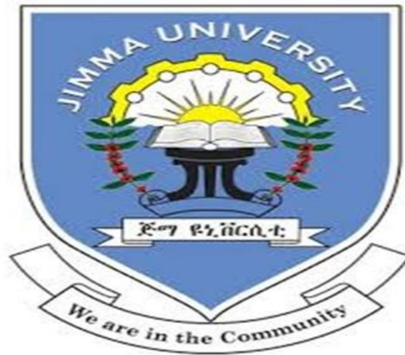

COLLEGE OF LAW AND GOVERNANCE

SCHOOL OF LAW

ANALYZING ETHIOPIA BANKING SECTOR CREDIT POLICY AGAINST ENVIRONMETALLY SUSTAINABLE LENDING:- COMPARATIVE STUDY OF SELECTED ASIA AND AFRICA COUNTRIES

L.L.M. THESIS IN COMMERCIAL AND INVESTMENT LAW

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JIMMA, ETHIOPIA, DECEMBER, 2022

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JEMERE FUFA TOLERA

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COLLEGE OF LAW AND GOVERNANCE

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ADVISOR'S APPROVAL SHEET

This is to certify that the thesis entitled: ***Analyzing Ethiopia Banking Sector Credit Policy against Environmetally Sustainable Lending:-Comparative Study of Some Asia and Africa Countries*** submitted in partial fulfillment of the requirement for the degree of Masters of Law (L.L.M) with specialization in commercial and Investment law to the Graduate Program of Jimma University School of Law, has been carried out by **Jemere Fufa Tolera** under my guidance. Therefore,I recommend that the student fulfilled the requirements and hence hereby can submit the thesis to the school.

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As members of the board of examiners of the final master's degree open defense, we certify that we have read and evaluated the thesis prepared by **Jemere Fufa** under the title ***Analyzing Ethiopia Banking Sector Credit Policy against Environmetally Sustainable Lending:-Comparative Study of Some Asia and Africa Countries*** and recommend that it be accepted as fulfilling the thesis requirement for degree of masters of law Jimma university with specialization in commercial and Investment law.

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CERTIFICATION OF THE FINAL THESIS

I hereby certify that all the correction and recommendations suggested by the board of examiners are incorporated into the final thesis entitled ***Analyzing Ethiopia Banking Sector Credit Policy against Environmetally Sustainable Lending:-Comparative Study of Some Asia and Africa Countries***is my original work and has not been presented for a degree in any other university, and all sources of material used for this thesis have been duly acknowledged.

Name: Jemere Fufa Signature: _______________Date__________

Stamp of the SGS Date_____________________

Declaration

I hereby declare that the thesis entitled ***Analyzing Ethiopia Banking Sector Credit Policy against Environmetally Sustainable Lending:-Comparative Study of Some Asia and Africa Countries*** is my original work and has not been presented for a degree in any other university, and all sources of material used for this thesis have been duly acknowledged.

Name: Jemere Fufa   Signature: _____________   Date: December, 2022

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In closing, I want to thank my family and friends for helping me through out the work. Thank you all!

ACRONYMS AND ABBREVIATIONS

ESG **Environmetal, Social and Goverence**

CRGE **Climate Resilience Green Economy**

CSR **Corporate Social Responsibiliy**

EIA ***Environmetal Impact Assessment***

IFC, ***International Financial Corporation***

AfDB ***Africa Development Bank***

OECD **Organisation for Economic Co-operation and Development**

PBoC ***Peoples Bank of China***

ABC ***Agricultural Bank of China***

NSB, ***Nigerian Sustainable Banking Principles***

ERM, ***Environmental Risk Management***

EDD ***Environmental Due Diligence,***

MBA ***Mongolian Banking Association***

FEPA **Federal Environmental Protection Authority**

(ECC) ***Environmental Clearance Certificate***

BIT ***Bilateral Investment Treaty***

DBE ***Development Bank of Ethiopia***

CBE ***Commercial Banks Of Ethiopia***

Table of Contents

Acknowledgment v

Abstract x

CHAPTER ONE 1

1. INTRODUCTION 1

1.1. Background 1

1.2. Statements of the problem 4

1.3. Research questions 6

1.4. Objective of the study 6

1.4.1. Specific Objectives. 6

1.5. Methodology of the study 7

1.5.1. Research Type and Design 7

1.5.2. Sampling Techniques 7

1.5.3. Source of data 7

1.6. Significance of the study 8

1.7. The scope of thestudy 8

1.8. Limitation of the Study 8

1.9. Ethical Considerations 9

1.10. Structure of the Study 9

CHAPTER TWO 10

2. GENERAL CONCEPTS AND LEGAL FRAMEWORK OF ENVIRONMETAL SUSTAINABILITY IN BANKS LENDING 10

2.1. Introduction 10

2.2. Concept of Environmentally Sustainable Banking 11

2.3. Stages of Environmental Sustainability of Banks 12

2.3.1. Defensive Banking 13

2.3.2. Preventative Banking 13

2.3.3. Offensive Banking 13

2.3.4. Sustainable Banking........ 14
2.4. Banks Environmental Legal Resposibility........ 14
2.5. The Driving Forces to Integrate Environmetal Sustainability in Bank Lending. 15
2.6. The Rationale behind Incorporating Environmetal Sustainability in Bank Lending........ 18
2.7. The Theoretical Beses for Environmetal Liabilities of Banks 20
2.7.1. Polluter pays theory 20
2.7.2. The Theory of Environmental Public Trust........ 20
2.7.3. The theory of corporate social responsibility. 21
CHAPTER THREE........ 22
3. CURRENT EXPERIENCES OF THE BANKING SECTOR IN INTEGRATING ENVIRONMETAL SUSTAINABILITY IN LENDING BUSINESS OPERATIONS 22
3.1. Selected Asian and Africa Countries Bank Experience 22
3.1.1. China′s Experience........ 23
3.1.2. Nigerian′s Experience........ 26
3.1.3. Bangladesh′s Experience 28
3.1.4. Mongolia’s Experience........ 32
CHAPTER FOUR........ 36
4. EXAMINING THE NEEDS AND ADEQUACY OF ETHIOPIA ENVIRONMETAL SUSTAINABILITY LEGAL FRAMEWORK IN ETHIOPIA BANKS LENDING BUSINESS ACTIVITIES 36
4.1. The need for the banking sector in Ethiopia to include environmental sustainability in its banking credit business activity 36
4.2. Examining the Adequacy of Ethiopia Environmetal Sustainability Legal Framework in Ethiopia Bank Lending Business Activities. 40
4.2.1. Analysis of EIA in Promoting Environmental Sustainability in Ethiopia Bank Lending Activities40
4.2.2. Analysis of Enivoronmetal Sustainability under Ethiopia Investment law 41
4.2.3. Analysis of Environmental Sustainability under Ethiopia BITs 43
4.2.4. Analysis of Environmetal Sustainability under Ethiopia Banks Lending Policy........ 44

CHAPTER FIVE 51
5. FINDING, CONCLUSION AND RECOMMENDATIONS 51
5.1. Findings 51
5.2. Conclusion 52
5.3. Recommendations 54
Biblography 56
Annexes 64

Abstract

The very essence of this study i s investigating Ethiopia Banks lending policy and regulations against environmental sustainability.The motivation behind this analysis is that environmental sustainability regulated under Ethiopia EIA proclamation,Ethiopia Investment proclamation and other national directives lacks adequacy to protect environmental sustainability.On top of this Ethiopia is signatory to many different global environmental treating and protocols, from Rio 1992 Earth Summit to COP 15 Paris climate change agreement. The research question rised by the researcher is that whether Ethiopian banks lending policy accommodate environmental sustainability in providing loan and the existence of policy at the national level that requires the financial sector of the country to promote environmental sustainable lending.To achieve the stated objective of the study the researcher employed doctrinal and comparative research approaches.The study has selected certain countries jurisdiction for comparative study through employing the purposive technique.Accordingly the researcher consulted environmental sustainability policy and regulations of certain developing countries from different regions of the world like China,Bangladesh,Nigeria,Mongolia andSouthAfrica.The study revealed that there is no any visible policy law that mandate Ethiopia banks to integrate environmental sustainability in banks credit operations.Finally the researcher recommended the Ethiopia Minister of Finance(MoF),National Bank of Ethiopia and Ethiopia Commercial Banks to enact Ethiopia environmental sustainable finance principle,environmental sustainable banking guideline,self regulatory environmental sustainable credit guideline respectively.

Keywords:-Commercial Banks of Ethiopia, Environmental Sustainability,Credit policy,National Bank of Ethiopia, ,Green Economy,Green Credit, Environmental Risk Management, Environmental Due Diligence ,Green Credit Guidelines, Environmetal, Social and Goverence, Climate Resilience Green Economy,Environmetal Impact Assessment

CHAPTER ONE

1. INTRODUCTION

1.1. Background

Environmental protection integrated banking sector,as a practice and policy concept, is growing globally.Mainly, the environmental protection integrated or sustainable financial products like green credit has grown exponentially in the past few years.The driving force for this new banking business model is the increased demand from beneficiaries, as policy signals to achieve global sustainability agendas.[1] To date, the focus of these initiatives has largely been on the role of institutional investors and asset owners.[2]Growing global debt, diminishing quality, and competitive pressures can have important implications for promoting environmental protection in corporate finance.[3] On the one hand, environmental protection integration into lending(credit) activities may contribute to resilience in the financial sector.[4]

Global leaders have regularly underscored that private finance will be needed to achieve many global goals.[5] However, such goals do not appear to be fully reflected in many commercial and investment banking practices. For example, research by the European Central Bank has found that corporate lending is less likely to promote lower CO2 emissions.[6]Until very recently, no widely recognised environmental and social standards existed for general corporate lending, although they represent the vast majority of banking

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[1] OECD ,*ESG practices and policy for institutional investors,* (2019) available at *https://www.oecd-ilibrary.org/sites/d5c54bd6- en/index.html?itemId=/content/component/d5c54bd6-en#chapter-d1e8145*

[2] *Id*

[3] OECD ,*Promoting responsible lending in the banking sector :-The next frontier for sustainable finance (2019*) available at https://www.oecd-ilibrary.org/sites/d5c54bd6-en/index.html?itemId=/content/component/d5c54bd6-en

[4] *Id*

[5] United Nations,Paris Agreement,(2015) available at https://unfccc.int/sites/default/files/english_paris_agreement.pdf

[6] Ralph De Haas, Alexander Popov*, Finance and Carbon Emission,* working paper series number 2318/2019 European Centeral Bank , at, 9 (2019) available at https://www.ecb.europa.eu/pub/pdf/scpwps/ecb.wp2318~44719344e8.en.pdf

finance activities. This changed in 2019 with the publication of the OECD Due Diligence for Responsible Corporate Lending and Securities Underwriting[7] and, separately, the UNEP FI Principles for Responsible Banking.[8]Both standards provide frameworks for environmental sustainability risk management for lending transactions beyond project finance. However, as they have only recently been introduced, awareness and implementation of these standards are in their initial stages and many banks have only recently began incorporating Environmetal,Social and Goverence(ESG) considerations into general corporate lending transactions.[9]

