as the Quirimbas biosphere reserve, are recognized as priority sites for biodiversity conservation and ecological research¹⁰³. Pollution, spills, and other negative environmental impacts would mostly likely prevent Mozambique from conserving and studying the rich biodiversity found in the biosphere reserve.



East African Crude Oil Pipeline and Protected Areas

Overview

Current Project Status: Design

Location: Hoima, Uganda to Tanga, Tanzania

Sector: Energy – Oil Pipeline

Project Cost: \$5 USD billion¹⁰⁴

Type of Financing: Financial Advisory Services

- **Sumitomo Mitsui Banking Corporation** of Japan is advising Total E&P
- **Stanbic Bank Uganda**, a subsidiary of South Africa's Standard Bank, is advising the governments of Uganda and Tanzania. (ICBC owns a 20% stake in Standard Bank.)
- **ICBC** is advising China National Offshore Oil Corporation (CNOOC)

Project Developers/Contractors

- China National Offshore Oil Corporation (CNOOC) – owns 8% of the project equity
- Tanzania Petroleum Development Corporation (TPDC) – owns 15% of the project equity
- TotalEnergies – owns 62% of the project equity
- Uganda National Oil Company (UNOC) – owns 15% of the project equity
- WorleyParsons Europe Limited (UK) as early services Engineering, Procurement and Construction contractor
- Newplan Engineers and Infra Consulting Services (Uganda)
- Norplan and Inter Consult Ltd. (Tanzania)

Impacted Protected Areas

The oil pipeline would directly or indirectly impact the following areas:

Burigi-Biharamulo Game Reserves, recognized as an IUCN Cat IV site in Tanzania

Spanning approximately 350,000 hectares, the Burigi-Biharamulo Game Reserves comprise of two separate reserves that are managed as a single unit. It lies within the Lake Victoria Basin, and is home to approximately 400 wildlife species, including a rare species of antelope¹⁰⁵. The Lake Victoria Basin is a critical source of fresh water and livelihoods in the region. However, the area is already under threat; according to the IUCN, "76% of freshwater species endemic to the basin are threatened with extinction, and the risk of species extinctions is increasing"¹⁰⁶.

Ngorongoro National Park, recognized as a World Heritage site in 1979

Covering more than 800,000 hectares, Ngorongoro National Park is recognized as a rich area for studying human evolutionary processes, providing evidence which dates back as far back as 3.6 million years. The park is also renowned for its superlative natural beauty. The park contains the largest, unbroken caldera in the world, and is where millions of animals such as wildebeest pass through every year. According to UNESCO, "The stunning landscape of Ngorongoro Crater combined with its spectacular concentration of wildlife is one of the greatest natural wonders of the planet"¹⁰⁷. It is also home to the semi-nomadic Maasai, who practice traditional agricultural methods.



Murchison Falls-Albert Delta Wetland System, recognized as a Ramsar site in 2006

The Murchison Falls-Albert Delta Wetland System encompasses rolling savannas, woodlands, forest patches, and bodies of water, and is an important breeding ground for numerous fish species that feed into the Lake Albert fisheries. It provides critical habitat for waterbirds such as shoebills, pelicans, and herons. It is one of the main tourist attractions in Uganda¹⁰⁸.

Lutembe Bay Wetland System, recognized as a Ramsar site in 2006

The Lutembe Bay Wetland System is a 95 hectare area in Uganda that is recognized as an important bird area, providing habitat to globally threatened species of birds, endangered fish species, and rare butterfly species. It also plays an important role in the region's hydrological system, serving as a natural water filter.¹⁰⁹

Taala Forest Reserve, Ugandan protected area

The Taala Forest Reserve is a part of Uganda's system of National Forest Reserves, covering an area of approximately 8,800 hectares. It is recognized as a large savanna reserve and as an important biodiversity conservation site¹¹⁰.

Bugoma Forest, Ugandan protected area

At more than 40,000 hectares in size, the Bugoma Central Forest Reserve in Uganda ranks 11th overall in terms of biodiversity value and 15th in terms of rarity value among the 65 forested Protected Areas in Uganda¹¹¹. It is home to a vast array of forest dependent and biome-restricted species, including two globally threatened bird species; four globally threatened mammal species; nine mammal species in the IUCN red list; one Albertine Rift amphibian species; seven Albertine Rift endemic trees and shrubs; twelve globally threatened species of fauna; and fourteen trees and shrubs that can be found in the IUCN red list¹¹².

Pemba-Shimoni-Kisite Reserve, recognized as a marine protected area bordering Tanzania and Kenya

Located at the border of Tanzania and Kenya, the Pemba-Shimoni-Kisite Reserve includes within its boundaries the Kisite Marine Park, the biggest no-take zone in Kenya, as well as the Mpunguti Marine Reserve, Kenya's smallest. Kisite is also acknowledged to be an Important Bird and Biodiversity Area (IBA). The entire reserve comprises of coral reefs, seagrass meadows, and mangrove forests, among others. It covers 50% of the coral reefs in Tanzania, and is home to a high diversity of marine life, including turtles, dolphins, and dugongs¹¹³.

Tanga Coelacanth Marine Park, recognized as a marine protected area

The Tanga Coelacanth Marine Park spans approximately 55,000 hectares. Rich in biodiversity, it was recognized as a marine protected area primarily due to the presence of coelacanths, which are counted among the world's rarest fish species¹¹⁴.

Wembere Steppe Key Biodiversity Area, in Tanzania

The Wembere Steppe Key Biodiversity Area covers approximately 160,000 hectares, and is composed primarily of grasslands. It is home to settlements of Wasukama and Wataturu pastoralists, as well as the Karamoja Apalis, a globally recognized vulnerable species of warbler¹¹⁵.

Project Description

In 2017, Uganda and Tanzania approved the East African Crude Oil Pipeline (EACOP). If built, it will be the longest heated oil pipeline in the world, spanning approximately 1,440 kilometers from Uganda to Tanzania. The pipeline would transport 200,000 barrels of oil each day, where the oil will ultimately be shipped to international markets.¹¹⁶ EACOP is a massive project; it includes 6 pumping stations; 2 pressure reduction stations; 53 block value stations; and 23 heating stations¹¹⁷. In addition, a 30-meter-wide strip of land throughout the length of the pipeline must be kept clear¹¹⁸.

It is important to note that EACOP is contingent on the successful development of the Kingfisher and Tilenga oil fields in Uganda, as oil will be transported from these fields via pipeline to the Tanzanian port. Concerningly, development in those oil

fields have also led to displacement, intimidation, and harassment of communities. For instance, in September 2020 three journalists and six activists were reportedly arrested in Hoima, Uganda, for speaking out against EACOP and the Tilenga oil project. Although they were eventually released several days later, police ordered the activists to leave the oil region¹¹⁹.

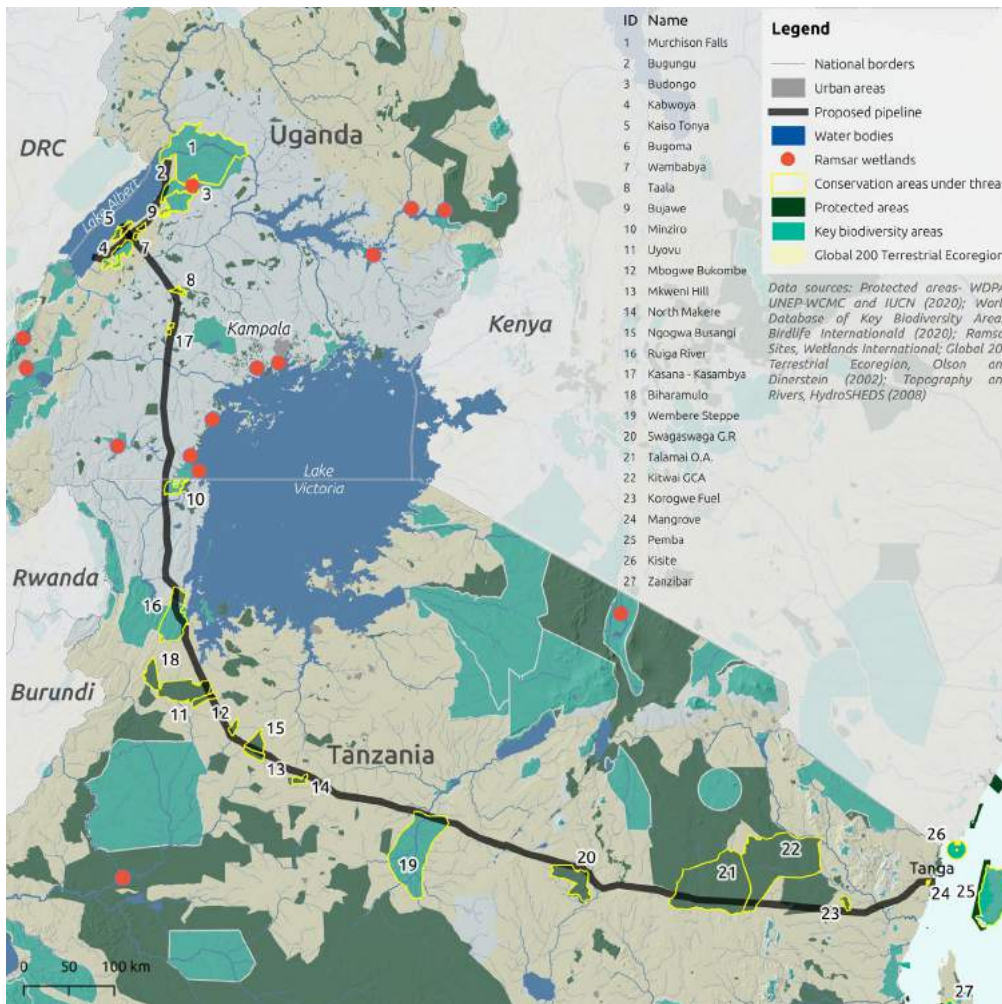
EACOP has triggered strong local, regional, and international opposition due to high environmental, biodiversity, social, and climate risks. In March 2021, 263 international and African organizations called on banks to not finance the pipeline¹²⁰. Over a million people have signed an online petition to stop the project¹²¹. And African groups are challenging the project in the East African Court¹²².

According to civil society groups,

the pipeline will likely dispossess 14,000 households across Uganda and Tanzania of their land and livelihoods, which would essentially impoverish thousands of people¹²³.

Already, there are reports that Total displaced communities from their land and failed to provide adequate compensation prior to the official “cut off date”¹²⁴.

Although several agreements were signed in April 2021 to pave the way for the project, the project requires a \$3 billion project finance loan to proceed. Financial close has not yet been reached.



Stockholm Environment Institute/
Institute for Governance &
Sustainable Development, April
2021. See "The East African
Crude Oil Pipeline – EACOP:
a spatial risk perspective" for
more details. [https://protect-us.
mimecast.com/s/-xJ9CjR5OGcn
WkP9tWt8tpj?domain=mapforenv
iroment.org](https://protect-us.mimecast.com/s/-xJ9CjR5OGcnWkP9tWt8tpj?domain=mapforenviroment.org)

Environmental and Social Risks

EACOP cuts through the Lake Victoria Basin, which includes at least nine protected areas recognized by host country or international bodies. These include the Biharamulo Game Reserve (IUCN Cat IV site in Tanzania), Ngorongoro National Park (World Heritage site), Murchison Falls-Albert Delta Wetland System (Ramsar site), among others as referenced earlier.

The high number of protected areas impacted by the pipeline clearly reflects the region's exceptional ecological and biodiversity value. By cutting through nationally and internationally recognized high value conservation areas and wildlife corridors, as well as attracting associated infrastructure such as service roads, the pipeline would likely cause or exacerbate an array of environmental risks.

Examples include:

- **Endangered and endemic species:** The pipeline would destroy, disturb, fragment, and degrade critical wildlife habitat and corridors for endangered and endemic species, impacting roughly 2000 square km of protected wildlife habitat¹²⁵. Endangered species include the chimpanzee, sea turtles, and dugongs¹²⁶, as well as endemic fish and freshwater species¹²⁷. Preventing habitat fragmentation is particularly important in order to protect critical wildlife corridors and migration routes used by African elephants, zebras, wildebeest, gazelles, among other species in the region¹²⁸.
 - **Deforestation:** The project will destroy vast parts of the Taala Forest Reserve.
 - **Water:** As the pipeline cuts through the Lake Victoria Basin, it will negatively impact freshwater sources. Testing and constructing the pipeline requires significant water resources, which may trigger a cascade of increasing risks to wildlife and affected communities. This is particularly problematic given the existing water scarcity in the region¹²⁹.
 - **Pollution and Waste:** As a pipeline, the project bears a high likelihood for oil spills and seepage into the Lake Victoria Basin. Furthermore, cleaning the pipeline generates hazardous waste containing benzene, which is a carcinogen. Its disposal is additionally problematic as it will either be incinerated, causing air pollution, or transported and stored in a pumping station¹³⁰.
 - **Climate change:** As a project designed to facilitate the extraction and use of fossil fuels, EACOP will have serious climate impacts. If the pipeline is developed, it is expected to produce over 33 million tons of carbon emissions per year during peak production. This amount would exceed the total combined emissions of Uganda and Tanzania, and likely stymie both countries from meeting the Paris Agreement¹³¹.
- The pipeline would also engender a number of negative social risks, including:
- **Land Acquisition, Resettlement, Inadequate Compensation, and Harassment:** Around 13,000 households across Uganda and Tanzania, accounting for more than 86,000 individuals, have lost or will lose land as a result of the EACOP, with resettlement needed for approximately 200 and 330 households in Uganda and Tanzania respectively. A further 4,865 households (amounting to 31,716 individuals) are additionally affected by the Tilenga oil project. In sum, both projects are expected to directly impact the land of around 118,000 individuals^{132, 133}. However, community members have reported low compensation and unfair resettlement¹³⁴. The project has also been marred by a lack of transparency with inadequate stakeholder engagement¹³⁵. Furthermore, community members or activists who oppose the project have faced harassment, intimidation, and retaliation¹³⁶.
 - **Economic Displacement:** About a third of the pipeline is located in the Lake Victoria Basin, which supports the livelihoods of more than 30 million people in the region. Many affected communities rely on farming and livestock rearing, and so resettlement would likely dispossess them of their livelihoods.
 - **Stunting the Tourism Industry:** Along the same vein, the tourism industry supports many communities in the region. However, the pipeline and related oil fields are encroaching and impacting protected areas, many of which are major tourism destinations. This would effectively stymie and prevent sustainable tourism development. For instance, Burigi-Biharamulo Game Reserves, Ngorongoro National Park, and Murchison Falls are all major tourism sites. Furthermore, the promise of jobs is overstated. Although the pipeline would require 5000 jobs, only 300 would be permanent, offering far fewer job opportunities than the tourism industry¹³⁷.
 - **Gender Impacts:** Women are likely to be disproportionately affected, as they would bear the brunt of the project's negative impacts. These include carrying the burden of relocation changes, losing income due to loss of traditional livelihoods, and facing increased gender-based violence due to the influx of male workers to the project¹³⁸.

