# FOOL'S PARADISE

## How Biodiversity Offsets Don't Stop Biodiversity Loss

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Friends of the Earth United States

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## About Friends of the Earth

Friends of the Earth-U.S., founded by David Brower in 1969, is the U.S. voice of the world's largest federation of grassroots environmental groups, with a presence in 75 countries. Friends of the Earth works to defend the environment and champion a more healthy and just world. Through our 45-year history, we have provided crucial leadership in campaigns resulting in landmark environmental laws; precedent-setting legal victories; and ground breaking reforms of domestic and international regulatory, corporate and financial institution policies.

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# EXECUTIVE SUMMARY

In June 2021, the scientific advisory bodies to the United Nations conventions on biodiversity and climate change, Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) and the Intergovernmental Panel on Climate Change (IPCC) issued a joint workshop report on biodiversity and climate change[1], which reiterated that protecting intact habitats, which are critical for ensuring ecosystem functioning and biodiversity conservation, is an urgent global priority. With 77% of land and 87% of the ocean altered by human activities,

**the continued destruction of intact habitats and critical ecosystems is jeopardizing the planet's ability to support a "habitable climate, self-sustaining biodiversity, and a good quality of life for all."[2]**

At the same time, biodiversity offsets have become a seductive proposition for the banking sector. Although biodiversity offsets may at first appear to be an attractive solution to mitigating negative impacts of harmful projects, a deeper analysis reveals how they drive biodiversity, environmental, and social harms instead.

**Biodiversity offsets are a type of conservation scheme which aims to compensate for the adverse impacts of a particular project or activity by protecting another area to maintain "no net loss"[I] of biodiversity.**

However, the current policy discourse emphasizing "no net loss" of biodiversity belies the reality that there is no evidence that biodiversity offsetting is beneficial or even feasible.[3] For example, biodiversity offsetting enables destruction of critical habitat *before* a project developer has even demonstrated that the biodiversity offset is even operational, let alone effective.

Biodiversity offsetting also bears a problematic history of implementation failures that expose its conceptual flaws. Although biodiversity offsetting is intended as a "last resort" of the mitigation hierarchy, a tool which is used for addressing environmental damage of development projects,

**offsets have often been used as a means to justify and rationalize harmful projects which would otherwise not be able to receive financing from the international banking sector.**

Additional concerns include how offsets have led to violence and conflicts with local communities, increased corporate land grabs, as well as how offsets face extreme vulnerability in being destroyed themselves for subsequent projects, and thus creating the need to offset the offset.

However, the global biodiversity crisis demands that bank policies approach the protection of critical habitats and endangered species with a precautionary approach.

**In order to truly address the biodiversity crisis, banks should adopt stronger "no loss" policies and exclusion lists that protect critical habitat and endangered species today and in future, and not policies that enable destruction today on the vague promise of achieving no net loss through biodiversity offsetting later.**

Even more troublingly, the use of biodiversity offsetting may lend the illusion of protecting biodiversity, even as the scheme results in increased habitat destruction.



I In regards to biodiversity offsetting, "No Net Loss" is the concept that environmental damages in one place can be compensated through offset mechanisms in another place. This concept is underpinned by the assumption that nature can be reduced to various biodiversity targets and accounting. Although the concept suggests that there may be less if not no biodiversity loss because of the emphasis on "net" impact, it is important to note that environmental destruction is baked into the concept of "no net loss", as there is no compensation measures without the initial destruction. Such a concept can thus accelerate biodiversity loss and environmental damages. More information on the subject can be found at: "No Net Loss of Biodiversity: A False Solution" by Friends of the Earth International. https://www.foei.org/wp-content/uploads/2021/05/No-net-loss-of-biodiversity_Friends-of-the-Earth-International.pdf

# KEY POLICY RECOMMENDATIONS TO BANKS

**1**

Prohibit the use of biodiversity offsets

**2**

Emphasize the Avoid, Minimize, and Rehabilitate steps of the Mitigation Hierarchy when conditioning financing to address environmental and social risks

**3**

Publish information regarding a client's environmental or social obligations which are required for receiving financing, and their progress in achieving those obligations

**4**

Publish information regarding the plans or progress of any biodiversity offset program tied to bank financing

**5**

Ensure free, prior, informed consent in any project mitigation or conservation efforts impacting local and Indigenous communities

**6**

Strengthen Exclusionary Lists to prohibit indirect and direct financing in or which would negatively impact natural and critical habitat and other at-risk ecosystems

**7**

Adopt the Banks and Biodiversity Initiative's No Go policy (See Annex 2)

# BACKGROUND

Amidst an accelerating loss of biodiversity, we are witnessing what many scientists refer to as the 6th wave of extinction. Critical habitats that are essential for ecosystem functioning and health of both people and endangered species continue to be destroyed. Even scientific bodies such as the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) and the Intergovernmental Panel on Climate Change (IPCC) are resorting to increasingly blunt language to alert policy makers of the scale, speed and likely consequences of fuelling the destruction of biological diversity. The June 2021 summary report of a joint IPBES-IPCC workshop on biodiversity and climate change, for example, notes that "77% of land excluding Antarctica) and 87% of the area of the ocean have been modified by the direct effects of human activities. These changes are associated with the loss of 83% of wild mammal biomass, and half that of plants. Livestock and humans now account for nearly 96% of all mammal biomass on Earth, and more species are threatened with extinction than ever before in human history." [II, 4]

The report further notes that conserving biodiversity predominantly through protected areas has been insufficient to stem the loss of biodiversity at a global scale. "Ecological functionality outside of protected areas", the scientists noted, "is also currently insufficient to adequately support either humans or nature in the future." Meanwhile, pressure on biodiversity keeps rising, "driven by high levels of energy and material consumption, especially in wealthy countries."[5]

**While protected areas have been used as a conservation management tool, this approach is incomplete, and over-reliance on it has led to conflicts and the oppression of local and Indigenous Peoples.[6] It also obscures how projects with serious and harmful environmental and social impacts should simply not be eligible for financing.**

**Indeed, the ongoing expansion of harmful or industrial activities, whether fossil fuel, agriculture, infrastructure, hydropower, or others, into the world's few remaining, intact habitats and ecosystems is directly driving the long term twin challenges of climate change of biodiversity loss while in turn triggering immediate environmental and social impacts, *inter alia* pollution, habitat destruction, harm to public health.**

At the same time, the international banking sector has yet to develop consistent and robust policies to prevent and address the biodiversity impacts of their financing. Even prestigious areas recognized by the World Heritage Convention, Ramsar, or Bonn Convention, which are well known for their importance in-situ conservation, remain vulnerable to harmful financing. Although there are some limited restrictions against financing in these areas, there is a great deal of variability. For instance, among multilateral and bilateral financiers, only the U.S. Development Finance Cooperation has categorically prohibited harmful financing in World Heritage and IUCN Category sites. However, this restriction only pertains to projects located directly in those sites, and not those located which are located nearby albeit outside official boundaries, but which may still impact the value of those recognized areas. Although banks such as the World Bank Group, Asian Development Bank, the Asian Infrastructure Investment Bank, among others, have some limitations on financing in internationally recognized areas, these places still remain open to harmful financing due to policy exceptions or loopholes.[7] Although many banks employ the use of the mitigation hierarchy, its allowance for the use of biodiversity offsets oftentimes results in enabling, instead of stopping, harmful projects.



II The report also makes reference to the concept referred to as "nature-based solutions" (NbS). While the report cautions against the use of NbS as an offset mechanism, its optimism about the concept is not shared in a wide and growing part of civil society. This growing opposition pertains to the approach itself rather than just NbS as offsets. See, for example: https://grain.org/en/article/6734-no-to-nature-based-dispossessions

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# SCOPE AND OBJECTIVE

This briefing aims to inform banks about the flaws inherent in biodiversity offsetting as a concept, and the risks that result from this in the practise of applying biodiversity offsetting. The briefing shows why an offset approach may actually intensify biodiversity loss by creating the semblance of biodiversity protection. By underscoring these inherent and practical flaws of biodiversity offsetting, the paper sets out the case for banks to exclude biodiversity offsetting option in the mitigation hierarchy as a means to address the negative environmental impacts of bank financed activities. These habitats need "no loss" policies, not a gamble with unproven no-net-loss approaches that allow irreversible destruction of the few remaining critical, natural and iconic habitats. In understanding current biodiversity offset practices in the international banking sector, we have also included an annex which gathers the relevant offset policies at nine multilateral, regional, international, and the Equator Principles banks.

