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Equator Principles 4-Revised Climate Change Risk: What Does This Mean For Project Financing in Africa Amidst The Ongoing Energy Transition?

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Since its inception, the Equator Principles Association introduced a risk management framework in response to the ever-changing environmental and social risk in projects. The Equator Principles (EPs) result from minimum standards for risk management to stop the race to the bottom. In June 2013, EP3 was introduced, and climate change requirements were added to address the 'transition towards an ethical and low-carbon economy.'[1] This eventually led to the newly revised Equator Principles 4 (EP4s), 'Climate Change Risk Assessment' (transition risk), in July 2020. This article analyses the effect of the transition risk of EP4 to determine whether this new addition will support or inhibit oil and gas project financing in Africa amidst the ongoing energy transition by questioning the underlying assumptions upon which the policy design was developed.

The article concluded that consideration for project financing in Africa could be expected to address the energy needs in Africa while at the same time essentially pushing governments to take into consideration climate change by putting in place processes, policies, and systems to manage these risks.'[2] Furthermore, the transition risks definition and implementing standards of EP4 are broadly worded, allowing adapting the principles to a wide range of regimes that positively contribute to these domains. This essentially enables consideration of ethical transition and provides for coordination and coherence across different policy domains.

Keywords: Climate change; Equator principles; Corporate social responsibility; Business and human rights; Risk assessment.

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[1] Woersdoerfer M, 'Climate finance–a business-ethical analysis' (SSRN 3489487 2019)

[2] 'The Equator Principles EP4 - July 2020'

1. INTRODUCTION

The further development of the EPs is based on the shift in environmental policy initiatives such as the 2015 Paris Agreement, which aims to intensify the regulatory activities of governments with the addition of national initiatives. The support for this shift is reflected in the preamble found in the EP4, which states that:

> [We] support the objectives of the 2015 Paris Agreement and recognise that EPFIs have a role to play in improving the availability of climate-related information…such as assessing the potential transition and physical risks of projects financed under the Equator Principles:[3]

This new narrative, at a first glance, appears to have profound implications for financing projects in Africa because there is a need for infrastructural growth, which can potentially promote regional socio-economic development, poverty reduction, and foreign investment.[4] Furthermore, IEA scenarios show that the increased economic growth and domestic demand makes projects in sub-Saharan Africa globally more competitive, which encourages investment. This essentially means that oil and gas production in sub-Saharan Africa is expected to increase to 10 per cent and 25 per cent in 2040.[5]

Sub-Saharan Africa holds half of the continent's oil and gas resources.[6] However, the continent experiences various energy challenges. The energy needs for Africa are expected to increase due to urbanisation, which is expected to grow to 580 million in 2040. Additionally, the anticipated boom in population growth and industrialisation will necessitate more energy, including fossil fuels and renewables. Consequently,

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3 Supra, note 2.

4 International Energy Agency, 'Africa Energy Outlook, World Energy Outlook Special Report' (*IEA Report,* 2021) <https://iea.blob.core.windows.net/assets/2f7b6170-d616-4dd7-a7caa65a3-a332fc1/Africa_Energy_Outlook_2019.pdf> accessed 7 June 2021. pp 32.

5 ibid. pp 185.

6 Olawuyi Damilola, Extractives *Industry Law in Africa*, (Springer International Publishing, 2018)

some scholars have questioned the readiness of African countries to bid farewell to fossil fuels.[7]

The above notwithstanding, the relevance of analysing the EP transition risk is to understand better how the implementation processes fit into the policy narrative of the energy transition. Therefore, this article's main objective is to analyse whether the newly revised EP4 transition risks will either support or inhibit future oil and gas project financing in Africa. The article aims to offer contributions by formulating the following sub-questions, which will be discussed in the relevant sections:

1. How does the institutional and implementation setup of the EP support or inhibit project finance in Africa?

2. What are the concerns related to transition risks on future projects in Africa?

3. What potential positive factors be embedded in the "climate change risk assessment" as a climate risk reduction strategy by the EPFIs?

4. What is the importance of the EP4 as a policy standard in encouraging coordination and coherence across different policy domains?