The African Development Bank Group has undertaken to promote economic development of its Regional Member Countries (RMCs) by financing development projects and programmes.[10] Traditionally, viability of its funded projects was mainly based on technical and economic criteria. Environmental soundness was considered as implicit in the technical and economic viability of these investment projects.[11] However, growing concerns about the environmental related financial risks and continued degradation of Africa's natural resources and the appearance of environmental issues at the top of the international political agenda driven the Bank to adopt a more proactive stance in environmental management .[12]The Bank has indeed made considerable progress, over the years, in integrating environmental concerns into country programming and lending operations.[13] Since the publication of its environmental policy in 1990, the bank has produced a number of environmentally-orientated policy documents and guidelines, which give practical advice on implementation of the

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[7] OECD,*Due diligence for Responsible corporate lending and under writing:-Key considerations for banks implementing the OECD guidelines for multinational enterprises* p,16 (2019) available at https://www.oecd.org/investment/due-diligence-for-responsible-corporate-lending-and-securities-underwriting.htm

[8] UNEP-FI,Principle for responsible banking,(2019) at,14, https://wedocs.unep.org/20.500.11822/32227

[9] OECD,See supra note 3

[10] Africa Development Bank Goup's ,*Environmental policy*,(2004) p 8 available at https://www.afdb.org/fileadmin/uploads/afdb/Documents/Policy-Documents/10000027-EN-BANK-GROUP-POLICY-ON-THE-ENVIRONMENT.PDF

[11] *Id*

[12] *Id*

[13] *Id*

policies. These are considered important documents which guide staff, RMCs and the public on environmental issues within project design in order to achieve environmental sustainability.[14]

Unilateral implementation of environmental protection integration in financial sector regulations is a fast growing phenomena in recent years. For example, Mongolia launched its sustainable finance policy in December 2014.[15]As more countries adopt similar regulations, the list will keep expanding.Some notable countries which integrated environmental protection in their banking credit services are Bangladesh, Brazil, China, Colombia, Indonesia, Mongolia and Nigeria.[16]It should be noted that there are other countries in the process of developing their own banking environmental protection integration regulatory policies. Examples of these are Kenya, India, Turkey, the United Kingdom and South Africa.[17]Given the scale and significance of this part of the sector, strengthening environmental protection integration in corporate lending practice will be necessary to meet global sustainability goals as well as enhance resiliency in the financial sector.

Ethiopia is signatory to many different global environmental treaties and protocols, from Rio 1992 Earth Summit to COP 15 Paris climate change agreement. But the Ethiopia banks still did not incorporated environmental protection in its credit business activity.Without integrating environmental sustainability in all sectors of developments it would be difficult to achieve environmental sustainability at the national.Thus, it is time to demand the banking sectors of the country to implement these international treaties and conventions as a bench mark to endorse and implement its credit activities. Furthermore, it needs banks to consider national legislatives in connection with environmental and social agendas in its business activities especially lending operation. It required the banking sector of the country to collaborate with other stakeholders to implement the sustainable development agenda and Climate Resilience Green Economy (CRGE) strategy of the country.

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[14] *Id*

[15] Adeboye Oyegunle and Olaf Weber, *Development of sustainability and green banking regulations-existing codes and practice*, CIGI Papers no. 65 (2015),p 2 avaolable at https://www.cigionline.org/sites/default/files/cigi_paper_no.65_4.pdf

[16] *Id*

[17] *Id*

1.2. Statements of the problem

By their very nature of business, banks are making a profit. By controlling banks and integrating environmental impacts into financial decision-making, it is possible to transfer financial resources to those companies or projects that meet the requirements of environmental protection. In this sense, banks are an important factor in achieving sustainable development. Accordingly many countries which have similar development paths with Ethiopia are implementing environmental sustainable lending transaction to promote green finance (lending). However, due to the lack of legal obligations for banks in Ethiopia's current environmental and financial laws, banks are lending large sums of money to sectors that do not duly carried out environmental impact assessment due to high investment profits.But banks have the inevitable responsibility for the environmental consequences of their investment decisions.

Ethiopia has signed many international agreements, from the Rio 1992 Earth Summit to COP 15 on the Paris climate change agreement. At the national level, it has been more than ten years since Ethiopia government launched the green Legacy. Ethiopia also implementing Sustainable Development Agenda and the Green Strategy for Green Economy (CRGE).[18] There is no strong and coherent functionality within the banking system that can effectively manage environmental sustainable lending policies. For example the National Bank of Ethiopia establishment proclamation[19] or national bank credit directive and other commercial banks credit policy and regulations did not set any environmental protection requirements in provisions of loans.[20]

In many jurisdictions, including Ethiopia, environmental consultants will prepare an EIA for the proponent (project owners). Because they are hired and paid by the proponent, consultants may be biased in favour of approving the project, believing that approval will lead to future work or other benefits.

Ethiopian environmental law requires projects likely to have negative impacts to undergo environmental assessment.[21]There are no objective criteria to determine the nature and

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[18] FDRE,*Climate resilencegreen economy strategy* (2011)https://www.preventionweb.net/files/61504_ethiopiacrge.pdf

[19] See *the preamble of Ethiopia banking business proclamation,Number 592/2008*

[20] See *the preamble of Ethiopia National Bank Directive Number SBB/69/2018*

[21] Environmental Impact Assessment Proclamation number 299/2002,Art 4

degree of such impacts.On the other hand,projects that are not likely to have negative impacts do not require EIA.[22]The EIA Proclamation, issued in 2002, authorized the Environmental Protection Authority to issue a directive stating which projects might have negative impacts and thus require EIA.But there is no still directive issued by the Authority.Rather the Authority issued working manual which has no any authoritative power on the banking sector.[23] Even the manual does not include any criteria for determining which projects require EIA,but instead simply lists twenty two types of projects that should be subject to EIA.

Ethiopia's Investment Proclamation does not make EIA arequirement for obtaining an investment permit, and in practice the Ethiopian Investment Authority grants investment permits without EIA as a requirement. [24]Investors who comes to banks for credit service,are not required to provide EIA .However, the EIA Proclamation imposes a duty on any licensing agency to ensure that the relevant environmental agency has authorized implementation of a project before issuing an investment permit.[25] The investment proclamation, on the other hand, only grants investment permits following the fulfillment of the requirements outlined from Art 10 up to art 13 of the proclamation and does not consider conducting an EIA as a requirement to obtain an investment license.[26]Aside from this, the investment application form does not expressly require the submission of an EIA or any other data pertaining to the prospective investment project's environmental impact.[27] We can see from a critical examination of the aforementioned debates that the investment proclamation and environmental regulations are incompatible with one another.

Having this problem, studying the adequacy of Ethiopian banks lending(credit) policies or regulations to promote environmental sustainable investment is imperative research problem to be researched.Therefore ,the researcher came up with way forward through comparatively studying

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[22] *Id* at art 5
[23] See the appendex of Ethipia environmental impact assessment guideline (2000) p,1 https://www.commissiemer.nl/docs/mer/diversen/eia_guidline_2000.pdf
[24]See Investment Proc. No. 1180/2020, FEDERAL NEGARIT GAZETA, arts. 10-14;
[25] See *supra note 21 at art 3(*3)
[26] Investment Proc. No. 1180/2020, *supra note 24*
[27]See EIC Application Form for New Investment Permit http://admin.theiguides.org/Media/Documents/Investment%20Permit%20Application%20Form.pdf

the regulatory trends of other countries which have experienced in integrating environmental sustainability in their banking credit policies.

1.3. Research questions

Hence, there are some imperative questions needed to be researched regarding environmental sustainability of Ethiopia banks lending business, this paper examines the following research questions:

1. Is there any policy inEthiopia at the national level that requires the financial sector of the country to integrate environmental sustainable lending?
2. Are Ethiopian banks lending policy accommodate environmental sustainability in providing loan and how?
3. What are the experiences of other countries banks in integrating environmental sustainable lending?

1.4. Objective of the study

The general objective of this study is to investigating Ethiopia Banks lending policy and regulations against environmental sustainability. Under this general objective there are specific objectives to be addressed under this work.

1.4.1. Specific Objectives.

To attain these general objectives, the following specific objectives are formulated.

1. Analyzing whether or not Ethiopia banks lending policy includes environmental sustainability in providing loans.
2. Assessing the existence of environmental protection in National Bank directives or at the national level that requiring banks to provide loan for the borrowers .
3. To extract best practice from other countries experiences in relation with environmental sustainable bank lending.
4. To forward possible ways for Ethiopia banks lending policy and regulation to include environmental sustainability to attain sustainable development agenda of the country.

1.5. Methodology of the study

1.5.1. Research Type and Design

To achieve the stated objective of the study the researcher has employed doctrinal research approaches.This research aim to assess the Ethiopia banking sector legal frame work in requiring banks to take into consideration environmental sustainability while providing credits. In doing so the researcher consulted selected Asia countries banks policies and regulations for a comparative study regarding environmental sustainable practice. Such countries are China, Banglagish and Mongolia. In addition to this the researcher also looks to certain Africa countries practice like Nigeria.

1.5.2. Sampling Techniques

The researcher has selected certain countries jurisdiction for comparative study through employing the purposive technique. Since the purpose of the researcher is the analyze ethiopia banks credit policy with environmental sustainable banking business activities, the researcher selected this countries because they are developing countries like Ethiopia and also it is been 15 years since [28] they launched green legacy at their national level as ethiopia did since ten tears ago.[29]In addition to this, the Ethiopia developmental policies including financial regulations are mostly modelled on the Asian countries.[30]

1.5.3. Source of data

To analyze the bank's lending policy and regulations in promoting environmental protection, both primary and secondary data will be used to accomplish the work. The primary data will be international, regional and national law .And also other countries bank policy and regulations will be consulted. Secondary data will be collected from books, published reports, literatures and the internet.This inquiry has been enable me to analyze and articulate the lesson that Ethiopia should grasp from the contemporary world.

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[28] Md. Anowar Hossain Bhuiyan1, Shafiqul Hassan, Md. Abud Darda , Md. Wahidul Habib and Md. Belal Hossain, *Government Initiatives for Green Development in Bangladesh* (2020) p,6

[29] Xiaoxue Weng, Zhanfeng Dong, Qiong Wu and Ying Qin, *China's path to a green economy*(2015) p,8

[30] Ethiopia macroeconomics and finance policy framework for structural transformation,p,25,(2020) available at https://unctad.org/system/files/official-document/BRI-Project_RP19_en.pdf

1.6. Significance of the study

The outcome of this research will be significant in many ways. For instance, the currently available research works in the field of environmental protection integration in Ethiopia are not adequate. Thus, this research will fill the gap in the existing literature in the field. Second, the research will be informative to the public and the government about the impacts of not integrating environmental protection in the credit activities of Ethiopia banks and what needs to be done in the future to make the integration more effective. Hence, the outcome of the research may influence individual, the banking sector governing bodies and policy makers. Finally, the outcome of the research could be used by other researchers either as an input or an encouragement for further research in the field.

1.7. The scope of thestudy

The central idea of this is to investigate Ethiopia Banks lending policy and regulations against environmental protection (sustainability).As far as the consideration of legal framework is concerned, basically the laws, policies, guidelines and other documents of the federal government relating to environment and banks will be considered because of the predominance of federal jurisdiction over environmental protection and banking policies and regulations.

Since the purpose of the researcher is to analyze ethiopia banks credit policy with environmental sustainable banking business activities, the researcher has consulted certain Asian and Africa countries banks environmental sustainable policies and regulations because they are developing countries like Ethiopia and also it is been 15 years since they launched green legacy at their national level as ethiopia did since ten tears ago.

