Protecting Biodiversity From Harmful Financing:

No Go Areas For The International Banking Sector

Briefing Paper 01

Internationally recognized areas

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Friends of the Earth United States

Contributing authors and reviewers

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ABOUT FRIENDS OF THE EARTH US

Friends of the Earth United States, 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. We have provided crucial leadership in campaigns resulting in landmark environmental laws, precedent-setting legal victories and groundbreaking reforms of domestic and international regulatory, corporate and financial institution policies. Visit www.foe.org to learn more. Any errors or omissions in this report are the responsibility of Friends of the Earth U.S.

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Cover image caption: Komodo National Park, a UNESCO World Heritage Site and Man Biosphere Reserve, is being threatened by mega-tourism development, which is taking place directly in the habitats of the Komodo Dragon, an endangered giant lizard.

About the Banks and Biodiversity Briefing Paper Series

The Banks and Biodiversity Initiative advocates that banks and financiers strengthen their biodiversity policies and practices. In order to halt and reverse biodiversity loss, the Initiative calls on banks and financiers to adopt eight proposed No Go areas as an important step towards improving their biodiversity policies and practices. This briefing paper series aims to explain the importance of why banks and financiers must exclude harmful direct and indirect financing to industrial, unsustainable, and extractive activities which may negatively impact these critical areas. **This briefing paper discusses No Go area 1 on internationally recognized areas, which is Paper 01 of the series.**

Proposed Banks and Biodiversity No Go Areas[I]:

In order to safeguard the rights of Indigenous and local communities (IPLCs) 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 threatened 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 (FPIC) 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.

I Learn more at:https://banksandbiodiversity.org/

Internationally recognized areas

Briefing Paper 01

Introduction

Internationally recognized areas represent some of the most iconic and treasured places on the planet. These include World Heritage sites, IUCN category sites, UNESCO Biosphere Reserves, and many 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, unsustainable activities. For instance, World Heritage sites exemplify the most outstanding cultural and natural treasures on Earth, and yet they remain under threat even despite international recognition and prestige. Iron ore mining in Guinea's Mount Nimba1, a hydroelectric dam in Tanzania's Selous Game Reserve[2], and proposed oil and gas development in Bostwana's Okvango Delta[3] are all ongoing projects which may lead to negative direct or indirect impacts on World Heritage sites.

As upstream actors, banks and financiers can play a critical role in ensuring that these iconic places stay protected by withholding harmful direct and indirect finance to activities which may cause negative impacts. 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 for many internationally recognized sites. For instance, only one financial institution, the US International Development Finance Corporation, has developed strict protections for prohibiting harmful financing in World Heritage and IUCN category sites. In contrast, while some development and multilateral financiers have developed limited protections, internationally recognized areas remain exposed to harmful activities via policy loop holes or offset mechanisms[4]. At the same time, it is important that all internationally recognized areas, not only the most well-known or prominent ones, should be protected from harmful, unsustainable activities.

The Banks and Biodiversity Initiative takes an inclusive approach in protecting internationally recognized areas. It considers internationally recognized areas to be those acknowledged under international treaties, conventions, or agreements, including protected areas[II]. Even if such areas lack formal legal protections locally, banks should still prohibit harmful financing to these areas in order to align with international norms and agreements.

II According to the Convention on Biological Diversity, protected areas are defined as "a geographically defined area, which is designated or regulated and managed to achieve specific conservation objectives", per Articles 2 and 8. The conservation of protected areas represent a "central element" of work in the Convention on Biological Diversity. Source: "Protected Area Provisions in the Convention on Biological Diversity," CBD, 1992, https://www.cbd.int/protected/pacbd/.

Given the range of classifications for various internationally recognized areas, we note that there is potential overlap among the Banks and Biodiversity Initiative's No Go Area 1 and others. However, for practicality purposes, we consider areas referenced in the following international conventions or classifications as part of No Go Area 1 in this paper. For other overlapping ones, such as Key Biodiversity Areas, High Conservation Areas, among others, they are discussed in other respective No Go areas[III].

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

This paper identifies relevant international conventions and agreements which banks and financiers should be aware of when anticipating and understanding potentially negative impacts on internationally recognized areas. These iconic sites should be safeguarded and treasured, and so banks and financiers should prohibit harmful direct and indirect financing to activities impacting these sites. In making the case, this paper will explore lessons learned from examples of unsustainable activities and projects in or near internationally recognized sites. These include the challenges of over-relying on mitigation measures, the need to consider the indirect, cumulative impacts, as well as the need for banks to strengthen and incentivize the full protection of recognized sites.

III Key Biodiversity Areas are further discussed in the third paper of this series on threatened species. High Conservation Areas are discussed in the fourth paper of this series on primary and vulnerable secondary forests.

Conventions and Agreements Regarding Internationally Recognized and Protected Areas

There are a wide range of international agreements and conventions recognizing the uniqueness of iconic areas and ecosystems. Given the spectrum of internationally recognized areas, **it is important for banks and financiers to be aware of relevant areas recognized by international soft law, as well as understand how the potential impacts of financed activities may impact these areas even if they are not located in those areas proper.** The following are intended to highlight key examples and are not meant to be an exhaustive list.

The **Convention on Biological Diversity (CBD)**[5] is a multilateral treaty in which nearly all countries are a member, a notable exception being the United States. Adopted in 1992, the CBD has three objectives: "the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources"[6]. Protected areas are a key element of the first objective. According to the CBD's definition, "protected area" denotes a geographically defined area which is designated or regulated and managed to achieve specific conservation objectives[7].

The CBD's program of work on protected areas[8], the 2010 strategic plan[9] and the upcoming post 2020 Global Biodiversity Framework (GBF)[10] all reference protected areas, and require that they are effectively and equitably managed. This means that they should meet the conservation objectives for which they were put in place. According to these CBD documents, any activities that threaten the achievement of protected areas' conservation objectives need to be avoided and should not be supported. This includes bank financing tied to harmful biodiversity impacts.

Banks and financiers need to be aware of how potential impacts of financed activities may impact areas recognized by international soft law even if they are not located in those areas proper.