## What is the Mitigation Hierarchy?

The mitigation hierarchy is a planning tool used during the design of a project, and is typically required by a regulator or potential project financier. The objective of the mitigation hierarchy is to minimize environmental harm caused by a project. It outlines a sequence of steps which licensing agencies or banks financing a project may request companies to use in identifying if their project destroys critical habitat or biodiversity hotspots. The hierarchy is often applied as part of an environmental impact assessment process, and may be applied before and/or following financing decisions on projects which destroy critical, natural or iconic habitat.

What has turned the mitigation hierarchy into a much-criticized tool, however, is the option to compensate irreversible destruction of critical and natural habitat through biodiversity offsetting. As the last step of the hierarchy, offsetting is ostensibly meant to be applied only as a last resort where ecological damage cannot be avoided, minimized, or restored. This allows a project developer to compensate for damage through restoration or protection of biodiversity offsite. Yet it is worth noting that biodiversity offsetting only addresses the ecological damage caused by a project activity. Damage which causes the loss of social, cultural, and spiritual values of a particular site are essentially invisible within the mitigation hierarchy.

Guidance documents have been developed by various actors that are aimed at ensuring a standardized application of the Mitigation Hierarchy in different economic sectors.[8] While they vary in detail, standard application of the mitigation hierarchy typically includes the following steps:

**1. Avoidance:** Measures taken to avoid ecological destruction at the project site from the outset, such as spatial or temporal placement of infrastructure in such a way that impacts on biodiversity at parts of the project site or on certain species are avoided.

**2. Minimisation:** Measures taken to reduce the duration, intensity and/or extent of ecological damage onsite.

**3. Rehabilitation/Restoration:** Measures taken to rehabilitate or restore habitat at the project site that was damaged or destroyed during the implementation of the project.

**4. Offsetting:** Measures taken outside the project or concession area to demonstrate compensation for any significant ecological destruction that a developer claims cannot be avoided, minimised, rehabilitated or restored onsite. Offset measures can include restoration of so-called degraded habitat, prevention of further degradation of biodiversity in a specific area at risk, or protecting an area similar in ecological composition to the one that is being destroyed and where an imminent or projected loss of biodiversity can be shown.

If irreversible environmental impacts are identified, regulators and/or financiers may require that the project developer develop a Biodiversity Offsetting Strategy and/or a Biodiversity Offsetting Management Plan. However, the specific biodiversity offset site is usually only identified in the Biodiversity Offsetting Management Plan (BOMP), which is typically developed by the project developer after regulators and financiers have approved the project.

# HOW THE MITIGATION HIERARCHY IS UNDERMINED BY THE INCLUSION OF BIODIVERSITY OFFSETS

Many banks employ the mitigation hierarchy as a tool to address environmental and biodiversity risks.

**Although it was designed as a planning instrument, the inclusion of biodiversity offsets in the hierarchy is problematic as it enables banks and project developers to justify, and ultimately incentivize, projects with harmful environmental and biodiversity impacts.**

If a project is expected to cause significant ecological damage, many banks and licensing agencies require the application of the mitigation hierarchy. A project proponent must then show that the mitigation hierarchy has been followed in addressing the adverse ecological impacts the project is expected to cause. This involves demonstrating how such impacts will be avoided and minimized at the project site, and how damaged habitat can be restored on site.

Biodiversity offsetting, the final step in the mitigation hierarchy, acknowledges that a project may cause ecological damage, and that the project proponent will not be able to resolve through the previous steps of avoid-minimize-restore. Inclusion of offsetting in the mitigation hierarchy thus allows project activities to go ahead and irreplaceably destroy "natural", or even habitat that is designated as "critical" for endangered species and ecosystem functioning at the project site, as long as the project proponent commits to implementing biodiversity offsets elsewhere.

Proponents argue that if the mitigation hierarchy is duly followed, biodiversity offsetting can help ensure that destruction caused by the corporate activity is balanced out, over time resulting in a "no net loss" or even a "net gain" outcome for biodiversity. Recently, however, IUCN has cautioned that "by design, even best-practice offsetting tends to lead to less biodiversity after a project than before, because many policies allow for the protection of existing biodiversity from later development or harm to be traded for residual losses from the project. As such, ecological compensation approaches like offsetting remain controversial, and their relationship with national or global biodiversity goals lacks clarity."[9]

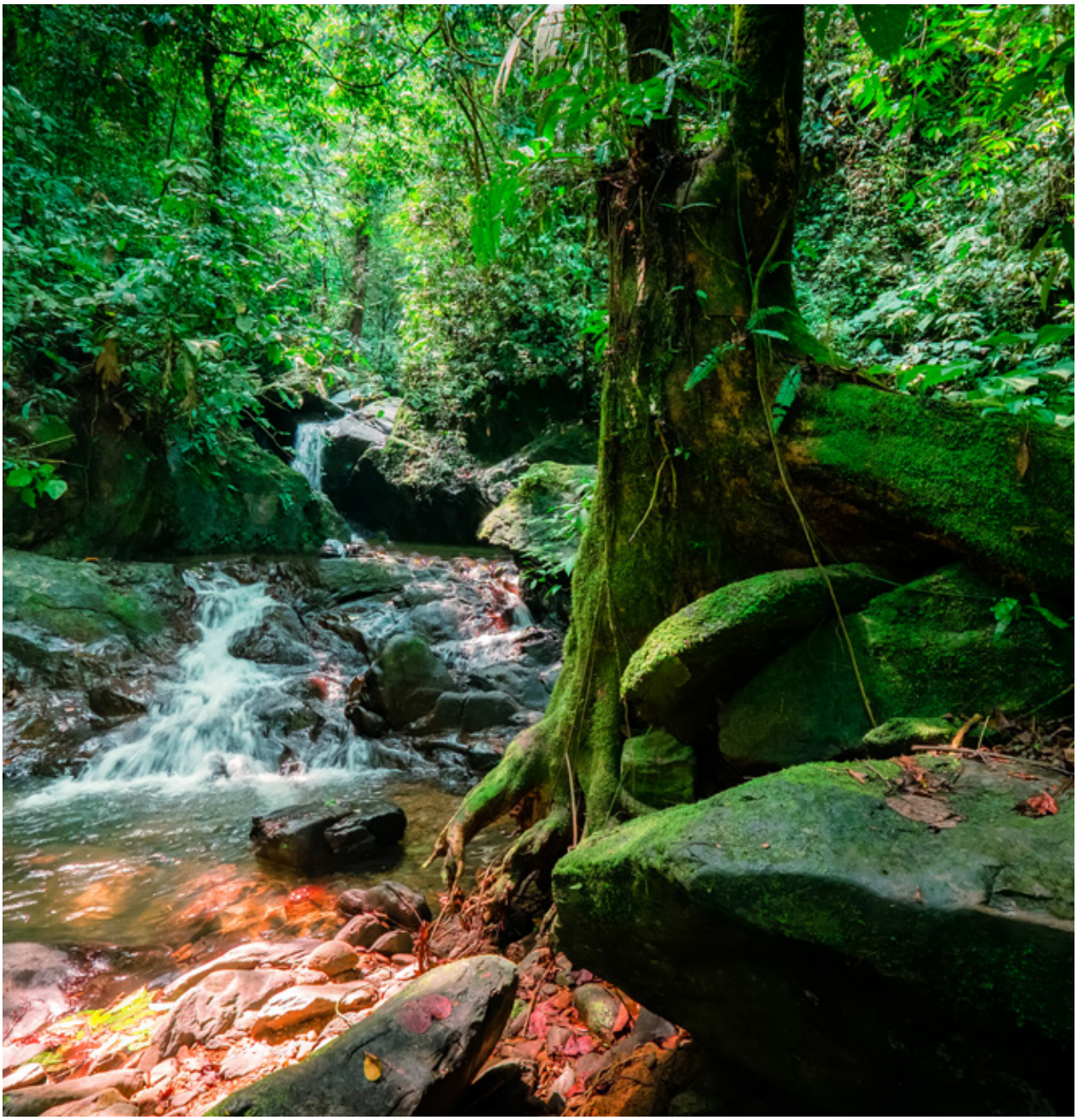
**In addition, biodiversity offsetting is founded on the uncomfortable assumption that science has accumulated a complete and comprehensive understanding of how ecosystem functionalities in incredibly complex habitats, which are characterized by interconnected ecological processes, can be recreated elsewhere. In reality, scientific knowledge of the species composition in many at risk habitats remains partial.[10]**

New scientific discoveries are constantly taking place, with some species being discovered just as they may be disappearing. For instance, the Tapanuli orangutan was recognized as a new species in 2017; in 2021 alone, at least seven new species have been discovered, including the Dumbo octopus and nano-chameleon.[11] As a result, designing a biodiversity offset scheme for a single or few species tends to over-rely on limited scientific knowledge sets; at the same time, it also ignores Indigenous Knowledge and the inherently interconnected and complexity of relationships among ecosystems and organisms.