This article addresses the above questions in six sections, following this introduction. Section two analyses the institutional and implementation setup of the EP; section three highlights the concerns related to transition risks; section four discusses in detail climate risk assessment; section five spotlights the importance of the EP4 as a policy standard, while section six gives the concluding remarks.

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[7] Nalule V, 'Transitioning to a low carbon economy: Is Africa ready to bid farewell to fossil fuels?' (2020) *The Palgrave Handbook of Managing Fossil Fuels and Energy Transitions* (pp. 261-286). Palgrave Macmillan, Cham.

2. THE EQUATOR PRINCIPLES: IMPLEMENTATION PROCESS

This section aims to understand the implementation process of the EPs. Principles such as the EP play a role in 'financial systems in sustainability transitions processes'. Hence it is essential to understand the benchmarks that indicate how the financial system will respond to climate change.[8]

The underlying policy rationale of the EP became fundamental due to the 'inability of national governments to sufficiently address environmental and social risks, and that in itself became a noteworthy political risk aspect when it came to international project finance.[9] This is because there is perceived incompetence of national governmental 'accountability mechanisms'.[10]

The EP4 divides projects into three categories: A, B, and C, depending on the risk involved. This establishes how the EPFIs will demand the borrower to undertake the rest of the principles and the degree of scrutiny the EPFI's will require of the Project.[11] As a general rule, projects in category A prompt thorough due diligence responsibility for both the lender and borrower (risky projects), with those responsibilities lessening in extent and size for category B projects, whereas for projects in category C, these responsibilities are almost non-existent.[12]

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8 Naidoo CP, 'Transcending the Interregnum: Exploring how Financial Systems Relate to Sustainability Transition Processes' (Doctoral dissertation, Univer-sity of Sussex 2020).

9 Ong DM, 'Public Accountability for Private International Financing of Natural Resource Development Projects: The UN Rule of Law Initiative and the Equator Principles' (2016)85(3)201-33 Nordic Journal of International Law.

10 Haack P, Schoeneborn D, and Wickert C, 'Exploring the Constitutive Conditions for a Self-Energizing Effect of CSR Standards: The Case of the 'Equator Principles.' (*University of Zurich Institute of Organization and Administrative Science IOU Working Paper*, 2010) 115.

11 Hansen RC, 'The impact of the equator principles on lender liability: risks of responsible lending' (SSRN 2006)

12 ibid.

It might also be argued that the introduction of climate change risk aims to aid the EPFI in addressing climate change issues, manage credit and reputational risks caused by climate change impacts, and gain legitimacy by practicing Corporate Social Responsibility (CSR)'[13] and most importantly to 'maximise profits.'[14]

It is generally believed that the EPs are not guidelines and proposals but rather more of a guide to assess processes. Even carbon-emitting projects that contribute to climate change can still be financed in compliance with the EPs.[15]The assumption is that the EPs are structurally set up so that projects cannot escape them. Still, the reality is that signatories define their implementation procedures thatdiffer somewhat on the effect of the principles on the projects. Research shows that this deliberate structure needs legitimate commitments or standard implementation components and relies significantly upon the reputational benefits it provides members.[16]

Researchers, however, critique that the optional 'nature of the EPs subsequently means that signatories have a broad discretion to avoid responsibility, which implies that this dedication is reliant upon the abstract evaluation of the signatory. This infers a signatory may feel free to finance a project if it complies with the EPs for any undertaking.[17]A question may arise as to what then happens if member EPFIs fail to consider the Eps? One noteworthy aspect is found in the EP4 disclaimer, which states that:

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[13] Aboutorabifard H, 'Equator principles and climate change issues: Examining the EPs' climate change policies and analyzing the likely effectiveness of these policies' (Master's thesis, University of Waterloo 2016).

[14] Kulkarni P, 'Pushing lenders to over-comply with environmental regulations: A developing country perspective' (2010)22(4) Journal of International Development: The Journal of the Development Studies Association May 470- 82.

[15] Weber O, Acheta E, 'The Equator Principles: Do They Make Banks More Su-stainable. Inquiry' (*Working Paper* 2016)16(05)

[16] Christopher Wright, 'Investigating the Discursive Power of Multilateral Fina-ncial Institutions', (2005), pp 13-14.

[17] Adeyemi A, 'Changing the face of sustainable development in developing co- untries: the role of the international finance corporation.'(2014)16(2) Environmental Law Review 91-106.