The UNESCO World Heritage Committee is tasked with monitoring the health and integrity of World Heritage sites around the world, per the **World Heritage Convention**. In the past, the committee has voiced concern regarding harmful bank financed projects located in or near World Heritage sites, including coal plants in the Sundarbans, fossil fuel project impacts on the Great Barrier Reef, a coal plant outside Old Lamu, Kenya, among many others. **In a 2013 decision, the World Heritage Committee urged all State Parties of the World Heritage Convention and leading industry stakeholders to respect the "No-go" commitment of the International Council on Mining and Metals. This decision was in response to threats from extractive industries' on World Heritage Sites**, in which the World Heritage Committee requested "the World Heritage Centre and the Advisory Bodies to continue a dialogue with the extractive industries on extending the commitment made by Shell and the International Council on Mining and Metals (ICMM) to not explore or develop oil, gas and mineral resources within World Heritage properties to other companies and parts of the industry"[11].

In the **Ramsar Convention**, signed in 1971, wetland sites are included on the List of Wetlands of International Importance. The convention promotes the conservation of these wetlands, and to the highest extent possible, the wise use of wetlands in country territories. According to the convention, each Contracting Party shall promote the conservation of wetlands and waterfowl by establishing nature reserves on wetlands, and provide adequate resources for their management[12]. Ramsar sites are particularly vulnerable to certain sectors with potentially negative downstream impacts, such as hydropower, water infrastructure, mining, among others.

Under the **Bonn Convention, also known as the Convention on Migratory species** (CMS)[13], is an inter-governmental agreement which aims to protect migratory animals and their habitats. It lays the "legal foundation for internationally coordinated conservation measures throughout a migratory range"[14]. This includes protecting certain areas which are important for these migratory species from adverse impacts. The Bonn Convention and its related decisions can be particularly relevant for projects or activities which may potentially impact migratory patterns of species.

The **United Nations Educational, Scientific and Cultural Organization (UNESCO), through its Man and Biosphere (MAB) Programme, created the classification of Biosphere Reserves**[15]. They are "learning places for sustainable development" and consist of three zones: core, buffer, and transition areas[16]. The core zone compromises a strictly protected zone that aims to conserve landscapes, ecosystems, species and genetic variation. In other words, they should be considered a no-go zone to environmentally or socially unsustainable economic activities. In the buffer and transition areas, human activities are permitted if they are compatible with sound ecological practices that can reinforce scientific research, monitoring, training, and education. They are spaces meant to foster sustainable development by encouraging conflict prevention in biodiversity management. As such, inherently harmful sectors, such as industrial mining, agricultural production, fossil fuel extraction, fossil fuel shipment, among others, are antithetical to the classification and concept of Biosphere Reserves.

The **UN Climate Convention** (UNFCCC) does not designate protected areas as such. However, it acknowledges the role of intact soils and ecosystems for retaining carbon, through Land Use, Land-Use Change, and Forestry (LULUCF)[17]. These land-based activities contribute to about 23% of anthropogenic greenhouse gas emissions. Retaining carbon-rich ecosystems such as wetlands, peat bogs, and old-growth forests – such as through protected areas – has a huge benefit for both biodiversity and climate. On the other hand, the conversion and destruction of carbon rich ecosystems for unsustainable industrial or economic purposes (such as planting monoculture plantations, mining, fossil fuel extraction, among others) accelerate habitat loss, worsen climate change, and destroy biodiversity. It is increasingly recognized that climate change and biodiversity loss are deeply interdependent. A recent joint study by IPBES and IPCC[18] points out the need to consider climate change and biodiversity as mutually reinforcing global challenges, stating in that "satisfactorily resolving either issue requires consideration of the other"[19].

Led by a partnership of 13 conservation groups, the **Key Biodiversity Area Programme** aims to identify, map and conserve "a comprehensive network of sites that contribute significantly to the global persistence of biodiversity and which are correctly documented, effectively managed, sufficiently resourced and adequately safeguarded"[20]. The process of identifying Key Biodiversity Areas (KBAs) involves applying scientific criteria described in the Global Standard for the Identification of KBAs, published in 2016[21]. Although the KBA Programme is not part of United Nations fora, KBAs may overlap with other designations under UN bodies, such as World Heritage Sites and Ramsar sites. KBAs may also overlap with other internationally or locally defined protected areas, and other effective area-based conservation measures (OECMs). For practical purposes, KBAs are described in further detail in Briefing Paper 3 on Threatened Species as they represent globally significant sites for biodiversity.

The Convention on Environmental Impact Assessment in a Transboundary Context, also known as the Espoo Convention, entered into force in 1997 and established the obligation of Parties to "take all appropriate and effective measures to prevent, reduce and control significant adverse transboundary environmental impact"[22]. As part of this, the Convention requires that an environmental impact assessment (EIA) of potential transboundary impacts is completed before decisions are made regarding an activity's approval. Further, for projects that are "likely to have a significant adverse environmental impact across boundaries", States must notify and consult all other potentially impacted States[23]. States must also provide an opportunity for public participation in environmental impact assessment processes across all impacted States[24]. For example, in the case of an undersea methane pipeline between Croatia and Italy, the EIA was completed at a very early stage and made publicly available in both Croatian and Italian[25]. A public hearing or period to provide written comments was then offered in both countries regarding the project's transboundary impacts[26].

As recognized by the Partnership for the East Asian-Australasian Flyway, "a flyway wide approach to the conservation of migratory waterbirds is the most effective way to enhance their conservation status."

Conventions and Agreements on Regionally Recognized and Protected Areas

In addition to international conventions on protected areas, there are a range of regional agreements and conventions which recognize the uniqueness of distinctive areas and ecosystems. In protecting these areas, banks and financiers should ensure that appropriate assessments to identify any potential negative impacts, as well as any mitigation or project alternative analysis, is conducted prior to the approval of a bank financed activity or project.

The following are intended to highlight key examples, but are not meant to be an exhaustive list.