With the majority of the planet's land and oceans now altered by humans, it is more important than ever to protect the world's few remaining, intact habitats and ecosystems, particularly as many of these places are ecologically unique and cannot be substituted on a "like for like" basis in offset schemes.

There also is the risk that the concept normalizes destruction under the cover of a mitigation hierarchy, and enables financial lenders, investors, and regulators to more easily ignore the "no project" scenario; this is because the option to not move forward with a project is not a step of the hierarchy. What is advertised as measure of "last resort" can thus quickly become the norm, a *de facto* "get-out-of-jail card". From this perspective, the alleged last resort option of offsetting in practice enables the financing of projects with irreparable adverse impacts on critical habitats and biodiversity destruction; it should be noted that many projects which are approved based on offset conditions would have been otherwise unable to comply with a bank's existing environmental policies and guidelines.

**The growing list of projects financed by banks that destroy "critical" habitat, even inside Protected Areas, suggests that "last resort" can and is becoming a convenient door-opener for financing the destruction of irreplaceable biodiversity hotspots.**



# THE USE OF BIODIVERSITY OFFSETS IN THE INTERNATIONAL BANK SECTOR

In 2012, the International Finance Corporation (IFC), the World Bank's private sector lending arm, revised its environmental and social guidelines[III]. As part of the 2012 revision, the IFC introduced biodiversity offsetting to its Performance Standards (PS).

**Performance Standard 6 on "Biodiversity Conservation and Sustainable Management of Living Natural Resources" defines IFC client responsibilities in regards to biodiversity and resource management risks. This revision set the trend in popularizing the use of biodiversity offsets in bank financed projects.**

The provision in paragraph 10 of Performance Standard 6 (PS6) requires that:

> *"10. For the protection and conservation of biodiversity, the mitigation hierarchy includes biodiversity offsets, which may be considered only after appropriate avoidance, minimization, and restoration measures have been applied.[.] A biodiversity offset should be designed and implemented to achieve measurable conservation outcomes[.] that can reasonably be expected to result in no net loss and preferably a net gain of biodiversity; however, a net gain is required in critical habitats. The design of a biodiversity offset must adhere to the "like-for-like or better" principle[.] and must be carried out in alignment with best available information and current practices. When a client is considering the development of an offset as part of the mitigation strategy, external experts with knowledge in offset design and implementation must be involved."*

The IFC Performance Standard defines "natural" habitats as areas in which "assemblages of plant and/or animal species of largely native origin, and/or where human activity has not essentially modified an area's primary ecological functions and species composition." Essentially, "natural" habitats are those which remain untouched by large scale or industrial level human activities.

On the other hand, "critical" habitats are defined as "areas with high biodiversity value, including (i) habitat of significant importance to Critically Endangered and/or Endangered species; (ii) habitat of significant importance to endemic and/or restricted-range species; (iii) habitat supporting globally significant concentrations of migratory species and/or congregatory species; (iv) highly threatened and/or unique ecosystems; and/or (v) areas associated with key evolutionary processes."

Depending on whether an area is deemed as "critical" or "natural", project proponents face different requirements. For instance, if a project will cause significant damage to "natural" habitats, the project proponent must commit to measures which are expected to result in "no-net-loss"; in other words, offset measures should result in the ecological value at the biodiversity offset site being *equivalent* to the ecological value at the project site before it was destroyed by the project activity. The assumption is that on a larger scale, no biodiversity will be lost despite irreversible loss at the project site itself.

In regards to "critical" habitats, project proponents must demonstrate how a "net gain" in biodiversity will be achieved; when "critical" habitat is destroyed, they must also describe offset measures which will result in an ecological quality that will be *higher* than the "critical habitat" that is being destroyed by the project.

III Guidance Notes for each of the IFC Performance Standards provide additional information on methodological issues and provide further definitions and interpretations of key terms and concepts. While they are not mandatory, they provide guidance on best practise of implementation. Significantly, the June 2019 version of the Guidance Note on Performance Standard 6 contains an explicit exclusion of IFC financing which is not contained in the Performance Standard itself. The explicit exclusion contained in the Guidance Notes prohibits IFC financing, for example, if a project would destroy habitat within a UNESCO World Heritage Site.

Furthermore, if a project significantly damages "critical" habitat, the project proponent has to develop what is referred to as Biodiversity Action Plan, and demonstrate that (1) no other viable alternatives exist within the region for the proposed project activities to be carried out on land that does not contain such areas of "critical" habitat; (2) the project will not cause any measurable adverse impacts on those biodiversity values for which the critical habitat was designated, and on the ecological processes supporting those biodiversity values (or how these adverse impacts will be compensated through biodiversity offsetting) and that (3) populations of endangered species are not reduced at the national or regional level. If biodiversity offsets are required, the project proponent's Biodiversity Action Plan will have to describe how the loss of "critical" habitat will be compensated by the biodiversity offset.

# EQUATOR BANKS AND REGIONAL FINANCING INSTITUTIONS ADOPT IFC'S PS6 BIODIVERSITY OFFSETTING PROVISION

Through PS6, the principles of a "net gain", "like-for-like or better", and "no net loss" were legitimized as valid approaches to protecting biodiversity, which subsequently normalized the concept of biodiversity offsets in the international banking sector. Since 2012, other banks have in turn adopted or integrated these concepts which validate biodiversity offsetting into their own bank policy.

Today, language allowing for biodiversity offsets has been adopted by the Equator Principles and a number of international banks including: African Development Bank (AfDB), Asian Development Bank (ADB), Asian Infrastructure Investment Bank (AIIB), European Investment Bank (EIB), European Bank for Reconstruction and Development (EBRD), InterAmerican Development Bank (IADB), U.S. International Development Finance Corporation (DFC, formerly US Overseas Private Investment Corporation) and the World Bank Group.[IV]

All of these financing institutions as well as the Equator Principles Financial Institutions[V] make reference to the IFC Performance Standard 6 in their own environmental and social governance frameworks. By referencing the use of IFC PS in their institutional policies, all of these international and regional financial institutions and development banks have adopted environmental policies that allow for financing projects which may irreversibly destroy "natural" habitat.

As such, nine out of the ten of the aforementioned banks allow for biodiversity offsetting to compensate for the destruction of "critical" habitat. The notable exception is the IDB's 2020 Environmental and Social Policy Framework, which excludes the use of biodiversity offsets in "critical habitats[12] .

For reference, Annex 1 provides the specific biodiversity offsetting provisions and environmental and social governance frameworks of the Equator Principles and banks.



IV For further reference, the text of biodiversity offset provisions in banks' respective environmental and social policy frameworks are provided in Annex 1.

V As of September 2021, 124 banks from 37 countries have adopted the Equator Principles.

# HOW CONCEPTUAL FLAWS UNDERMINE BIODIVERSITY OFFSETTING SCHEMES

**The following section examines key assumptions underpinning the concept of biodiversity offsetting. These assumptions are extremely problematic and reflect significant flaws, however, upon closer scrutiny.**

As a result, while it may be a seductive solution to managing harmful environmental impacts, deeper analysis reveals that biodiversity offsetting is not only a false solution, but also creates a dangerous illusion of protecting biodiversity[13].

## DESTRUCTION FIRST, OFFSET LATER: INCONGRUENT TIMING PUTS ENDANGERED SPECIES OVER THE BRINK OF EXTINCTION

Researchers assessing the use of biodiversity offsetting in the banking sector estimate that as of 2018,[14] project finance by development banks required clients to implement biodiversity offsets in a total of 22 cases.[15] However, many biodiversity offset programs are never implemented. For instance, in relation to the IFC's project lending, researchers found that "only eight projects have so far commenced implementation of biodiversity offsets as a direct requirement from the International Finance Corporation under their Performance Standard 6 (PS6)"[16]. The lack of implementation and follow through is an alarming albeit common occurrence in biodiversity offset schemes. Researchers further found that: "Our database suggests that financial lender safeguards (including, but not limited to, International Finance Corporation PS6) and voluntary corporate commitments...have not yet led to the implementation of many offset projects on the ground...Yet, ...developers will apparently countenance rather enormous and ambitious conservation interventions if project finance requirements specify a need to seek NNL [No Net Loss]."