> [The] Equator Principles are a baseline and framework for developing individual, internal environmental and social policies, procedures, and practices…and do not create any rights in, or liability to, any person, public or private. Financial institutions adopt and implement the Equator Principles "voluntarily and independently" (emphasis mine), without reliance on or recourse to the IFC, the World Bank Group, the Equator Principles Association, or other EPFIs.[18]

This essentially means that there is 'no recourse against a bank that adopts the Principles in name only and fails to impose any standards' and that 'banks probably will escape legal liability for violations of the Principles…and will only be held accountable in the court of public opinion. This shows that where a bank fails to take account of the EPs, there is no detrimental sanction other than being removed as an equator bank.[19]

A closer look at the literature shows that individual firms voluntarily embrace the guidelines. Signatories stressed incredibly the point that they are to be seen as individuals. Thus, hypothetically, EP signatories can only speak of 'we as an adopter of the EP' and not 'we the Equator banks.'[20] However, the EPs signatories are expected to obey the rules to which they have committed, even if there is no severe penalty of place[21]

Moreover, the preamble of the EP4 acknowledges that 'the application of the Equator Principles can contribute to delivering on the objectives and outcomes of the United Nations Sustainable Development Goals (SDGs)', which shows why there was a need to revise climate change risk

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[18] 'The Equator Principles EP4 - July 2020'.

[19] Hardenbrook A, 'Equator Principles: The Private Financial Sector's Attempt at Environmental Responsibility' (2007)40 The. Vand. J. Transnat'l 197.

[20] O'Sullivan NA, 'Social accountability and the finance sector: the case of Eq- uator Principles (EP) institutionalisation.' (PhD thesis, Amsterdam Business School, Universiteit van Amsterdam 2010).

factors.[22] However, studies find that the extractive sector's role in sustainable development is controversially argued. On the one hand, the sector's harmful effects significantly outweigh the economic and social advantages. But, on the other hand, it is contended that the sector is crucial for economic growth globally, as it promotes poverty eradication, revenue creation for government, and economic development.[23] However, the EP4s have been structured to allow such a trade-off mechanism, which is found in Principle 2.[24]

What is happening now is that the EPs have the EPFIs focusing on all the parts of the Project and ideally driving them to require terms and conditions that lessen the effects of climate change on the Project. However, even though the EPs aim to finance oil and gas projects, it discredits the whole initiative. If anything, the broadly worded guiding principles of the EPs, means that banks can adapt the principles to a wide range of regimes operating in different countries or across a wide range of legal regimes,[25] and what is evident is that the EPs do not actually 'stipulate an absolute prohibition on financing high GHG polluting projects.'[26]

3. CLIMATE CHANGE IN AFRICA: FUTURE OF PROJECT FINANCE

As the exploitation of natural resources across the globe continues to increase, international financing of these resources to develop projects in remote regions in developing

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[22] Ibid.

[23] Weber O, Banks Y, 'Corporate sustainability assessment in financing the ex- tractive sector' (2012)2(1) Journal of Sustainable Finance & Investment. 64-81.

[24] 'The Equator Principles EP4 - July 2020' (n 3). In this case as per the illustrative list of issues found in Exhibit II "requirements under host country laws and regulations, applicable international treaties and agreements including the 2015 Paris Climate Change Agreement." Also see Preamble.

[25] Lance JA, 'Equator Principles III: a hard look at soft law' (NC Banking Inst 2013) 175

[26] Bowman M, 'The role of the banking industry in facilitating climate change mitigation and the transition to a low-carbon global economy'(2010)27 Environment and Planning Law Journal 448.

countries have grown to be more complicated. Thus, different financing mechanisms exist for the development of such projects, namely project finance.[27] The EP4 defines project finance as:

> [A] method of financing in which the lender looks primarily to the revenues generated by a Project, both as the source of repayment and security for the exposure…In such transactions, the lender is usually paid solely or almost exclusively out of the money generated by the contracts for the Project's output...The consequence is that repayment depends primarily on the Project's cash.[28]