The **Partnership for the East Asian – Australasian Flyway is an inter-governmental agreement fostering regional cooperation for the conservation of migratory waterbirds across the Flyway. The East Asian – Australian Flyway is one of the world's nine major migratory waterbird flyways**[27], [28]. Established in 2002, the partnership involves a range of stakeholders; it includes various levels of governments, development and UN agencies, non-governmental organizations, and local groups and site managers. Along the Flyway, there are over 900 sites that are internationally recognized for their importance to over 50 million migratory waterbirds, including cranes, ducks, geese, swans, and seabirds[29]. The partnership recognizes that "a flyway wide approach to the conservation of migratory waterbirds is the most effective way to enhance their conservation status"[30].

The **Bern Convention** covers all of Europe and is the relevant regional treaty for the Conservation of Wildlife and Natural Habitats. Under the Bern Convention, the **Emerald Network** was created as an ecological network made up of Areas of Special Conservation Interest for sites located outside EU member states. Its implementation was launched in 1989 by the Council of Europe. Subsequently, the European Union produced the Habitats Directive in 1992, which set up the **Natura 2000** network for EU member states.

Natura 2000 sites now cover about 18% of the terrestrial area of EU member states, whilst the Emerald sites protect species and habitats in 16 other European countries which are not members of the EU. These two complementary and interconnected networks are a useful example of cohesive, regional approaches to nature conservation. In being based on the Bern Convention, banks and international financial institutions should effectively treat them as no-go areas for harmful activities and projects.

The most important features of the Natura 2000 and the Emerald networks include:

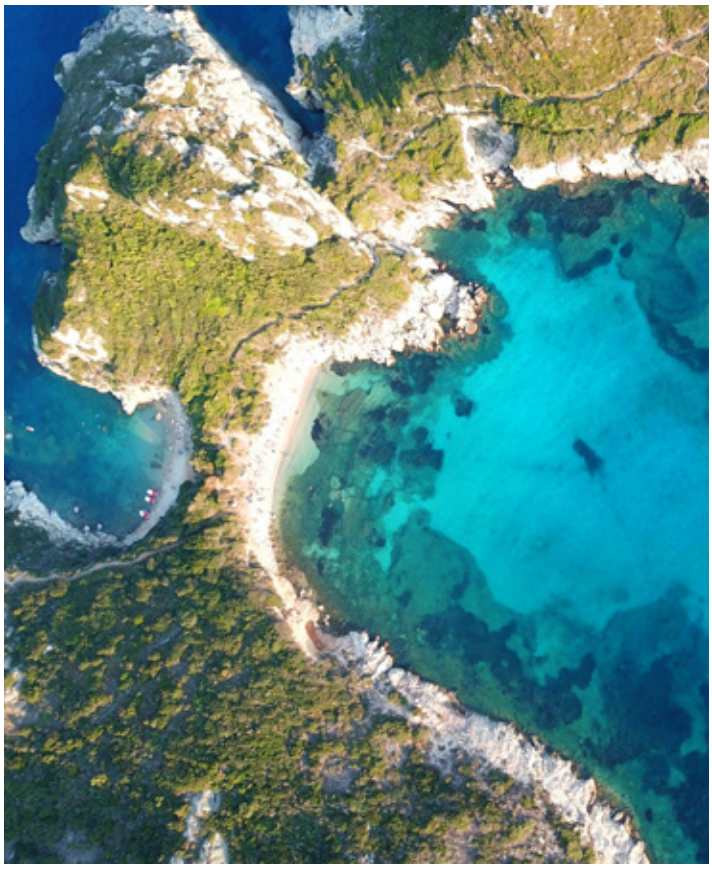
1. The specific lists of natural habitats and species for which sufficient Natura 2000/Emerald sites should be included in the respective network.
2. The obligation that these natural habitats and species are maintained or restored to favorable conservation status.
3. The need to continuously protect the sites once they are proposed, and not only when they are formally declared.
4. The obligation to carry on an appropriate assessment for any plan or project likely to have a significant effect on the sites.
5. The obligation that "the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public".31
6. If it cannot be ruled out whether proposed activities will adversely affect the integrity of sites, projects or activities are prohibited to go ahead, unless three conditions are met simultaneously:
    - There is no other satisfactory solution
    - The exception will not be detrimental to the survival of the population concerned
    - One of five exception provisions applies, the most important one being overriding public interest.
7. For Natura 2000 sites, even stricter derogation rules apply if priority habitats or species are concerned. In these cases, only human health or public safety reasons are acceptable for a derogation.

Based on these requirements, plans or projects located inside or outside Natura 2000 and Emerald sites are not allowed to significantly impact any of the habitats or species protected in these sites. This includes plans or projects which are either standalone activities, or those associated or in combination with others.

Projects like the Boškov Most hydropower plant in North Macedonia,[32] the Struma motorway construction through the Kresna Gorge in Bulgaria[33] and logging activities in Bialowieza Forest in Poland[34] have been stopped as they impacted Natura 2000/ Emerald sites per the Bern Convention; these decisions were upheld by the European Commission or the European Court of Justice. These cases demonstrate how Emerald and Natura 2000 sites are in practice no-go areas. In implementing protections for Natura 2000 and Emerald sites, each EU member state is responsible for proposing an effective management body, and the European Commission that is responsible for implementation.

Regional and global ecological networks can and are being further developed. As such, banks and financiers should request project promoters and national authorities to carry on appropriate assessments that evaluate the impacts on all protected species and habitats.

The Inadequacy of Mitigation Measures in Addressing the Risks of Harmful Activities in Internationally Recognized Areas



The Great Barrier Reef, a UNESCO World Heritage Site, has been threatened by fossil fuel expansion and climate change.

In many bank environmental policies, the use of conditionalities and mitigation measures may enable harmful projects and activities to proceed in or nearby internationally recognized and protected areas. An over-reliance on mitigation measures to resolve adverse environmental, biodiversity, and social impacts can be problematic, however, as they may be insufficient and function more like proverbial fig leaves for fundamentally, ill-conceived projects. Furthermore, a lack of monitoring and enforcement may render even well-designed mitigation measures ineffective.