These findings point to a major conceptual flaw in biodiversity offsetting – that a project proponent is allowed to destroy critical habitat today on the promise of implementing compensation measures later.

Ecologists have long cautioned the consequences of this missed connection; project activities are allowed to destroy natural habitat irreversibly before biodiversity offsetting measures have been proven, let alone implemented. This delay begs the question of whether proposed offset measures are even effective in ostensibly replicating the complex ecological processes and functionality. Biodiversity offset schemes thus allow for the destruction of an area even before there is any evidence that such a scheme can or has resulted in the protection of a particular species and ecosystem.[17]

**For instance, where project activities destroy the habitat of or endemic or endangered species whose survival depends on very specialized habitat, biodiversity offsetting may well catapult a species towards extinction, as there is no similar or comparable habitat that can be used to offset native habitats.**

One such example is the Tapanuli orangutan, the world's most threatened great ape species. A recent study estimates that Tapanuli orangutans today occupy just 2.5 percent of their historical range, with loss of habitat believed to be the main reasons for the decline.[18] Fewer than 800 of the Tapanuli orangutans are known to now inhabit a single location, the Batang Toru forest in North Sumatra, Indonesia. With just 2.5 percent less of their historical range left, researchers believe that any additional forest loss will most likely push the great ape species into extinction.[19] Recently, a proposed dam development located in the orangutan's natural habitat is threatening their survival. PT NSHE, the dam developer sponsoring the **Batang Toru dam in North Sumatra**, has proposed that permanent forest destruction can be compensated through an offset elsewhere, such as planting trees[20]. However, this approach ignores the main problem that the dam's inherent location would irrevocably fragment what little remaining habitat is left for the Tapanuli orangutan; if built, the dam would essentially isolate the species into small, unviable populations. Furthermore, new tree plantings are not equivalent to an intact, primary forest, as any new plantings require significant time to mature.

*The Batang Toru Dam gained international notoriety for potentially dooming the Tapanuli orangutan to extinction, if built. Due to its location, the dam would permanently fragment intact primary forest, and thus isolate the species into small, unviable populations. Although the project developer PT NSHE has suggested planting trees as a means to offset forest loss, this approach would ignore the main problem that the dam's inherent location would irrevocably fragment what little remaining habitat is left for the Tapanuli orangutan. The area is also home to a number of other endangered species such as the Sumatran tiger, pangolin, sun bear, rafflesia flower, and others.*

Another project located in North Sumatra is the **Sarulla Geothermal Power Generation Project in North Sumatra**, which was financed by ADB and IFC. In December 2013, the Asian Development Bank (ADB) approved financing for the Sarulla Geothermal Power Generation Project in North Sumatra, Indonesia.[21] Construction on the project began in May 2014 and the project is fully operational since May 2018. A Biodiversity Offset Management Plan was published by the project proponent, Sarulla Operations Ltd. (SOL) in October 2020, two years after the project was already fully operational, and after critical Tapanuli orangutan habitat had been destroyed.[22]

The project operates three geothermal power generation units with a total capacity of about 320 megawatts.[23] According to the company's Biodiversity Offset Management Plan (BOMP) dated October 2020, the 69 hectares of forest within the Batang Toru Protection Forest area and adjacent community land were destroyed (as of December 2019) for construction and operation of the Sarulla geothermal power project. The BOMP confirms that the habitat that was destroyed for the power project provided habitat for 12 threatened species, including endangered species such as Sumatran tiger, the Tapanuli Orangutan and the Malayan pangolin.

**The BOMP describes measures which may eventually achieve "no-net-loss for habitat and species residual impacts under the ADB SPS and net-gain requirements under IFC PS6."[24]**

However, there is no accountability if such promises ultimately prove to be unfounded. The use of biodiversity offsetting effectively opened the door for ADB and IFC financing for a project that irreversibly destroyed habitat defined as "critical" for endangered species in their own policies. In this case, application of the banks' biodiversity offsetting policies justified destruction of "critical" Tapanuli orangutan habitat, habitat loss which may contribute to pushing the world's most endangered great ape species over the brink of extinction.

Because the project destroyed "critical" habitat with endangered species, the banks' biodiversity offsetting policy requirements applied. ADB and IFC financing was approved in 2013, and construction of the geothermal power plant was completed in 2018 on the condition of providing a BOMP. It should also be noted that the Tapanuli orangutan was recognized as a new species in 2017, after financing was already approved and primary habitat destroyed. However, the BOMP was only published in October 2020, two years after the plant was completed.

Conditioning financing on the mere promise of a biodiversity offset plan fatally undermines the usefulness of such schemes, as they are developed or provided only after a habitat or ecosystem has been destroyed. This means that ensuring accountability and implementation essentially becomes an afterthought. With financing already disbursed and relevant habitats destroyed on the promise of a planned offset, there is little incentive for project developers to ensure they are actually implemented, well designed, or even effective.



*Financed by the Asian Development Bank and International Finance Corporation, the Sarulla Geothermal Power Generation Project in North Sumatra required a biodiversity offset as a condition for financing. However, the Biodiversity Offset Management Plan was only published in October 2020, two years after the project was already fully operational. This meant that critical habitat for endangered species such as orangutans, tigers, helmeted hornbills, and pangolins was permanently destroyed before any offset schemes were published, let alone implemented.*

Another such example is **Trans Adriatic Pipeline (TAP)** project traversing Greece, Albania, and Italy. The Trans Adriatic Pipeline (TAP) was built to transport fossil gas extracted in Azerbaijan from the Greek – Turkish border area over a distance of 878 kilometres, to southern Italy, where the pipeline would connect to gas distribution networks in the EU. Extending the Trans Anatolian Pipeline to the west, the TAP crosses Greece, Albania, and the Adriatic Sea. Construction began in 2015 and pipeline construction was finished in 2020, amid ongoing resistance and legal challenges against the connecting of the pipeline to the EU gas distribution network. In 2018, the EIB approved a financing package of €700 million in direct project funding for the project; the EBRD approved a loan of up to €500 million the same year.

*The Trans Adriatic Pipeline (TAP) was built to transport fossil gas across Albania, Greece, to Italy. The pipeline's path resulted in habitat destruction of endangered species such as wolves. Financed by the European Investment Bank and the European Bank for Reconstruction and Development, the biodiversity offset plan, site location, or information on progress is still yet to be published, despite construction for the pipeline beginning in 2015 and completed in 2020.*

**Biodiversity offsetting provision in their environmental and social governance frameworks essentially opened the door for the EBRD and EIB to provide project finance to a project that destroyed endangered species habitat before the required biodiversity offsets were developed and implemented.**

In fact, as in the case of the Sarulla Geothermal Power Project in Indonesia, project finance was approved and habitat destruction for the TAP took place even before the BOMP was completed; prior to approval of the project funding, the project proponent only had to revise initial environmental impact assessments found not to be in compliance with EIB requirements and present a Biodiversity Offset Strategy.[25] "A Biodiversity Offset Management Plan (BOMP) will be developed in the future which will provide more details on the offset design, intended conservation outcomes, specific management actions and details on the legal mechanisms of securing and establishing the prospective site(s)," an EIB document on the project notes.[26] The TAP project website confirms this mismatch, stating that "Biodiversity offsets will be implemented in the years to come and monitored over the pipeline's lifetime to ensure TAP achieves its commitment of no net losses to biodiversity."[27]

And yet, at the time of writing, the webpages of neither the EIB and EBRD nor the TAP consortium provided information on biodiversity offsetting site location or the status of biodiversity offset implementation. Questionnaires sent to both banks, enquiring among others about the status of biodiversity offset implementation in bank-financed projects obliged to implement offsetting, also remained without reply at the time of writing.

This inherent delay in biodiversity offsets leads to the other problem of their long term management. In the case of the InterAmerican Development Bank (IDB) and IFC-financed **Reventazón Hydropower Project in Costa Rica**, for example, the biodiversity offset obligations are limited to 20 years, the timespan of the IDB and IFC loans. However, this is far too little time for any meaningful ecosystem restoration. Furthermore, there are no requirements for how offset areas will be managed, if at all, after the 20 year period. The question of long term management is extremely important as many ecosystems cannot be fully replaced or duplicated in the short term, and may themselves be destroyed due to natural disasters or climate change. For instance, mature, old growth forests can decades if not centuries to mature.