1.8. Limitation of the Study

Environmental protection integration of banks credit business is newly emerged business model, therefore it is not possible easily to find a researched paper or and reference which is supportive to my research. The other is due to lack of resources and time, it is difficult to make this study easy. These limitations do not affect the conclusions of the study because the method of the study is appropriate and that the logic is sound. The data on which the conclusions are based are valid, adequate and that studies with similar limitations have been published before.

1.9. Ethical Considerations

All the ethical principles and norms in the research process is respected like citing relevant and published or easily accesseable sources. More importantly, I had been abided by the principles and norms of research process to be followed by researcher.

1.10. Structure of the Study

Chapter one will introduces background to be addressed in the paper, the details of the research problem, the questions to be addressed, the resources to be consulted, the scope of the paper, the methodology employed and the objectives and significance of the paper. Chapter two will cover very general legal frameworks about environmental sustainability integration of banks lending activities. Accordingly, issues in relation with, definitional aspect, the driving force promoting environmental protection integrated in Banking sectors, the rationale behind incorporating environmental protection integration in the credit activity of the banking sectorand theoretical basis for environmental liability of banking sectors. Chapter three introduces the reader with current practice of banking sector in integrating environmental sustainability to its credit activities and the practice of selected countries practice in environmental protection integrated banking credit activities and the lesson for Ethiopia. Chapter four examines the needs and adequacy of Ethiopia environmental sustainability legal framework in Ethiopia banks lending business activities. Under this chapter detailed analysis is aslo made to examine Why Ethiopia banking sector will requires incorporating environmental protection in the Banking credit business activity. Chapter five is the final part of the paper contains findings, conclusion and recommendations.

CHAPTER TWO

2. GENERAL CONCEPTS AND LEGAL FRAMEWORK OF ENVIRONMETAL SUSTAINABILITY IN BANKS LENDING

2.1. Introduction

The environment has been significantly impacted by the production and consumption of many industries throughout the history of human society. Banks have a substantial impact on the operations of their clients as well as the environment by supporting businesses through financing projects.[31] However, in the event of significant environmental incidents, it is typically the parties directly at fault who are exposed to liability risks, not the funding banks.[32] Although banks are not directly liable for environmental damage, it is still in their best interests to take environmental issues into account in order to avoid reputational damage and financial losses due to financing environmentally unfriend projects.[33] In response to these worries, environmental sustainabile finance policies, particularly green banking policies, have been developed in recent decades.

By supporting sustainability, banks may play a significant part in preserving the environment. The business communities focus are frequently shifted by environmental sustainable development from the traditional bottom line approach of profit to the triple bottom line approach, where the emphasis is on the three Ps: People (society), Planet (environment), and Profit (economy), with the decision point being the intersection of the three considerations.[34] In order to fulfill their dual roles, banks and other financial organizations are concentrating on environmental conservation.[35] The first duty is to promote morally and socially responsible banking, while the second is a significant part of

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[31]Yunwen Bai, Michael Faure & Jingliu, *The role of china banking sector in providing green finance*,24,Duke Environmetal law and policy forum,89 p,90(2013) available at https://www.researchgate.net/publication/294457997_The_Role_of_China's_Banking_Sector_in_Providing_Green_Finance
[32] *Id*
[33] *Id*
[34]Kanak Tara , Saumya Singh and Ritesh Kumar, *Green Banking for Environmental Management: A ParadigmShift, 10(3) Current World Environment,1029* p,1030 (2015) available at https://www.researchgate.net/publication/288857355_Green_Banking_for_Environmental_Management_A_Paradigm_Shift
[35]*Id*

their CSR. Many Banks in many jurisdictions started prioritizing the three Ps over profit and included as a policy and regulations in their daily lending operations.[36]

2.2. Concept of Environmentally Sustainable Banking

In order to ensure long-term corporate success, businesses must also support social and economic progress, a healthy environment, and a stable society.[37]The provision of financial resources and risk management tools to initiatives and businesses that advance or do not impair social justice, environmental protection, and economic development is known as sustainable finance.[38]

The phrase environmentally sustainable banking refers to banking methods that support environmentally friend internal procedures and environmentally friend external financing practices.[39] Sustainable banking is defined as the decision made by banks to only offer goods and services to clients who consider the social and environmental effects of their activities, with the goal of enhancing customer satisfaction and the economy as a whole without having a negative effect on people or the environment.[40] Environmentally sustainable banking is a type of banking activity in which banks take the initiative to carry out their everyday operations as diligent members of society by taking internal and external environmental sustainability into consideration.[41] The banks that engage in such initiatives are known as social responsible, environmental friend or ethical banks.[42] It means supporting eco-friendly methods and lowering the carbon impact of banking operations.[43] Green banking (environmentally sustainable banking) is

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[36] *Id*

[37] Mihir Kumar Roy, Md. Abdus Salam Sarker, Shahriar Parvez, *Sustainability in Banking Industry: Which way to move?* ASA University Review, Vol. 9 No. 2,p,58(2015) available at https://www.researchgate.net/publication/320699367_Sustainability_in_Banking_Industry_Which_way_to_move

[38] *Id*

[39] Md. Nahidul Islam ,Bangladesh Green Banking: *A new way to next level banking in Bangladesh*, A Thesis submitted to Jagannat University P,12(2015) available at https://independent.academia.edu/ishratkhan3

[40] Sampath bank plc,*Environmental and social risk management system*P,5 (2017) available at https://www.adb.org/sites/default/files/project-documents/49273/49273-001-esms-en_0.pdf

[41] Chen Zhixia,Md Miraji hossen,Sayed Sami, and Mareum Begum,*Green banking for environmental sustability present status and future agenda:-Experience from Bangladesh*, 8)(5) Asian economic and financial review,571,p,573(2018) available at https://www.researchgate.net/publication/324803005_Green_Banking_for_Environmental_Sustainability-Present_Status_and_Future_Agenda_Experience_from_Bangladesh

[42] *Id*

[43]Md. Shafiqul Islam, Prahallad Chandra Da, *Green Banking practices in Bangladesh*, 8 IOSR Journal of Business and Management (IOSR-JBM) 39 ,p 39 (2013) available at http://iosrjournals.org/iosr-jbm/papers/Vol8-issue3/G0833944.pdf

about going above and above to maintain the earth livable without causing any serious harm.[44] It is not just another kind of CSR. Ethical banking is another name for green banking, which takes into account all social and environmental factors.[45] Environmentally sustainable banking refers to environmentally friend or eco-friend banking to stop environmental damage and improve the habitability of this world.

Thus, environmentally sustainable banking entails a two-fold strategy.[46]First, Green transformation of all banks' internal processes is the emphasis of environmental sustainable banking.[47] This means that in order to reduce the carbon footprint, all banks should adopt proper strategies by implementing renewable energy and other measures. Second,all banks should use environmentally conscious finance, taking into account the environmental risks of projects before making financing decisions, and supporting and encouraging the expansion of new green initiative projects in particular.[48]

The banking industry is currently under intense pressure from many shareholders to conduct its credit business in a manner that is environmentally sustainable. The foundation of the United Nations Environment Programme Finance Initiatives (UNEPFI) in 1990 was one of many initiatives to carry out sustainable banking credit activity around the world.According to the United Nations Environment Programme Finance Initiative's definition of sustainable banking (UNEP-FI, 2007),the process by which the banks consider the impact of their various business activities and their products and services for meeting the needs of the current as well as the future generations.[49]

2.3. Stages of Environmental Sustainability of Banks

Every bank normally passed three stages to attain environmental sustainability[50] but the attainment of environmental sustainable approach is the most difficult one for the banks. [51] The stages are:-

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[44] *Id*
[45] *Id*
[46] *Id* at 40
[47] *Id*
[48] See, *supra note 36*
[49] See , *supra note 34 at p 1031*
[50] *Id* at 1030
[51] Yunwen Bai , *Financing a Green Future :-An examination of China's banking sector for green finance*, Research thesis submitted to Centeral European University p 14(2011) available at https://lup.lub.lu.se/student-papers/search/publication/2203222

2.3.1. Defensive Banking

Banks are inactive at this stage and are opposed to environmental regulation since it interferes with their interests which is profit making. A bank's profitability may be impacted by the adoption of environmental sustainability legislation, and banks may be reluctant to consider environmental sustainability while making financial decisions.[52]Since its interests could be harmed or indirectly impacted by the harm caused by its clients, the bank remains quiet or even opposes growing environmental rules during the defensive phase.[53]This is the stage of basic environmental risk management that is defensive and neglects or minimizes larger sustainability concerns.[54]

2.3.2. Preventative Banking

At this stage banks are incorporating environmental issues and risk management into their regular business operations like lending banking activities as a result of numerous pressures, such as pressure from the government, non-government organizations, and pressure from society.[55]Because it has recognized the potential cost savings from implementing these internal processes, the bank simply incorporates organizational environmental management and environmental risk management into its regular operations in the preventative phase.[56] It is phase of protection or response where environmental and societal risks are managed more methodically.[57]

2.3.3. Offensive Banking

At this stage, the banks are considering both their internal and external activity. In this phase, the banks aim to support green initiatives like green financing.[58] Investing in ecologically friendly projects is known as green credit.In the offensive phase, a bank will create and promote comparable environmentally friendly products or services as a response when it recognizes an environmental concern as a competitive opportunity in the financial market.[59] Many banks are currently focusing on investing in environmentally friendly projects. Banks currently invest money in green business ventures, and they report on the environmental performance of these projects in

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[52] See *supra 37 at ,p,1032*
[53] Se *supra note 49*
[54] See *supra note 37 at p,59*
[55] See *supra note 34*
[56] See *supra note 49*
[57]See supra note 37 at p,59
[58] See *supra note 34 at ,p,1032*
[59] *Id*

their reports.[60]At the offensive phase, environmental and social risks are strategically managed, and there is even some limited environmental and social value addition.[61]

2.3.4. Sustainable Banking

The activities of banks are all currently sustainable at this stage. Despite the substantial profits that can be made from investments, banks do not finance environmentally harmful firms. Banks are not concerned about increasing their return on investment.[62] The primary driving force behind the company's investment decisions is obtaining the maximum rate of return that is nonetheless sustainable.[63]The final stage of sustainable banking is where the three pillars of sustainability (prosperity,people, planet) are integrated into the bank's core business strategy and are no longer just seen as a risk to be avoided but rather as a potential component of all financial risk management and decision-making.[64] When an organization recognizes sustainability-related challenges as motivators for creating new goods and services, bringing in more money, and gaining market share, it starts to prioritize environmental values.[65]

2.4. Banks Environmental Legal Resposibility

Environmental legal responsibilities of banks' refers to the legal liabilities to be assumed by banks for environmental pollution caused by their activities in the process of loan issuance, which mainly includes the following two circumstances:[66] First, banks provide borrowers with credit extension and loans despite the knowledge that the borrowers are financing for polluting projects. Second, banks are involved in the operation of the investment projects and exercise a dominant influence over these projects.[67]

Determining and managing banks' impact on social and environmental sustainability must be done with great care. Naturally, sustainability concerns can affect both bank products and those of enterprises that receive bank financing, as well as their products and manufacturing procedures.Businesses that are better equipped to handle the risks and difficulties associated with