Over-relying on mitigation measures may in turn be indicative of a failure to identify credible project alternatives. Although project alternatives may be included in a project's feasibility study or environmental impact assessment, project alternatives may not be thoroughly explored; this is because disregarding project alternatives is a common practice.

For instance, according to an analysis conducted by the Asian Development Bank, "borrowers/clients may only conduct superficial consideration of alternatives if considerable resources have already been dedicated to feasibility and design studies", meaning that there are often conflicts of interest which may preclude or inhibit a thorough analysis of alternatives[35]. Without analysis on credible project alternatives, projects with significant environmental, biodiversity, and social flaws may be obfuscated.

As a result, harmful activities may be rationalized, justified, and approved based on the use of conditionalities and mitigation measures, even in areas which are internationally recognized for unique or superlative significance. Banks and financiers should thus consider whether the use of conditionalities or mitigation measures will actually lead to projects with positive outcomes, or if those mechanisms are used to validate and legitimize a proposed activity which should not move forward to begin with.

One example is the East African Crude Oil Pipeline (EACOP), which includes plans to develop, extract, and transport oil from Uganda's Tilenga and Kingfisher oil fields via a 1440km transboundary pipeline. Traversing across Uganda and Tanzania, the pipeline would potentially cause a host of negative environmental, social, climate, and biodiversity impacts. EACOP and its related oil developments would threaten nearly 2,000 square kilometers of protected wildlife habitats, including Uganda's oldest and largest nature reserve, Murchison Falls National Park[36]. The pipeline would also likely impact Uganda's Bugoma and Budongo Forest Reserves, home to large groups of Eastern Chimpanzees, and Taala Forest Reserve[37]. Destruction to these Reserves would compound the country's current rate of forest loss, which shows that Uganda's primary forests decreased by 14% over the last 20 years[38]. In Tanzania, the pipeline would run through the Biharamulo Game Reserve and Wembere Steppe Key Biodiversity Area, and would potentially threaten two important Ecologically or Biologically Significant Marine Areas (EBSAs) due to massive amounts of oil that would be transferred offshore at the Tanga Port[39]. The project would also directly impact several Ramsar Wetlands, including the Murchison Falls-Albert Delta Wetland System, where oil extraction would take place. Additional impacted Ramsar sites include Lake Nabugabo System, the Nabajjuzi System, and the Sango Bay-Musambwa Island[40]. The human impact would be devasting as well, considering roughly one third of the pipeline is planned to be built in the Lake Victoria basin, which provides water and livelihoods for up to 40 million people[41].

However, there is no analysis on alternatives to developing other non-fossil fuel based energy sources in the Kingfisher or Tilenga ESIA, such as solar or wind. For instance, the Kingfisher ESIA states: "The EISA has considered alternatives at two levels ... substantive alternatives which could involve major changes to the project, and incremental alternatives, which are those that are more limited modifications"[42]. In other words, the ESIA only considered "major" or "minor" mitigation measures to lessen negative impacts of the project; it did not interrogate the concept of developing oil in considering the benefits of exploring other energy alternatives.

The ESIA for the Tilenga Oil Field on the other hand is more direct in its disregard for any project alternatives: "The opportunity to enhance the national income of Uganda as a whole is considered in the national interest and the option of not developing the Project was therefore discounted"[43]. Furthermore, despite the tremendous scale and scope of the oil pipeline and facilities, the pipeline's ESIA report only considered alternatives for the pipeline route, construction and facilities siting, technology (for developing oil facilities), and construction techniques[44], and did not note any concerns about the dangers of expanding fossil fuel infrastructure in a climate crisis. Amongst these interrelated oil projects, the ESIAs for key oil extraction and pipeline components all discounted project alternatives. Given the climate crisis, as well as Tanzania and Uganda's high solar potential[45], the lack of analysis on non-fossil fuel based alternatives is a major oversight. It also suggests that **banks and financiers need to enforce stronger requirements for the consideration of project alternatives, especially for proposed fossil fuel related activities.**

Many of EACOP's negative climate, environmental, and social impacts are anticipated to be irreversible[46]. However, project developers have proposed measures that may only partially mitigate negative impacts. Given the scale and intensity of the project, many of the proposed mitigation measures seem inadequate, which indicate a tokenistic, band-aid approach to addressing adverse impacts. For instance, project developer Total Energies has merely pledged to limit well locations, prohibit flaring, remove waste, limit traffic, among others[47].

However, these measures are unable to fully resolve the project's immense, negative climate and biodiversity impacts. EACOP aims to produce six billion barrels of oil, which would generate over 34 million tons of carbon emissions per year[48]. With such figures, it is unrealistic to anticipate that such modest mitigation measures can resolve the climate impacts of such a large project. Although mitigation measures may reduce impacts, they cannot absolve the project's climate impacts. The most recent IPCC report has warned that in order to meet 1.5 degree Celsius pathway, moving away from fossil fuels is required in order to ensure the "immediate GHG emission reductions in all sectors", as failing to do so will "lock in" greenhouse gas emissions[49]. Constructing EACOP and its associated facilities would certainly contribute to "locking in" greenhouse gas emissions caused by fossil fuels, and deepen climate crisis for the anticipated 25 year lifespan of the project[50].

Even more troubling, according to an independent study by the Netherlands Commission for Environmental Assessment, which was commissioned by the Ugandan government, the ESIA for the pipeline do not even contain comprehensive and accurate greenhouse gas estimates which prevents an accurate assessment of what mitigation measures can even be done.

The study found that:

> A minimum requirement for any project and ESIA, is a careful and detailed inventory of all CO_2 emissions by the project, that includes all parts of the project and the overall, cumulative emissions of the development. ...Without identifying nor quantifying the sources of greenhouse gases, the ESIA states that the main sources would be the bulk heating (possibly required later in the project) and that all other sources are negligible. Emission figures are presented for this one aspect only, claimed to be 11-18 kton COR2R/year, without the underlying calculations or assumptions. This figure cannot be checked, but seems very low[51].