Project finance has a significant role to play in emerging markets, where economic growth is increasing and the needs for funds are more profound than in developed economies[29] because project finance is regarded as the tool for the development of feasible long-term investment projects to create profits for governments that will lead to an increase in investment in other sectors of a country.[30] Therefore, the EP scope also provides project-related corporate loans, bridge loans, and project finance advisory service options.[31]

Although public finance is another alternative, according to the International Energy Agency (IEA), public finance sources are unlikely to eliminate critical investment gaps fuelled by private sector financing.[32] On the other hand, project finance is favourable, amongst other things, because it decreases cash equity commitment, especially where cash constraints are a concern and allows for shared political risk,

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[27] Ong (n 12).
[28] 'The Equator Principles EP4 - July 2020' (n 3). pp 30.
[29] 'The Equator Principles EP4 - July 2020' (n 3). pp 32.
[30] 'The Equator Principles EP4 - July 2020' (n 3). pp 34.
[31] 'The Equator Principles EP4 - July 2020' (n 3). See financial products offered at pp 5.
[32] Cozzi and others (n 5). pp 34.

Which prevents governments from intervening in projects that have loans from international banks.[33]

Furthermore, even though Africa only accounts for 2% of the global emissions from 1890 till present,[34] this, however, does not imply that projects are to be approved without taking into account the climate change impact it may have, especially if one considers that climate change concerns have become the dominant focal point in project finance on account of their connection to the idea of economic development and sustainability, which the International Institute for Sustainable Development (IISD)'characterised as an advancement that addresses the issues of the present without trading off the capability of the future generation to address their needs.[35]

Developing countries are said to have depicted their national public policies approach based on achieving socio-economic objectives. The assumption is that those objectives now stand in limbo, with the introduction of the EP4 transition risk on projects. However, this article aims to debunk that assumption and argues that the introduction of transition risk is because since developed countries are far more experienced and have considerable expertise in enforcing a policy that influences low-carbon technology investment, this has given birth to emerging 'best practice' policies to influence the promotion of low-carbon technology, that promote particular cultural and economic conditions, and the EP4 is an example of that,[36] which essentially aims to push governments to consider 'processes, policies, and systems in place to manage climate change risks moving forward.[37]

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33 Clews R, 'Project finance for the international petroleum industry' (*Academic Press* 2016) 260.

34 Cozzi and others (n 5). pp 194.

35 International Institute for Sustainable Development, 'Sustainable Development' (*IISD, 2021*) <https://www.iisd.org/about-iisd/sustainable-development> accessed 15 June 2021.

36 Aldy JE, 'The crucial role of policy surveillance in international climate policy' (2014)126 Climatic Change 279-92.

37 'The Equator Principles EP4 - July 2020' (n 3).

The problem with policies such as the EP4 is that such frameworks do not offer ways to reconcile these challenges such as financing projects amidst the energy transition but leave it up to the EPFIs to make their assessment, which can prove challenging because the planning and timing of climate change in a particular setting are unknown. Hence, a situational analysis is a powerful instrument 'for organisations to utilise in their tactical setup processes, such as employing a situational analysis and other tactical planning instruments.'[38]

Apart from economic development, Africa also aims to tackle the energy challenges it continues to face. Scholars have analysed the nexus between the UN SDG 7 on energy access and the achievement of other SDGs. It is argued that it is impossible to achieve all the other SDGs, including SDG 1 on poverty eradication, without tackling the energy access challenges in Africa.[39] This is because it is estimated that about 900 million people are without access to clean cooking facilities and around 600 million people are without access to electricity in sub-Saharan Africa.[40]

However, advancements to explore the extractive industry also need to recognise the need to adapt to the energy transition by progressively moving toward diversifying the energy sector through renewables. Nalule, however, while advocating for her novel concept of 'energy progression',asserts that this is to be expected in developed regions such as Europe, as global decision-making efforts must consider not only economic development but also the geographical and social dimensions of different countries.[41]

One takeaway from the literature is that 'it is essential to understand energy transition as a gradual process, which may

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[38] TCFD, 'Implementing the Recommendations of the Task Force on Climate-Related Financial Disclosures <https://www.fsbtcfd.org/publications/fi-nal-implementing-tcfd-recommendations/> accessed 17 June 2020. pp 9.