[60] *Id*
[61]See *supra note 37 at p,59*
[62]See *supra note 34 at ,p,1032*
[63] *Id*
[64]See *supra note 37 at p,59*
[65] *Id*
[66] UNEP,*Establishing China's Green Financial System :Establishing the Legal Liabilities of Financial Institutions* :Detail recommendations 13,p 3 (2014) available at https://www.cbd.int/financial/privatesector/china-ecgfs-13Lender%20Liability.pdf
[67] *Id*

social and environmental issues will be more successful in generating sustainable development and returns.[68] To integrate sustainability criteria in financial regulation, they need to be formulated in such a way that they give clear direction to banks on how to avoid negative social and environmental consequences of their investments and on how to focus on investments that contribute to environmental sustainability and social justice.[69]

2.5. The Driving Forces to Integrate Environmetal Sustainability in Bank Lending.

In the past few decades, researchers, academics, and politicians have paid a lot of attention to the growing worries about a variety of environmental issues, from global warming to air, land, and water pollution. Since the banking industry doesn't have any detrimental environmental effects, it wasn't included on the list of potential sources of pollution for many years.However, now adays banks could not remain free from environmental responsibility for very long because of their obvious connection to industrialization.By financing manufacturing companies that directly contaminate the land, the air, and the water through contentious production processes, banks are indirectly contribute to environmental deterioration.[70] Thus, any reckless behavior during the lending process may be interpreted as banks' failure to behave responsible in connection with its environmental responsibilitiess.[71]

For banks to integrate environmental sustainability in its banking operation there is also other driving factors. First, banks started to manage risks and to capitalize on opportunities. These factors were the main drivers for the integration of sustainable banking and E&S practices in the banking sector as they tended to strengthen banks' capacity to rely on long-term benefits rather than focus on short to medium-term gains. The conventional financial sector takes sustainability considerations into account because it is demanded business, because regulators prescribe it,

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[68] IFC-World Bank Group ,*sustainable and responsible bank in Africa*:: A getting started guide ,p 9 (2014) available at https://www.ifc.org/wps/wcm/connect/33a3d2b5-d9ca-498f-86b4-b279bff9904d/Sustainable+and+Responisble+Banking.pdf?MOD=AJPERES&CVID=knWKrj3

[69] Jan Willem van Gelder, Myriam Vander Stichele, *Why to integrate Sustainability criteria in financial regulation?* P,6 (2011) available at https://www.banktrack.org/download/why_to_integrate_sustainability_criteria_in_financial_regulation

[70] Sarwar Uddin Ahmed, Samiul Parvez Ahmed and Ikramul Hasan,*Why banks should consider ESG risk factors in bank lending?*, vol 13 banks and bank system p,71 (10 August 2018) available at https://www.businessperspectives.org/index.php/journals/banks-and-bank-systems/issue-291/why-banks-should-consider-esg-risk-factors-in-bank-lending

[71] *Id*

because of personal attitudes of leaders or because of the demand of clients.[72]Global governments and organizations have not been the only ones to respond to sustainability challenges.In banks, reactions are now occurring.They have also reportedly started to support the shift to a more sustainable economy by incorporating sustainability factors into their risk management models and governance frameworks.[73] Secondly, Social pressure and expectations from civil society are growing rapidly on the banking sector to take environmental and social concerns into account. For instance, as part of protests against the construction of the Dakota Sccess Line (DL) in the United States, several campaigns targeting banks that provided financial support to the project were launched, asking their clients to close their accounts.[74] International instruments, such as the UN Guiding Principles, Guidelines for Multinational Enterprises Principles for Business and Human Rights also recognize that businesses, including banks, should prevent and minimize any negative effects on society and the environment that may result from their operations.[75]

Bearing this in mind, it can be safely said that it was the contribution of all these factors that motivated regulators to integrate sustainability issues into financial regulations. [76]The development of new business opportunities was considered by financial institutions in Brazil, Colombia, and Peru as one of the most significant drivers for incorporating sustainability considerations into financial regulations.[77]Access to capital from investors or foreign financial organizations was deemed to be of the paramount importance in Nigeria.The main sources of funding for Nigerian banks are financial capital injections from foreign financial institutions like the FMO (Dutch Enterpreneurial Development Bank),the IFC (International Financial Corporation), or other organizations.[78]However, external financial institutions want to make sure that their investments are made in accordance with certain sustainability concepts and have established sustainability

[72] Adeboye Oyegunle and Olaf Webber , *Developmenet of sustainability and green banking regulations — Existing codes and practices CIGI papers no.65* ,p,8 (2015) available at https://www.cigionline.org/publications/development-sustainability-and-green-banking-regulations-existing-codes-and-practices
[73]Adrienne Coleton,Maria Font Brucart,Pilar Gutierrez,Fabien Le Tennier and Christian Moor,*Sustainable Finance Market Practice* ,EBA Staff Paper Series ,2020, p, 6 available at https://www.eba.europa.eu/sites/default/documents/files/document_library/Sustainable%20finance%20Market%20practices.pdf

[74] Carla F.Frederick,Mark Meaney,Nicholas Pelosi and Kate R.Finn ,Social cost and material loss :The Dakota acess pipeline p,37-40,(2018) *available at https://www.colorado.edu/program/fpw/content/social-costs-and-material-loss*
[75] OECD Guidelenes for multinational enterprises 2011 edition ,p 31 -34(2011 edition) available at https://www.oecd.org/daf/inv/mne/oecdguidelinesformultinationalenterprises.htm

[76] See *supra note 74*
[77] *Id*
[78] *Id*

criteria.[79]As a result; Nigerian banks endeavored to create procedures and policies that satisfy these requirements.[80]

In Bangladesh, in addition to the impact of the IFC, the relative absence of environmental regulations for polluting industries and their enforcement was a reason to focus on the financial sector as an environmental regulator, and to create incentives to support environmental-friendly practices.[81] The situation was similar in China, where environmental pollution has a significant impact on the environment and health. Consequently, financial mechanisms were applied to support non-polluting industries and penalize polluting industries.[82] Thus, based on this analysis, the following drivers help to explain integrating sustainability aspects into financial regulations that overlap in some countries.

In China, Brazil and Bangladesh the main driver to integrate, environmental issues are social pressure and environmental pollution which is considered as internal pressure.[83] The policy makers in emerging economies have a different view toward the financial sector than developed countries. Specifically, developed countries may view the financial sector as an intermediary in determining efficient allocations of capital, whereas developing countries may view the sector as a source of governance that justifies a more activist-policy approach with regard to sustainable development.[84] It was external pressure from financial aid institutions such as the FMO and the IFC for countries like Nigeria, Bangladesh, Mongolia and Indonesia.[85] No such pressure exists for developed economies, which already have established robust environmental regulatory systems.Political and economic pressure from regional neighbours is considered as another driver for banks to consider environmental sustainability for countries like Colombia and Peru.[86] Since Brazil, the most powerful economy in South America, has adopted sustainable finance regulations, other neighbouring countries may feel pressure or see the opportunity to go a similar route.[87] This may support economic relations with the neighbouring country that has implemented guidelines, as well

[79] *Id*
[80] *Id*
[81] *Id*
[82]*Id*
[83] *Id*
[84] *Id*
[85] *Id*
[86] *Id* at ,p,9
[87] *Id*

as foster a more sustainable financial industry.[88] The regulators contend that addressing sustainability issues boosts the banking sector's positive influence on sustainable development and that integration boosts the sector's financial stability and financial performance.

The Sustainable Financial Disruptions Regulation (also known as the "Sustainable Financial Disruptions Regulation") was approved by the European Parliament in 2019. The regulation establishes transparency requirements for financial institutions that manage investments with regard to the integration of sustainability risks and impacts into their processes and financial products, including reporting on adherence to internationally recognized standards for due diligence.[89] So some countries that their financial aid is from Europe developed environmental sustainability principles in their banking operation based on this resolution.

2.6. The Rationale behind Incorporating Environmetal Sustainability in Bank Lending

Various literary works have examined the rationale for incorporating environmental protection into the banking industry. The banking sector affects the environment both directly and indirectly. Direct impacts are related to the operations within banks.[90] When a bank provides financial services to a client, the client's impact on the environment is known as an indirect impact, sometimes known as an external environmental impact.[91] The indirect environmental effects appear to be more substantial than the direct ones and should thus be given greater attention.[92] Given the connection between banking and the environment, it is crucial to include environmental considerations into banking practices. It can prevent bank losses brought on by environmental risks while also advancing environmental preservation.[93] In other words, greening the banking sector contributes to attaining sustainable development in a desirable way.[94]Bank, as the largest financier, indirectly contributes to environmental degradation by funding projects and businesses whose operations have a negative impact on the environment.[95] As a result, the bank may make a

[88] *Id*
[89] Regulation (EU) 2019/2088/ of the European parliamnent and the council of 27 Nov,2019 on sustainability disclauser in the financial service sector at clause 18 available at https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R2088&rid=1
[90] See supra note 31 at ,p,93
[91] *Id*
[92] *Id*
[93] *Id*
[94] *Id*
[95] See *supra note 34*

significant contribution to the environment risk through its active participation in the lending industry.

There are also other reasons behind incorporating environmental sustainability in the bank lendings.Firstly, campaigns against banks funding projects with adverse effects on the environment and local populations are typically organized by individuals and environmental activists.[96] Second, the performance of investment portfolios can suffer if projects are not subjected to environmental, social, and economic screening.[97] Failure to conduct sustainability screening for projects raises customers' credit default risk because the majority of large-scale projects depend on returns from the project and its assets to repay bank loans.[98] Due to the fact that project returns and assets are frequently used as collateral for project lending, a bank that neglects to do sustainability screening may be without recourse in recovering the granted credit.[99] Thirdly, financial institutions like banks embrace sustainability and environmental sustainable norms may obtain financing from organizations that support international development, such IFC and AfDB.[100] These organizations offer financial incentives to commercial banks that integrate sustainability into their primary banking activities.[101] Local banks can obtain direct and indirect funding at lower interest rates if they adhere to the sustainability principles of development financial institutions. IFC and AfDB grant borrowers that adhere to environmental sustaianability requirements within a predetermined time period a lower interest rate.[102]

By regulating banks and incorporating environmental considerations into their financial decision-making, it is possible to channel financial resources to those businesses or projects that adhere to sustainability principles.[103] In this way, banks play a crucial role in the realization of sustainable development. Nevertheless, due to the absence of environmental legal responsibilities of banks in current environmental and financial legislations, some banks have invested in highly polluting sectors due to high investment return or local government pressures

[96] Francis Kariuki, *Sustainability in the Financial Sector in Kenya*,p,9 (2018) available at http://kmco.co.ke/wp-content/uploads/2018/08/Sustainability-in-the-Financial-Sector-in-Kenya-Francis-Kariuki.pdf
[97] *Id*
[98] *Id*
[99] *Id*
[100] *Id*
[101] *Id*
[102] *Id*
[103] See *supra note 66*

2.7. The Theoretical Beses for Environmetal Liabilities of Banks

Banks have been called on to assume legal responsibilities for environmental impacts of their investment projects for the following three theoretical justifications:

2.7.1. Polluter pays theory

The responsibility of organizations and individuals who cause pollution to clean up their pollution sources and polluted environment is the center this theory.Absolute liability encompasses the polluter pays principle.[104] Whether or not the person exercised reasonable care, the principle of absolute liability is applied, and it holds him/her accountable for compensating those who suffered as a result of his inherently risky activity.[105]According to the polluter pays principle,whoever causes environmental harm should pay the costs associated with it.[106]From a legal perspective, this principle mandates that individuals be accountable for their own actions.Environmental management costs are imposed on polluters from an economic perspective in order to internalize environmental costs.[107]This theory aims to ensure harmony between environmental protection, economic growth, and liability distribution.[108]The polluter pays principle was first proposed by the OECD in 1972 and has since been a foundational principle for environmental protection legislation in other countries. Generally speaking, the term polluter refers to industrial enterprises that generate pollutants but, more recently, the definition of polluter has been expanded to include lenders (banks) in order to follow this principle.[109]