The lack of credible greenhouse gas accounting and calculations cast doubt on the efficacy of any proposed climate mitigation measures. This concern has been echoed in other analysis. For instance, according to research by the African Institute for Energy and Governance and others, "The oil exported by the EACOP is anticipated to produce roughly 34 million metric tons of additional carbon emissions per year. This figure does not account for the full amount of oil that will be extracted; for example, the amount processed by the proposed refinery in Uganda has not been calculated. The estimate is significantly larger than the current combined emissions of Uganda and Tanzania"[52].

The use of conditionalities and mitigation measures may enable harmful projects and activities to proceed in or nearby internationally recognized and protected areas, such as the East African Crude Oil Pipeline. Although the pipeline's ESIA proposed mitigation measures for endangered chimpanzees, for instance, these measures are vague with no metrics or proof of concept that they could effectively address let alone resolve negative impacts on chimpanzees.

In terms of biodiversity impacts, although the pipeline's ESIA has suggested some mitigation measures for chimpanzees, the Netherlands Commission for Environmental Assessment (NCEA) study noted that these mitigation measures are generic and unclear; for instance, proposed measures included monitoring chimpanzee movement a year before pipeline construction and partnering with forest conservation initiatives. These mitigation measures are vague with no metrics or proof of concept that such measures would effectively address let alone resolve negative impacts on chimpanzees; for instance, the NCEA study plainly advised developers to specify "what the concrete support will be in terms of money or services provided"[53]. Furthermore, both the NCEA study and the pipeline's ESIA recognize that "applying generic mitigation and preparing a number of plans (biodiversity plan, construction plan, etc.) will result in 'no impact'"[54]. In other words, the proposed mitigation and biodiversity are so generic and vague that they will likely be ineffective and unsuccessful.

These climate and biodiversity examples reflect the reality that it may simply not be possible to "mitigate away" certain negative impacts. As such, it is important for banks to consider how mitigation measures are actually being used. In other words, is there proof of concept in proposed mitigation measures, or are they being used as a proverbial fig leaf for ill-conceived projects?

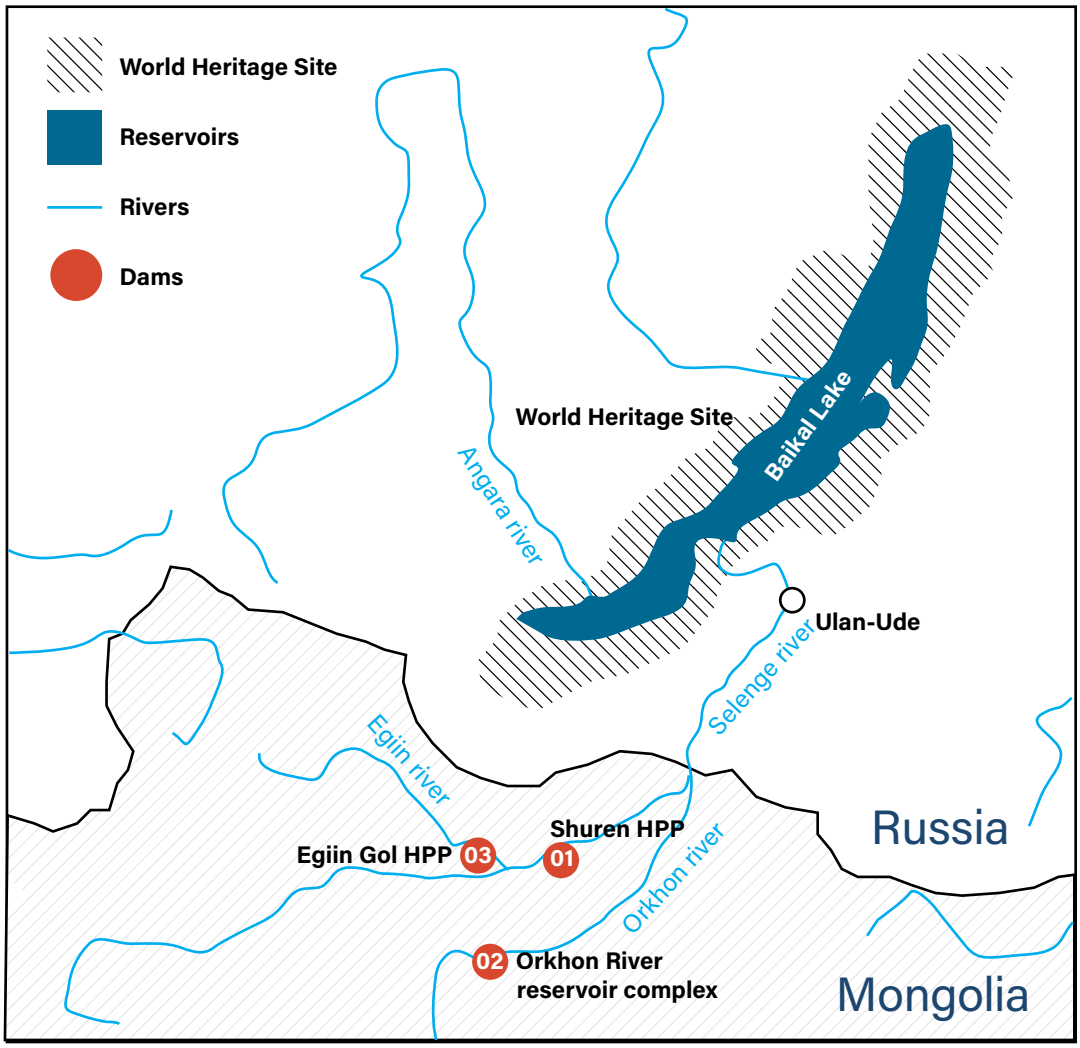
Notably, over 20 banks have already committed to not finance EACOP due to its negative environmental, social, climate, biodiversity, and protected area impacts55. Given the current climate and biodiversity crisis, activities and sectors which are known as well-established drivers of climate change and biodiversity loss, such as fossil fuels, should be categorically avoided by the banking sector.