Summary of Legal and Compliance Risks

According to civil society organizations, the EACOP Project violates a number of Ugandan and East African regional laws. In fact, a number of civil society organizations have filed lawsuits against EACOP and its associated oil fields in Tilenga¹³⁹. While by no means exhaustive, the examples below provide a brief assessment of the legal and compliance risks faced by the pipeline project.

- **1995 Ugandan Constitution:** Per Articles 8A, 20, 26, 39, 237(2)(b), the 1995 Constitution of Uganda guarantees the right to a clean and healthy environment, the right to own property (including land), and the right to livelihoods, among others. According to Africa Institute for Energy Governance (AFIEGO), EACOP has violated these rights due to the pipeline's potential pollution, water, climate, and land acquisition impacts¹⁴⁰.
- **The Environmental Impact Assessment Regulation 1998:** Regulations 12, 19, 20 and 21 require certain procedures for ensuring public participation, such as how to communicate and discuss project information with the public. However, the project proponents allegedly did not follow these procedures¹⁴¹. As a result, there is an ongoing case in the High Court of Uganda which is challenging EACOP and the Tilenga oil field due to violations to this law¹⁴².
- **The National Environmental Act 2019:** According to the African Institute for Energy Governance, EACOP violates a number of provisions of this law, including Sections 3(1)(2) and 5(2)(r). These provisions guarantee the right to a clean and healthy environment, and ensuring that "processes of environmental management and human development have due regard to international human rights standards"¹⁴³. As described below, EACOP does not meet key international human rights standards, such as FPIC.
- **Treaty for the Establishment of the East African Community (EAC Treaty):** In 1999, the Treaty for the Establishment of the East African Community (EAC Treaty) was adopted. It was meant to formalize and deepen political, economic, and social relations between Uganda, Tanzania, Kenya, Rwanda, and Burundi. The creation of the East African Court of Justice (EACJ) in 2001 ensures Members States adhere to the Treaty's provisions.¹⁴⁴ According to a case brought to the EACJ court by African organizations, the project violates at least 20 articles of the EAC Treaty, as it is "environmentally untenable as it will traverse several protected areas across the East Africa Region... [and cause] undue regard to people's livelihoods, human rights, gender, food security, children, peasant rights, and public health of East Africans"¹⁴⁵.

Chinese companies and banks are obligated to implement various Chinese policies governing environmental performance in overseas activities, per various regulatory Chinese government bodies. Some policy examples include:

- **Green Credit Guidelines:** ICBC is advising CNOOC in this project, and as such, ICBC's involvement should comply with the Green Credit Guidelines¹⁴⁶, which obligates banks to abide by host country law and observe international norms and standards in overseas activities. However, the project has allegedly violated numerous Ugandan and regional law, as well as fails to uphold various international norms and standards, as reflected in the lawsuit against the project¹⁴⁷.
- **Guidelines on Environmental Protection and Foreign Investment:** These guidelines require Chinese enterprises to "reduce adverse impacts on local biodiversity" and observe host country law, particularly those concerning environmental protection¹⁴⁸. However, as the pipeline would directly cut and fragment a number of protected areas and habitats of endangered species, as well as dispossess communities of their land and livelihood, this project goes against the spirit of the policy. Furthermore, the ongoing lawsuits underscores how project developers may not be complying with local and regional laws.

Total has agreed to apply the IFC Performance Standards and Equator Principles to the project. Based on the project's current preparation, however, civil society has noted that the pipeline will be unable to meet these requirements.

- **Equator Principles:** The EP requires "All Projects affecting Indigenous Peoples will be subject to a process of Informed Consultation and Participation". However, as reflected in lawsuits filed by African groups¹⁴⁹, the project has not ensured proper informed consultation and participation among Indigenous Peoples, as required by both Ugandan law and EP 5.
- **IFC Performance Standards:** The project conflicts with the IFC PS in several ways. For example, delays, insufficient provision of information to communities, harassment, in addition to irregularities in the land acquisition and compensation process, all contravene IFC PS 5 on Land Acquisition and Involuntary Displacement. The project will also significantly convert or degrade natural habitats, in conflict with IFC PS 6 on Biodiversity. IFC PS 7 on Indigenous Peoples also requires free, prior, informed consent. However, there is evidence that project developers have not ensured consultations to take place based on FPIC principles¹⁵⁰.

Lack of Alignment with International Norms and Standards

Preparation for the project has already violated a number of international norms and standards.

- **Free, Prior, and Informed Consent:** Free, Prior, and Informed Consent (FPIC) is recognized in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). As Total has committed to applying IFC PS in the project, it must also ensure consultations take place under FPIC principles¹⁵¹. However, this has not occurred¹⁵².
- **Subpar Environmental Impact Assessments:** The project's Environmental and Social Impact Assessment (ESIA) contained an unbalanced assessment. According to the Netherlands Commission for Environmental Assessment (NCEA), an independent body of environmental experts, "the ESIA in general, and the Non- Technical Summary (NTS) in particular, are biased in stressing the positive impacts and downplaying the negative ones. Economic benefits are highlighted and spelled out, while potential negative effects are concluded to being insignificant without proper, concrete, transparent assessment or justification. The ESIA is difficult to read, focuses insufficiently on key issues and fails to facilitate decision making. The ESIA report provides a lot of methodological descriptions and excessive baseline characterizations, but does not become concrete. The assessment processes are not very transparent and many questions remain"¹⁵³. By failing to be robust, comprehensive, and transparent, the ESIA's lack of substantive and comprehensive analysis is substandard and thus does not meet international best practice.
- **Paris Agreement and the United Nations Framework Convention on Climate Change (UNFCCC):** As a Party to the Paris Agreement, Uganda has made a commitment to "strengthen the global response to the threat of climate change"¹⁵⁴. While Tanzania is not a Party to the Paris Agreement and is not bound to its provisions, it is, however, a Party to the UNFCCC alongside Uganda. Under the UNFCCC, Parties to the Convention commit to stabilize greenhouse gas concentrations in the atmosphere "at a level that would prevent dangerous anthropogenic interference with the climate system"¹⁵⁵.

Given the global urgency of addressing climate change, any fossil fuel development is antithetical to these climate change efforts. The pipeline is projected to transport 216,000 barrels of crude oil per day, which according to African organizations and advocates, is estimated to produce 33 million tons of greenhouse gas emissions each year. Using the reserves in oil and gas fields currently in operation will contribute to the world exceeding the 1.5 degree C target¹⁵⁶.

- **World Heritage Convention:** Ngorongoro National Park, a World Heritage site located in Tanzania, is included among the protected areas placed at serious risk by EACOP. Tanzania and Uganda are both Parties to the World Heritage Convention; as such, they have both committed to undertake to ensure the protection and conservation of cultural and natural heritage situated in their territories. They have also committed to take the "appropriate legal, scientific, technical, administrative and financial measures necessary" for the protection and conservation of such heritage, undertaking "not to take any deliberate measure which might damage directly or indirectly the cultural and natural heritage"¹⁵⁷.

However, EACOP may impact, if not damage, the integrity of the site, as it is located just 100 km away from the proposed pipeline. As the project will displace thousands of people, it may intensify resettlement pressures in other areas such as the World Heritage site. For instance, according to state of conservation reports, Ngorongoro National Park is already under increasing pressure due to the growing population within the site; because of mass displacement caused by EACOP, this may further exacerbate population pressures in the park, as local communities along the pipeline's route will be compelled to move and resettle. Notably, the World Heritage Committee has called on the Tanzanian government to conduct consultations with local communities in order "to fully understand its proposals and provide meaningful input to its content, and free, prior, informed consent as appropriate of local stakeholders and rightsholders"¹⁵⁸.

Furthermore, the World Heritage Committee has asked the Tanzanian government to "undertake a Strategic Environmental Assessment (SEA) to evaluate the current and future impacts of developments across all sectors in the region, including the property and the Serengeti ecosystem so that the findings can inform management, and submit the SEA to the World Heritage Centre for review by the Advisory Bodies"¹⁵⁹ [italics added]. EACOP is a large oil infrastructure project, and so environmental and social studies should account for its cumulative impacts on the region's ecosystems, including the World Heritage site.

- **Ramsar Convention:** The pipeline poses a serious risk to the Murchison Falls-Albert Delta Wetland System. Both Uganda and Tanzania are members of the Ramsar Convention, and are bound to adhere to its provisions. Article 3.1 of the Convention, in particular, states that "[t]he Contracting Parties shall formulate and implement their planning so as to promote the conservation of the wetlands included in the List, and as far as possible the wise use of wetlands in their territory."¹⁶⁰ However, EACOP would jeopardize conservation efforts in this area due to its pollution, water, and biodiversity impacts.

Oil Development in Yasuní National Park

Overview

Current Project Status: Operational

Location: Yasuní National Park in Napo Province, Ecuador

Sector: Energy – Oil

Type of Financing: Sovereign Bonds

Collectively, these banks hold over \$750 million USD in bonds issued by PetroAmazonas

- BNP Paribas
- Credit Suisse
- Goldman Sachs
- JPMorgan Chase
- Deutsche Bank
- UBS
- HSBC

These banks have supported trade financing in the region:

- ING
- Credit Suisse
- UBS
- Rabobank
- Natixis
- BNP Paribas

**In addition to providing project financing to oil exploration and extraction projects, banks also finance the shipping of oil from the Amazon to international markets, which is known as trade financing. Trade financing in this case study refers specifically to letters of credit, a financial tool where banks guarantee payment to the seller by covering the cost of the shipment upfront, and then recouping the costs from the buyer before the buyer can take receipt of the*

goods. This type of trade financing is traceable in the customs data because the bank acts as the consignee on the bill of lading. They only transfer ownership of the oil to the buyer once the buyer has met the terms of the loan. As of June 2020, these are the top 6 banks providing trade finance for oil shipments from the Amazon Headwaters to international markets.

Project Developers/Contractors

Banks hold sovereign bonds in the following companies:

- PetroAmazonas/PetroEcuador*
- China National Petroleum Company (CNPC) and its subsidiary, PetroChina

**In January 2021, the state run oil and gas companies PetroAmazonas and PetroEcuador merged into EP PetroEcuador. PetroAmazonas was solely dedicated to oil exploration in Ecuador's Amazon.*

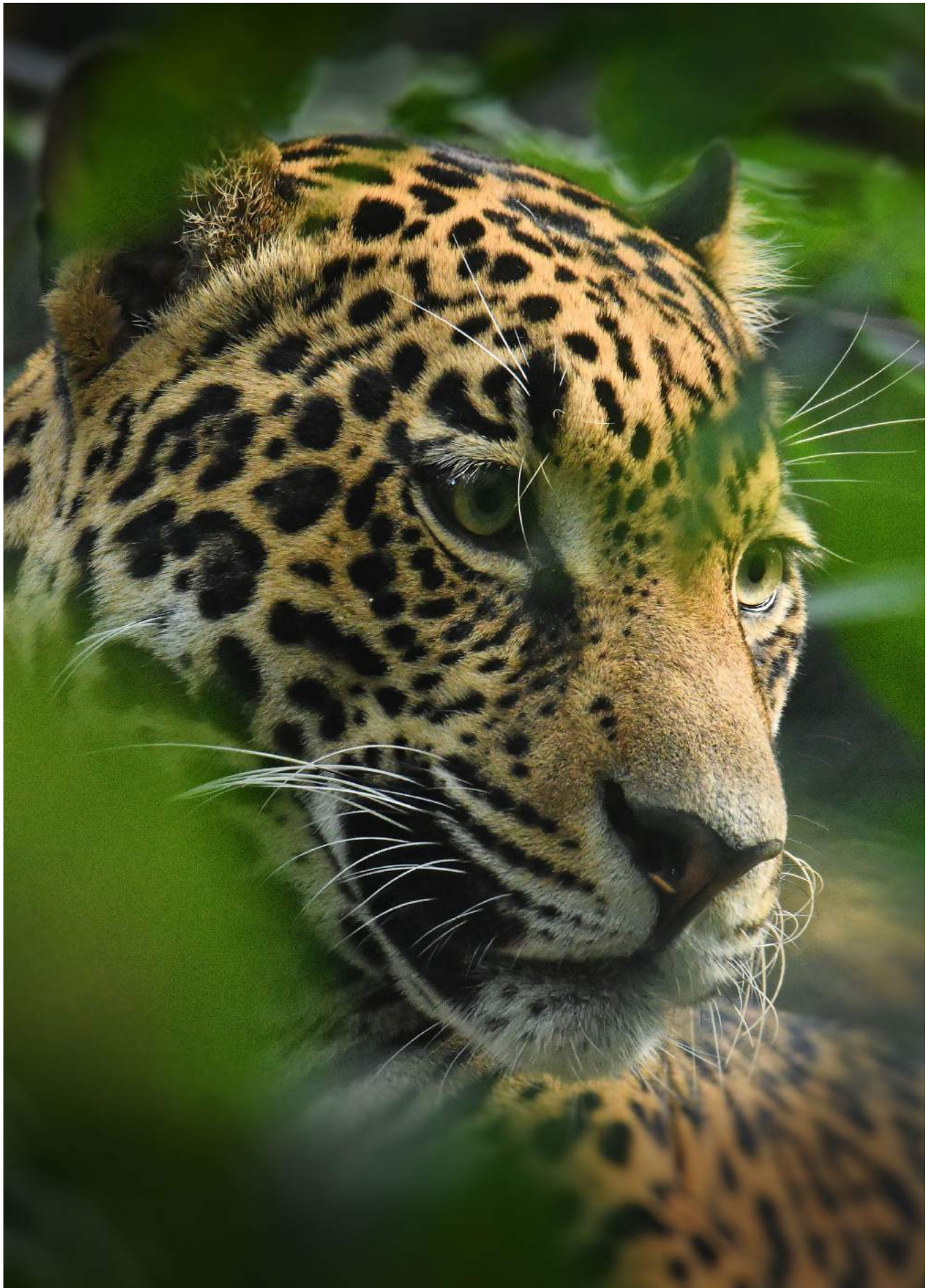
Banks have provided trade financing support for shipping oil via the following companies, some of which is sourced from the Yasuní National Park area:

- Chevron
- Valero
- Marathon
- PBF Energy
- Phillips 66
- CITGO
- ExxonMobil
- Marathon
- PBF Energy
- Total SA

Impacted Protected Area

Yasuní National Park, recognized as a UNESCO World Biosphere Reserve in 1989 and an IUCN category II site

Yasuní National Park covers almost a million hectares of tropical rainforest in the western Amazon, in a region that forms part of the Amazon headwaters of Ecuador and Peru. It contains the greatest biodiversity per square meter on the planet, boasting 610 bird species, 62 snake species, and 204 mammal species¹⁶¹. According to the IUCN, 33 mammal species are in various stages of extinction, such as the jaguar and golden-mantled tamarin¹⁶². These areas are also ancestral territories of the Waorani Indigenous nation, as well as the Tagaeri-Taromenane, two Indigenous groups living in voluntary isolation.



