The Role of International Financial Institutions in Integrating Climate Change into Environmental Impact Assessment (EIA) in ASEAN

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Abstract

This paper examines the role of international financial institutions in the integration of 'Climate Assessment' into Environmental Impact Assessment (EIA) procedures in ASEAN. It highlights the insufficiency of current climate assessment practices within the region, despite the increasing recognition of EIA as a tool for climate change mitigation. In contrast, international financial institutions have developed regulatory tools defining environmental assessment procedures and apply them as a tool for climate change mitigation for the projects they support. The presentation argues that banks should take on a leadership role in the direct and indirect integration of climate assessment into the EIA procedures of their ASEAN country clients.

1. Foreword

Earlier in April, the ASEAN community experienced record-breaking temperatures, highlighting the severity of impacts of climate change on the region.[1] While there is growing recognition of the role of Environmental Impact Assessment (EIA) in climate change mitigation, the current integration of climate assessment into EIA procedures amongst ASEAN community remains inadequate. Conversely, international financial institutions have integrated climate assessment into their environmental assessment procedures. Given that banks provide finance for projects which contribute towards greenhouse gas (GHG) emissions, they therefore have a responsibility to reduce 'financed emissions' by assisting their clients transition to sustainable practices and aligning their portfolios with the Paris Agreement.[2] I will therefore advocate for banks to capitalise on their experience and knowledge to play a leadership role in the direct and indirect integration of climate assessment into their ASEAN country clients' EIA procedures. I will aim to this by outlining climate assessment, then providing an overview of climate assessment amongst international financial institutions, before outlining how banks can integrate climate assessment in ASEAN.

2. Climate assessment

I will now delve into the role of climate assessment as a tool for climate change mitigation.

A climate assessment is a tool under EIA procedure which assess the effects of GHG emissions of a proposed project and considers possible mitigation measures.[3] This allows decision-makers to determine the acceptability of GHG emissions, in reference to for instance climate commitments.[4] A climate assessment also supports the 'development first' approach, which integrates climate change and GHG emissions considerations into infrastructure priorities, thus contributing towards sustainable development and climate change mitigation.[5]

Now, certain countries amongst the ASEAN community have, to various extents, integrated climate change-related considerations into their domestic EIA procedures. For example, Viet Nam's EIA includes a description of basic information about the impacts of climate change of a proposed project, whilst Cambodia, in addition, requires the consideration of the effects of mitigation measures on climate change. Myanmar explicitly requires the consideration of the effect of mitigation measures on GHG emissions, whilst Malaysian guidance requires project proponents to quantify GHG emissions for large-scale agricultural, mining, or infrastructure projects. However, for the vast majority of the countries in the ASEAN community, these manifestations of climate

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[1] Maximiliano Herrera, 'Worst April Heatwave in Asian History Ongoing in More than a Dozen Countries' @extremetemps (14 April 2023, 10pm) <https://twitter.com/extremetemps/status/1646875957570174978?s=46&t=vfvyHUyuWIIuWGr3e9sa-g>, accessed 20 April 2023.

[2] Juan Carlos Delrieu and Otheres, 'How to Align with the Paris Agreement: A Resource Note for Banking Associations and Banks' 6.

[3] Benoit Mayer, 'Climate Assessment as an Emerging Obligation under Customary International Law' (2019) 68(2) International & Comparative Law Quarterly 271.

[4] Benoit Mayer, 'Climate Assessment as Customary Law Obligation', in Benoit Mayer and Alexander Zahar (eds), *Debating Climate Law* (CUP 2021) 293. Contra Alexander Zahar, 'Environmental Impact Assessment for Greenhouse Gas Emissions is Pie in the Sky', in Benoit Mayer and Benoit Zahar (eds), *Debating Climate Law* (CUP 2021) 297.

[5] Paula J Posas, 'Climate Change in Development Bank Country Environmental Analyses' (2011) 12(3) Journal of Environmental Assessment Policy and Management 459, 461.

assessment have not yet reached their true potential, and integration of climate change has remained on the agenda for strengthening the EIA procedures in ASEAN.[6]

3. Climate assessment and international financial institutions

International financial institutions have developed regulatory tools defining environmental assessment procedures and apply them as a tool for climate change mitigation for the projects they support.