[39] Nalule VR, 'Energy poverty and access challenges in sub-Saharan Africa: The role of regionalism.' (Springer; 2018)

[40] Cozzi and others (n 5).pp 35.

[41] Nalule V, 'Transitioning to a low carbon economy: Is Africa ready to bid farewell to fossil fuels?' (2020) *The Palgrave Handbook of Managing Fossil Fuels and Energy Transitions* (pp. 261-286). Palgrave Macmillan, Cham

not occur on a global scale'.[42] And by recognising that there arebarriers that hamper adaptation in developing countries and that 'adaptation is a complex and continuous process, influenced by a variety of factors and conditions at multiple scales, some of which may act individually or together to hinder this process.'[43]

4. CLIMATE CHANGE: EPFI RISK REDUCTION STRATEGIES

Energy transition risks concerning project finance may include reputational, policy, and legal risks,[44] affecting capital costs, as climate-change-related problems may carry ramifications for future income flows.[45] Therefore, the concept' Climate change risk' is defined as:

> [T]he potential negative impacts of climate change on an organisation…climate-related risk can also be associated with the transition to a lower-carbon global economy, the most common of which relate to policy and legal actions, technology changes, market responses, and reputational considerations.[46]

Some researchers believe that the only option is 'fossil fuel divestments' to 'accelerate the transition to a low-carbon economy.[47] However, one cannot agree because the global community's focus on energy transition versus African energy needs essentially means we have a different conversation due to the different energy needs in various

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[42] ibid.

[43] Shackleton S, Ziervogel G, Sallu S, Gill T, and Tschakert P, 'Why is socially just climate change adaptation in sub-Saharan Africa so challenging? A review of barriers identified from empirical cases'(2015)6 Wiley Interdisciplinary Reviews: Climate Change 321-44.

[44] TCFD, 'Implementing the Recommendations of the Task Force on Climate-Related Financial Disclosures (n 42) 78.

[45] ibid, (n 5). pp 5.

[46] TCFD, 'Implementing the Recommendations of the Task Force on Climate-Related Financial Disclosures (n 42) 78. This article will also extensively refer to transition risk and should be regarded as the same thing.

[47] Woersdoerfer M, 'Climate finance–a business-ethical analysis' (Research Gate, 2019)<https://www.researchgate.net/publication/337335180_Climate_Finance_-_A_Business-Ethical_Analysis>

domains. For instance, this is relevant when looking at the Global South where, 770 million are without access to electricity, out of which sub-Saharan Africa makes up 578 million.[48]

Moreover, one cannot be oblivious to the fact that the application of the EPs is based on a broader goal and not necessarily based on individual projects. Harden brook also validated this stance, by opining that 'although the ability of the EPFIs to enforce these principles is limited to the contractual relationship of a specific project, their influence over the industry grows.'[49]

Scholars also argue that the 'EPIII climate change policies are left vague. As a result, different opinions have evolved around their likely effectiveness in helping the EPFIs manage their climate risks and change their behaviour towards climate change management.[50] However, the new EP4 revisions bring new additions for banks to assess climate change risks and makes the following inquiries:

1. What are the current and anticipated climate risks (transition and physically defined by the TCFD) of the project's operations?

2. Does the client have plans, processes, policies, and systems to manage these risks? i.e., to mitigate, transfer, accept, or control.[51]

This addition provides a better framework on how to manage climate risks associated with projects. 'Annex A' further provides that climate change risk should be 'evaluated against the project's compatibility with the host country's national climate commitments, as appropriate'. This is an especially important statement to note in the arguments that

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48 International Energy Agency, 'Access to Electricity – SDG7: Data and Projections – Analysis' (*IEA*) <htt- ps://www.iea.org/reports/sdg7-data-and-projections/access-to-electricity> accessed 14 June 2021.