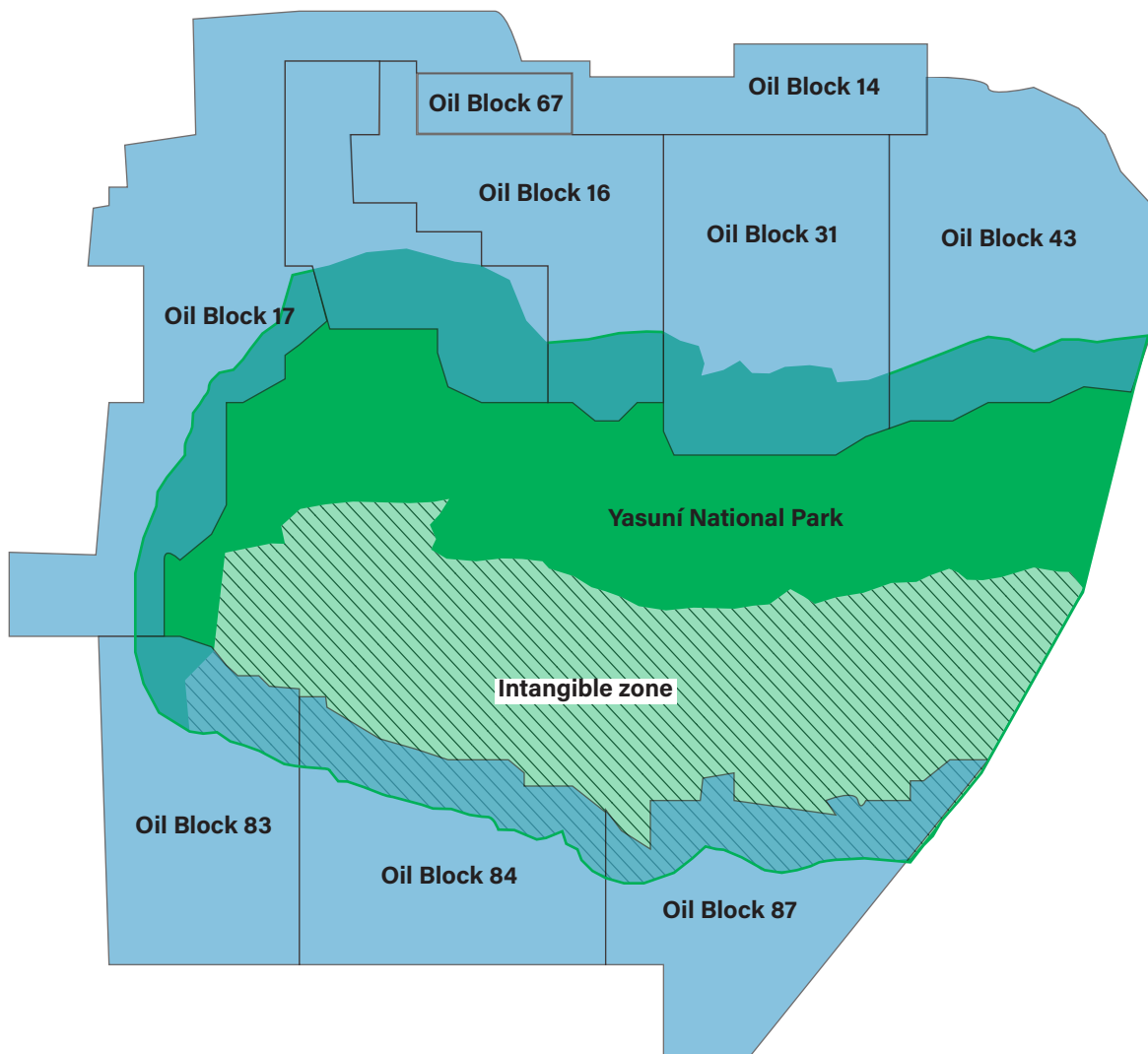
Project Description

Multiple oil concessions overlap Yasuní National Park, and cover more than 45% of the park¹⁶³. In 2013, the government opened the ITT fields (Ishpingo, Tambococha, Tiputini fields) in remote eastern part of the park in Block 43 to extraction. Ecuador had initially sought to keep the ITT fields--the country's largest--permanently in the ground in exchange for international compensation for its forgone revenues, but now plans an estimated 651 wells.

Block 43 represents the country's largest oil exploration project, with an estimated reserve of more than 1,672 million barrels, and has already produced 67.7 million barrels of crude oil alone¹⁶⁴. Companies operating in Blocks 14, 15, 43, and 31 that overlap the park all receive financial support from the banks, as well as blocks adjacent to the park like blocks 79 and 83.

Much of Yasuní National Park overlaps with Indigenous Peoples and Indigenous Peoples Living in Voluntary Isolation. The park forms part of the ancestral lands of the Tagaeri and Taromenane Indigenous Peoples, although it has been noted that their actual territories far exceed the boundaries designated for the ZITT.

In 1999, the Presidential Decree created an "Intangible", or Untouchable Zone (ZITT), for over approximately 70,000 hectares of land within the Park, wherein all extractive operations, including oil drilling, were prohibited. A 2018 referendum saw popular votes supporting the increase of the intangible zone and reduction in the oil production areas, but this has so far not resulted in any meaningful government action.



Oil development in the area has long been controversial due to the industry's inherently harmful environmental, social, health, and climate impacts. As a result, Indigenous Peoples, local communities, and groups working to protect Indigenous Peoples living in Voluntary Isolation in the region have filed lawsuits against oil companies for violating their rights to health, food, and sovereignty. These rulings directly impact oil companies operating in the region, particularly in Yasuní National Park. For instance, the Inter-American Court of Human Rights has required the state to adopt and implement precautionary measures for the Tagaeri-Taromenane, and a case is now pending before the court against the State for a series of violations of the rights of the Tagaeri and Taromenane Indigenous peoples and their members, as the oil projects will affect their territories, natural resources and

way of life. The Tagaeri-Taromenane are the last Indigenous Peoples living in Voluntary Isolation; however, their territory is located within Yasuní National Park and thus imperiled by oil development¹⁶⁵.

In another example, in May 2021, an Ecuadorean court ruled in favor of nine young girls, who argued that the gas flares used during the oil extraction process violated their rights to health and water, as guaranteed by the Constitution. As a result, oil companies now have 18 months to begin the phase-out and end the practice entirely by 2030¹⁶⁶. In addition, other court decisions have found that oil development in other areas of the country violates Indigenous People's right to autonomy and territory, which would also be applicable to Indigenous territories inside the park¹⁶⁷.

Environmental and Social Risks

Oil extraction in the Amazon is notorious for its array of environmental, social, public health, and climate risks. In terms of biodiversity alone, surveys of the park have found record numbers of amphibian, reptile, bat, and tree species, including some that are threatened and regionally endemic. Some examples include the giant river otter, white-bellied spider monkey, and Amazonian manatee. Scientists have also noted the Park's "potential to sustain this biodiversity in the long term," as it can maintain "wet, rainforest conditions, even as anticipated climate change-induced drought" threatens surrounding areas in the Amazon¹⁶⁸.

However, **pollution and oil spills caused by oil extraction threaten not only the area's biodiversity, but also its water supply. For instance, in April 2020, two oil pipelines leaked more than 15,000 barrels of crude oil into the Coca and Napo Rivers. As this occurred at the height of the COVID-19 health crisis, the oil spill had significant impacts on the Kichwa indigenous communities, who are reliant on the rivers for farming and fishing during the pandemic**¹⁶⁹. Indigenous organizations, support groups, and other stakeholders have filed a case against the Ecuadorean government and oil companies, demanding environmental rehabilitation and redress for communities affected by this incident¹⁷⁰. This recent disaster continued the ongoing pattern of severe oil spills in the area. In 2013, a landslide-damaged pipeline discharged 1.6 million liters of crude oil into the Napo River, with impacts reaching far downstream to the Peruvian Amazon¹⁷¹.

Furthermore, **increasing studies correlate crude oil production in the Ecuadorean Amazon with the incidence of disease in the surrounding communities**¹⁷², including **stomach, rectum, skin, soft tissue, kidney, and cervix cancers in adults, and leukemia in children**^{173,174}.

Oil development in the area has led to recurring cases of legal conflicts with Indigenous Peoples and local communities. For instance, in 2019, a provincial court found that the government had not consulted with the community on the auctions for oil block 22, which overlapped with ancestral lands of the Waorani indigenous peoples¹⁷⁵. This decision effectively suspended further developments in the area, and has set a significant precedent for future legal action for communities in other oil concessions. In 2020, the Waorani Indigenous Peoples also brought suit against the oil company PetroOriental, alleging that gas flaring from the oil wells had "contaminated" land and water resources and contributed to the adverse impacts of climate change in Ecuador. Although the provincial court dismissed the case in April 2021, the community has expressed intentions to appeal this decision¹⁷⁶.

Lastly, **oil drilling drives increased deforestation in the Ecuadorian Amazon**. This is attributed to the construction of roads that provide access to pipelines and expand production areas, which in turn fragment habitat and attract further large scale encroachment into primary forests. **Analyses of satellite data from 2008 to 2016 already showed forest loss of up to 650,000 hectares**¹⁷⁷, and subsequent projections conservatively estimate a further 48 percent loss in forest cover by 2030¹⁷⁸.

Summary of Legal and Compliance Risks

Oil extraction in concessions overlapping Yasuní National Park violates the rights of local communities, Indigenous Peoples, and Indigenous Peoples living in Voluntary Isolation, which in turn contravenes a number of local laws and Chinese policies.

Violations to the Ecuadorian Constitution include:

- **Article 57.7:** Although the Constitution guarantees Indigenous communities the right to free, prior, informed consultation, there is no law or regulation to properly carry it out. This led former UN Special Rapporteur on Indigenous Rights Victoria Tauli-Corpuz to conclude that there is no way for Indigenous Peoples to exercise this right in the country. This is relevant as Waorani and Kichwa territory overlaps within the oil blocks. In 2019, for instance, an Ecuadorean court found that the government did not obtain free, prior and informed consultation from the Waorani prior to auctioning off sixteen oil blocks, which overlaps seven million acres of Indigenous territory¹⁷⁹.
- **Article 57.21:** Ecuador's Constitution contains special guarantees for Indigenous Peoples living in voluntary isolation. In this case, this applies to two nomadic Waorani clans, the Tagaeri-Taromenane, who live inside the park. The constitution states: "The territories of the peoples living in voluntary isolation are an irreducible and intangible ancestral possession and all forms of extractive activities shall be forbidden there. The State shall adopt measures to guarantee their lives, enforce respect for self-determination and the will to remain in isolation and to ensure observance of their rights. The violation of these rights shall constitute a crime of ethnocide, which shall be classified as such by law." However, allowing oil development in their territories would inherently infringe upon their right to remain in isolation.
- **Article 66.27:** The Constitution guarantees its people the right to live in a healthy and ecologically balanced environment. Oil development, especially in the Amazon, has proven to interfere with this right.
- **Article 71-74:** Ecuador was the first country to enshrine the Rights of Nature into its constitution. It makes nature a subject of rights in and of itself, rather than an object, thus possessing its own right to exist, persist, maintain

and regenerate its vital cycles, structure, functions and its processes in evolution. The State is thus obligated to apply precaution and restricts harmful measures which can lead to the extinction of species, the destruction of the ecosystems, or the permanent alteration of the natural cycles.

- **Article 413:** The State is required to use environmentally clean technologies and non-polluting and high impact renewable energy. For instance, the recent court decision which ruled that ongoing gas flaring associated with oil drilling was illegal is based on this article¹⁸⁰.
- **Articles 3, 12, 14, 15, 32, 66:** Oil spills violate the right to health and right to water. Pollution caused by oil spills in the Amazon is well known, and so oil development in the Yasuní area would most likely drive future oil spills and cause environmental health impacts.
- **Guidelines on Environmental Protection and Foreign Investment:** As a Chinese company, China National Petroleum Company (CNPC) and its subsidiary PetroOriental is obligated to follow environmental and social policies set forth by the Chinese government. One example includes the Guidelines on Environmental Protection and Foreign Investment, which obligates Chinese enterprises to "observe provisions of laws and regulations of the host country concerning environmental protection"; and "respect the religious belief, cultural traditions and national customs of community residents of the host country". The policy further states that their activities should be based in creating "mutual benefits". Given the numerous violations to Ecuadorean law, as well as local and Indigenous Peoples' strong opposition to oil development, CNPC is not in compliance with this policy.
- **Guidance on Promoting Green Belt and Road:** Ecuador and China have signed agreements for Belt and Road cooperation. The Guidance on Promoting Green Belt and Road establish basic principles for ensuring environmentally safe and sustainable practices, which includes observing host country laws. However, the numerous environmental risks and lawsuits associated with oil development in the Yasuní National Park do not align with this policy guidance.

Lack of Alignment with International Norms and Standards

- **United Nations Declaration on the Rights of Indigenous Peoples and Free, Prior, Informed Consent:**

Article 26 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) recognizes the inherent right of Indigenous Peoples “to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired”¹⁸¹. Article 32 of UNDRIP also codifies free, prior, informed consent, in which Indigenous Peoples reserve the right to categorically reject a harmful activity taking place on their lands. However, oil development in the Amazon clearly violates both UNDRIP and FPIC, as Indigenous Peoples from the Yasuní National Park have repeatedly opposed oil development. The increasing number of lawsuits against oil activities further reflect a longstanding pattern of tangible harm to local communities and Indigenous Peoples.