In particular, the Asian Infrastructure Investment Bank requires the consideration of climate change prior to the approval of a project.[7] This is consistent with the Bank's acknowledgement that '[i]nfrastructure needs to be green, low carbon and climate resilient' to support the realisation of the aims under the Paris Agreement.[8] The AIIB requires the quantification and reporting on all significant sources of GHG emissions when it determines that a project is or will produce significant emissions.[9] The AIIB offers support for clients that request to finance measures to quantify and report direct and indirect emissions from Project-related facilities.[10] Further, the Asian Development Bank has included climate change as part of its EIA process in its 2003 'Environmental Assessment Guidelines',[11] which are aimed at assisting ADB staff and its borrowers in navigating the Bank's impact assessment process. The 2009 'Safeguard Policy Statement' requires the borrower to monitor and promote the reduction of GHG emissions from projects emitting 100,000 tons of CO2 emissions or more.[12]

Other international financial institutions with various memberships and voting powers have also integrated climate change into their safeguard policies. For instance, the United Nations Development Programme requires an assessment of GHG emissions from relevant projects and consideration for options to reduce these emissions.[13] Similarly, the African Development Bank's Environmental and Social Assessment requires the mainstreaming of 'climate change considerations' into all lending operations and project activities[14] following an 'Integrated Safeguards System'.[15] Further, the Equator Principles are non-binding guidelines adopted by financial institutions (e.g. private banks) in 2003 and updated several times since.[16] The participating institutions pledge to implement certain procedures to assess the environmental and social risk arising from the projects they finance.[17] The fourth update, in 2020, requires a climate change risk assessment for some large projects.[18] This assessment procedure, however, focuses mainly on managing risks related to the impacts of climate change and the implementation of mitigation policies, rather than directly on mitigating GHG emissions.[19] Nonetheless, the Equator Principles stand apart in that they involve a pledge by over a hundred leading financial institutions to conduct some sort of climate assessment.[20]

4. Integrating climate assessment in ASEAN

With an understanding of how international financial institutions have integrated climate assessment, let's shift our focus to how they can play a leadership role in direct and indirect integration of climate assessment in ASEAN. I should note that this is merely meant to stimulate a discussion about the role that banks should play.

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[6] See, for example, Manuel Castillo, Georgina Lloyd, and Katinka Weinberger, 'Technical Report and Recommendations to Strengthen Environmental Impact Assessment Procedures in ASEAN' (United Nations Economic and Social Commission for Asia and the Pacific 2022).
[7] 'Environmental and Social Framework' (AIIB 2016, Amended February 2019, May 2021 and November 2022) para 15.
[8] ibid para 22.
[9] ibid para 42.2.
[10] ibid para 36.
[11] 'Environmental Assessment Guidelines' (ADB 2003).
[12] 'Environment Policy of the Asian Development Bank' (ADB 2009)' 38. The 'Project Classification System' requires that the reduction of quantified GHG emissions from mitigation measures from the project are recorded in the project input information. See 'Project Classification System: Final Report' (ADB 2014).
[13] United Nations Development Programme, 'Social and Environmental Standards' (2019), 19–21.
[14] African Development Bank Group, 'Safeguards and Sustainability Series; Environmental and Social Assessment Series' (Vol 1(5) 2015), 9.
[15] African Development Bank Group, 'Safeguard and Sustainability Series; Integrated Safeguards System Guidance Materials' (Vol 2(1) 2015) 54–55.
[16] Demetri Sevastopulo, 'Banks Commit to Socially Responsible Lending' (*Financial Times*, 3 June 2003); Suellen Lazarus, 'The Equator Principles at Ten Years' (2014) 5 Transnational Legal Theory 417.
[17] 'The "Equator Principles"; An Industry Approach for Financial Institutions in Determining, Assessing and Managing Environmental & Social Risk in Protect Financing' (June 2003).
[18] Equator Principles (EP4, July 2020) at 9, 19. See also Equator Principles, 'Guidance Note on Climate Change Risk Assessment' (September 2020) at 4.
[19] Equator Principles, 'Guidance Note on Climate Change Risk Assessment' (September 2020) 4.
[20] Equator Principles Association, 'Members & Reporting' (2022) <https://equator-principles.com/members-reporting/>, accessed 27 October 2022.

An important channel for leadership comes from the support provided by international financial institutions. These institutions can leverage their knowledge and experience in conducting climate assessment to offer technical assistance, capacity building, and policy advice. For instance, the Asian Development Bank has previously assisted Thailand and Cambodia in strengthening their Environmental Impact Assessment (EIA) procedures.[21] However, it is worth noting that technical assistance on integrating climate change in impact assessment procedures has primarily focused on climate adaptation, overlooking climate mitigation. Therefore, it is crucial to include climate assessment as part of any future technical assistance focusing on EIA. International financial institutions can contribute to this by facilitating capacity building through the publication, updates, and dissemination of guidance on climate assessment.[22] This would provide project proponents and national agencies with a 'best-practice' framework for incorporating climate assessment into their assessments.[23]