**These timing mismatches – the limited time period over which project proponents are obliged to maintain biodiversity offsets, and the sequencing of "destruction first, offset later" – are a key reason to the dismal track record of biodiversity offsetting.**

*In the case of the InterAmerican Development Bank (IDB) and IFC-financed Reventazón Hydropower Project in Costa Rica, the biodiversity offset obligations are limited to 20 years, the timespan of the IDB and IFC loans. However, this is far too little time for any meaningful ecosystem restoration, and there are no requirements for how offset areas will be managed, if at all, after the 20 year period.*

# ENABLING PERPETUAL DESTRUCTION: WHEN OFFSETS NEED OFFSETTING

**Another weakness of an offset approach is that there is no guarantee that offsets will remain as offsets. In other words, because of the lack of accountability in ensuring their long term management, it is possible that a planned offset for one project may itself be destroyed by a another project, thus requiring another offset.**

For instance, biodiversity offsets were required as compensation in two IFC-financed projects, the Bujagali dam in Uganda and the CBG bauxite mining in Guinea. However, subsequent projects have or may soon destroy areas which were previously designated as biodiversity offsets in both these examples.

In the case of the **Bujagali Dam**, IFC financing was contingent on offsetting the destruction of the iconic and ecologically significant Bujagali Falls.[28] Given the serious environmental, social, and cultural destruction caused by the dam, the World Bank and the Government of Uganda signed an agreement in 2001, the Kalagala Agreement, which provided for the establishment of a biodiversity offset to compensate for ecological damage caused by the Bujagali hydropower project. After pulling its financing from the project in 2002 following allegations of corruption, the World Bank's IFC in 2007 returned as funder of the Bujagali hydropower project. Construction started later that year, and the project became operational in 2012. The reservoir created by the dam on the Nile River flooded the culturally and ecologically important Bujagali Falls and river banks with great cultural and spiritual importance for the Basoga Indigenous peoples residing in the project area. Eventually, the Kalagala Falls, located some 30 kilometres north of Bujagali Falls, were chosen as offset location.



*In the case of the Bujagali Dam, IFC financing was contingent on offsetting the destruction of the iconic Bujagali Falls. Bujagali Falls was culturally and spiritually important for the Basoga Indigenous peoples, and so its destruction is inherently impossible to compensate for or offset.*

The 2001 Kalagala Agreement ultimately required that "as the implementation of the Bujagali Project will inundate Bujagali Falls, the World Bank Group concluded that Kalagala Falls must be conserved in perpetuity for its spiritual, natural habitat, environmental, tourism and cultural values."[29] However, the legal agreement signed between the Government of Uganda and the World Bank contained only ambiguous requirements that the offset site be protected in perpetuity.[30]

**According to International Rivers, World Bank staff "knew at the time that the Ugandan government never intended to honor its agreement, and that the agreement wasn't worth the paper it was signed on."[31] As a result, perpetuity only lasted until another hydropower developer obtained permission to build another dam on the Nile River.**

Just a few years afterwards, the **Isimba dam was proposed**, in which its reservoir would submerge the Kalagala waterfalls and river banks set aside a few years earlier to compensate for the destruction of the Bujagali waterfalls and river banks destroyed by the Bujagali dam. The Ugandan government provided the license for the Isimba in violation of the biodiversity offsetting provision in its 2001 Kalagala Agreement with the IFC on the financing of the Bujagali dam. The IFC, meanwhile, agreed to the destruction of the Kalagala offset site on condition that a new "offset" location be identified and protected.[32]

The biodiversity offset involved protecting waterfalls and adjoining river banks some 30 kilometres downstream from the Bujagali hydropower project site. Yet these waterfalls were flooded by the Isimba Hydropower Project only a few years later.[33] What was announced as habitat protection in perpetuity only lasted a few years before the biodiversity offset site, too, was flooded and the offset needed offsetting.

*Just a few years after the construction of the Bujagali Dam, the Ugandan government proposed the Isimba Dam project, which would be built in Bujagali's Dam originally proposed offset site, Kalagala Falls. The example demonstrates how although offsets may be intended to last perpetuity, there is no guarantee that offset areas can be protected, or that host country governments may abide by such agreements once financing is obtained and projects are completed.*

**Biodiversity offsetting schemes typically target areas used for peasant farming, not corporate concession areas. As a result, peasant farming tends to be stigmatized and perceived as threatening biodiversity protection, instead of corporate activities which are in reality driving systemic habitat loss and destruction. Biodiversity offsetting thus imposes land use restrictions on the actors with the least political clout, rather than those with the largest detrimental impact on biodiversity.**

The **Moyen Bafing National Park in Guinea** is another example where managing a biodiversity offset site in perpetuity may last only a few years. In 2016, the Moyen Bafin National Park was designated as a wild chimpanzee sanctuary in exchange for IFC financial support for the mining operations of Compagnie des Bauxites de Guinée and Guinea Alumina Corporation.[34] Expansion of open pit bauxite mining is responsible for the destruction of the critically endangered western chimpanzee habitat;

**between 1990 and 2014, the western chimpanzee population fell by a staggering 80 percent to only 52,800 individuals.**

However, just a few years after the reserve was created, the Guinean government proposed the Koukoutamba Dam, which would partially flood the national park. If built, the dam would destroy even more critical chimpanzee habitat.

**In addition to specific projects, offsets themselves may fall victim to natural disasters and the growing impacts of climate change. For instance, wildfires have destroyed forests which were previously set aside as carbon offsets, and biodiversity offsets face this same vulnerability.[35]**

# REAL DESTRUCTION IN EXCHANGE FOR SAVING BIODIVERSITY ELSEWHERE FROM HYPOTHETICAL RISK

The premise that conjectured harm can be avoided by the use of offsets underpins the logic of biodiversity offsetting. Ensuring a proper baseline understanding of an area's ecosystem is thus central to then calculating how conjectured harm can be offset.

Just like carbon offsets, biodiversity offsets are prone to project proponents selecting inappropriate or inaccurate baselines against which to measure any supposed biodiversity gains achieved by offsetting.

**For example, an area may be selected as an offset site based on the assumption that it would have been destroyed in the absence of protection. However, that area may have not have been under threat at all, or at least very little; this dynamic conflates real versus imagined risk when designing offset schemes, which in turn leads to an offset that fails to generate the promised biodiversity gain.[36] Consequently, the claimed "no net loss" or "net gains" for critical habitats tend to exist on paper only, thus further driving the biodiversity crisis while lending the illusion of protection.**

Furthermore, biodiversity offsetting schemes typically target areas used for peasant farming, not corporate concession areas. As a result, peasant farming tends to be stigmatized and perceived as threatening biodiversity protection, instead of corporate activities which are in reality driving systemic habitat loss and destruction. Biodiversity offsetting thus imposes land use restrictions on the actors with the least political clout, rather than those with the largest detrimental impact on biodiversity. This has been shown even more clearly in the case of carbon offsetting involving forest protection as an offset activity.[37] The overwhelming majority of such forest carbon offsets are based on the story that peasant farming and shifting cultivation are posing a threat to the forest. The forest carbon offset projects then typically put restrictions on peasant farming and prohibited peasant farming while the nearby large-scale destruction caused by expansion of industrial plantations for palm oil, soya, or cattle ranching continues unhindered by carbon offsets.

# BIODIVERSITY OFFSETTING'S CONCEPTUAL BLINDNESS TO SOCIO-ECONOMIC & CULTURAL IMPACTS

**Concerningly, biodiversity offsetting ignores the socio-economic, cultural, and spiritual significance of a given place. By focusing on ecological characteristics only, biodiversity offsetting renders the socio-economic, cultural, and spiritual impacts of destruction invisible, and reduces a given place to a limited set of ecological indicators, which are usually the presence of iconic (animal) species.**

This reductionist approach over-simplifies and devalues the unique and complex web of human and non-human interactions in a given ecosystem, and ignores how the socio-economic, cultural, and spiritual significance are place-specific, meaning that their destruction in one place cannot be recreated or substituted through restoration of ecological features elsewhere.

# CORPORATE DEMAND FOR COMMUNITY LAND INCREASES AS RESULT OF BIODIVERSITY OFFSETTING



**Where territories of peasant farming communities and indigenous peoples are declared a biodiversity offset site, community use of the land tends to be heavily restricted.**

Reports on biodiversity offset implementation in Uganda and Madagascar show how these offsets are part of a "fortress conservation" approach which tends to ignore, devalue, and criminalize community land use, even where a community holds customary rights to the land in question.[38] Such devaluing or criminalization of peasant farming practises and Indigenous peoples' land use is prevalent in offsetting, be it for carbon or biodiversity.