- **Paris Agreement:** Ecuador submitted its first Nationally Determined Contributions to the UNFCCC in 2019. Given the Amazon rainforest’s role in mitigating climate change, it is unlikely Ecuador can meet its NDCs without effectively conserving the Amazon.

- **UNESCO Biosphere Reserve and IUCN Category II site:** Drilling for oil is an inherently harmful process, and so the continued destruction of intact rainforests is fundamentally at odds with the recognition of Yasuní Natio-

nal Park as a Biosphere Reserve and IUCN Category II site. Biosphere Reserves are intended to protect key sites for their contributions to biodiversity conservation and ecological research, and IUCN Category II sites are meant to conserve biodiversity while taking into “account the needs of indigenous people and local communities, including subsistence resource use”¹⁸². Oil extraction and the continued negative impacts on Indigenous Peoples fundamentally undermine the spirit and purpose of these international designations.

- **Organization Indigenous and Tribal Peoples Convention (No. 169):** ILO 69 affirms that right of Indigenous Peoples “to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use” However, the Ecuadorian government’s decision to develop oil blocks on Indigenous Peoples Territories against their consent directly contravenes this international norm¹⁸³.

- **Americas Declaration on Indigenous Rights:** This treaty upholds the rights of Indigenous Peoples, including the right to property and judicial protection through the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. As referenced earlier, Indigenous Peoples have filed cases in these courts due to the violation of these rights against the Tagaeri-Taromenane Peoples.



Photo: Amazon Watch

Mongolian Dams and Lake Baikal

Mining Infrastructure Investment Support (MINIS): Shuren Hydroelectric Dam

Current Project Status: Cancelled

Location: Selenge River, Mongolia

Sector: Energy - Hydropower

Type of Financing: Technical Assistance

- \$25 million USD credit from the World Bank to provide technical assistance to the Mongolian government, in order to facilitate mining infrastructure investment

Project Borrower

- Government of Mongolia

Mining Infrastructure Investment Support (MINIS): Orkhon Water Diversion project

Current Project Status: Cancelled

Location: Selenge River, Mongolia

Sector: Water Infrastructure

Type of Financing: Technical Assistance

- \$25 million USD credit from the World Bank to provide technical assistance to the Mongolian government, in order to facilitate mining infrastructure investment

Project Borrower

- Government of Mongolia

Egiin Gol Hydropower Dam

Current Project Status: Design and Construction – Stalled

** China Exim Bank withdrew initial financing support. However, the Mongolian government has shown signs of reviving the project by conducting a new EIA. UNESCO specifically called for a new EIA as the Mongolian government has expressed continued interest in pursuing the dam.*

Location: Selenge River, Mongolia

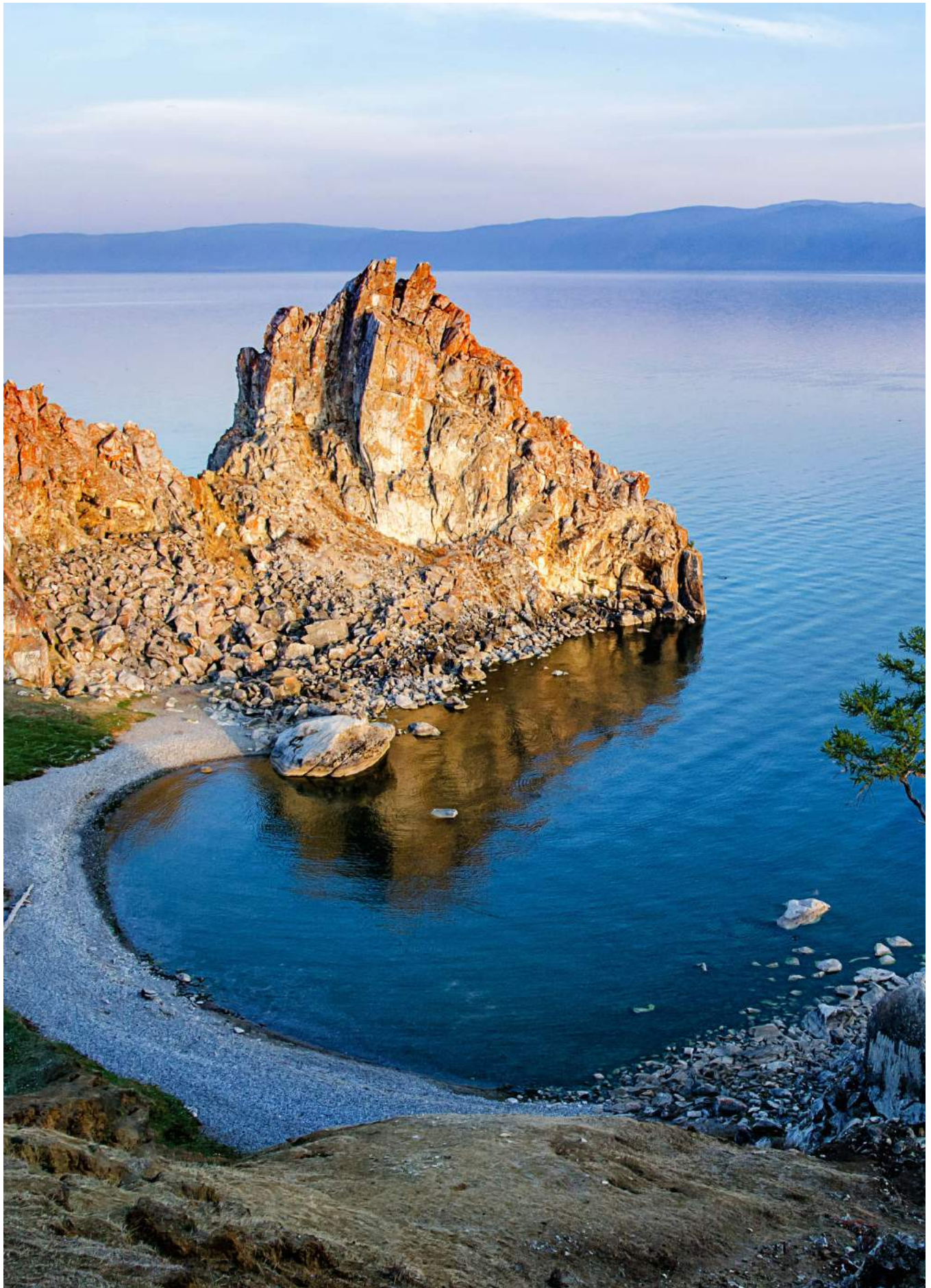
Sector: Energy - Hydropower

Type of Financing: To be determined

- \$1billion USD loan from China Exim Bank– *Withdrew from the project*

Project Developers

- China Gezhouba Group



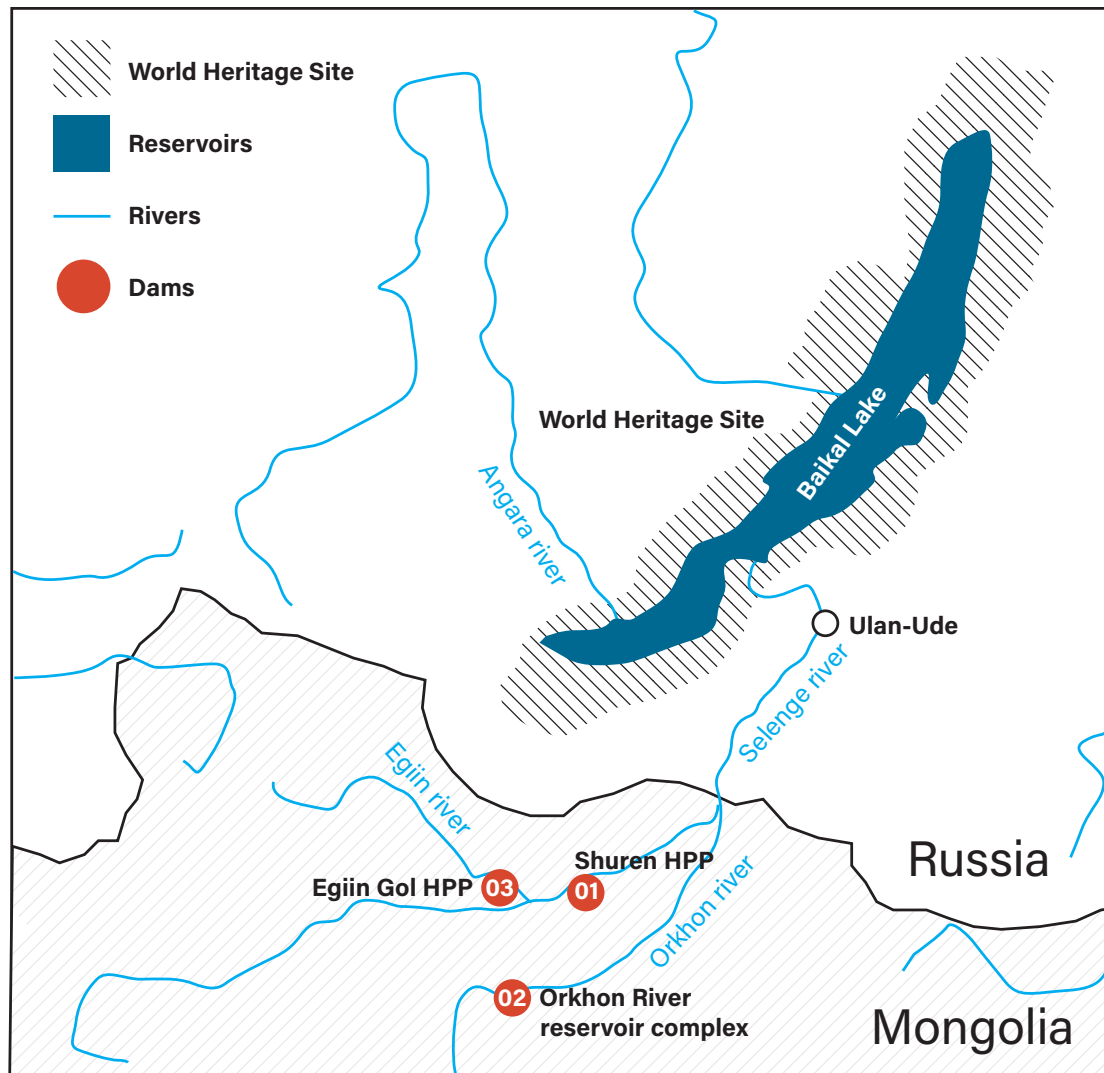
Impacted Protected Area

Lake Baikal, recognized as a World Heritage site in 1996

Lake Baikal is the oldest and deepest freshwater lake in the world, estimated to be about 25 million years old. As the world's largest lake by volume, it contains approximately 20% of the world's freshwater resources. Over 330 rivers flow into Lake Baikal, with the Angara River flowing out. Lake Baikal is home to over 2500 plant and animal species, over two thirds of which are endemic to the region. For instance, the nerpa, one of the world's only freshwater seals, as well as the Baikal omul fish, are found only in Lake Baikal¹⁸⁴. Due to its immense beauty and cultural significance, local communities in Mongolia and Russia have long considered Lake Baikal as the "Sacred Sea".

The Selenge River Delta, recognized as a Ramsar site in 1994

The Selenge River Delta is located within the Lake Baikal World Heritage site, and is also recognized as a Ramsar site. It is home to 70 rare or endangered species of plants and animals. Over 170 bird species inhabit the region, and approximately five million migratory birds pass through the delta each fall¹⁸⁵. It is also an important site for migratory fish.



Project Summary

In 2011, the Mongolian government proposed the 300 MW Shuren Dam, Orkhon Water Diversion project, and 220 MW Egiin Gol Dam as part of a series of infrastructure and energy projects designed to address the mining industry's growing demand for energy and water in Mongolia; all the dams were to be located in the Selenge River basin, which feeds directly into Lake Baikal. The WB provided technical assistance support to the Shuren and Orkhon Dams under its Mining Infrastructure Investment Support (MINIS) project. The proposed dams would be used to meet the mining industry's increasing energy and water demands in the Gobi Desert, with virtually few if no long term benefits to local communities^{186, 187, 188}.

Although the Egiin Gol Dam was initially conceptualized and designed in the 1990s, the project was initially shelved due to its failure to satisfy Clean Development Mechanism requirements, becoming uneconomical without such credits¹⁸⁹. In 2013, Mongolian authorities worked with Engie and Tractebel Co and revived the project by modifying the dam design and enlarging capacity from 220 to 315 MW¹⁹⁰; following these modifications, the Mongolian government approached China for a loan to support the Egiin Gol Dam construction. In November 2015, China and Mongolia announced that China Exim Bank would provide a \$1 billion USD concessional development loan, in which 70% of the funds would be used to support the project¹⁹¹. The Mongolian government then provided the project contractor, China Gezhouba, a \$100 million USD concession for access roads and bridges in order to allow for construction during winter months¹⁹².

However, community and international opposition to all of the proposed dam projects grew due to unaddressed environmental and social concerns, particularly due to the lack of a basin wide assessment in understanding the cumulative impacts of all three dams in the Selenge River Basin. For instance, in 2015, community representatives submitted a complaint to the World Bank Inspection Panel regarding environmental and social concerns relating to the Shuren and Orkhon Dams, including: failure to consider downstream impacts to the Selenga Delta and Lake Bai-

kal; the need to develop a basin-wide, rather than piecemeal, approach for water management in the Selenge River Basin; failure to account for the dams' impacts on community livelihood and culture; and lastly, lack of public consultations^{193, 194}. The WB Inspection Panel ultimately accepted the complaint, noting that the eligibility for investigation depends on whether feasibility studies could lead to "material damage". According to the WB Inspection Panel, bank supported technical "feasibility" studies qualify as having completed detailed and comprehensive engineering designs, thus enabling construction to immediately begin¹⁹⁵.

Although the WB did not directly finance the projects, its role in financing the technical studies led to a concern that such studies demonstrated the projects' readiness for construction and compliance with international requirements. This prompted civil society concern that such support would serve to "rubber stamp" and legitimize the dams as meeting international standards despite evidence that suggested otherwise¹⁹⁶.