2.7.2. The Theory of Environmental Public Trust

This theory underscores that the environment is shared resources and public assets for all the people and cannot be wilfully occupied, dominated or damaged by anyone. Understanding that the public's interest in the use or protection of natural resources constitutes

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[104] Siddhant Nanodkar, *Polluter Pays Principle: Essential Element of Environmental Law and Policy*, IJLMH | Volume 1, Issue 5 ,2581-5369 P,2(2018)https://www.ijlmh.com/wp-content/uploads/2019/03/Polluter-Pays-Principle-Essential-Element-of-Environmental-Law-and-Policy.pdf

[105] *Id*

[106] By Roy E. Cordato, Ph.D, The *Polluter Pays Principle: A Proper Guide for Environmental Policy*, Institute for Research on the Economics of Taxation Studies in Social Cost, Regulation, and the Environment: No. 6 P,1 (2006) Available athttp://iret.org/pub/SCRE-6.PDF

[107] See *supra note 66*

[108] Christopher M Inwang Ph.D. *Application of the Polluter Pays Principle in Environmental Management,* International Journal of Innovative Legal & Political Studies 9(1):74-80, Jan.-Mar., p,75 (2021)https://seahipaj.org/journals-ci/mar-2021/IJILPS/full/IJILPS-M-7-2021.pdf

[109] See *supra note 66*

property rights is conceptually supported by the public trust doctrine.[110] In order to properly allocate and protect these common assets, the state should manage these assets on behalf of common owners. [111] The theory of environmental trust underscores that, as environment is the asset of the public, predominately it is the duty of the state in all aspect to regulate the environment.The public trust doctrine establishes the right of the public to fully enjoy public trust lands, waters, and living resources for a wide variety of recognized public uses. It states that public trust lands, waters, and living resources in a state are held by the state in trust for the benefit of all the people.[112]On top of this; the theory proposes any polluter is responsible for its involvement in the participation of doing acts that affect the environment.[113]Even if the banks direct participation in the environmental pollutions is insignificant, the mere fact that the bank finances projects that might cause environmental risk, liabilities for environmental risk is extended to the banks.

2.7.3. The theory of corporate social responsibility.

An important theoretical foundation for the assumption of environmental legal responsibilities by commercial banks is the theory of corporate social responsibilities.The term corporate social responsibility (CSR) refers to business organizations(peoples) obligations to pursue policies, make decisions, or follow lines of action that are desirable in terms of the goals and values of our society. [114] Under traditional corporate theory, there is only one purpose for the founding of companies that isto maximizing shareholder interests.With the progress of social development and diversification of corporate objectives, however, the assumption of environmetal responsibilities became a corporate objective as well for companies. [115]And recently it is considered as a culture integrating environmental sustainability in the business operations of companies.

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[110] J. Peter Byrne, *The Public Trust Doctrine, Legislation, and Green Property: A Future Convergence?* University of California, Davis vol 45:917,(2012) p 917

[111] See *supra note 66*

[112] Michael C. Blumm,*The public trust doctrine in environmental and natural resource*,3rd ed.2020(p,12

[113] See supra note 63

[114] Salifu Mohammed,Componets,*Theories and the business case for corporate social responsibility*,International Journal of Business and Management Review Vol.8, No.2, pp.37-65,p,41(March 2020) https://www.eajournals.org/wp-content/uploads/Components-Theories-and-the-Business-Case-for-Corporate-Social-Responsibility.pdf

[115] *Id at ,p,5*

CHAPTER THREE

3. CURRENT EXPERIENCES OF THE BANKING SECTOR IN INTEGRATING ENVIRONMETAL SUSTAINABILITY IN LENDING BUSINESS OPERATIONS

Until very recently, no broadly recognised environmental and social standards existed for general corporate credit , although they represent the vast majority of banking finance activities. The term Environmetal sustainable bank is relatively new and has gained popularity recently, especially in developing nations. However, following the global financial crisis in 2008, the majority of nations understood how to set up and run their banking systems and environmental related issues are given more consideration. [116] As a result, the Green Bank became a great conceptin many countries. It provides the basis for the move toward a green economy and sustainable development. [117] In 2002, the International Finance Corporation (IFC) and nine international banks met in London and discussed banks' obligations to finance development and construction and to decide whether to put IFC norms for accountability in place, particularly for environmental issues.[118]

Banks are now rapidly shifted focus towards sustainability by promoting efficient uses of resources without harming the society and the environment. [119]Now it is time for the banks to adopt a comprehensive Green Banking Policy in a formal and structured manner in line with global norms so as to protect environmental degradation and ensure sustainable banking practices.[120]

3.1. Selected Asian and Africa Countries Bank Experience

The researcher consulted other countries bankingenvironmentalsustainability lending polices and guidelines in their bankingbusiness activities.These countries are China,Bangladesh, Nigeria, and

[116] Khan Touhidul Alam, Naim Md. Julker, *Green Banking: Bangladesh prespective and international experiences* ,1(61) RJOAS, 10 p,11(2017) Available at https://cyberleninka.ru/article/n/green-banking-bangladesh-perspective-and-international-experiences
[117] *Id*
[118] *Id*
[119] Sarwar Uddin Ahmed and Matiur Rahman, *Incorporating ESG Risk in Bank-Lending in Bangladesh*, International Research Journal of Finance and Economics ISSN 1450-2887 Issue 120 ,p,24(2014) available at https://www.academia.edu/7676522/Incorporating_ESG_Risk_in_Bank-Lending_in_Bangladesh
[120] Green Banking and CSR Department Bangladesh Bank,policy guideline for green banking , GBCSRD circular no 07 , p.2 (2013) available at https://www.bb.org.bd/mediaroom/circulars/gbcrd/oct282013gbcrd07eold.pdf

Mongolia, which have introduced financial sector sustainability policy and regulations in their banking business.These regulators argue that addressing sustainability issues increases the positive impact of the banking sector on sustainable development and that the integration increases the financial stability and the financial performance of the banking sector. Since the purpose of the research is to analyze Ethiopia banks creditpolicy withenvironmentalsustainablebankingbusinessactivities, theresearcherselectedthese countries becausethey are developing countries like Ethiopia and also they have been 15 yearssince they launched green legacy at their national level as Ethiopia did since ten tears ago.Inadditiontothis, theEthiopiadevelopmentalpolicy includingfinancialregulationsaremostlymodelled on theAsian countries.[121]

3.1.1. China′s Experience

In 1995, the Peoples Bank of China(PBoC) promulgated the notice on relevant matters of implementing credit policy and enhancing environmental protection, which requires financial authorities at all levels to integrate the needs of supporting national economic development and environmental protection and improvement in credit-related matters and identify environmental protection and pollution treatment and prevention as a factor of consideration in the lending of banks.[122] In china loans is not granted to any borrower that has not obtained the permission of environmental protection department for a production, business or investment project.[123] In 1997, the Agricultural Bank of China (ABC) and the State Environmental Protection Administration promulgated the notice on enhancing the prevention and treatment of pollution from township enterprises and safeguarding loan security.[124] These financial policies and regulations have paved the way for further enhancing the environmental legal responsibilities of banks.

Because of significant negative environmental impacts of Chinese industries, China started a green finance program that introduced guidelines and regulations for integrating environmental issues into financial decision making that has achieved international

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[121] Ethiopia macroeconomics and finance policy framework for structural transformation,p,25,(2020) available at https://unctad.org/system/files/official-document/BRI-Project_RP19_en.pdf

[122] See supra note 66 at ,p 8

[123] *Paragraph 2 of Article 24 of the Lending General Provisions of the PBoC*(1996) available at http ://www.lehmanlaw.com/resource-centre/laws-and-regulations/banking/general-rules-on-loans-1996.html

[124] See *Supra note 66 at p,8*

recognition.[125]The Chinagreen creditinitiatives focused onbanks and otherlenders.One of the programs is the green credit policy, started in 2006 and overseen by three agencies, the Ministry of Environmental Protection (MEP), the People's Bank of China (PBoC) and the China Banking Regulatory Commission.[126] Part of the program is that banks obliged to restrict loans to heavily polluting industries and offer different interest rates depending on the environmental performance of the lenders' sector. The program allows for loans already provided to be withdrawn if an environmental accident or instances of non-compliance occur.[127]

Consequently, the CBRC issued green credit guidelines in 2012.The 2012 CBRC Green Credit Guidelines are the result of 20 years of work by a range of parties to influence the financial sector's role in the environmental (and social) elements of economic development.[128]The goal of the policy is to ensure that Chinese banks direct loans away from highly polluting and high energy-consuming enterprises and projects and toward enterprises favouring energy efficiency and emission-reduction projects.[129] The policy was the basis for the formulation of sustainable banking in China and acted as the foundation for the 2012 CBRC green credit guidelines. The 2012 guidelines applied to policy banks, commercial banks, rural cooperative banks and rural credit unions established within China.[130]

3.1.1.1. The Green Credit Guidelines of China

In China, strict environmental and social risk controls are implemented through financial market regulation. The China Banking Regulatory Commission has established the Green Credit Guidelines, which set environmental and social restrictions in the loan process and direct funds towards green businesses.[131]The foundation of green credit bank practice at present is the Green Credit Guidelines issued by the CBRC in 2012, which build on the earlier green finance measures and are designed specifically to aid banks in allocating capital toward firms and projects with better

[125] See *supra note 74 at ,p,4*
[126] *Id* at p,6
[127] *Id*
[128] WWF,Financial market regulation for sustainable development in the BRICS countries p,31(2015)https://www.sustainablefinance.ch/upload/cms/user/201506_wwf_international_report_brics.pdf

[129] *Supra note 74 at 6*
[130] *Id*
[131] WWF,Financial market regulation for sustainable development in the BRICS countries p,6 (2015) https://www.sustainablefinance.ch/upload/cms/user/201506_wwf_international_report_brics.pdf

environmental and social risk management.[132] The Guidelines urge lending institutions to promote green credit in order to improve resource efficiency and serve the real economy.[133]They also encourage financial institutions to adopt risk management across all stages of the lending process and to comprehensively identify measure, monitor and control environmental and social risks.[134]

An important contribution of the Guidelines is that it tried to define green credit more consistently. Under the Guidelines, green credit is the extension of credit by financial institutions to firms based on a creditworthiness assessment that incorporates an evaluation of the environmental and social risk associated with the borrower.[135].In contrast to definitions of environmental and social risk that focus only on the financial risks to the firm and its shareholders, the Guidelines define environmental (and social) risks in terms of the negative impacts of bank clients and their affiliates on a range of stakeholders.[136] The Guidelines urge financial institutions to adopt sound governance and internal management, and to ensure that capital allocation is based on environmental and social credit risk assessments. Most critically, the guidelines prohibit issuing credit to clients that fail to comply with the relevant regulations on environmental and social performance.[137] Under the Guidelines, each bank has the flexibility to set its own strategies, policies, and internal oversight standards, including its own environmental and social risk appraisal standards.[138]

The guidelines contemplate that lenders will also incorporate environmental and social analysis into post-loan monitoring and due diligence, at least for projects that present a major environmental and social risk. Theguideline explicitly directs banks to utilize contractual covenants to strengthen environmental and social risk management and to require borrowers warranties regarding their environmental and social risk management and improvement.[139] Because financial institutions may lack the capacity to effectively assess and monitor these risks, the guidelines give banks the option