**In essence, in addition to criminalizing peasant farming practises and community use of land, biodiversity offsetting privileges corporate interests, as they are prioritized over community needs in both the site of their operations where critical habitat is being destroyed, and at the site of the biodiversity offset.**

Offsetting is therefore increasingly seen as facilitating a double corporate land grab, causing human rights abuses when communities defend their customary rights over land which has been declared by outsiders as a biodiversity offset.[39]

The additional pressure on land further exacerbates the risk of conflict between communities and investors over the use of land, particularly where land tenure is insecure or customary tenure rights of communities are ignored. Research commissioned in 2012 by the US-based Rights and Resources Initiative on the financial risks from an investment perspective of such conflicts over disputed land concludes that "companies which ignore the issue of land tenure expose themselves to substantial, and in some cases extreme, risk."[40] And yet the consequences of the financial risks associated with social conflicts caused by biodiversity offsets are virtually absent from the biodiversity offsetting discourse.

# DISMAL IMPLEMENTATION TRACK RECORD IS TESTIMONY TO CONCEPTUAL FLAWS

**Perhaps unsurprisingly, the conceptual flaws of biodiversity offsetting regularly and predictably lead to "implementation failures".[41]**

A useful example is Australia, as it bears a long history of biodiversity offsetting use. In 2015, a cohort of Australian researchers and scientists commented that "rarely are offsets found to be successful in practice", and may instead be contributing to Australia's biodiversity crisis.[42] The researchers referenced studies which found that less than 40 percent of all offsets implemented in Western Australia can be deemed effective,[43] creating a "significant business risk for resource sector enterprises operating in ecologically-sensitive environments". They argued that instead of relying on offsets, "Addressing biodiversity losses earlier in the Mitigation Hierarchy increases the likelihood of achieving No Net Loss of biodiversity and enhances trust in company operations among stakeholders."[44]

Researchers assessing the implications of the World Bank's environmental and social framework for biodiversity also concluded that there is "currently insufficient empirical evidence to determine whether or not offsets are effective in delivering the required biodiversity protection outcomes. […] Even well-designed offsets will likely entail some residual uncompensated negative impacts".[45] In other words, there is no proof of concept that biodiversity offsetting actually works.

## Lack of transparency on banking sector use of biodiversity offsetting

It is worth noting that the increasing popularity of offsetting is not matched by a corresponding increase in disclosure by lenders and investors on their reliance on biodiversity offsetting in project financing decisions. Neither the public financial institutions nor the private banks which have adopted the Equator Principles appear to disclose information on the number of projects in their portfolio which must implement biodiversity offsets, let alone the status of offset implementation. Considering that these offsets are required for compliance with the IFC's Performance Standard 6 (or equivalent requirements of the banks assessed in the context of this research), this is a significant and concerning information gap.

# **PRECAUTION FIRST WHERE CRITICAL HABITAT IS CONCERNED:** EXCLUSION LISTS, NOT BIODIVERSITY OFFSETTING ARE THE WAY FORWARD

Experiences in Australia[46], Uganda, and the Republic of Guinea show that biodiversity offsetting does not guarantee effective biodiversity management. They also demonstrate that there is no means to ensure that an offset area will be protected in the long term, and may in fact be destroyed when they themselves became part of a corporate project to mine or build a dam. These examples highlight the absence of credible mechanisms in the biodiversity offset provisions of financial institutions to ensure long-term protection of biodiversity at an offset site.



**What these examples show is that if an area set aside as biodiversity offset today becomes economically interesting for a company in the future, its destruction, too, can be financed and licensed simply by promising to offset the ecological damage a second time.**

The examples show that rather than ensuring protection in perpetuity, biodiversity offsetting risk enabling perpetual destruction.

Financial institutions and banks which have adopted the Equator Principles and claim to apply the precautionary principle in project financing must recognize the conceptual flaws of biodiversity offsetting. The dismal implementation record of biodiversity offsetting must also be understood as testimony to these conceptual flaws, rather than something which can be fixed by best practise guidance and better monitoring and planning.

**Indeed, upon closer scrutiny of these conceptual flaws and related "no net loss" and "like for like" principles, causing further habitat destruction is a feature of biodiversity offset schemes, rather than an aberration. More troublingly, instead of a "last resort", biodiversity offsets provide project proponents a convenient strategy for destroying a particular place based only on a promise to produce a biodiversity management or offset plan, typically well after the destruction has already occurred.**

Little evidence is needed to truly demonstrate that other alternatives were indeed possible, including choosing not to proceed with destructive activities to begin with. Although advocates of biodiversity offsets insist such schemes are not intended as a free pass to destroy areas, the enduringly poor success rate (and destroyed areas) suggests otherwise.

Lastly, increasingly relying on biodiversity offsets may lead to the increased normalization of destroying nature in an age where there are fewer and fewer intact, unscathed ecosystems left in the world.

**As the world grapples with the biodiversity crisis, banks should do their part to not only stop contributing to biodiversity loss, but to also actively pre-empt and prevent financing to activities and practices which are systemically responsible for the global crisis.**

To achieve this, we offer the following policy recommendations:

# KEY POLICY RECOMMENDATIONS TO BANKS

**1**

Prohibit the use of biodiversity offsets

**2**

Emphasize the Avoid, Minimize, and Rehabilitate steps of the Mitigation Hierarchy when conditioning financing to address environmental and social risks

**3**

Publish information regarding a client's environmental or social obligations which are required for receiving financing, and their progress in achieving those obligations

**4**

Publish information regarding the plans or progress of any biodiversity offset program tied to bank financing

**5**

Ensure free, prior, informed consent in any project mitigation or conservation efforts impacting local and Indigenous communities

**6**

Strengthen Exclusionary Lists to prohibit indirect and direct financing in or which would negatively impact natural and critical habitat and other at-risk ecosystems

**7**

Adopt the Banks and Biodiversity Initiative's No Go policy (See Annex 2)

# ANNEX 1
# BIODIVERSITY OFFSETTING PROVISIONS IN THE ENVIRONMENTAL AND SOCIAL POLICY FRAMEWORKS OF SELECTED REGIONAL BANKS AND FINANCING INSTITUTIONS

## AFRICAN DEVELOPMENT BANK (AFDB):

### Relevant Policies and Documents

Relevant documents include the most recent version of the Integrated Safeguards System (ISS), containing an Integrated Safeguards Policy Statement, Operational Safeguards (OSs), Environmental and Social Assessment Procedures (ESAPs) and Integrated Environmental and Social Impact Assessment (IESIA) Guidance Notes: December 2013.

Operational Safeguard 3 contains requirements on biodiversity and specifies the biodiversity offsetting provision. African Development Bank Group's Integrated Safeguards System Policy Statement and Operational Safeguards (Volume 1, Issue 1, December 2013). https://www.afdb.org/fileadmin/uploads/afdb/Documents/Policy-Documents/December_2013_-_AfDB%E2%80%99S_Integrated_Safeguards_System__-_Policy_Statement_and_Operational_Safeguards.pdf

Most recent version of the Integrated Environmental and Social Impact Assessment (IESIA) Guideline, Volume 2 Issue 3: October 2014. https://esa.afdb.org/sites/default/files/IESIA%20Guidance%20Materials%20Vol%202%20ENGLISH.pdf

### Relevant Policy Language

Per AfDB's Operational safeguard 3 – Biodiversity, renewable resources and ecosystem services:

"The Bank may agree to finance a project in a critical habitat if the borrower or client can demonstrate, using appropriate measurement and monitoring methods, that:

- The mitigation hierarchy has been implemented;
- The project provides clear benefits and positive outcome for biodiversity and ecosystem services;
- The project-related activities will not have adverse effects (direct, indirect, or cumulative) on the criteria for which the critical habitat was designated;
- The project will not have any negative effects on critically endangered or endangered species;
- The project will achieve the previous two points without offsets or a "net gain" analysis; and
- A robust, appropriately designed and funded, long-term biodiversity monitoring and evaluation programme is integrated into (i.e., provides feedback into) the client's management programme."

Furthermore: "If projects are to be developed in natural habitats, or are to have potential adverse downstream impacts on natural habitats, they include mitigation measures to achieve either net benefit or no net loss of biodiversity—for example, ecological restoration of habitats, measures to reduce fragmentation, and restoration of ecosystem functioning. As a last resort, this can be done by the development of a biodiversity offset programme, in accordance with the biodiversity offset principles established by the Business and Biodiversity Offsets Programme or comparable organisations and programs. When considering biodiversity offsets, the borrower/client uses a landscape/seascape-scale planning process to identify the most environmentally sound approach."