In response to the lack of detailed environmental and social impact analysis, the World Heritage Committee called on Mongolia to not "approve any of the [dam] projects until the above mentioned EIAs and assessment of cumulative impacts have been reviewed by the World Heritage Centre and IUCN"¹⁹⁷. In addition, in 2016 residents of the Russian town Kabansk in Selenge Delta organized public hearings and prompted their Head of Municipal Administration to notify China Exim Bank and project developer China Gezhouba International of their concerns regarding the environmental, social, and transboundary impacts of the Egiin Gol Dam¹⁹⁸. These local concerns echoed a public petition which called the Russian, Chinese, and Mongolian Presidents to cancel hydropower plans on the Selenge River, stating: "We, concerned citizens from around the world, call on you to protect the world's deepest lake from Mongolia's hydro plant construction plants... We urge you to, instead, fund environmentally-friendly wind farms and solar stations in Mongolia's Gobi desert -- and stop this envi-

ronmental disaster before it's too late."¹⁹⁹ The petition received over 70,000 signatures and was delivered to the Chinese, Russian, and Mongolian Presidents' respective offices. As well as sparking public awareness, this petition served as a warning to any potential investors of the reputational risks associated with the project.

In April 2016, China Exim Bank froze the \$1 billion USD Egiin Gol loan. This decision essentially blocked the project from moving forward. Interestingly, on June 23, 2016, concerns regarding the environmental, social, and transboundary impacts of the Egiin Gol Dam were echoed by Russian President Vladimir Putin in a trilateral meeting with Chinese President Xi Jinping and Mongolian President Tsakhiagiin Elbegdorj.

President Putin referenced the campaign to save Lake Baikal, saying: "Russian and international environmental protection organizations have made their position on these plans known: this project could create some risks for water supply to Russia's Irkutsk Region and affect the unique ecology of Lake Baikal, as Selenga is the main river flowing into Lake Baikal."

President Putin's remarks reflected the risks of failing to fully account for basin wide, and thus transboundary, dam impacts. His remarks also demonstrated how expediting ill-conceived projects could lead to broader, high level political consequences between Russia and Mongolia.

Environmental and Social Risks

As the Egiin Gol Dam was to be located upstream in the Selenge River Basin in Mongolia, it would have most likely caused significant, downstream impacts on Lake Baikal in Russia, since the Selenge River is the main tributary to the Lake Baikal. Sixty six percent of the basin is located in Mongolia. Construction for the Egiin Gol Dam would also negatively affect Selenge River flow and block the migration of rare fish²⁰⁴. **By disturbing the upstream water flow and threatening native species, the dam project would thus degrade the overall environmental integrity of Lake Baikal ecosystem, such as the conservation and protection of endangered species.** For instance, the Selenge River in Mongolia serves as the spawning area for the Baikal sturgeon and other native species. Its tributaries, especially Egiin Gol River, are known as the prime habitat for the endangered Siberian Taimen²⁰⁵. **In addition, the social impacts of the dams would impoverish and dispossess a number of local communities, including nomadic peoples living in river valleys.** Lastly, the dams would destroy vast areas of floodplain forests and require the resettlement of local communities^{206,207}.

China Exim Bank ultimately reallocated the \$1 billion USD line of credit to other uncontroversial and much needed projects in 2018, such as a wastewater treatment plant in the Mongolian capital²⁰⁰. **Although the bank took a positive step in reallocating the loan, recent news suggests that the funds may have again been reallocated at the request of the Mongolian government to develop the 90 MW Erdenebuuren hydropower plant²⁰¹. However, this dam and reservoir on Khovd river is located in Tsambagarav Uul National Park and would negatively impact another Ramsar site, the Har Us Nuur National Park.**

As for the Shuren Hydrodam project, the World Bank froze the tender process in 2017, which effectively cancelled its development²⁰². In 2018, at the request of UNESCO and WB, Mongolia pledged to undertake a transboundary regional environmental assessment (REA) to determine safe limits of infrastructure development in the transboundary Selenge River basin. To date, however, the Mongolian government has not yet conducted the REA. In 2021, due to the Mongolian government's interest in developing dams in the region, the World Heritage Committee emphasized the need to send a new monitoring mission to Lake Baikal, in order to meet Russian and Mongolian officials and discuss a way to expedite commissioning of a basin-wide strategic environmental assessment²⁰³.

Numerous rivers and tributaries constitute the Selenge River Basin, which sprawls across the Mongolian and Russian border. Because of the basin's interconnected river branches, as well as its transboundary nature, the construction of any major infrastructure project in the area should be considered and assessed not only on its immediate project area impacts, but on its cumulative, basin wide impacts. Furthermore, **because the additionally proposed Shuren Hydrodam and Orkhon Reservoir projects were located in the Selenge River basin, the collective impacts from all three projects should have been intentionally evaluated in tandem, particularly due to the potential downstream, transboundary impacts. However, this was not the case. According to the IUCN and UNESCO monitoring mission report, the cumulative impact of all three dams were not adequately studied.** The report recommended that a cumulative impact assessment should consider and account for all planned infrastructure projects in the Selenge watershed. For instance, additional analysis should be conducted on the dams' incremental and synergistic potential impacts on the Selenge River ecosystem, key endangered migratory species

of fish and birds, and on the natural processes which shape the unique water features of the Selenge River²⁰⁸. **Furthermore, none of the dam projects' EIAs or terms of reference for EIAs discussed project alternatives, and neither were local stakeholders consulted, let alone based on the principles of free, prior, informed consent.** The EIAs also contained unrealistic practices; for instance, the Egiin Gol Dam EIA suggests trapping migratory taimen and then transporting them by van around the dam²⁰⁹. In response to

these concerns, in 2016 the World Heritage Committee issued a decision requesting that Mongolia ensure that the Egiin Gol Dam include assessment of potential impacts not only on the hydrology, but also on the ecological processes and biodiversity of the property, and specifically on outstanding universal value (OUV) of the Lake Baikal; they also urged the Mongolia to provide the full EIA report to the World Heritage Centre²¹⁰. However, this EIA has yet to be completed²¹¹.

Summary of Legal and Compliance Risks

- **Corruption allegations:** After a series of restructurings, the Egiin Gol Dam project has been associated with allegations of corruption and fraudulent activities. For instance, the Egiin Gol Dam has received lending from the Development Bank of Mongolia. Its mismanagement of megaprojects spurred a major investigation, reportedly leading to the arrests of key bankers; recently, there are reports that the Egiin Gol hydropower project double charged salary expenses to the state²¹². Due to the investigation the Egiin Gol Hydro project was restructured in early 2017 into a state-owned LLC, allegedly to reduce possibility for embezzlement of state funds.
- **World Bank Operational Policies:** Six WB safeguards applied to the Shuren and Orkhon Reservoir Dams²¹³. However, these safeguards were not properly implemented. For instance requirements for dam-specific WB operational policies were not applied until six years after the project was approved. The gap in applying WB Operational Policies in turn led to inadequate assessments in the initial study phase and inadequate public consultations. This led to public concern and civil society groups submitting complaints to the WB Inspection Panel, the bank's independent compliance review mechanism. In a final assessment of the project, the WB's Independent Evaluation Group confirmed the lack of proper safeguard implementation, finding that, "At the time of project

design, the Bank envisaged that the client would be able to identify subprojects and conduct feasibility studies as early as possible. However, political complexities and limited client capacity hindered the government from selecting subprojects early, delaying the Bank's involvement and limiting the time to fully investigate the risks associated with the subprojects. The inadequate assessment of safeguards attracted the attention of civil society and led to calls for an Inspection Panel". The bank also concluded that failing to ensure "screening safeguards and stakeholder engagement early in the project, especially when the client's capacity is limited" contributed to the projects' problems²¹⁴.

- **List of Sensitive Sectors for Overseas Investment, published in 2018 by China's National Development and Reform Commission:** As the Egiin Gol Dam was to be financed by China Exim Bank, the project would have violated this Chinese policy prohibiting Chinese investment in projects which involve trans-boundary water risks^{215,216}.
- **Green Credit Guidelines, published in 2012 by the China Banking Regulatory Commission:** If China Exim Bank had proceeded with the Egiin Gol Dam, it would have violated this Chinese bank policy, which requires all banks to comply with host country law and international norms and standards.

Summary of Lack of Alignment with International Norms and Standards

If the projects had proceeded, they would have violated a number of international norms and standards, including:

- **Convention on World Heritage:** Article 6.1 and 6.3 require that State Parties "recognize that such heritage constitutes a world heritage for whose protection it is the duty of the international community as a whole to co-operate" and that "Each State Party to this Convention undertakes not to take any deliberate measures which might damage directly or indirectly the cultural and natural heritage" in other countries. In ignoring the

projects' transboundary impacts, as reflected in the lack of basin-wide assessments in technical studies, the Mongolian government failed to live up to the spirit of the World Heritage Convention and "duty" to the international community²¹⁷. In addition, China is a signatory to the World Heritage Convention, and so financing from a Chinese policy bank to a project in Mongolia, which would negatively impact a World Heritage site in Russia, can be seen as doing indirect damage.



Further resolutions from the World Heritage Committee have noted that “an increasing number of properties are facing potential threats from major dam projects, [and] considers that the construction of dams with large reservoirs within the boundaries of World Heritage properties is incompatible with their World Heritage status, and urges States Parties to ensure that the impacts from dams that could affect properties located upstream or downstream within the same river basin are rigorously assessed in order to avoid impacts on the Outstanding Universal Value (OUV)”²¹⁸.

- **Ramsar Convention:** Article 5 calls on State Parties to “consult with each other about implementing obligations arising from the Convention especially in the case of a wetland” that extends across state boundaries, and to “coordinate and support present and future policies and regulations concerning the conservation of wetlands and their flora and fauna”²¹⁹. However, the Mongolian government failed to do so, prompting the Russian government to request a transboundary, cumulative impact assessment²²⁰. While the Mongolian government agreed to conduct a regional environmental assessment (REA), they still have yet to do so.
- **Free, Prior, Informed Consent:** Public consultations for all projects were not rooted in these principles, if

even held at all. Local and international organizations submitted a complaint to the World Bank’s Inspection Panel, its accountability mechanism, on the grounds that the Shuren Dam and Okhon Reservoir project did not have meaningful public consultations, which in turn violated WB Operational Policy 4.1. In the case of the Egiin Gol Dam, it is unclear if public consultations were even held²²¹.

- **Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention):** While Russia and China are not party to the Bonn Convention, Mongolia has adopted it, which obligates it to prevent, remove, or minimize adverse impacts which may impede or prevent migration of species, as well as reduce or control “factors” which endanger species, per Article III.4²²². Several species of endangered fish, such as the Baikal sturgeon, migrate in Baikal-Selenge basin.
- **Subpar environmental impact assessments and technical studies:** According to the IUCN Monitoring Report, the terms of reference for the EIA for the Shuren and Orkhon dams contained significant analytical gaps, and did not consider all potential or cumulative impacts, particularly those on Lake Baikal. The Egiin Gol Dam’s EIA narrowly focused on hydrological impacts and ignored cumulative, ecological, and biodiversity impacts.

Iron Ore Mining in Mount Nimba

Overview

Current Project Status: Design

Location: Nzérékoré Region, Guinea

Sector: Mining

Project Cost: \$1 USD billion²²³

Type of Financing: Political Risk Guarantee and Technical Assistance provided by the Multilateral Investment Guarantee Agency (MIGA)

- \$123.3 million USD political risk guarantee²²⁴
- \$135 million USD technical assistance support for preparing Environmental and Social Review Summary (ESRS)²²⁵

Other Financing:

- \$200 million USD equity financing of convertible preferred shares to fast track the project²²⁶

Project Developers/Contractors:

- High Power Exploration (HPX)
- Euronimba Liberia Limited (Euronimba Liberia)
- Société des Mines de Fer de Guinée (SMFG), a subsidiary under Euronimba²²⁷

Impacted Protected Areas

Mount Nimba Strict Nature Reserve, recognized as a World Heritage site in 1981

The Mount Nimba Strict Nature Reserve shares its borders with Liberia, Côte d'Ivoire, and Guinea. Abruptly rising at 1752 m, Mount Nimba is part of the rare mountain chains of West Africa, which are typically forested along its slopes. The site was recognized for its value in exemplifying unique, ongoing biological evolution in its diversity of ecosystems, as well as for its critical function for in-situ conservation for endangered and endemic species. These include the Nimba otter shrew, viviparous toad, and chimpanzees. Due to various threats, including mining, it has been listed on the World Heritage In Danger List since 1992.

Mount Nimba Biosphere Reserve, recognized as a Biosphere site in 1980

On the Guinean side, Mount Nimba is also recognized as a Biosphere Reserve.

East Nimba Nature Reserve (ENNR), proposed on the World Heritage tentative list as an extension of the Mount Nimba Strict Nature Reserve in 2017

In 2017, the Liberian government submitted a proposal for the East Nimba Nature Reserve, which is geologically part of the Mount Nimba mountain chain. The Liberian government nominated this area as a World Heritage site based on the same criterion as Mount Nimba: criterion IX for significant on-going ecological and biological processes, and criterion X for containing the most important and significant natural habitats for in-situ conservation of biological diversity²²⁸. It contains a number of endangered species, including the giant African swallowtail butterfly and chimpanzees²²⁹.



Project Description

In 2019, HPX acquired rights to develop iron ore deposit in Mount Nimba, which is designed as an open pit mine. A major concern regarding the project is its location.

In 1993, the borders of the Mount Nimba World Heritage site were modified in order to carve out a “mining enclave” within the site proper. As a result, although the mining project is not technically within the World Heritage site, it is clear that mining activities will impact the property.

Since 1992, the World Heritage Committee has retained Mount Nimba on its In Danger list due to increasing threats and pressure on the property, such as mining.

In 2019, the Committee again reiterated that “mining exploration and exploitation is incompatible with World Heritage status, [a] policy supported by the position statement of the International Council on Mines and Metal (ICMM) not to undertake such activities in World Heritage properties”²³⁰.