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[132] China green credit guideline art 12, (2012) available at https://www.sbfnetwork.org/wp-content/assets/policy-library/470_China_Green_Credit_Guidelines_2012_CBR.pdf
[133] Virginia Harper Ho†, sustainable finance and china green credit reforms:A Test case for bank monitoring of environmental risks, vol 51 Cornell International Law Journal 609 p,630 (2018) available at https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1930&context=cilj
[134] China green credit guideline art 4 (2012) available at https://www.sbfnetwork.org/wp-content/assets/policy-library/470_China_Green_Credit_Guidelines_2012_CBR.pdf
[135] *Id* at Art 2
[136] See *supra note 132*
[137] *Id* at Art 17
[138] *Id* at Art 11 and 15
[139] *Id* at Art 18

to out source client environmental and social risk auditing to third parties.[140] At the same time, the Guidelines encourage banks to identify guarantors and other third parties who can share the environmental and social risk associated with a project.[141]

Finally, the Guidelines empower banks to impose explicit remedies for breach of environmental risk management and to require additional risk mitigation measures for clients the banks identify as major environmental and social risks.[142] They also encourage greater transparency from lenders themselves regarding their own environmental and social risk, their implementation of the Green Credit Guidelines, and the impact of credit granting involving major environmental and social risks.[143]

3.1.2. Nigerian′s Experience

Environmental and social considerations were included in the Nigeria Banking Sector Regulation's decision-making processes regarding banking lending activities.[144]As a result, the Nigerian banking regulation integrated environmental protection into its decision-making processes, which is an approach that systematically finds, assesses, and manages environment.[145] Thus, the Nigeria bank regulation incorporated environmental protection integration in its decision-making processes is an approach that systematically identifies, assesses and manages environmental risks and potential impacts associated with the client or business engagement.[146] The regulation also required the country's banking industry to engage with clients to reduce and/or offset recognized risks and impacts, as appropriate, in cases when complete avoidance of environmental risk is not feasible.[147]This policy was established because the clients that banks finance may engage in commercial activities that could potentially have a harmful impact on the environment or the communities in which those clients operate.[148] The degradation of biodiversity, dangers to human

[140] China green credit guideline art 14, (2012)
[141] *Id* at Art 15
[142] *Id* at Art 10-11
[143] *Id* at Art 24
[144] Centeral banks of Nigeria regulation on sustainable banking principle regulation no FPR/DIR/CIR/GEN/01/33 (2012) available at https://www.cbn.gov.ng/out/2012/ccd/circular-nsbp.pdf

[145]banks of Nigeria regulation on sustainable banking principle:- regulation no FPR/DIR/CIR/GEN/01/33,p 8,(2012) available at https://www.cbn.gov.ng/out/2012/ccd/circular-nsbp.pdf
[146] *Id*
[147] *Id* at ,p,4
[148] *Id* at,p,3

health and safety, violations of labor laws, and the relocation of livelihoods are only a few examples of these detrimental effects.[149]

Each of these problems can have unrecognized external consequences, which would obstruct the economy and society's overall growth potential.[150] In addition to enabling these clients to have harmful effects on the environment and society, banks which offer financial goods and services to clients with poor environmental sustainability performance subject themselves to risk in the form of credit risk, reputational risk, and legal risk.[151] Although the principles of the guideline are based on well-known industry best practices and leading worldwide sustainable finance standards, they were designed in accordance with the Nigerian environment and development requirements.[152] It implemented a mitigation strategy for business operations and activities, making it possible to prevent, reduce, or balance harmful E&S effects.[153] Recognizing that the advantages for society might also create business opportunities for banks, it also sought to be proactive in encouraging positive development outcomes where it could.[154]

3.1.2.1. Nigeria Sustianable Banking Principle

The country's bankers committee approved and launched the Nigerian Sustainable Banking Principles (NSB).[155] The environmental and social (E&S) risk management one of the core principles in NSB principles. The central bank of Nigeria required that these principles and regulations be fully adopted and implemented by the financial institutions and provided rewards for compliance.[156] The NSBP was created in order to ensure that Nigerian banks would have access to foreign capital.[157] Later, in order to ensure that the rules would be followed and enforced, the banks requested that the Central Bank of Nigeria regulate them.[158] This is in contrast to the Chinese and Bangladeshi approaches, which adopted legislation that needed to be approved by banks and followed a top-down procedure. The Chinese and Bangladeshi approaches were primarily

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[149] *Id* at p,3
[150] *Id*
[151] See *supra note 145*
[152] *Id* at ,p,4
[153] *Id*
[154] See *supra note 25*
[155] See *supra note 74 at ,p7*
[156] AdeboyeOyegunleandOlaf Weber and Olawuwo Oni, *The impact of financial sector sustaianability regulations on banks,* CIGI Papers NO.77—October,p2(2015) available at https://www.files.ethz.ch/isn/194327/cigi_paper_no77_web.pdf
[157] *Id*
[158] *Id*

concerned with the effects banks could have on social and environmental sustainability in their own countries, in contrast to the Nigerian strategy, which was motivated by the interests of the banks.From these principles, firest one is about environmental sustainabilities of Nigeria Banks.

Principle 1 — Our Business Activities' Environmental and Social Risk Management: *We will integrate environmental and social considerations into decision-making processes relating to our Business Activities to avoid, minimise or offset negative impacts.*[159]

The first principle explains how to avoid, minimize, or mitigate negative effects by incorporating environmental and social factors into decision-making processes related to bank business activities. It focuses on creating the right rules to include E&S risk factors into all of its decision-making processes, including credit activities.[160]

3.1.3. Bangladesh's Experience

Bangladesh issued policy guidelines for green banking for the Financial Institutions (FIs) and for the banks.[161] In order to evaluate a potential borrower from both a credit and an environmental risk point of view, the policy included environmental and climate change risk as part of the overall credit risk[162].

3.1.3.1. Bangladesh Environmetal Risk Managment Guideline

The Bangladesh environmental and sustainability (E&S) guideline for banks is called ERM Guidelines was formulated and launched in 2011 by the Bangladesh Bank, the country's central bank, with the support of its local banks and other international and local stakeholders.[163] The ERM guideline is mandatory for Bangladeshi banks.The guideline also mandates banks to train their staff and raise their awareness on E&S issues, formulate their own E&S risk management framework introduce sector-specific policies and start reporting on E&S issues. [164]

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[159] *Id at* p,8
[160]*Id*
[161]Bangladesh Bank, *Green Banking and CSR Department*,GBCSRD CircularNo. 04/2013 & Letter No.05/2013,p 11 https://www.bb.org.bd/mediaroom/circulars/gbcrd/aug112013gbcrd04e.pdf
[162] Id
[163]See supra note 74 at ,p5
[164] Bangladesh Bank,*Environmetal risk management guideline for banks and financial institutions in Bangladesh,p20 (2011) available at* https://www.bb.org.bd/aboutus/regulationguideline/jan302011erm.pdf

The policy includes the classification of investments into high-,medium- and low-risk categories and division into sector-specific aspects to complement the general due-diligence guidelines.[165]It also focuses on strengthening the banks' ability to evaluate environmental risks as part of lending and investment activities. The guidelines were established as a minimum standard on what banks and other financial institutions should be having in terms of ERM.[166] The main goals are to protect the banks' financing from the risks of a deteriorating environment and ensure sustainable banking practices. In addition, it aims to ensure a level playing field is maintained in the financial sector in Bangladesh.[167]These guidelines establish a minimum standard on what Banks/FIs should be having in terms of Environmental Risk Management. Having such a minimum standard ensures that a level playing field is maintained in the financial sector in Bangladesh. [168]

The benefit adopted from the guideline is that, it creates awareness on environmental issues within the staff of Banks/FIs will grow substantively; ability and capacity to address environmental risks in a structured and systematic manner will be established.[169] And, this will lead to reducing NPLs arising directly or indirectly due to environmental issues. Borrowers will be encouraged to adopt better management practices that will lead to an overall better environmental performance and preparedness for climate change induced events.[170] This will be a particularly useful contribution in the context of the country's deteriorating environmental conditions and its particular vulnerability to climate change. And the Guidelines will help Banks/FIs demonstrate to the Bangladesh Bank, a higher commitment to addressing environmental issues and a focus on the environmental sustainability sector.[171]

The guideline requires all banks in the country to integrate environmental sustainability in their credit policy and procedure and also building awareness and providing Constant training and capacity building of their staff relevant to Environmental sustainability. [172]It mandates the Board or appropriate top & senior management committee on the adoption of these Guidelines and

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[165] *Id* at p,21
[166] *Id*
[167] *Id* at p,4
[168] *Id* at p,16
[169] See *supra note 74 at p,5*
[170] See *supra note 164 at ,p 17*
[171] *Id* at *,p,16*
[172] See *Supra note 47*

acceptance of the principles.[173] It required, all Banks/FIs to undertake a top management review to determine whether Environmental sustainability is being effectively practiced in its operations.[174]

3.1.3.2. The Responsibilities of the Credit Divisions with in the Bangladesh Bank

Credit Risk Management Function

The responsibilities of this function are to be aware of environmental issues confronting the various sectors, to review the completed due-diligence checklist and, to integrate environmental risk considerations into the credit risk assessment and to specify financing conditions.[175] Banks/FIs required using Environmental Due Diligence (EDD) checklists to perform a preliminary environmental risk analysis after receiving the loan proposal.[176] The DOE (department of environment) will require a number of documentation from borrowers in order to issue Environmental Clearance Certificate.[177] To set the stage for completing the EDD checklists, banks and financial institutions must get copies of these papers.[178] However, the administration of the EDD checklists should be based on consultations with the potential borrower.

Credit Processing and Approval Function

The Environmental Risk Management responsibility of this function is to ensure that the additional financing conditions / covenants, if any, are included in the agreements.[179]Banks/FIs need to modify credit processing and approval processes to include environmental risk management considerations. Wherever the environmental risk is high, the credit approval decision should be taken by the Executive Committee / Board.[180] For all other ratings of the environmental risk, there is no separate requirement for approval decision. All credit agreements should include the standard condition / covenant about meeting the regulatory requirements.[181] At the time of approving the finance, it needs to be ensured that the appropriate, additional condition / covenant has been included wherever environmental risk is high[182]

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[173] *Id*
[174] *Id*
[175] See *supra note 164*
[176] *Id* at ,p,26
[177] *Id*
[178] *Id*
[179] *Id* at ,p 21
[180]*Id*
[181] *Id*
[182]*Id*

Credit Administration Function

The Environmental Risk Management responsibility of this function is to ensure that additional financing conditions / covenants, if any, in the financing agreements are met prior to initiating disbursement.[183]Prior to the disbursement where environmental risk is high, Banks/FIs have to verify that the conditions /covenants like securing environmental clearance certificate is met prior to disbursement. Documented evidence of adhering to the conditions / covenants should be provided.[184]

Credit Monitoring Function

This function is to ensure that environmental risk monitoring should also be undertaken as a part of monitoring credit risks.