Historically Diverse Approaches to Recognizing Conservation Areas

A lack of internationally recognized areas in a country or region should not be perceived as an indicator of a lack of conservation or biodiversity values. This is especially relevant in countries where the practice of recognizing or protecting areas based on conservation values may be newer or simply not as prevalent. Although protecting areas based on high biodiversity or conservation values is well established in the European and North American context, for example, this is not necessarily the case in other countries with different historical contexts and approaches to conservation. For instance, although Turkey only has a few number of "officially" protected areas, it is still rich in biodiversity and conservation values[56]. In addition to precluding financing to activities which impact internationally recognized areas, this is why banks should prohibit harmful financing to areas identified by scientific based classification schemes, such as Key Biodiversity Areas, as they help identify and supplement important areas for conservation. This issue is further discussed in the third paper of this series on threatened and endemic species.

Considering the Cumulative, Indirect Impacts of Activities Located Outside Internationally Recognized Areas

Although proposed bank supported activities or projects may occur outside the boundaries of an internationally recognized area, it remains important for banks and financiers to require clients to assess and consider the cumulative and indirect impacts an activity may have, including on nearby internationally recognized areas or other protected areas. Unfortunately, robust, credible assessments are under-utilized or undermined by vested interests. Consequently, banks and financiers which do not require clients to conduct thorough, valid assessments may become exposed to foreseeable environmental, social, biodiversity, or reputational risks, such as problems resulting from the cumulative and indirect impacts of proposed activities near high profile sites.



In 2011, the Mongolian government proposed the Shuren Dam, Orkhon Water Diversion project, and the Egiin Dam, all to be located in the Selenge River basin, which feeds directly into Lake Baikal, a World Heritage and Ramsar site.

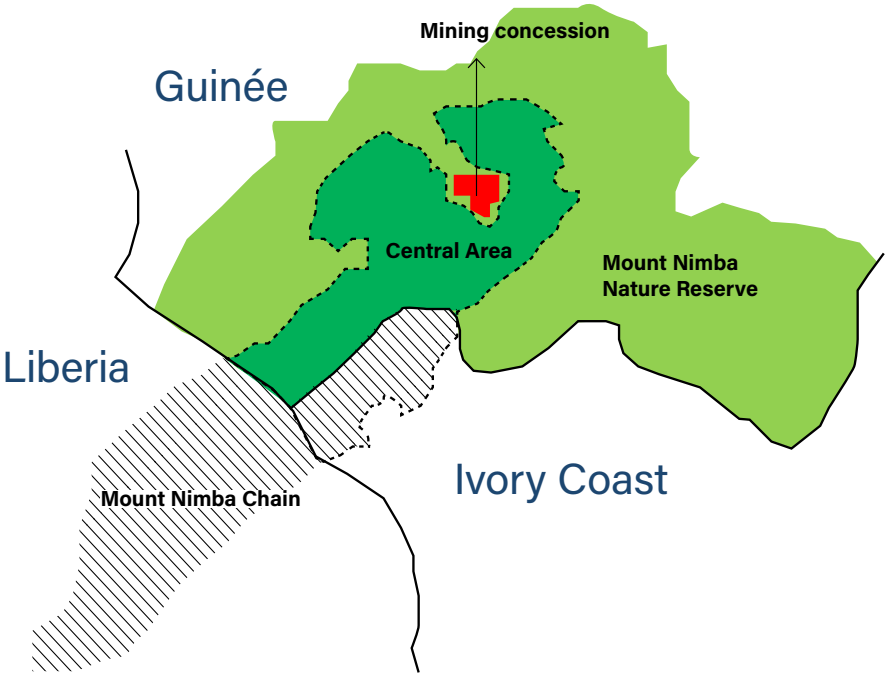
One example of this dynamic is a cluster of dam projects in Mongolia's Selenge River basin. These dam projects caused international uproar due to their potential impacts on Lake Baikal, a World Heritage and Ramsar site located in Russia, which lies within the Selenge River Basin and Delta. In 2011, the 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, an enormous World Heritage Site in neighboring Russia. The WB provided technical assistance support to the Shuren and Orkhon Dams under its Mining Infrastructure Investment Support (MINIS) project[57], and China Export Import Bank (China Exim) was to finance the Egiin Gol Dam[58].

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. These concerns were echoed by the World Heritage Committee[59]. 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"[60]. In 2016, residents of the Russian town Kabansk in Selenge Delta organized public hearings, and even 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 Dam[61].

As a result of these concerns, the Shuren Hydrodam and Orkhon Water project were cancelled, and the Egiin Gol Dam was suspended[62]. The controversy surrounding these dams emphasizes the importance for banks to require robust assessments for cumulative, indirect, and transboundary impacts of proposed activities in order to identify these risks early on, particularly since none of the projects' EIAs referenced any potential impacts on the World Heritage or Ramsar sites. Even more importantly, these projects also illustrate how

banks may become tied to problematic projects through not only direct project financing, but also through the provision of technical assistance funds. Projects such as those in Mongolia illustrate the dangers of failing to consider a project's cumulative, indirect, and transboundary impacts.

In avoiding activities with adverse impacts, it is also important for banks to consider not only the locations and boundaries of internationally recognized areas, but any politically motivated changes to those boundaries. The Mount Nimba Iron Ore Mine in Guinea provides one such example.



In 1993, the Guinean government redrew the boundaries of the Mount Nimba Nature Reserve, a World Heritage Site, to carve out a mining enclave.

Conservation efforts for the endangered Western Chimpanzee may be jeopardized due to iron ore mining activities near the Mount Nimba Nature Reserve and World Heritage Site. The mining project is being supported by the World Bank Group's Multilateral Investment Guarantee Agency (MIGA), which is providing HPX with political risk guarantees and technical assistance funds.

The Mount Nimba Nature Reserve is a World Heritage site located in Guinea. Covered with dense forest and meadows with rich endemic flora and fauna, the area is also known for its large iron ore reserves. However, for decades, Mount Nimba Nature Reserve has been listed on the World Heritage Committee's In Danger[63] list due to pressure from the mining industry[64]. This pressure came to a head in 1993 when the Guinean government redrew the boundaries of the World Heritage Site to carve out a mining enclave within the site proper[65]. This paved way for current day mining activities, such as the Nimba Iron Ore Project[66]. The project is supported by the World Bank Group's Multilateral Investment Guarantee Agency (MIGA) which is providing HPX with political risk guarantees and technical assistance funds.