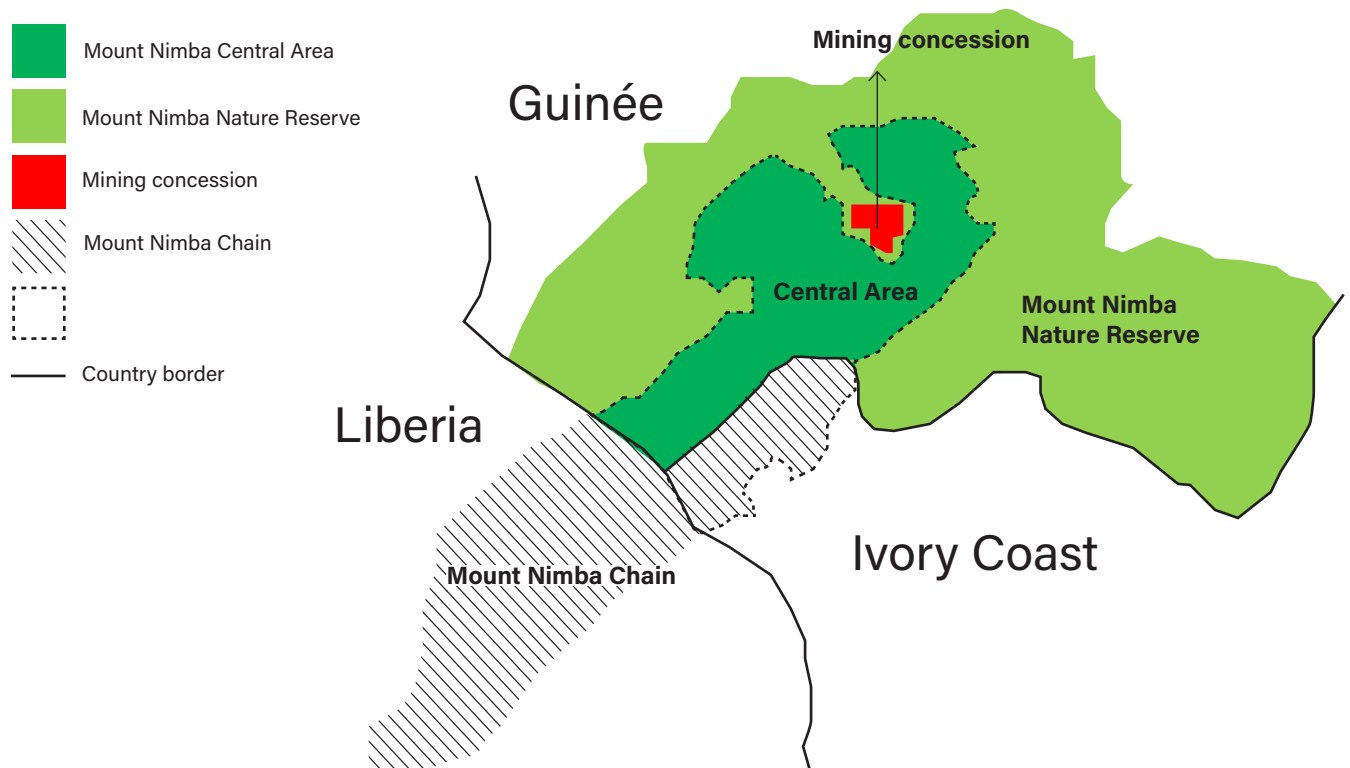
In an effort to mitigate mining impacts, the Committee has further required the Guinean government to conduct an inde-

pendent evaluation of the ESIA, and voiced concerns regarding another mining concession adjacent to the World Heritage property. Negative impacts from mining is exacerbated by the lack of buffer zones in both Côte d'Ivoire and Guinea²³¹. Other threats to Mount Nimba include poaching, deforestation, weak management capacity, and an ongoing influx of refugees from the Liberian border²³².

In order to transport and export the iron, HPX is planning to utilize an existing railway in Liberia, which is nearby the Guinean border²³³.

Although Guinea has long been well known for possessing high grade iron deposits, however, it has never exported more than a ton due to a lack of shipping infrastructure²³⁴. Despite the lack of infrastructure and historical difficulty of extracting iron in Guinea, HPX is moving forward in developing the Nimba Iron Ore project.

Over the past 30 years, mining activities in the Liberian side of Mount Nimba has already destroyed forest on the ridges and slopes of Mount Nimba, triggering a “disastrous effect on the conservation potential of the area.”²³⁵



Environmental and Social Risks

The Nimba Iron Ore project may cause a number of negative pollution, biodiversity, water, and public health impacts. According to SMFG, potential impacts on surface water “include stormwater run-off and sediment contamination; contamination from accidental leak or spill of sewage, hydrocarbons or other chemicals (e.g. herbicides)”. MIGA has classified the project under Category A under its Policy on Environmental and Social Sustainability, the highest in terms of social and environmental risk, “due to the risks inherent to the sector, the unique biodiversity context of the Project site and the fact that the risks and impacts associated with eventual construction and operation of an iron ore mine are anticipated to be diverse, irreversible and unprecedented²³⁶”. **Mining activities have already degraded the Liberian side of Mount Nimba, destroying forest on the ridges and slopes of Mount Nimba; this has led to a “disastrous effect on the conservation potential of the area”²³⁷.**

In addition, mining would severely impact the biodiversity in the area, which has been recognized as a biodiversity hotspot by numerous bodies. For instance, in 2013 BirdLife International Partnership declared the Nimba mountains an Important Bird and Biodiversity Area (IBA),²³⁸ The Key Biodiversity Areas Partnership in 2018 declared the Nimba mountains a Key Biodiversity Areas (KBA) of international significance²³⁹.

Likewise, the Alliance for Zero Extinction (AZE) confirmed Mount Nimba as an AZE site in 2018, which was triggered by three species whose entire known populations is confined to the site, all of which are endangered or critically endangered under the IUCN Red List²⁴⁰. **Conservation efforts for the Western Chimpanzee, an endangered species, may also be jeopardized due to mining activities.**

Mining may also negative impact water resources, as the Mount Nimba range serves as headwaters for many rivers and streams²⁴¹.

Lastly, **according to SMFG, there are a number of bat species in the area. As environmental impact assessments are in process, it is unclear what the specific impacts may be on certain species.** However, it is notable that the influx of workers and roads into the World Heritage site will likely increase human access to a previously remote area. **This could potentially pose serious global health impacts. In 2014, an Ebola outbreak occurred in the village of Melian-dou, Guinea, which is less than 300 km from the Nimba Nature Reserve²⁴², ultimately causing a three year outbreak.** As such, special care and assessment should be given to preventing the spread of infectious, zoonotic diseases.

Summary of Legal and Compliance Risks

The IFC PS and World Bank Group Environmental, Health, and Safety (WBG EHS) apply to the project²⁴³. However, it is unclear to what extent the project will comply with recommendations encouraged by the IFC Guidance Note (GN). For instance, due to mining’s impact on the Western chimpanzee, GN 73 should apply; this GN states that the “IUCN/Species Survival Commission (SSC) Primate Specialist Group (PSG) Section on Great Apes (SGA) must be consulted as early as possible” for projects which overlap great ape habitat, and that “Any area where there are great apes is likely to be treated as critical habitat”. **The GN further states that “Projects in such areas will be acceptable only in exceptional circumstances, and individuals from the IUCN/SSC PSG SGA must be involved in the development of any mitigation strategy”. This language seems to suggest that projects which negatively impact great ape habitat should not be acceptable by default.**

Furthermore, the GN calls for expertise from the SGA. When assessing the upcoming environmental assessments for this project, MIGA should also consider whether independent experts such as the SGA or others are in fact actually able to provide feedback independently and safely. Because of the strength of this language, it may inadvertently intensify pressure on independent species experts, as any dissenting view may be seen by clients as a block to a project. **As a result, MIGA should safeguard the feedback of independent experts who are truly independent of client influence, and ensure that clients understand that projects may ultimately be unable to move forward if realistic biodiversity mitigation is simply not possible. Based on publicly available information, it is unclear to what extent the project will incorporate the GN.**

As the project is in the design and assessment stage, however, it remains to be seen if it can fully comply with the IFC Performance Standards, GN, and WB standards.



Lack of Alignment with International Norms and Standards

- **International Council on Mining and Metal's [ICMM] "Good Practice Guidance for Mining and Biodiversity":** According to ICMM, World Heritage sites are "effectively 'off-limits' for exploration"²⁴⁴. The guidance also says, "For example, if an economically attractive mineral deposit were offered to an ICMM member within a World Heritage Site, ICMM's policy on 'no go' areas would dictate that the project could not proceed"²⁴⁵. Although HPX and SMFG are not members of ICMM, the industry association nonetheless sets a relevant international bar for protecting World Heritage properties, and should be observed by non-ICMM members.

- **Convention on World Heritage and "No-Go" Commitment:** Although the project does not technically occur within Mount Nimba's WH boundaries, its location begs the question of whether those boundaries are even meaningful, particularly since they were re-drawn to accommodate for mining activities. The Convention on World Heritage aims to protect and preserve humanity's legacy, but this is not possible if host country governments allow for harmful, extractive industries to impact them. World Heritage properties are increasingly affected by extractive industries, especially those in Africa²⁴⁶, which has prompted the World Heritage Committee to encourage the concept of a "No-go" commitment against harmful mining, oil, and gas activities. In 2013, the World Heritage Committee urged "all States Parties to the Convention and leading industry stakeholders, to respect the 'No-go' commitment by not permitting extractives activities within World Heritage properties, and by making every effort to ensure that extractives companies located in their territory cause no damage to World Heritage properties, in line with Article 6 of the Convention"²⁴⁷.

Special Case Study: Saving Lamu

Since it was first proposed in 2015, the 981 MW Lamu coal plant has attracted widespread local and international controversy due to its proximity and negative impacts on the World Heritage site, Old Lamu Town, which is known as the “cradle of Swahili civilization”²⁴⁸.

Sponsored by Kenyan and Chinese developers, the project was set to receive \$900 USD million in export credit financing from ICBC²⁴⁹. Although the Kenyan government touted the project as a means to increase energy access, evidence showed that the project would actually increase the cost of electricity, as well as lock the country into paying \$360 USD million in annual capacity charges even if no electricity was generated due to a flawed power purchase agreement²⁵⁰.

As a result, local communities voiced concern regarding the coal project’s impact in driving air and water pollution, harming public health, and degrading marine and terrestrial biodiversity. A local civil society organization, Save Lamu repeatedly attempted to share their and Lamu residents’ concerns to ICBC since at least 2015²⁵¹. However, ICBC never responded to Save Lamu, nor did the bank confirm receipt of their concerns. Due to the bank’s continued silence, in 2019 Kenyan activists demonstrated outside the Chinese Embassy in Nairobi, prompting a meeting between the Chinese Ambassador and Kenyan activists²⁵².



In addition to reaching out to the project's financier, local civil society and regional groups, including Save Lamu, Katiba Institute, and Natural Justice, filed a lawsuit against the coal plant developers for their failure to comply with environmental impact assessment requirements and ensuring meaningful public participation, as required by with Kenyan law²⁵³. In 2019, Kenya's National Environmental Tribunal ultimately ruled that the proposed coal plant violated Kenyan law, thus requiring a new EIA to be conducted²⁵⁴. Furthermore, the EIA did not fully account for the short and long term impacts on Lamu Old Town, prompting the World Heritage Committee to reiterate the need for a new, independent EIA; due to the dangers of the Lamu coal plant and other infrastructure projects, the World Heritage Committee further recommended to potentially place Lamu Town on the In Danger list, if potential dangers to the World Heritage site remained unaddressed²⁵⁵.

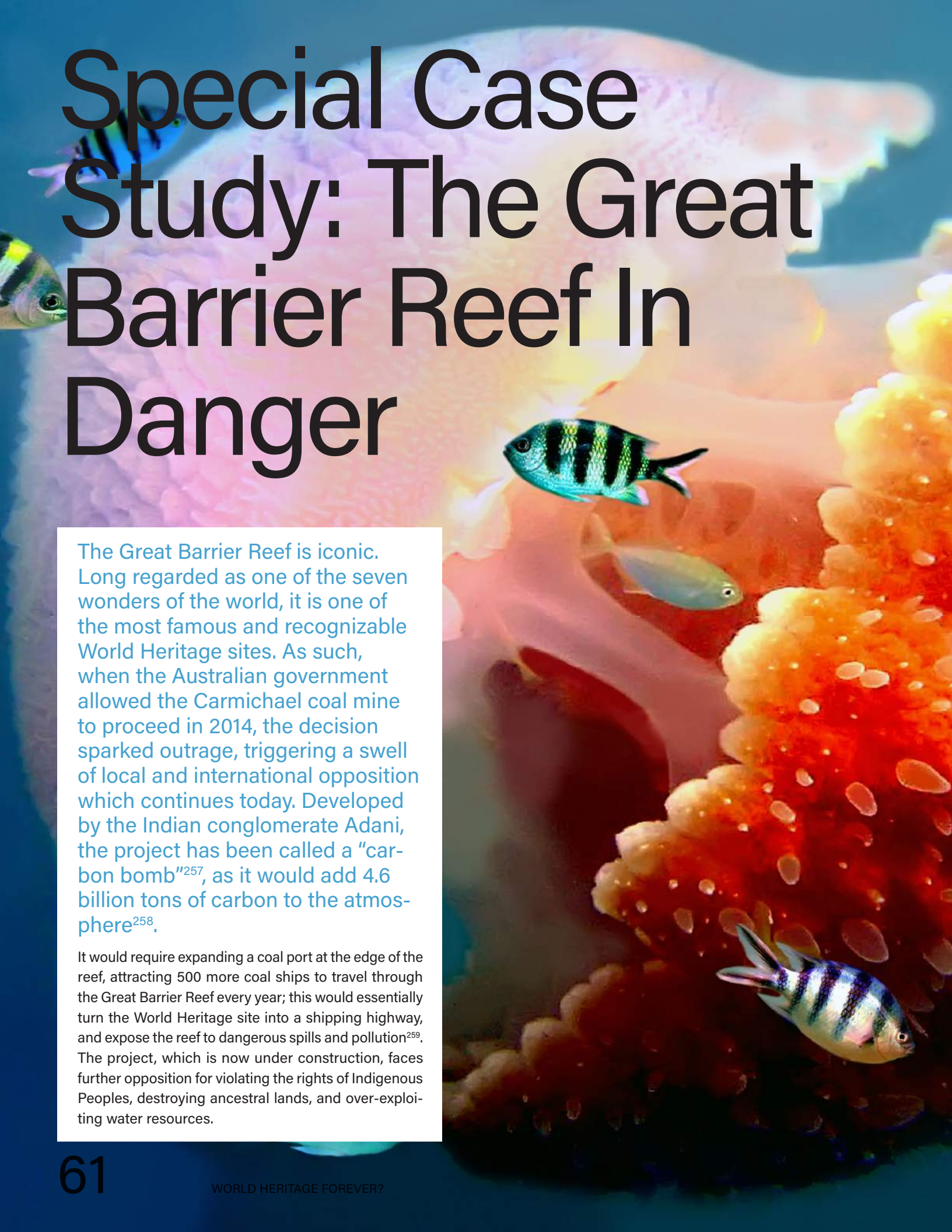
After five years of silence from ICBC, however, Save Lamu unexpectedly received confirmation that the bank was no longer involved in the Lamu coal plant. Although ICBC did not publicly announce its withdrawal from the coal plant, Kenyan and international activists welcomed the news as a positive sign that ICBC would honor the spirit of the World Heritage Convention, which China and Kenya has ratified.