It is important to highlight that cooperation from ASEAN member countries is essential, and individual countries should also demonstrate leadership by working collaboratively with international financial institutions. The 2019 ASEAN Catalytic Green Finance Facility serves as a notable example of such cooperation.[24] This facility grants the ASEAN community access to technical assistance and $1 billion in loans from co-financing partners, specifically designated for green infrastructure projects. Notably, the facility requires a climate assessment during the screening stage of proposed projects, including an estimation of greenhouse gas reduction compared to the business-as-usual baseline.[25] While the outcome of the facility is yet to be seen, initiatives that include climate assessment as a criterion for project selection can significantly contribute to integrating climate change into impact assessment in ASEAN.[26]

In addition to direct integration, international financial institutions must assume a leadership role in the indirect integration of climate assessment in ASEAN. This must be done by requiring climate assessment as a precondition for all infrastructure projects banks finance within the ASEAN community (and indeed beyond). This approach would enhance transparency and provide essential data to decision-makers, enabling well-informed choices aligned with climate commitments.[27] This isn't controversial – climate risks differ from traditional financial risks and thus banks need to be prudent in collecting and assessing GHG emissions information.[28] However, a misalignment exists amongst international financial institutions regarding the thresholds for quantifying significant GHG emissions. For instance, the Asian Development Bank sets its threshold at 100,000 tons of CO_2 emissions, whereas the World Bank and Asian Infrastructure Investment Bank follow the Performance Standard 3 threshold of 25,000 tons of CO_2 emissions. Moreover, the Asian Infrastructure Investment Bank adds the caveat that quantifying direct emissions must be technically and financially feasible. These misalignments hamper leadership, and thus closer partnership on aligning climate assessment standards amongst international financial institutions will enhance their role in the indirect integration of climate assessment in ASEAN. This aligns with the pledges made by banks to support their clients' climate change objectives.[29]

5. Conclusion

[21] See, for example, 'Technical Assistance to the Kingdom of Cambodia for Strengthening the Environmental Impact Assessment Procedures and Capabilities' (ADB 1994); 'Technical Assistance to Thailand for Strengthening the Environmental Impact Assessment Review Process' (ADB 1995); 'TA 7566-REG: Strengthening and Use of Country Safeguard Systems: Completion Report' (Asian Development Bank 30 April 2017).

[22] Annalisa Prizzon, 'Opinion: World Bank and MDBs Must Show Proactive Climate Leadership' (*Devex*, 27 September 2022) <https://www.devex.com/news/opinion-world-bank-and-mdbs-must-show-proactive-climate-leadership-104085> accessed 18 April 2023.

[23] Mengqi Shao, May Tan-Mullins, and Linjun Xie, 'Asian Infrastructure Investment Bank (AIIB)'s Sustainable Safeguard Mechanism on Energy Projects' (2021) 38 Energy Strategy Reviews 170, 172.

[24] 'Overview: ASEAN Catalytic Green Finance Facility (ACGF)' (*Asian Development Bank*, 13 February 2023) <https://www.adb.org/what-we-do/funds/asean-catalytic-green-finance-facility/overview> accessed 20 April 2023.

[25] 'An ASEAN Infrastructure Fund Initiative: Investment Principles and Eligibility Criteria' (ASEAN Catalytic Green Finance Facility April 2020) 3.

[26] Muhammad Sadiq and others, 'The Role of Environmental Social and Governance in Achieving Sustainable Development Goals: Evidence from ASEAN Countries' (2023) 36 Economic Research 170.

[27] But a cliamte assessment must go beyond a mere estimation or box-ticking exercise and instead require quantification to make a well-informed determination about significance of GHG emissions a project.

[28] Eddie Yue, 'How can the Banking Industry Contribute to Efforts in Tackling Climate Change?' (*Hong Kong Monetary Authority*, 30 December 2021) <https://www.hkma.gov.hk/eng/news-and-media/insight/2021/12/20211230/> accessed 18 April 2023.

[29] Eg 'ADB Strategy 2030: Achieving a Prosperous, Inclusive, Resilient, and Sustainable Asia and the Pacific' (Asian Development Bank 2018) 4; 'AIIB to Fully Align with Paris Agreement Goals by Mid-2023' (*AIIB News*, 26 October 2021) <https://www.aiib.org/en/news-events/news/2021/AIIB-to-Fully-Align-with-Paris-Agreement-Goals-by-Mid-2023.html> accessed 20 April 2023.

To conclude, climate assessment is an important tool under EIA to mitigate the effects of climate change. Ultimately, a concerted effort is needed from international financial institutions to collaborate with their ASEAN country clients and leverage their knowledge and experience to ensure the effective integration of climate assessment, both directly and indirectly, within ASEAN. Such leadership can support international climate goals, promote sustainable development and building capacity across ASEAN community.

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