To minimize credit losses, Banks/FIs have monitoring procedures in systems already in place. These systems need to be modified to include environmental sustaibability considerations wherever environemtal risk is rated as high in the following manner:[185] Banks/FIs should carry out periodic inspections to ensure that proper environmental management is being adopted. Evidence of the periodic monitoring should be maintained.[186] Banks/FIs should follow-up with the borrower on the findings of the inspections. Borrower should send written documentation on the action taken.[187] Banks/FIs should maintain record of the same. Banks/FIs should take cognizance of the commitment to follow-up on these findings in taking decisions to deal with the borrower. During the annual audit/inspection, the Bangladesh Bank will verify whether the Banks/FIs have considered environmental risk as a part of their credit risk management.[188]

Sustainable Finance Unit (SFU)

Green Banking and CSR units in banks and FIs were eliminated, and a Sustainable Finance Unit and Sustainable Finance Committee were established.[189] This unit is in charge of informing the Board/RMC through the Sustainable Finance Committee of the state of the Bank's or FI's portfolio

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[183] *Id*
[184] *Id*
[185] *Id* at ,p 22
[186] *Id*
[187] *Id*
[188] See *supra note 164*
[189]Bangladesh Bank,*Guidelines on Environmental & Social Risk Management (ESRM) for Banks and Financial Institutions in Bangladesh*, SFD Circular No.02,p 14 (2016) https://www.bb.org.bd/mediaroom/circulars/gbcrd/feb082017sfd02e.pdf

with regard to ESRM and assisting the Board/RMC in making decisions where there are outstanding E&S issues or noncompliance.[190]

Every Bank/FI in Bangladesh has an SFU that is in charge of coordinating with various branches and departments to ensure ESRM compliance and effective ESMS implementation.[191] By way of the Sustainable Finance Committee, this unit is in charge of informing the Board/RMC on the present ESRM state of the Bank/portfolio FI's and assisting the Board/RMC in making decisions in cases of unresolved E&S issues or non-compliance.[192] Additionally, the unit is in charge of periodically reporting to Bangladesh Bank and other times as needed.

Overall Responsibility

The Chief Executive of the Banks/FIs will be responsible for ensuring the integration of environmental risk management into credit risk management. The operational responsibility will be with the Head of Credit or any of the senior management team member nominated by the Chief Executive.[193]

3.1.4. Mongolia's Experience

In December 2014, Mongolia established the Mongolian sustainable finance principles and sector guidelines, which provide a framework to local banks integrate E&S considerations into lending decisions .[194] This guideline states at its introductory part that the bank's business activities involving a client with poor environmental and social performance may potentially expose a bank to risk, whether legal, credit or reputational risk.[195] Furthermore, it explore that a bank's business operations, if not managed properly, can have potentially negative impacts on the environment and surrounding communities.[196] Therefore within the banking sector, addressing environmental and social issues potentially associated with a bank's business activities and business operations are considered integral to the proper

[190] *Id*
[191] Bangladesh Bank Sustainable Finance Department, *Guidelines on Environmental & Social Risk Management (ESRM) for Banks and Financial Institutions in Bangladesh*:SFD Circular no 02 p,15 (2017) available at https://www.bb.org.bd/mediaroom/circulars/gbcrd/feb082017sfd02e.pdf
[192] *Id*
[193] *Id*
[194] See supra note 74 at ,p 7
[195] Mongolia Bankers Association,The *Mongolian sustainable finance principle guidelines*,p,3 (2014) available at https://www.greenfinanceplatform.org/policies-and-regulations/mongolian-sustainable-finance-principles-and-sector-guidelines

[196] *Id*

management of transaction, client, portfolio and reputational risks. The guideline committed to protect the environment in operations of it banking business activities. The policy is the outcome of months of collaboration and engagement between the main players in the Mongolian banking industry, led by the Mongolian Banking Association (MBA), the Ministry of Environment, Green Development and Tourism, the Bank of Mongolia and other stakeholders and development finance institutions. The policy consists of sector guidelines and sustainable finance principles called the Mongolian Sustainable Finance Principles (MBA).[197]The sector guidelines are made up of the agriculture sector guideline, the construction and infrastructure sector guideline, manufacturing sector guideline and the mining sector guideline.[198]

The Mongolia Banking associations developed 8 principles to play a major role in the economic developments of the country.The Principles have been developed to help Mongolian banks address sustainability issues and play a leading role in shaping the Mongolian economic development agenda.Among 8 principles the principle to promote green economy is the center of the principles. The approach is one of sustainable finance that seeks to avoid, minimise, or mitigate negative environmental and social impacts and contributes to the diversification of the Mongolian economy by encouraging the financing of projects, goods and services that are consistent with the country's green economy growth and development objectives.[199]

3.1.4.1. Mongolia Banks Environmental Sustainability Policy

General Rules

The purpose of The Environmental and Social Responsibility Policy of Bank lies in identifying clients' environmental and social risk in accordance with the best international practices and reduce the negative E&S impact of their business activities through assessing and mitigating their E&S risks, as well as taking the E&S risks into consideration when making a financial decision.[200] This Policy is the main document for the bank's operation regarding E&S principles, management,

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[197] See *supra note 74 at p,7*
[198] *Id*
[199] See *supra note 195 at p,4*
[200] Mongolia Trade and development banks ,*Environmental and social responsibility policy* (updated version) clauses under the general rule of the policy (2019) available at *http://www.tdbm.mn/bundles/public/uploads/downloads/20191212-04.pdf*

and supervision framework. The implementation of this policy will be specified in the Bank's E&S Policy Implementation Procedure.[201]

Principles under the Environmetal and Social Responsibility Policy

The Bank make it a priority to finance clients who practice integrity in managing the environment, and effectively mitigating the E&S risks of its clients whose operation possess medium to high risk through partnership with clients.[202] The Bank, as well as following the national Law of Environmental Protection and other relevant laws and regulations, conducts its operation in adherence to international convention, and protocols.[203]

The policy encouraged disbursement of green loans which are loans that have positive impact on the environment. The Bank is committed to being environment-friendly in its loan operation along and implementing its social responsibility and will ensure that the borrowers' business activities that are financed with the bank loan are not harmful to the society, stakeholders and the environment.[204]Under this policy the Bank identifies, assess, and mitigate its clients' E&S risks and will make its financial decision based on the client's E&S risk assessment under the principles of sustainable finance.[205]

Implementation of Environmetal and Social Responsibility Policy

Under this policy it is the responsibility of risk management committee for approving the finance for sectors with high E&S risks. The credit committee approves decision in accordance with the financing policies for sectors with high E&S risks, E&S policy and procedure, taking the loan's E&S risk assessment and conclusion into account.[206]This policy mandates the risk management department to train account managers, and risk analysts on the Bank's Policy on E&S management and providing them with relevant information. The Law Department, by the request of E&S responsibility monitoring officer is responsible to provide the E&S officer with the relevant information and guidance about the laws and regulations on the environment.[207] The Bank, to implement this policy effectively,uses effective assessment models devised based on the

[201] *Id*
[202] *Id* at *chapter 2 clause 1 and 2*
[203] *Id*
[204] *Id*
[205] *Id*
[206] *Id* at *chapter 3 clause 1 up to 7*
[207] *Id*

international best practices and will conduct high-level screening and due diligence on loan requests.

The purpose of initial high-level screening is to evaluate the E&S risks of the client's main business operation and loan transaction in the first instance and decide the next actions to be taken.[208] Due diligence will be conducted for loans that are classified as yellow or red according to the initial high-level screening. [209]

Supervision

When conducting analysis of a loan request, Account managers of corporate banking department and branches will complete the high-level screening of the clients' businesses and will also do the review of the loan and monitor the loan's E&S risks.[210] Branches under takes high level screening, while forwarding their customers loan request. The risk analyst and E&S officer will revise the Account Manager's E&S risk conclusion and write their own conclusion. The E&S officer and the risk analyst will monitor the implementation of the E&S policy in the loan issuance process of the Bank.[211]

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[208] *Id*
[209] *Id*
[210]*Id* at *chapter 4 clause 1 and 2*
[211] *Id*

CHAPTER FOUR

4. EXAMINING THE NEEDS AND ADEQUACY OF ETHIOPIA ENVIRONMETAL SUSTAINABILITY LEGAL FRAMEWORK IN ETHIOPIA BANKS LENDING BUSINESS ACTIVITIES

4.1. The need for the banking sector in Ethiopia to include environmental sustainability in its banking credit business activity

Firstly,Ethiopia banks provided loans despite their actual knowledge or constructive knowledge that borrowers are financing for polluting projects. Actual knowledge refers to the existence of direct evidence that banks are aware that a specific act pollutes the environment.Constructive knowledge is a presumption that banks should be aware of environmental pollution caused by companies according to the universal cognitive abilities of average people. [212]

Secondly, by their new business model which is recently introduced in Ethiopia which is named Interst free Banking.[213]Under interst free banking activities in Ethiopia there is a possibilities of banks invests with client to establish and developes the company to share profit or loss if any. For example Musharak Finance. The word Musharaka literally means sharing. According to Islamic law, a musharaka is a joint partnership in which two or more people pool their resources, such as money or labor, to start a business. The profit is divided among the partners in accordance with a predetermined ratio, while the loss is distributed in accordance with the contribution ratio.[214]With an influence so significant as to dominate an investment project that has caused environmental pollution, banks are highly accountable for such pollution and shall assume environmental legal liabilities.

Thirdly, Ethiopia is signatory to many different global environmental treating and protocols, from Rio 1992 Earth Summit to COP 15 Paris climate change agreement. To achieve such

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[212] See *supra note 66 at p,3*
[213] Banking amendment proclamation number 1159/2019
[214] Hussain G. Rammal,Financing Through Musharaka: Principles and Application,p 3(2004) avaliable at https://www.researchgate.net/publication/256002438_Financing_Through_Musharaka_Principles_and_Application

national commitment all stakeholders including the banking sector should integrate environmental sustainability in their business activities.

But when we look at Ethiopia banking business proclamation we can not find a single word that promotes banks to integrate environmental protection to its banking activities. This proclamation in its preamble states that banks play an important role in economic development through mobilization of funds from within and outside the country and channelling such funds to various sectors of the economy.[215] From this preamble we can understand that bank is financing almost all economic sector to boast the economic develomnets of the country with out giving due regards to environmental sustainability of project financed. As far as the business activities of the creditors worth enough to repay back the loan, environmental protection is not the business of the banks. The national banks of Ethiopia credit directive is more concerned with the loan repayment loans classification rather than integration of environmental sustainability in provisions of loans.[216]

If we look at the Ethiopia National Bank risk management guideline in relation to its credit operation it is the integrity, reputation, and legal ability to assume the liability is taking into account before entering into any new credit relationship with debtors.[217]Depending on the type of credit exposure and the nature of the credit relationship with the counterparty, the factors to be considered and documented in credit granting include, purpose of the credit and sources of repayment, borrower's repayment history and current capacity to repay, based on historical financial trends and future cash flow projections under various scenarios,terms and conditions of the credit including covenants designed to limit changes in the future risk profile of the borrower, adequacy and enforceability of collateral or guarantees under various scenarios, current risk profile of the counterparty (including the nature and aggregate amounts of risk), and sensitivity to economic and market developments, especially for major exposures; and borrower's business expertise and management capability.[218] Thus, this guideline gives only attention for borrower's repayment history and current capacity to repay the current debt abd adequacy and enforceability of the collateral to repay back the loan if the borrower in default without giving any environmental

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[215] The preamble of ethiopia banking business proclamation number 592/2008
[216] The preamble Ethiopia National Bank Directive number SBB/69/2008
[217]) National Bank of Ethiopia ,*Bank Risk Management Guidelines* (Revised), 2010 p,5 available at https://nbebank.com/wp-content/uploads/2019/04/Rm-Guideline-revised-1.pdf
[218] Id

sustainability consideration of the the project or business financed by the bank. Financial sector sustainability regulations are an efficient policy to support the green economy and to foster financial sector stability. Financial sector sustainability regulations can help to support the green economy and to appropriately manage banks' financial risks caused by environmental impacts.Therefore, Banks of Ethipia should implemet these international treaties and conventions as a bench mark to endorse and implement its Environmental and Social policies in the provisions of loans.