There is no publicly available information which suggests ICBC has developed exclusionary policies to protect internationally recognized areas such as World Heritage sites. ICBC is a founding member of the Principles on Responsible Banking, in which signatory banks are expected to "engage with relevant stakeholders, including civil society, to inform" and "identify [a] bank's most significant (potential) positive and negative impacts on the societies, economies and environments where it operates"²⁵⁶.

As the bank took nearly five years to respond to local stakeholders associated with the Lamu coal plant, however, it is clear that ICBC has yet to develop sophisticated mechanisms to both receive and respond to public inquiries.

As the world shifts away from coal and fossil fuel financing, coal development has become heavily stigmatized, let alone those which would directly harm a World Heritage site. Any fossil fuel projects, but particularly those impacting internationally recognized sites, will significantly amplify a bank's reputational risks, even if they are supported by host country governments.





Special Case Study: The Great Barrier Reef In Danger

The Great Barrier Reef is iconic. Long regarded as one of the seven wonders of the world, it is one of the most famous and recognizable World Heritage sites. As such, when the Australian government allowed the Carmichael coal mine to proceed in 2014, the decision sparked outrage, triggering a swell of local and international opposition which continues today. Developed by the Indian conglomerate Adani, the project has been called a “carbon bomb”²⁵⁷, as it would add 4.6 billion tons of carbon to the atmosphere²⁵⁸.

It would require expanding a coal port at the edge of the reef, attracting 500 more coal ships to travel through the Great Barrier Reef every year; this would essentially turn the World Heritage site into a shipping highway, and expose the reef to dangerous spills and pollution²⁵⁹. The project, which is now under construction, faces further opposition for violating the rights of Indigenous Peoples, destroying ancestral lands, and over-exploiting water resources.

In response, grassroots and international civil society groups launched numerous campaigns, calling on financiers to divest or pledge to not finance the company. Banks which were involved in the project became the targets of public protests, petitions, and other civil society actions^{260, 261}. Adani itself faced lawsuits, demonstrations, and became informally blacklisted by banks due to intense public pressure²⁶². Even UNESCO itself attracted criticism for not doing more to pressure the Australian government to protect the reef from coal development and climate change impacts²⁶³. Due to intense public outcry, 50 financiers have publicly cut ties to the project, or pledged to not be directly involved, including Barclays, HSBC, Credit Suisse, BNP Paribas, Bank of China, ICBC, China Merchants Bank, Korea Development Bank, among many others²⁶⁴. Several of these banks, however, are still linked to the Adani Group more broadly.

Although the Carmichael coal mine project is associated with numerous environmental, social, and climate risks, the Great Barrier Reef itself became a powerful symbol for anti-coal and climate campaigns. This was not only because of the project's immediate impacts on the reef, such as increased pollution, transport, and shipping of coal, but also due to its long term and cumulative impacts in driving climate change and accelerating coral die offs.

In regards to banks, civil society campaigns to save the reef certainly reflect the intense reputational risks of being associated with projects which degrade World Heritage sites. It demonstrates why banks should proactively and publicly prohibit harmful finance in areas with high environmental and reputational risks like World Heritage sites. Furthermore, it exemplifies the significant role banks play in financing activities which drive and exacerbate longstanding global problems like climate change; and conversely, their responsibility to actively avoid financing projects which cause and accelerate climate change. While host country governments naturally bear responsibility in protecting their World Heritage sites, it does not exempt financial institutions from doing their part. According to UNESCO, climate change poses the most serious threat to the Great Barrier Reef, and it has now recommended the site be listed on the In Danger list²⁶⁵. If approved by the World Heritage Committee, it will mark the first time a natural site would be placed on the list due to climate change impacts²⁶⁶.

Banks, Protected Areas, and Indigenous Peoples

In nearly all of the selected case studies, project developers and banks did not ensure affected or Indigenous Peoples were consulted based on free, prior, informed consent (FPIC). Enshrined in the United Declaration on the Rights of Indigenous Peoples, and also required by IFC PS 7 on Indigenous Peoples, failing to ensure that FPIC is properly implemented is often the key, underlying reason for a project's failure.

The failure to respect communities in their decision to consent to a project – or not – foment deep discontent and triggers controversy, a lesson which financial institutions have yet to internalize.

As biodiversity loss and climate change accelerates, however, ensuring FPIC becomes even more important in internationally recognized areas with conservation value, as protected and internationally recognized areas are increasingly seen as a means to slow biodiversity loss and fight climate change. Over the past century, however, protected areas have typically been managed under a “fortress conservation” model, which is the erroneous concept that ecosystems function best devoid of people. This model has become a source of human rights violations and abuse.

Furthermore, growing evidence shows that Indigenous Peoples and local communities are effective biodiversity conservation managers, much more than governments. According to Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services, “Much of the world's terrestrial wild and domesticated biodiversity lies in areas traditionally managed, owned, used or occupied by indigenous peoples and local communities”²⁶⁷. This suggests that preventing biodiversity loss will require protecting the rights of Indigenous Peoples and local

communities. A report co-authored by Victoria Tauli-Corpuz, the UN Special Rapporteur on the Rights of Indigenous Peoples, goes further and argues that:

...far from improving the lives of those affected by the growing number of conservation initiatives, land and forest sequestration through “fortress” conservation approaches is creating chronic patterns of abuse and human-rights violations. In a context where many protected areas are underfunded and therefore limited in their capacity to deliver climate or biodiversity outcomes, the push for still more and even larger parks and conservation areas only stands to exacerbate the existing funding gap and the potential for injustice... Overreliance on centrally governed approaches would, however, be bad for the environment, economies, and indigenous and local communities. By denying the rights of Indigenous Peoples and local communities and destroying their long-enduring institutions—which have maintained ecosystem services over very long periods—traditional protected-area approaches often cause more problems than they solve²⁶⁸.

As banks consider how to improve their policies and protections for biodiversity and internationally recognized sites, it is important to avoid an over-reliance on protected conservation areas as a proxy for protecting biodiversity. Instead, banks should be aware of this dynamic, and ensure equal attention to Indigenous Peoples and communities in addition to biodiversity concerns. Furthermore, government and international bodies should require free, prior, informed consent in their conservation models. Although these problems can be complex, in many senses one potential solution for banks can be simple: financiers can protect people and biodiversity by prohibiting harmful financing which impact internationally recognized areas, and by requiring FPIC.

03

Discussion, Key Findings and Recommendations



DISCUSSION AND KEY FINDINGS

These case studies offer compelling lessons in understanding how banks may be driving harmful development or activities in the most iconic and special places in the world.

Yet financial institutions have yet to develop comprehensive and consistent policies in protecting World Heritage, Ramsar, and other internationally recognized areas. These gaps in turn allow unsustainable projects and activities to occur despite ostensible protections afforded by international designations, and in spite of a bank's institutional safeguards. Given the urgent twin crises of biodiversity loss and climate change, it is more important than ever to exclude harmful activities in areas which are valued for their exceptional biodiversity and climate regulatory significance, as well as areas which did not obtain free, prior, informed consent. Humanity's cultural treasures and critical ecosystems cannot be fully protected if they remain eligible for harmful, extractive financing.

The Recurring Need for FPIC

At the same time, there is increasing recognition of the vital role which Indigenous and local communities play in effectively and sustainably managing biodiversity and habitats²⁶⁹. Indeed, it can be argued that the presence of Indigenous and local communities can and has staved off harmful development, which is perhaps best exemplified in the Amazon case study. As seen in the selected case studies, the lack of requirements for free, prior, informed consent is a persistent trend within the banking sector, one which has triggered or exacerbated various environmental and social risks. This recurring problem reiterates the need for banks to ensure free, prior, informed consent, particularly since Indigenous Peoples and community rights have historically been ignored, if not outright denied, in both development and conservation projects.

In light of the diverse ways in which Indigenous and traditional communities may reside in formally, informally, or traditionally held conserved areas – such as Indigenous and community conserved areas (ICCA), Indige-

nous Territories (TIs) or public lands not yet demarcated – banks should be sensitive and proactive in safeguarding community rights, as doing so leads to more successful project outcomes. Concerningly, Indigenous and local communities' territories are facing an onslaught of threats from "growing resource extraction, commodity production, mining and transport and energy infrastructure, with various consequences for local livelihoods and health"²⁷⁰. In fact, development and conservation pressures have led to harassment, violence, and death for environmental human rights defenders²⁷¹. As human activities continue to significantly alter the planet, from deforestation, fossil fuel use, to monoculture agribusiness, among others²⁷², there remain fewer and fewer areas for greenfield expansion; and in those areas, Indigenous and local communities may be the first and only defense against harmful, unsustainable development. Requiring FPIC is a powerful way for banks to thus protect communities and the planet.

Poor Policies and Planning in Host Country Governments Do not Exempt Banks from Environmental and Social Responsibilities

Furthermore, these cases demonstrate an unfortunate abdication of responsibility from host country governments in protecting their own iconic sites. However, this abdication does not exempt financiers from their responsibility in preventing environmental and social risks. Although host country governments may justify harmful projects as a means towards economic development, the current global biodiversity and climate emergencies necessitate that all economic

development be sustainable development *by default*. As such, international financiers, particularly those from the Global North, should do their part in supporting host country governments to pursue sustainable, environmentally friendly development activities, and host country governments should prioritize the conservation of critical ecosystems as demanded by their own peoples, as best seen in the Amazon, TRHS, and EACOP cases.

Internationally Recognized Areas Face Recurring Risks from Harmful Development

Ostensibly, recognition from international bodies such as UNESCO, IUCN, or others should offer a high degree of protection to some of the most special places in the world. However, these case studies demonstrate that even the most prestigious and well known sites still face serious threats from harmful development or extractive activities. Although World Heritage sites comparatively enjoy the most international protections and attention, they still remain susceptible to longstanding ill-conceived or destructive activities. In three of the six case studies involving World Heritage sites, the World Heritage Committee reiterated concerns regarding harmful development impacting the properties for several years, sometimes over decades.

For instance, mining was identified as a threat to Mount Nimba since at least 1987, and the Tropical Rainforest Heritage of Sumatra has been threatened by land conversion and illegal activities since 2005. As a result, both properties were placed on the In Danger List in 1992 and 2011, respectively. In part, those sites have remained on the In Danger List due to the banking sector's role in financing ill-conceived mining ventures and agribusiness activities. Although Lake Baikal is not on the In Danger list, it still faces numerous threats from harmful water infrastructure projects, some of which are supported by the banking industry.

On the other hand, for UNESCO Biosphere, Ramsar, and other recognized sites, the situation may be even more dire as these areas receive less international scrutiny. This means that host country governments face little to no scrutiny, let alone accountability, for ensuring that those sites are conserved and insulated from harmful activities. In the LNG development in Mozambique, EACOP, and oil development in the Amazon examples, banks are financing projects which are antithetical to impacted protected areas. Biosphere Reserves are intended to promote "conservation of biodiversity with its sustainable use"²⁷³. IUCN Cat IV sites "protect, or restore...flora species of international, national or local importance;...fauna species of international, national or local importance including resident or migratory fauna; and/or... habitats". Ramsar sites "promote the conservation of wetlands"²⁷⁴. However, fossil fuel development inherently prevents and frustrates the conservation of biodiversity and ecosystems. Host country governments and banks which support fossil fuel development in internationally recognized areas are essentially hollowing out any meaning from transnational conventions and agreements.



Photo: Amazon Watch

Host Country Governments May be Unable or Unwilling to Enforce Local Laws

Although international bodies like UNESCO and IUCN advise host country governments on conservation strategies, the onus for protecting these areas belongs to the host country government, and banks should do their part by not providing, suspending, or withdrawing finance to projects which violate local laws. In many of the case studies, projects do not comply with host country law, which has led to lawsuits against projects. This suggests that some host country governments may be unwilling or unable to implement their own legal

requirements, which unfortunately is a common scenario in at least three of the selected cases. Lack of compliance with local laws and regulations should serve as a red flag for banks – projects mired in lawsuits can potentially result in project delays, reputational risks, and increased compliance costs. Host country government failures to implement local laws may thus become bank failures in ensuring compliance with local laws.

Bank Safeguards are Inadequately Implemented

Applying international bank standards such as the Equator Principles, IFC PS, and WB Operational Policies, even without direct financing from those financiers, have been used to ostensibly “raise the bar” and improve environmental and social governance. However, the EACOP, LNG development in Mozambique, Mongolian dams, and Mount Nimba cases all demonstrate that the application of these standards certainly do not inoculate projects against potential problems. Bank safeguards are only as strong as their enforcement, and unfortunately, in many cases these policies are not properly implemented, leading to a variety of environmental, social, biodiversity, financial and reputational risks.

In the case of EACOP, the application of both the EP and IFC PS did not ensure that communities were consulted in the project under the principles of free, prior, informed consent. In the case of LNG development in Mozambique, project developers have not provided fair compensation, nor have they meaningfully consulted affected communities, as required

by PS 5 and 6. In the case of the Mongolian dams, the WB acknowledged that the bank failed to effectively ensure the safeguards were implemented early on, and also failed to ensure meaningful stakeholder engagement processes; the bank also acknowledged that their client, the Mongolian government, did not have the capacity to “fully investigate the risks associated with the subprojects”²⁷⁵. Although the Mount Nimba case also relies on IFC PS and WB operational policies in its project governance, it certainly does not guarantee proper implementation of bank safeguards. These examples demonstrate that banks must play an active, ongoing role in making sure relevant policies are fully and adequately implemented.

Negative Impacts are Exacerbated by Ill-Conceived Project Locations

Furthermore, in all of the selected case studies, it is clear that the location of the project plays a determining factor in the severity of a project's impact on nearby ecosystems. For instance, the location of the Belawan palm oil refinery nearby the Tropical Rainforest of Sumatra is driving illegal palm oil activities and encroachment into the World Heritage site proper. In the Lake Baikal case, although the dams were located outside of Russia in Mongolia, they would still have negative transboundary water impacts, as the dams were located in a transboundary river basin, and would thus impact the entire Selenge River Basin which Lake Baikal is a part of.

In regards to EACOP, it is well known that fossil fuel infrastructure and its associated construction of roads negatively impact local ecosystems by fragmenting habitat and increasing human access to previously remote areas. Spanning 350,000 hectares, EACOP would impact at least nine nationally or internationally recognized areas as it cuts through various ecosystems which are all part of the broader Lake Victoria Basin. As such, banks should pay equal attention to a project's cumulative, transboundary, and basin-wide impacts.