49 Hardenbrook A, 'Equator Principles: The Private Financial Sector's Attempt at Environmental Responsibility' (2007) The. Vand. J. Transnat'l L197

50 Aboutorabifard (n 16).

51 'The Equator Principles EP4 - July 2020' (n 3). Referred to as "Annex A" on certain occasions throughout this article. pp 20.

will be discussed.[52]At face value,"Annex A" sounds confusing, but what it essentially implies is that:

> [D]iscretion is left with national governments on the form and timing of their mitigation contributions under the Paris agreement…and the resulting heterogeneity in mitigation pledges creates a significant demand for a well-functioning transparency and review mechanism. In particular, the specific forms of intended contributions necessitate economic analysis to estimate the aggregate effects of these contributions and permit "apples-to-apples" comparisons of mitigation efforts.[53]

The key is that the transition will impact the market structure, which will affect the creditworthiness of buyers and the security of demand. However, interconnecting systems, such as the energy issues relating to Africa, provide a link to the EP4 transition risk, showing a 'robust system of international linkages of regional, national, and sub-national policies that allow those risk to be shared.[54]This approach provides the link to form the basis for linkage concerning financing projects.[55]

This means that there are potential positive factors embedded in the 'climate change risk assessment', which Bodansky suggests that 'linkage allows countries to adopt more ambitious policies…increase market liquidity…and reduce price volatility. Linked systems may also provide regulatory stability, attractive from the point of view of affected firms, in the sense that changes require some coordination with other countries with linked emissions systems.'[56] Furthermore, the difference in climate change

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[52] ibid.

[53] Aldy (n 39). pp 1.

[54] Bodansky D, Hoedl S, Metcalf GE, and Stavins RN, 'Facilitating linkage of heterogeneous regional, national, and sub-national climate policies through a future international agreement' (*Harvard Project on Climate Agreements*. 2014)

[55] Metcalf GE, and Weisbach D. 'Linking policies when tastes differ: Global climate policy in a heterogeneous world' (2012)6 Review of Environmental Economics and Policy 110-29.

[56] Bodansky and others (n 58). pp 5-6.

adaptation is attributed to the voluntary commitment which allows States to design their national mitigation contributions, which ensures that they adjust their 'mitigation goals and policies to their national economic, institutional, and political circumstances'. And because African countries share the same energy issues,[57] there is a viewpoint that 'Linking heterogeneous systems can create political flexibility to pursue the domestic policy instrument that is most feasible politically.'[58]

The Action Plan highlighted in Principle 4 of the EP4 can feature the connection to encourage project finance in terms of transition risks - as far as monetary streams and financial transfers, projects can undertake reporting through the Action Plan in connection with the 'climate change assessment.'[59] This integrative method could give a chance to depict socio-economic benefits and unequivocal linkage of climate change programs. This can essentially mean that EPFIs can use this as a basis of 'supportive policy incentives' to curb 'potential financial impacts.' This concept is known as 'climate-related opportunities', which varies and is dependent 'on the region, market, and industry.'[60]

5. COHERENCE AND INTEGRATION OF CLIMATE CHANGE

Sustainability and profit-making should not be seen as two different aspects, as feasible, sustainable policies ensure that relevant factors are considered for long-term profit

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[57] Aldy (n 39). pp 3,1.

[58] Bodansky and others (n 58). pp 7.

[59] Aldy (n 39). pp 28. Also see EP4, Principle 4 which states that "to address iss-ues raised in the Assessment process and incorporate actions required to comply with the applicable standards. Where the applicable standards are not met to the EPFI's satisfaction, the client and the EPFI will agree to an Equator Principles Action Plan (EPAP). The EPAP is intended to outline gaps and commitments to meet EPFI requirements in line with the applicable standards."

[60] TCFD, 'Implementing the Recommendations of the Task Force on Climate-Related Financial Disclosures (n 42) 73.

generation. This is why Wilbanks *et al.* (2014) opines that it is no secret that:

> [C]limate change poses risks to goals such as poverty reduction…and economic prosperity. Thus, societies face the task of defining how to manage these risks and what levels of risk without compromising what they value most and what defines their societies…Risk management and the weighting of various categories of risk depend on social definitions of acceptable, tolerable, or intolerable consequences.[61]

It is held that the concept of equator infers a balanced representation between 'developed countries, developing countries, and emerging markets, which is an indication that the EPs applies 'globally on both sides of the equator.'[62]However, we cannot even begin to think that the EPs apply equally, given the significant difference between developed and developing countries. As such, the EPs should be seen as breaking the silos and shifting a paradigm of inclusivity. Climate policies must consider tensions between global policy interests and the diversity of national and regional preferences for different policies. Additionally, it has been argued that even though coordinated international policies are the subject of climate negotiations, it is clear that we are moving towards a more decentralised policy system.[63] Essentially, there must be an understanding of the link between the energy transition and financial systems policies

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[61] Denton F, Wilbanks T, Burton I, Chandani A, Gao Q, Lemos MC, Masui T, O'Brien K, Warner K, Dickinson T, and Bhadwal S, 'Climate-Resilient Pathways: Adaptation, Mitigation, and Sustainable Development' (2014) Contribution of working group II to the fifth assessment report of the intergovernmental panel on climate change 833-68.