Potential impacts include encroachment or damage to the area's critical habitats, which are home to various endangered and endemic species[67]; water contamination from stormwater run-off or accidental leaks[68]; and public health impacts resulting from increased human access to once remote areas, such as the 2014 Ebola outbreak less than 300 km from the Nimba Nature Reserve[69].

While the project does not technically occur within the boundaries of Mount Nimba World Heritage Site, it is located in what MIGA describes as a "carved-out…key-hole shaped area" that is "surrounded by multiple, overlapping legally protected and internationally recognized areas"[70]. Notably, MIGA has pledged to implement the International Finance Corporation Performance Standards (IFC PS), in which its Guidance Note clearly prohibits investments located in World Heritage sites. However, **because the mining activity technically takes place in a "carved out" area of the World Heritage site, it begs the question of whether MIGA is actually adhering to the spirit of the Guidance Note in supporting an industry which has been documented as a longstanding threat to Mount Nimba.**

Man Biosphere Reserves: Internationally Recognized Areas with Weak Protections

Many internationally recognized areas are determined by conventions or agreements signed by state parties. However, the diversity of sites with varied governance structures, management resources, in addition to prestige levels, often means that there is uneven or weak protection from host country governments.

For instance, World Heritage and Ramsar sites are world renowned, and projects which may negatively impact these sites often attract reputational risks and public backlash. In comparison, however, Man Biosphere Reserves' "are often given too little consideration in the design of other relevant policies"[71]. This dynamic becomes particularly evident in the lack of clear bank protections for sites with comparatively weaker protections and resources such as Man Biosphere Reserves[72]. If banks were to develop stronger protections for conservation areas like Biosphere Reserves, this could help prevent the development of harmful activities which undermine the value and integrity of these sites, particularly if host country governments are unwilling or unable to adequately resource the protection of Biosphere Reserves.

The Lower Amudarya Biosphere Reserve (LABR) in Uzbekistan demonstrates how Man Biosphere Reserves are often overlooked by banks. As a Man Biosphere Reserve, LABR is internationally recognized as one of the largest areas of natural Tugay, an endangered riparian forest ecosystem[73]. It contains habitat of several endemic botanical species, as well as the threatened Bukhara Deer[74]. The reserve is home to globally endangered saker falcon and Egyptian vulture[75], and large populations of migratory birds[76].

Although the management of internationally recognized areas rests with host country governments, banks and financiers should be responsible for ensuring their financed activities and projects do not add or actively harm or degrade the recognized value and integrity of such sites.

The Lower Amudarya Man Biosphere Reserve in Uzbekistan is home to globally endangered Egyptian vulture and large populations of migratory birds. However, the proposed 100 MW Karakalpakstan Wind Project and nearby wind projects may pose transboundary risks and negative impacts on bird migration routes.

In September 2022, the European Bank for Reconstruction and Development (EBRD) approved a loan of up to US$ 24.5 million for the construction and operation of the proposed 100 MW Karakalpakstan Wind Project, which is closely located to LABR. However, the EBRD has not recognized the close proximity of the wind project to the Biosphere Reserve, plainly stating that the "Project is not located in a proximity to any protected or sensitive areas"[77]. This oversight is additionally troubling considering that the bank approved financing prior to conducting a strategic environmental assessment and fully understanding the potential transboundary risks and impacts on birds and migratory routes. These studies are especially critical given the fact that a cluster of other wind projects are being proposed in the same region. This means that the potentially negative impacts of individual wind projects may lead to compounded, cumulative impacts. For instance, assessments should assess the cumulative impacts posed by wind projects which are underway in the nearby Navoiy[78] and Bukhara regions[79, 80]. Furthermore, **preventing significant adverse environmental transboundary impacts is required by the Espoo Convention, which the EBRD has recognized in its safeguard policies regardless of the status of ratification by host countries**[81,82].

By failing to ensure robust studies and strategic environmental assessments, there are concerns that the development of the wind sector may lead to a cascade of negative environmental impacts for broader ecosystems. According to concerns raised by Bankwatch, for example, the lack of adequate studies, particularly on cumulative impacts, has led to disastrous results in the country before: "land allocation for renewable energy projects in Uzbekistan is done by the government and is often based on the absence of minerals for mining rather than environmental and social risks. Without an environmental and social risks-based approach to land allocation for the wind projects in the country, the sector may face problems similar to the small hydro one, when the construction of many small hydropower stations in one river resulted in disruption of the entire ecosystem of the river"[83]. By failing to require appropriate strategic assessments, in addition to failing to recognize the Biosphere Reserve at all in project documents, the bank is contributing to further weakening, if not directly undermining, the protection of internationally significant areas like Biosphere Reserves.

The Quirimbas Biosphere Reserve is another example of how Man Biosphere Reserves are vulnerable to harmful bank financing, and how providing financing to extractive industries may in effect preclude financing to more sustainable options. In 2018, the Quirimbas Archipelago was added to the World Network of Biosphere Reserves for its rich marine and coastal ecosystems, mangrove forests, sea grass meadows, and coral reefs. Located in the Cabo Delgado Province in northern Mozambique, the Quirimbas Biosphere Reserve contains numerous threatened marine and terrestrial species, such as the critically endangered hawksbill sea turtle, endangered sei whale, and endangered hornbill bird[84, 85].

The Quirimbas Biosphere Reserve, which is habitat for the critically endangered hawksbill sea turtle, is under threat from bank-financed LNG development in the area.

However, massive liquefied gas (LNG) development in the area will likely have serious negative impacts, especially since some activities are located as close as only eight kilometers to the Reserve[86]. LNG development, which includes the Mozambique LNG, Coral LNG, and Rovuma LNG projects, will lead to increased dredging, waste disposal, ship and helicopter traffic to provide supplies, and the construction of subsea, offshore, and onshore infrastructure[87]. These activities will cause noise pollution and potential oil spills, which may destroy marine habitat and drive species away from the area[88].