# ASIAN DEVELOPMENT BANK:

## Relevant Policies and Documents

Relevant documents include the most recent version of the Asian Development Bank's Safeguard Policy Statement (SPS): July 2009 (currently under review – May 2021). https://www.adb.org/documents/safeguard-policy-statement

Most recent version of the Operational Manual: October 2013 https://www.adb.org/sites/default/files/institutional-document/31483/om-f1-20131001.pdf

## Relevant Policy Language

ADB, SPS, SR 1, para. 28 and footnote 6: "No project activity will be implemented in areas of critical habitat [...] as defined by the Word Conservation Union's Red List of Threatened Species or as defined in any national legislation."

ADB, SPS, Appendix, 1, para. 24: "The borrower/client will need to identify measures to avoid, minimize, or mitigate potentially adverse impacts and risks and, as a last resort, propose compensatory measures, such as biodiversity offsets, to achieve no net loss or a net gain of the affected biodiversity."

ADB, SPS, Appendix 1, para. 27: "Mitigation measures [for natural habitat] will be designed to achieve at least no net loss of biodiversity. They may include a combination of actions, such as post project restoration of habitats, offset of losses through the creation or effective conservation of ecologically comparable areas that are managed for biodiversity while respecting the ongoing use of such biodiversity by Indigenous Peoples or traditional communities, and compensation to direct users of biodiversity."

SPS, Appendix 112: "Key considerations include mitigation of potential adverse impacts to the level of "no significant harm to third parties", the polluter pays principle, the precautionary approach, and adaptive management. If some residual impacts are likely to remain significant after mitigation, the EMP will also include appropriate compensatory measures (offset) that aim to ensure that the project does not cause significant net degradation to the environment. Such measures may relate, for instance, to conservation of habitat and biodiversity, preservation of ambient conditions, and greenhouse gas emissions. Monetary compensation in lieu of offset is acceptable in exceptional circumstances, provided that the compensation is used to provide environmental benefits of the same nature and is commensurate with the project's residual impact."



# ASIAN INFRASTRUCTURE INVESTMENT BANK:

## Relevant Policies and Documents

Relevant documents include the most recent version of the Asian Infrastructure Investment Bank's Environmental and Social Framework (ESF): Approved February 2016 (Amended February 2019 and May 2021). https://www.aiib.org/en/policies-strategies/_download/environment-framework/AIIB-Revised-Environmental-and-Social-Framework-ESF-May-2021-final.pdf

## Relevant Policy Language

AIIB EFS, Environmental and Social Standard 1 , page 51: "30.1 Avoid adverse Project impacts on biodiversity. When avoidance of adverse impacts is not feasible, implement measures to minimize adverse impacts and restore biodiversity, including, as a last resort, biodiversity offsets.

30.2 Biodiversity offsets are to be designed and implemented to achieve outcomes that can reasonably be expected to result in no net loss and preferably a net gain of biodiversity. In critical habitats, a net gain is required."

AIIB EFS, Environmental and Social Standard 1, page 52: "34. Protected Areas. Where the Project occurs within or has the potential to adversely affect an area that is legally protected or internationally recognized or designated for protection, identify and assess these potentially adverse impacts and apply the mitigation hierarchy so as to avoid, or when avoidance is not feasible, to mitigate those adverse impacts that would compromise the integrity, conservation objectives or biodiversity importance of the area. Take all measures required so that the Project also complies with any applicable national laws and regulations relating to protected areas."

# THE EQUATOR PRINCIPLES:

## Relevant Policies and Documents

Most relevant documents include the most recent version of the Equator Principles: July 2020. https://equator-principles.com/wp-content/uploads/2021/02/The-Equator-Principles-July-2020.pdf

Most recent version of the Equator Principles Implementation Note: September 2020. https://equator-principles.com/wp-content/uploads/2020/09/Implementation_Note_Ext_Sept_2020.pdf

## Relevant Policy Language

Page 8: Principle 2, on Environmental and Social Assessment, requires that financial institutions which have adopted the Equator Principles require their client to "*conduct an appropriate Assessment process to address, to the EPFI's satisfaction, the relevant environmental and social risks and scale of impacts of the proposed Project (which may include the illustrative list of issues found in Exhibit II). The Assessment Documentation should propose measures to minimise, mitigate, and where residual impacts remain, to compensate/offset/remedy for risks and impacts to Workers, Affected Communities, and the environment, in a manner relevant and appropriate to the nature and scale of the proposed Project.*"

Footnote 17, page 32: Exhibit II of the Equator Principles document contains an "Illustrative List of Potential Environmental and Social Issues to be Addressed in the Environmental and Social Assessment Documentation". A footnote to the list alerts the user to the February 2019 amendment to the IFC Performance Standard 6 Guidance Note: "*Projects in some areas may not be acceptable for financing with the possible exception of Projects specifically designed to contribute to the conservation of the area. These areas should be identified during the assessment of Critical Habitats and brought to the attention of the EPFI as early as possible in the financing process. They include: United Nations Educational, Scientific and Cultural Organisation (UNESCO) Natural and Mixed World Heritage Sites; and Sites that fit the designation criteria of the Alliance for Zero Extinction (AZE). Refer to IFC Performance Standards Guidance Note 6 (February 2019).*"



# EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT (EBRD):

## Relevant Policies and Documents

Most recent version of EBRD's Environmental and Social Policy's (ESP) Performance Requirement 6 on Biodiversity Conservation and Sustainable Management of Living Natural Resources (PR6): April 2019. https://www.ebrd.com/news/publications/policies/environmental-and-social-policy-esp.html

Most recent version of the Guidance Note on the EBRD PR6: https://www.ebrd.com/environment/pdf-guidance-note-ebrd-performance-requirement-6.pdf

## Relevant Policy Language

EBRD ESP PR6: page 37: "18. As a last resort, biodiversity offsets may be designed and implemented to achieve measurable, additional, and long-term conservation outcomes[84] that can reasonably be expected to result in no net loss and preferably a net gain of biodiversity. The design of a biodiversity offset will adhere to the "like-for-like or better" principle and be carried out in alignment with the Bank's PRs and GIP. The client will need to dedicate appropriate staff resources and demonstrate the long-term technical and financial feasibility of undertaking the offset.

19. In instances where biodiversity offsets are proposed for priority biodiversity features or critical habitat, the client will develop a biodiversity offset strategy or biodiversity offset management plan, as appropriate to demonstrate that the project's significant residual impacts on biodiversity will be adequately mitigated. In these instances, the client will retain independent experts with knowledge in biodiversity offset design and implementation.

20. Not all residual adverse impacts to priority biodiversity features and/or critical habitat can be offset. In such cases, the client shall redesign the project to avoid the need for such offset, and to meet the requirements of this PR.

21. Where the project occurs within or has the potential to adversely affect an area that is legally protected[86], and/or is internationally recognised, or proposed for such status by national governments, the client shall identify and assess potential project-related impacts and apply the mitigation hierarchy so that impacts from the project will not compromise the integrity, conservation objectives and/or biodiversity importance of such an area."

# EUROPEAN INVESTMENT BANK:

## Relevant Policies and Documents

Most relevant documents include the most recent version of the EIB Environmental and Social Standards (ESS), including Standard 3 on Biodiversity and Ecosystems: Version 10 of October 2018. https://www.eib.org/attachments/strategies/environmental_and_social_practices_handbook_en.pdf

Most recent version of the Guidance Note for Environmental and Social Standard 3 on Biodiversity and Ecosystems: April 2018. https://www.eib.org/attachments/strategies/guidance_note_for_standard_3_on_bioversity_and_ecosystems_en.pdf

## Relevant Policy Language

EIB ESS 3, page 26: "14. Development within or affecting a critical habitat should be avoided and can only go ahead if: a) No other viable alternatives for the project exist both in terms of location and design, and there is a rigorous justification for overriding public interest; b) Further studies are carried out on the critical habitat features affected by the project, to show that impacts will not result in any measurable decline in status of the feature or of the area needed to sustain the features in a viable state; c) Impacts will be avoided and minimised to the extent possible through changes in footprint or design; d) Positive conservation outcomes (net gain) are achievable through appropriate compensation or offset measures for residual impacts that would otherwise occur despite impact avoidance and minimisation measures; and, e) A robust, appropriately designed, and long-term biodiversity monitoring and evaluation programme aimed at assessing the status of the critical habitat is integrated into the promoter's adaptive management programme."