[62] Wörsdörfer M, *Equator Principles–Now and Then* (Emerald Group Publishing Limited 2015)

[63] Metcalf GE, and Weisbach D, 'Linking policies when tastes differ: Global climate policy in a heterogeneous world'(2012)6 Review of Environmental Economics and Policy 110-29

such as the EPs, which calls for coherence[64] and integration, to enable different regions to achieve both sustainability and socio-economic prosperity. This bears relevance when discussing why other sustainability transitions and effective climate risk reduction strategies must be integrated into project finance, especially in developing economies.[65] This, in essence, calls for a 'broad range of national and international policy requirements that encourage an all-inclusive approach.'[66]

Experts contend that the Paris Agreement gives national governments the discretion that allows them the timing to formulate their mitigating contributions under the agreement. It is further argued that, Intended Nationally Determined Contributions (INDCs) calls for an elaborative evaluation and that examples of multilateral policy implementation should be used as context to aid in creating a climate policy design that can facilitate a comparative analysis of mitigating undertakings.[67]

There is significant diversity in the formulated mitigation contributed by various INDCs. Most developed nations focused more on a green economy, with different choices of base and target years. The difference in diversity is that some industrialised nations acknowledge international trade and offset mechanism, whereas others explicitly rule out international market mechanisms. These differences enable broad participation in the present multilateral policy framework. However, the market for fossil fuels will have to respond to the INDCs expected implementation, which can affect economic growth and the peaking of emissions in these countries.[68]

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[64] Karlsson-Vinkhuyzen S, Dahl AL, and Persson A. 'The emerging accountability regimes for the Sustainable Development Goals and policy integration: Friend or foe?'(2018) Environment and Planning : Politics and Space 1371-90.

[65] Underdal A. Integrated marine policy: what? why? how?. Marine Policy. 19- 80 Jul 1;4(3):159-69."

[66] Adeyemi (n 20). pp 94.

[67] Aldy JE. Evaluating Mitigation Effort: Tools and Institutions for Assessing Nationally Determined Contributions.

[68] Aldy JE. Evaluating Mitigation Effort: Tools and Institutions for Assessing Nationally Determined Contributions.

Severe criticism when implementing the complete requirements of standards such as the EP arise because on a global level:

> [T]he asymmetric relationship between developed and developing countries in terms of their different capacities to implement globally adopted rules has been mitigated somewhat by the advent of the principle of common but differentiated responsibilities articulated in Principle 7 of the Rio Declaration. Principle 11 then follows from this and states that objectives and priorities should reflect the context of the environmental and development context. As a result, standards applied by some countries may be inappropriate and of unwarranted economic and social cost to other countries, particularly developing countries.[69]

Hence the issue is how to accommodate climate change and the need for economic growth. Adeyemi opines that socio-economic development and the reduction of poverty must be recognised as the superseding needs for developing nations, thus the importance of the advancement arrangements intended to interface social and environmental perspectives in economic undertakings.[70]

The EP4 is an example of how implementation can be based in different policy domains when it comes to coherence and integration of climate change policy,[71] to prevent 'Global South countries from adopting the solutions developed for financial systems of Global North countries,

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[69] Ong D. 'From international to transnational environmental law? A legal assessment of the contribution of the equator principles to international environmental law.'(2010)1 Nordic Journal of International Law. 35-74.

[70] Adebola Adeyemi, 'Changing the Face of Sustainable Development in Developing Countries: The Role of the International Finance Corporation', (*Environmental Law Review* 16, 2014) 92.