In spite of these risks, however, a multitude of multilateral, commercial, export credit agencies, policy, and commercial banks are supporting these projects. Some financiers linked to the projeect include the World Bank[89], African Development Bank, UK Export Finance, US Export-Import Bank, Servizi Assicurativi del Commercio Estero (SACE), BNP Paribas, Crédit Agricole, Natixis,Societe General, ICBC, Bank of China[90], China Development Bank, China Export Import Bank, HSBC91 and Standard Bank[92,93] Sumitomo Mitsui Banking Corp., among many others[94].

In response to financial support for gas development in Quirimbas, there has been widespread international backlash, including legal action against the UK government for approving funding of the Mozambique LNG project through UK Export Finance[95]. In another example, over 50 African and international groups called on Chair of the Man Biosphere Program to intervene in ensuring that the proposed LNG developments do not jeopardize the unique values of Quirimbas[96].

Notably, a key objective of the Man Biosphere program is to explore sustainable development opportunities. The region's rich biodiversity and natural areas have already created a significant tourism sector[97], and so the development and financing of extractive activities in the area will mostly likely preclude the further development of more sustainable development such as tourism. **The Quirimbas example demonstrates how not only do many financiers lack policies to protect Biosphere Reserves despite their international recognition, but it also illustrates how financiers may effectively impede the full development or actualization of other more sustainable development options if financing for extractive activities are allowed.**

Internationally Recognized Areas Today and Tomorrow

Internationally recognized areas are always growing, and activities which may take place in unprotected areas today may potentially be protected in the future. Recent experiences show that harmful bank financed activities may in fact drive public attention and demands to formally protect highly biodiverse regions, even if such places are unprotected. One interesting example is the Batang Toru forest in North Sumatra.

The international condemnation of Bank of China's Batang Toru Dam project was so influential that it prompted international calls for the Batang Toru Forest, home to the Sumatran tiger and Tapanuli orangutan, to become a World Heritage Site.

The Batang Toru Forest is known as one of the last undeveloped regions in North Sumatra, Indonesia, which is world renowned for its extremely high biodiversity levels. The Batang Toru ecosystem is home to an array of threatened and endangered species, including the Sumatran tiger, pangolin, siamangs, orangutans, among others. The 2017 discovery the Tapanuli orangutan, considered to be the most critically endangered great ape in the world, attracted widespread international attention to the Batang Toru forest, and to harmful projects in the area which would potentially impact its survival.

For instance, the Batang Toru Dam, which was to be financed by Bank of China, drew worldwide condemnation in response to scientific and civil society communities' concern that the dam would likely doom the entire species to extinction[98]. This was because the dam's location would fragment the Batang Toru forest into three separate blocs, which would effectively isolate the orangutan species into unviable populations. In an effort to stop the dam, civil society groups and international conservationists repeatedly called on Bank of China to withdraw from the project[99].

Notably, the dam's serious biodiversity concerns triggered the first international protest against Bank of China, with groups in 13 countries sharing Indonesian group's calls for Bank of China to reconsider its involvement[100]. The international outcry ultimately prompted Bank of China to withdraw from the project, which marked the first time the Chinese bank positively reacted to civil society concerns. In 2019, the campaign against the dam project was so influential that it prompted international calls for Batang Toru to become a World Heritage site, in recognition of its outstanding in-situ biodiversity value.

Notably, the Batang Toru Dam project also drew attention to those which were already operational in the area. For instance, in 2013 the Asian Development Bank (ADB) and IFC approved financing for the Sarulla Geothermal Power Generation Project[101, 102]. Because construction of the plant would require the irreversible destruction of critical habitat in Batang Toru forest, the project was approved on the condition of a biodiversity offset. However, although the geothermal power plant was completed in 2018, the Biodiversity Offset Management Plan was only published two years after the plant was already operational. This example illustrates a potential risk for banks who finance activities which take place in the same area or region – **in addition to the risks caused by a proposed project, banks should consider how other projects or activities in the same area may heighten or exacerbate the anticipated environmental, social, biodiversity risks of the proposed project.** In this case, although both projects were proposed around the same time period, the serious biodiversity impacts of the Batang Toru Dam were compounded by the earlier construction of the Sarulla Geothermal plant, as it destroyed irreplaceable habitat for the Tapanuli orangutan.

These examples demonstrate the hazards banks face in financing projects in highly biodiverse areas, especially those with clear in-situ biodiversity conservation value. It also illustrates the risks that even if such projects and activities may not take place in an internationally recognized area today, highly biodiverse ecosystems are more likely to face calls to be protected in the future.

Conclusion

This paper aims to explain why internationally recognized areas should be off limits from harmful direct and indirect financing. In doing so, it emphasizes how the international banking sector can improve policies and practices in protecting internationally recognized areas in highlighting relevant case studies. In improving its biodiversity policies in particular, it is essential that banks and financiers respect international conventions and agreements by strengthening protections for internationally recognized areas, as many of these areas are recognized for their significant in-situ biodiversity conservation values.

KEY TAKEAWAYS:

- Banks and financiers should prohibit direct and indirect financing to harmful, unsustainable activities which may negatively impact internationally recognized areas.
- Although some banks have adopted limited 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.
- Bank policies may be undermined by the use of conditionalities or offset mechanisms which allow ill-conceived projects to proceed in international recognized areas.
- Mitigation measures are often inadequate in addressing and resolving negative impacts of harmful activities
- Banks and financiers can help disincentivize harmful activities by withholding financing to internationally recognized areas which may have weak local or international protections, such as Man Biosphere Reserves.
- It is crucial that banks require robust assessments of any potential direct, indirect, cumulative, and transboundary impacts on internationally recognized areas prior to making financing decisions.
- Relevant impact assessments also need to consider how the impacts of one project may influence or compound impacts of other projects, as the interaction among projects located in the same area or region can trigger negative impacts which may not have been revealed if the projects were only assessed as standalone activities.
- Internationally recognized areas are always growing, and so banks and financiers should consider if their financed activities are located in an area which is likely to be recognized or nominated as an internationally recognized site, such as World Heritage or Ramsar sites.

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