The Mount Nimba case further illustrates the problem of over-relying on protected area boundaries in screening out projects with high environmental or social risks. As the mining project technically falls outside of the World Heritage site proper, it is allowable under IFC PS and WB environmental standards. However, MIGA's decision to provide political risk guarantee and technical assistance to the project when it is effectively within the heart of Mount Nimba begs the question of whether the boundaries are even meaningful following the government's boundary modification of the World Heritage site's boundaries, which allowed for a "mining enclave." This technicality is essentially a fig leaf for the Guinean government, HPX, and MIGA's interest in exploiting the "caviar of iron ore"²⁷⁶. Furthermore, the Liberian government's nomination of the East Nimba Nature Reserve, which is part of the Mount Nimba ecosystem, as a pending World Heritage site suggests that banks should also be cognizant of the fact that activities may impact areas which have yet to acquire international recognitions.

Ensuring Environmental and Social Requirements Apply to All Financial Activities

Lastly, although some examples in this report involve direct bank financing to projects, the increasing complexity of international financing points towards additional ways banks may be connected to harmful activities. Beyond direct and indirect financing, banks may be connected to harmful activities by providing risk guarantees, financial services, technical assistance funds, or trade financing. These are illustrated in the Mount Nimba, EACOP, Lake Baikal, and Amazon case studies, respectively. In particular, banks which provide technical assistance funds should be aware of their role in "legitimizing" harmful projects, which may suggest better compliance than is actually the case, as seen in the Mongolian dams case. And in cases where banks are providing funds to assess project feasibility and environmental and social impacts, as in the Mount Nimba case, banks should be particularly clear with client that a project may not be able to move forward pending the findings of robust environmental and social review process. In other words, banks should preempt a scenario in which clients interpret environmental and social concerns as a "block" to the project, and ensure clients respect potential findings. Instead, identifying environmental and social risks which may ultimately forestall a project should be seen as a positive, as it prevents time, money, and resources from being wasted.

Interestingly, the Egiin Gol Dam case, which was initially financed by China Exim Bank, provides an example of a bank re-allocating funds to a less harmful project after becoming aware of the dam's negative transboundary and water impacts. While this was a positive step, recent news indicates that China Exim Bank has re-directed those funds to another harmful dam at the Mongolian government's request. It is unclear if China Exim Bank is aware that the new dam bears significant environmental and social risks, and would impact a Ramsar site. This recent turn of events emphasizes the need for banks to conduct stronger due diligence in advance, and to not overestimate their client's capacity for reviewing and screening environmental and social risks.

CONCLUSION AND POLICY RECOMMENDATIONS

In these case studies, many of the environmental and social risks associated with these projects could have been avoided if banks had prohibited harmful direct and indirect financing to activities which impact internationally recognized areas, as advocated by the Banks and Biodiversity Initiative's No Go policy. Although harmful and extractive industries are inherently damaging to the environment, the location of these projects can often drive if not intensify harmful environmental, social, biodiversity, and climate impacts.

As such, it is important that banks should develop stronger policies to prohibit unsustainable direct and indirect financing to activities which may jeopardize these internationally recognized sites. To support this effort, we offer the following recommendations to multilateral, public and private, and Chinese banks.



Multilateral Banks

- Adopt the Banks and Biodiversity No Go policy and prohibit harmful financing to activities which may negatively impact internationally recognized areas, even if not directly located in the recognized area
 - Expand policies in order to protect areas recognized by or as World Heritage, IUCN category sites, Biosphere Reserves, Geoparks, Bonn Convention, Ramsar, FAO vulnerable marine systems, IMO particularly sensitive areas, Convention on Biological Diversity
 - Require free, prior, informed consent for all communities impacted by financing activities⁸
 - Ensure bank safeguards are fully applied and implemented
 - Ensure that clients have capacity to carry out environmental and social requirements, prior to approving financing proposals
 - Apply environmental and social requirements to all financial activities; beyond direct and indirect financing, including, inter alia: risk guarantees, bond issuances, financial services, technical assistance funds, trade financing, policy based lending, government budget support, etc
 - Prohibit financing to fossil fuel and deforestation activities, in order to align with the Paris Agreement
- * For IFC**
- Require clients to comply with the IFC Performance Standards' Guidance Notes

Public and Private Sector Banks

- Adopt the Banks and Biodiversity No Go policy and prohibit harmful financing to activities which may negatively impact internationally recognized areas, even if not directly located in the recognized area
- Require free, prior, informed consent for all communities impacted by financing activities
- Expand policies in order to protect areas recognized by or as World Heritage, IUCN category sites, Biosphere Reserves, Geoparks, Bonn Convention, Ramsar, FAO vulnerable marine systems, IMO particularly sensitive areas, Convention on Biological Diversity
- Integrate environmental and social risk management requirements into financing agreements
- Require clients to publish environmental and social clauses in financing agreements, so as to ensure compliance; examples include issuing penalties, increasing collateral, suspending, withdrawing, or requiring early repayment for cases of non-compliance with the financing agreement
- In cases where banks commit to using the IFC PS, clarify and require clients to comply with the IFC Guidance Notes
- Apply environmental and social requirements to all financial activities; beyond direct and indirect financing, including, inter alia: risk guarantees, bond issuances, financial services, technical assistance funds, trade financing, policy based lending, government budget support, etc
- Ensure that the bank's environmental and social policies are fully implemented
- Publish a list of all activities and projects which are approved or currently receiving financial support
- Require clients to develop project level grievance mechanisms
- Prohibit financing to fossil fuel and deforestation activities, in order to align with the Paris Agreement
- Create and publish a roadmap for exiting the fossil fuel and deforestation industries in order to promote adherence to Paris Agreement commitments.

⁸ Only the IFC requires free, prior, informed consent for Indigenous Peoples, per PS 6

Chinese Banks

- Adopt the Banks and Biodiversity No Go policy and prohibit direct and indirect financing to harmful activities which may negatively impact internationally recognized areas, even if not directly located in the recognized area
- Develop and publish an Exclusionary or Prohibited Activities List, and explicitly prohibit direct and indirect financing to harmful activities impacting internationally recognized areas
- Require free, prior, informed consent for all communities impacted by financing activities
- Establish staff and departments to respond to public concerns and inquiries from local communities
- Apply environmental and social requirements to all financial activities; beyond direct and indirect financing, including, inter alia: risk guarantees, bond issuances, financial services, technical assistance funds, trade financing, policy based lending, government budget support, etc
- Strengthen proper due diligence by retaining relevant experts to evaluate environmental, social, biodiversity, and climate risks
- Publicly disclose information on how banks are concretely implementing positive bank regulatory policies, such as the Green Credit Guidelines and Key Performance Indicators for the Green Credit Guidelines
- Publish a list of all activities and projects which are approved or currently receiving financial support
- Prohibit financing to fossil fuel and deforestation activities, in order to align with Paris Agreement commitments
- Create and publish a roadmap for exiting the fossil fuel and deforestation industries in order to promote adherence to the Paris Agreement
- Require clients to develop project level grievance mechanisms

ANNEX: INTERNATIONALLY RECOGNIZED AREAS

For the purposes of this report, we have focused on projects which impact the following internationally recognized areas, as identified in the Banks and Biodiversity Initiative's No Go policy:

- Bonn Convention
- Ramsar Convention
- World Heritage Convention
- Convention on Biological Diversity
- UNESCO Biosphere Reserves
- UNESCO Global Geoparks
- Food and Agricultural Organization recognized vulnerable marine ecosystems
- International Maritime Organization recognized particularly sensitive areas
- IUCN Designated Areas (Categories IA – VI)

Following is a brief summary of the purpose and value of these international recognitions.

Bonn Convention

The Convention on the Conservation of Migratory Species of Wild Animals, or the Bonn Convention, entered into force in 1983. This treaty recognizes the importance of conserving migratory species and the areas that comprise their range. Because these species regularly cross national borders, the Bonn Convention provides a valuable framework for “internationally coordinated conservation” among its Parties.²⁷⁷ Parties that are Range States of “Endangered” migratory species shall take measures to “conserve and restore” habitats and “prevent, reduce or control” the factors that cause the species to be endangered.²⁷⁸ Range States of other species with an “unfavorable conservation status” are also encouraged to execute additional agreements to ensure the species’ conservation and management.²⁷⁹ To date, the Convention has been ratified by 132 countries.

Ramsar Convention

The Ramsar Convention on Wetlands of International Importance, especially as Waterfowl Habitat, or the Ramsar Convention, entered into force in 1975 with the mission of ensuring “the conservation and wise use of all wetlands through local and national actions and international cooperation.”²⁸⁰ As such, Parties commit to designate wetlands of international importance within their territories, for inclusion in the “Ramsar List.”²⁸¹ Parties shall also ensure the “wise use” of all wetlands within their territory,²⁸² including by establishing nature reserves, pursuing research and knowledge-sharing, and promoting capacity building.²⁸³ To date, the Convention has been ratified by 171 countries.

World Heritage Convention

The World Heritage Convention recognizes the importance of the protection and conservation of cultural and natural heritage, particularly those of “outstanding universal value” from historical, artistic, scientific, aesthetic, natural, anthropological, or ethnological points of view.²⁸⁴ Under the Convention, cultural heritage is understood to cover monuments, groups of buildings, and sites, while natural heritage includes natural features, geological and physiographic formations, and natural sites.²⁸⁵ The Convention seeks to accomplish its objectives by requiring Parties to identify cultural and natural heritage within their territories, and adopt policies geared towards their protection. This includes their integration into the lives of the communities around them through comprehensive planning programs, along with other active measures.²⁸⁶ International cooperation and assistance is also provided for under the Convention.²⁸⁷ Currently, 194 of the 195 UNESCO Member States are Parties to the Convention, with 1,121 sites from 167 countries inscribed in the World Heritage List.²⁸⁸

Convention on Biological Diversity

One of the three Rio Conventions, the UN Convention on Biological Diversity (CBD) entered into force in 1993. The CBD has three objectives, namely, the “conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising out of the utilization of genetic resources.”²⁸⁹ At present, the Conference of Parties to the CBD organizes its work around seven key thematic areas focusing on the biodiversity in agricultural areas, dry and sub-humid lands, forests, inland waters, islands, marine and coastal ecosystems and mountains.²⁹⁰ Following the expiry of the Aichi Biodiversity Targets, significant work under the CBD is devoted to the crafting of a new post-2020 Global Biodiversity Framework which aims to halt biodiversity loss by 2030 to achieve the long-term vision of “living in harmony with nature by 2050.”²⁹¹ There are currently 196 Parties to this Convention.

UNESCO Biosphere Reserves

UNESCO established its inter-governmental Man and Biosphere Programme in 1970, and subsequently adopted the statutory framework for the World Network of Biosphere Reserves in 1995.²⁹² This network includes areas of rich biological and cultural diversity, wherein “interdisciplinary approaches are tested to understand the interlinkages between the social and ecological ecosystems,”²⁹³ and currently covers 714 sites across 129 countries.²⁹⁴ Although these reserves are primarily maintained by the States in which they are located, inclusion in the network enables countries to cooperate on knowledge sharing, capacity building and research.²⁹⁵

There are 714 biosphere reserves Biosphere Reserves are designated by the intergovernmental Man and Biosphere Programme by the Director-General of UNESCO after national governments nominate biosphere reserves within their jurisdiction.²⁹⁶

UNESCO Global Geoparks

Building on an earlier initiative of the Global Geoparks Network (GGN), the 195 Member States of UNESCO saw to the creation of the “UNESCO Global Geoparks” label in 2015.²⁹⁷ Global Geoparks are sites and landscapes with recognized “geological heritage of international significance;” international geological significance may be attributed to a site’s scientific value, rarity, or beauty, which must reflect the area’s culture and history.²⁹⁸ The designation of a site or landscape as a UNESCO Geopark is not only geared towards its preservation. Rather, it brings with it a responsibility on the part of the State to promote “socio-economic development that is culturally and environmentally sustainable,” in a manner that improves both human living conditions and the surrounding environment.²⁹⁹ Currently, there are 169 Global Geoparks spread out across 44 countries.³⁰⁰

FAO-recognized Vulnerable Marine Ecosystems

The recognition of vulnerable marine ecosystems is meant to promote sustainable fisheries and protect deep sea ecosystems. Vulnerable marine ecosystems were first acknowledged by the UN General Assembly under UNGA Resolution no. 57/141 (2002), and further recognized in additional Resolutions leading up to Resolution no. 51/105 (2006), leading up to their inclusion in a number of international agreements.³⁰¹ As a specialized agency of the UN working on agriculture and fisheries, the UN Food and Agriculture Organization (FAO), established a set of criteria for the recognition of VMEs, defining them as “groups of species, communities or habitats that may be vulnerable to impacts from fishing activities.”³⁰²

IMO recognized Particularly Sensitive Sea Areas

Building on discussions in the late 1980's, the International Maritime Organization adopted guidelines for the identification of Particularly Sensitive Sea Areas (PSSA) in 1991. This was done in order to protect marine biological diversity, as well as highly significant areas vulnerable to damage or degradation from maritime activities.³⁰³ PSSAs are areas “that [need] special protection through action by IMO because of its significance for recognized ecological, socio-economic, or scientific attributes where such attributes may be vulnerable to damage by international shipping activities.”³⁰⁴ The designation of an area as a PSSA is subject to the acceptance of an application from the national government of any of the 174 Member States of the IMO; once recognized as such, strict measures meant to control maritime activities within the bounds of the PSSA can be utilized for its protection.³⁰⁵

IUCN Designated Areas (Categories IA - VI)

Under its Protected Areas Programme, the International Union for Conservation of Nature (IUCN) provides support to communities and national governments in the identification and management of marine and terrestrial protected areas. IUCN believes that these efforts towards biodiversity conservation in these areas would not only contribute to local livelihoods, but also enhance ecosystem services.³⁰⁶ Protected areas under IUCN are defined as “clearly defined geographical [spaces], recognized, dedicated and managed, through legal or other effective means, to achieve the long term conservation of nature with associated ecosystem services and cultural values.”³⁰⁷ They are divided into 7 categories, namely:

- IA: Strict Nature Reserve;
- IB: Wilderness Area;
- II: National Park;
- III: Natural Monument or Feature;
- IV: Habitat/Species Management Area;
- V: Protected Landscape/Seascape; and
- VI: Protected Area with Sustainable Use of Natural Resources.³⁰⁸

IUCN has more than 1,400 member organizations, which includes both governments and civil society organizations.³⁰⁹

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