[71] William M Lafferty, *Governance for Sustainable Development: The Chall- enge of Adapting Form to Function* (Edward Elgar Publishing 2006) 199

which may not be compatible with their own.'[72]To further add context to the latter, concerning the discussion in question, Nalule asserts that:

> [T]he energy access challenges in various developing countries have to be put into consideration before we can globally agree to say goodbye to fossil fuels and other traditional energy sources…a just transition should focus on utilising all energy sources to not only address energy access challenges but also to ensure the economic development of these countries…Of course, environmental protection should be at the centre of this transition. In this regard, clean technology should be employed to utilise fossil fuels. Also, it is essential to note that energy transition is a progressive process, and it differs depending on the country and region concerned.[73]

This essentially means that it is crucial that the EP4 as a policy standard encourages coordination and coherence and understand the climate change alleviation activities of different nations,[74]based on the 'project's compatibility with the host country's national climate commitments, as appropriate', because States are given the discretion to make policy decisions that will benefit them,[75]and ensure a 'strong equity basis', which Cullet argues:

> [R]emain a vital component of any future climate change deal because differential treatment remains a condition for developing country participation…and that the existing conceptual framework for differential treatment based largely on a division between developed and developing countries is increasingly incapable of providing results that are just. This is

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[72] Chantal Pauline Naidoo, 'Transcending the Interregnum: Exploring How Financial Systems Relate to Sustainability Transition Processes' (Doctoral thesis (PhD), University of Sussex 2020) 185.

[73] Nalule (n 45). pp 267.

[74] Joseph E. Aldy, 'Evaluating Mitigation Effort: Tools and Institutions for As- sessing Nationally Determined Contributions', *SSRN Electronic Journal*, 2015, pp 24.

[75] Aldy (n 40).

> because there is little that can justify putting together countries...for example, countries whose economies are utterly dependent on oil extraction.[76]

Of course, the authors make very compelling arguments, but one cannot simply turn a blind eye to the fact that this is what the EPs were designed for. A government cannot ignore climate change and expect projects to get financed, especially because climate change is an important global issue. Hence, countries need to ensure that climate change initiatives are linked to other areas of national development, such as national security and economic growth. This is intended to show these countries' proactive commitment globally towards climate action.[77]

In essence, what coherence and integration aim to achieve is to ensure that a one-size policy is not applied across all countries. Therefore, it allows for countries to determine what works for them and have inclusivity as part of a just transition and not limit access to funding for the financing of such projects. This is especially relevant to Africa because the continent will require massive energy resources, especially fossil fuels, to cope with population growth and booming urbanisation. Moreover, industrialisation is escalating in most African countries, necessitating further demand, most likely from fossil fuels.[78]

6. CONCLUSION

Considering the discussion in the previous sections, it is clear that climate change risk in the EP4 can be applied based on the policy and system present to control these risks. This, in essence, ensures that the project's compatibility is not founded on a one-size-fits-all policy. It is further asserted that the newly revised EP4 transition risks will not inhibit oil

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[76] Böhm S, *Upsetting the offset: the political economy of carbon markets. Lon- don* (MayFly Books 2009)

[77] Jacobi PR, and Maia RD, 'Challenges and strategies to strengthen relationship between science and politics regarding climate change'(2016)19 Ambi- ente&Sociedade 235-48.

[78] Nalule (n 45). pp 271.

and gas project financing in Africa. This is because the scope and definition of the EP4 are broad enough, which means that interpretations are determined based on the Project, allowing the necessary support to finance projects. In reality, equator banks have funded oil and gas projects in countries such as Egypt, Ghana, Nigeria, and Mozambique, dating as far back as 2016.

Furthermore, critical evaluation of the EP4 as a policy standard was influential in encouraging coordination and coherence across different policy domains to avoid a failed energy transition. This is because the climate change regime is built around a convenient but limited framework that broadly divides the world between developed and developing countries. Essentially projects will get built if conditions are favourable, which means the EPs will apply to all without any specific requirement for Africa. The key will be the quality of the project.

It can be concluded that the newly revised climate change risk will not necessarily negatively affect project financing in Africa. However, we should aim to push the conversation in a different direction by encouraging governments and policymakers to be more proactive about climate change while considering their various energy access challenges. This means that although Africa should also focus on exploring oil and gas, it should also simultaneously convert it to sustainable resources, to diversify as a means of adapting to climate change and 'progressively' shift towards the energy transition.