EIB ESS 3, page 27: "17. The EIB will only finance a project within a protected area, or within a nationally or internationally designated or recognised area for biodiversity conservation[10], if the promoter is able to demonstrate that the development is legally permitted and that the design of the project is consistent with any management plan for such areas that is recognised by the relevant authorities. In the absence of a recognised plan, projects should be compatible with the achievement of the relevant conservation objectives used to designate the area in question."

EIB ESS 3, paragraphs 55-60 outline the EIB requirements on offsets. Page 32.

EIB ESS 3, page 32: para 56: "56. Recognising that there are limits to the impacts that can be offset, EIB will not finance projects expected to have impacts that would compromise the viability of critical habitat or its associated features (at the scale of the area of influence or greater) regardless of any proposed offset unless or until an offset that can be shown to be effective has been provided. In other cases, uncertainty and time-delays could make offsets unacceptable."



# INTERAMERICAN DEVELOPMENT BANK:

## Relevant Policies and Documents

Relevant documents include the most recent version of the Environmental and Social Policy Framework (ESPF), which replaces the Environment and Safeguards Compliance Policy (OP-703): September 2020. https://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=EZSHARE-2131049523-16

Environmental and social performance standard 6, on Biodiversity Conservation and Sustainable Management of Living Natural Resources, from page 77.

Most recent version of the Technical Note providing 'Guidance for assessing and managing biodiversity impacts and risks in Inter-American Development Bank supported operations (IDB Technical Note 932): November 2015. https://publications.iadb.org/publications/english/document/Guidance-for-Assessing-and-Managing-Biodiversity-Impacts-and-Risks-in-Inter-American-Development-Bank-Supported-Operations.pdf

See also https://www.iadb.org/en/mpas for documentation of the 2020 review of the IDB's environmental policy framework.

## Relevant Policy Language

IDB, ESPF, ES Performance Standard 6, para 10 (pg. 78): "10. For the protection and conservation of biodiversity, the mitigation hierarchy includes biodiversity offsets, which may be considered only after appropriate avoidance, minimization, and restoration measures have been applied. A biodiversity offset should be designed and implemented to achieve measurable conservation outcomes that can reasonably be expected to result in no net loss and preferably a net gain of bio-

diversity. **Biodiversity offsets are not an acceptable mitigation measure in instances of critical habitat**. The design of a biodiversity offset must adhere to the "like-for-like or better" principle and must be carried out in alignment with best available information and current practices. When a Borrower is considering the development of an offset as part of the mitigation strategy, external experts with knowledge in offset design and implementation must be involved." [bold added]

**Definition of "critical habitat" (para 16, page 80, ESPF, ES Performance Standard 6):**

**"16. Critical habitats are areas with high biodiversity value, including (i) habitat of significant importance of critically endangered, endangered, vulnerable or near threatened species; (ii) habitat of significant importance to endemic and/or restricted-range species; (iii) habitat supporting globally significant concentrations of migratory species and/or congregatory species; (iv) highly threatened and/or unique ecosystems; (v) areas associated with key evolutionary processes; and/or (vi) legally protected areas or internationally recognized areas of high biodiversity value."**

# U.S. INTERNATIONAL DEVELOPMENT FINANCE CORPORATION:

## Relevant Policies and Documents

Relevant documents include the most recent version of the U.S. International Development Finance Corporation's Environmental and Social Policy and Procedures (ESPP): July 2020. https://www.dfc.gov/sites/default/files/media/documents/DFC_ESPP_07312020-final_1.pdf

DFIC's guidance documents refer to IFC the Performance Standards

## Relevant Policy Language

APPENDIX B – Categorical Prohibitions (page 37 ESPP):

"1. Conversion or degradation of Critical Forest Areas[1] or forest-related Critical Natural Habitats.[2]"

Definitions:

"1 A type of natural forest that qualifies as Critical Natural Habitat. Critical Forest Areas include primary Forests and old growth Forests that may serve as critical carbon sinks.

2 (1) Existing internationally recognized protected areas, areas initially recognized as protected by traditional local communities (e.g., sacred groves), and sites that maintain conditions vital to the viability of protected areas (as determined by the environmental assessment procedure); and (2) Sites identified on supplementary lists by authoritative sources identified by OPIC. Such sites may include areas recognized by traditional local communities (e.g., sacred groves), areas with known high suitability for biodiversity conservation and sites that are critical for vulnerable, migratory or endangered species. Listings are based on systematic evaluations of such factors as species richness, the degree of endemism, rarity, and vulnerability of component species, representativeness and the integrity of ecosystem processes."



# INTERNATIONAL FINANCE CORPORATION (IFC):

## Relevant Policies and Documents

Most recent version of the International Finance Corporation's Performance Standard 6: June 2012. https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards/ps6

Most recent version of the Guidance Note: International Finance Corporation International Finance Corporation's updated Guidance Note 6: June 2012, updated 2019. https://www.ifc.org/wps/wcm/connect/5e0f3c0c-0aa4-4290-a0f8-4490b61de245/GN6_English_June-27-2019.pdf?MOD=AJPERES&CVID=mKqG85z

IFC Performance Standard 6 para 10: https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards/ps6

## Relevant Policy Language

The IFC Performance Standard defines "critical" habitats as "areas with high biodiversity value, including (i) habitat of significant importance to Critically Endangered and/or Endangered species; (ii) habitat of significant importance to endemic and/or restricted-range species; (iii) habitat supporting globally significant concentrations of migratory species and/or congre-

gatory species; (iv) highly threatened and/or unique ecosystems; and/or (v) areas associated with key evolutionary processes."

Per the IFC Guidance Note: "10. For the protection and conservation of biodiversity, the mitigation hierarchy includes biodiversity offsets, which may be considered only after appropriate avoidance, minimization, and restoration measures have been applied.[.] A biodiversity offset should be designed and implemented to achieve measurable conservation outcomes[.] that can reasonably be expected to result in no net loss and preferably a net gain of biodiversity; however, a net gain is required in critical habitats. The design of a biodiversity offset must adhere to the "like-for-like or better" principle[.] and must be carried out in alignment with best available information and current practices. When a client is considering the development of an offset as part of the mitigation strategy, external experts with knowledge in offset design and implementation must be involved."

# WORLD BANK:

## Relevant Policies and Documents

Relevant policies and documents include the most recent version of the Environmental and Social Framework (ESF) containing 10 Environmental and Social Standards (ESS) which outline requirements on borrowers: 2017 (applied since October 2018). http://documents.worldbank.org/curated/en/383011492423734099/pdf/114278-WP-REVISED-PUBLIC-Environmental-and-Social-Framework.pdf

ESS 6, Biodiversity Conservation and Sustainable Management of Living Natural Resources (page 67): https://thedocs.worldbank.org/en/doc/837721522762050108-0290022018/original/ESF-Framework.pdf#page=81&zoom=80

Most recent version of the Guidance Note for Borrowers: June 2018. https://documents1.worldbank.org/curated/en/924371530217086973/ESF-Guidance-Note-6-Biodiversity-Conservation-English.pdf

## Relevant Policy Language

ESS6, paragraphs 15-16 & 18 (page 69): "15. For the protection and conservation of habitats and the biodiversity they support, the mitigation hierarchy includes biodiversity offsets. Offsets will be considered as a last resort, only if significant residual adverse impacts remain after all technically and financially feasible avoidance, minimization, and restoration measures have been considered.

16. A biodiversity offset will be designed and implemented to achieve measurable, additional, and long-term conservation outcomes that can reasonably be expected to result in no net loss and preferably a net gain of biodiversity. In the case of an offset used as mitigation for residual adverse impacts on any area of critical habitat, a net gain is required. The design of a biodiversity offset will adhere to the "like-for-like or better" principle and will be carried out in alignment with GIIP."

[…]

18. Certain residual adverse impacts cannot be offset, particularly if the affected area is unique and irreplaceable from a biodiversity standpoint. In such cases, the Borrower will not undertake the project unless it is redesigned to avoid the need for such offset, and to meet the requirements of this ESS."

# ANNEX 2
# 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



*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 Banks and Biodiversity No Go Policy also aligns with banks and financial institutions' current practice of following institutional Exclusion Lists for sensitive industries or areas, as well as global goals of preventing further biodiversity loss. Projects that do not fall within Exclusion Lists should still be subject to rigorous environmental and social due diligence, assessment, screening, planning, and mitigation policies and procedures.*

For more information, visit: www.banksandbiodiversity.org

# ENDNOTES

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