Furthermore, Banks will critically consider national legislatives in connection with environmental and social agendas. The FDRE Constitution guarantees the fundamental right to have a clean and healthy environment,[219] the right to improved living standards and the right to sustainable development.[220] It also includes in it a set of well-articulated 'environmental objectives' and accords them the status of 'guiding principles' in the state governance. And also the financial sectors closely to implement the sustainable development agenda and Climate Resilience Green Economy (CRGE) strategy of the country. Sustainable financing should be its core working modality in line with the national bank policy of the country and the following underline points also has been taken in to consideration.

As mentioned earlier, Ethiopia as a signatory to international conventions and treaties pertaining to environment and climate change, it's also the first country in Africa in having its own strategic plan that stipulates clear strategy that incorporates climate resilience, sustainable development and zero net emission by the year 2025. In this age of tough competition from internal and external financial institutions, it's impossible to excel regionally and/or globally without having clear Environmental and Social policies with a strong institutional capacity to implement it. Further banks should critically believe the reputation risk that will come across in being reluctant for the environmental and social agendas will be beyond measure.

It is strongly believed that there is an impact of banks in Ethiopia on communities and the environment due its business activities. There need to be a comprehensive policy and guidelines that incorporates the bank's direct and indirect activities which creates impact on

[219] FDRE constitution Art 44(1),1995
[220] *Id* art 43(1)

economies, communities and the environment in which it operates. If these impacts are not timely addressed in a systematic and comprehensive way, there could be a significant question on the sustainability of the bank's finance and reputation of the bank . Therefore, there must be environmental and social policy that guide the Ethiopian banks to contribute its fair share towards the national agenda of building the resilient capacity of the climate change victim communities, businesses and projects.

Fourthly, there is no law and regulation in Ethiopia to protect the environment with out the involvements of banks.Environmental impact assessments (EIA) must be carried out on investment projects in order to determine any potential effects to the environment. In cases where the EIA shows potential impacts to the environment, appropriate steps should be made to prevent or mitigate that harm.But when we see the effectiveness Ethiopia environmetal impact assessment proclamation there is a gap.Manily the Proclamation does not explicitly state which actions are subject to EIA; rather, it states that these actions should be determined by the directives to be issued by FEPA. This demonstrates that, in the absence of these directives, no one will be legally required to conduct an EIA because a proponent cannot know which action is subject to EIA and which is not.[221]

Fifthly, International lending institutions like banks and bilateral aid organizations now demand environmental impact assessments before making loans.[222] Borrowing countries must abide by this EIA Directive because it was made a condition for all of the World Bank's investment projects by an operational directive it published in 1989. In June 1985, the European Community Council also passed Directive 85/337, requiring EIA for projects that are being considered. Due to the demands of the World Bank and other development banks and donors, as well as capacity building initiatives started after the Rio Declaration, developing countries began to adopt environmental impact assessments.

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[221] Dejene Girma , *Environmetal impact Assessment in Ethiopia: law and practice* , un published p75 (2012)available at https://www.academia.edu/10278336/ENVIRONMENTAL_IMPACT_ASSESSMENT_IN_ETHIOPIA_LAWS_AND_PRACTICES

[222] Pacifica F. Achieng Ogola,Environmetalimpact assassement general procedures p,3 (2007) available at https://orkustofnun.is/gogn/unu-gtp-sc/UNU-GTP-SC-05-28.pdf

4.2. Examining the Adequacy of Ethiopia Environmetal Sustainability Legal Framework in Ethiopia Bank Lending Business Activities.

4.2.1. Analysis of EIA in Promoting Environmental Sustainability in Ethiopia Bank Lending Activities

Firstly, despite the EIA Proclamation's inclusion of specific provisions pertaining to EIA, a careful study of these provisions demonstrates that they are insufficient to support Ethiopia's EIA system's performance. On the other hand, the EIA Proclamation's inadequacy is brought on by some of its significant gaps and its generality.In other words; some of the Proclamation's provisions are too broad to be applied without the aid of other legal documents. Similar to this, for the Proclamation to be properly executed, there are gaps that must be filled by issuing subsidiary documents. First the Proclamation does not explicitly state which actions are subject to EIA, rather it states that these actions should be determined by the directives to be issued by FEPA. This demonstrates that, in the absence of these directives, no one will be legally required to conduct an EIA because a proponent cannot know which action is subject to EIA and which is not.[223]

The aforementioned instances highlight how insufficient the EIA Proclamation's provisions are by itself to ensure the effectiveness of the EIA system. The EIA Proclamation is in fact more like a skeleton than a fleshy document.As a result, other, more particular subsidiary instruments must be issued in order for it to be implemented effectively. On the other hand, the FDRE Parliament has given the Council of Ministers power to adopt rules required for the Proclamation's successful execution because it is aware of both the generality of its provisions and the gaps they include. But though the EIA Proclamation's shortcomings (generality and gaps) are obvious and it is plain that regulations are necessary for the Proclamation to be implemented effectively . This indicates that no proponent can now be legally obligated to do an EIA because the EIA Proclamation requires proponents to conduct EIA in line with FEPA directives even if those directives have not yet been issued.

The analysis demonstrates unequivocally that there is a significant disconnect between theory and actual EIA process implementation and application in Ethiopia.Therefore,it is imperative for ethiopia banking sector to have strong policy and regulations that promote environmenta sustainability of banks lending.

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[223] See *supra note 221 at ,p 75*

4.2.2. Analysis of Enivoronmetal Sustainability under Ethiopia Investment law

Before engaging in investment operations, investors must comply with a number of conditions set forth by environmental legislation. Investors cannot begin implementing investment activities without first obtaining approval from the relevant federal or regional environmental authorities.[224] As a result, the investor or proponents must complete EIA and afterwards present an environmental clearance certificate (ECC).[225] In addition to this, if an unanticipated fact with significant implications is discovered after the filing of an environmental impact study report, the proponent of the investment is required to update or do the EIA.[226] In addition to this, the proclamation imposes penalties on investors who started their investing activity without first conducting an EIA. Any person who, without authorization from the Authority or the relevant regional environmental agency, or makes false presentations in an environmental impact assessment study report commits an offense and shall be subject to a fine of not less than fifty thousand birr and not more than one hundred thousand birr.[227] The clause also required the licensing authority to wait until the Authority or the appropriate regional environmental agency has approved the project's implementation before issuing an investment permit or a trade or operating license for any project.[228]

Conversely, the investment permit is covered under Part 4 of Investment Proclamation No. 1180/2020. The proclamation's article 10 deals with the granting of licenses or permits for investments. The investor will therefore receive an investment license following the completion of the requirements outlined in this section of the proclamation. Additionally, the appropriate investment body must consider the anticipated investment activity in light of the investment proclamation, regulations, and directives before granting permission.A completed application form must be submitted to the investment authorities in accordance with the Investment Proclamation (Proclamation No. 1180/2020) in order to get an investment permit. The application form requests information about the applicant's status, the type of intended investment activity, the amount of investment capital, the investment area (restricted to a region), the nature and scope of the intended

224 Ethiopia Environmetal Impact Assessment, proclamation No.299/2002,art 3(1)
225 *Id* at Art.7 (1)
226 *Id* atArt.11
227 *Id* atArt.18(2),
228 *Id* at Art.3(3)

production or service, and the anticipated number of jobs the investment will support.[229]Aside from this, the application form does not call for the submission of an EIA or any other data pertaining to the prospective investment project's environmental impact.

The grounds for suspending and revoking investment licenses are laid out in the Investment Proclamation. If an investor obtained their investment permit dishonestly or by providing false information, transferred it to a third party without permission from the investment authority, neglected to renew their permit on time, misappropriated or illegally transferred incentives to third parties, or engaged in commercial activity without obtaining a business license, their investment license may be suspended or revoked.[230] The Investment Proclamation makes it clear that starting a project involving investments without first getting EIA approval is not a reason for license suspension or revocation.

Aside from this, the investment application form does not expressly require the submission of an EIA or any other data pertaining to the prospective investment project's environmental impact. We can see from a critical examination of the aforementioned debates that the investment proclamation and environmental regulations are incompatible with one another.Because thecountry's environmental laws, on the one hand, mandate conducting an EIA before beginning any investment activity and obtaining permission from the relevant federal and environmental institution.

The investment proclamation, on the other hand, only grants investment permits following the fulfillment of the requirements outlined in this section of the proclamation and does not consider conducting an EIA as a requirement to obtain an investment license.[231] Thus, it is crucial to harmonize these two rules. Even by applying the rule of interpretation, we are unable to reconcile them. Therefore, amendment may be the best solution to bring them together. As a result, the lawmaker should include the need for an EIA as a prerequisite in the investment proclamation in order to obtain an investment license.

The proclamation instructs the licensing agencies, as it is indicated in the preceding sentence, to withhold issuing licences to anyone for any project that is subject to an EIA until an ECC (environmental clearance certificate) has been generated from the appropriate environmental

[229] See Ethiopia Investment Commission Application Form for New Investment Permit available at http://admin.theiguides.org/Media/Documents/Investment%20Permit%20Application%20Form.pdf
[230] Ethiopia investment proclamation number 1180/20220 art 13
[231] *Id* at art 10-14

organs. While some licensing authorities do demand ECC, there are also licensing bodies that do not or just rarely require it. Some licensing organizations that do not require ECC contend that subsequent laws, particularly the Investment Proclamation No. 1180/2020, relieve them of their obligation to comply with the EIA Proclamation.[232] It is accurate to say that an ECC is not a requirement for obtaining an investment permit under the Investment Proclamation No. 1180/2020. Even though they are aware of the region(s) they will invest in, some investors may not be aware of the locations of their investments when they apply for permits. So, requiring them to conduct an EIA before they choose their investment sites won't be suitable.[233]

In such gaps in the Ethiopia investment law regarding EIA it is better to have environmental sustainability policy and regulations in the banking industry to achieve all round environmental sustainable development.

4.2.3. Analysis of Environmental Sustainability under Ethiopia BITs

Environment-related provisions found in bilateral investment agreements are not monotonic and inserted either in the treaty's preamble or substantive provisions. Accordingly, the treaty's preambular part may recognize environmental protection and conservation as one of the treaty's objectives.[234] BIT's may also contain environmental references under its substantive provisions placing States under a continuing obligation to uphold environmental standards and not to worse environmental standards and regulations to attract foreign investments. Investment treaties may also incorporate under its substantive provision environmental exception clauses-that seeks to reserve policy space to regulate environmental matters. From other countries' practices, there is evidence suggesting that BITs can and do contain provisions aimed at facilitating environmental damage caused by FDI projects, both in the preamble and the substantive provision.

However, with few exceptions, most BITs to which Ethiopia is a party has significant drawbacks concerning the environmental concern and portray features of old-generation investment treaties. It is because the treaties did not have environmental clauses and failed to grant contracting states with regulatory power for environmental protection. Accordingly, investment treaties signed with countries sending investment to Ethiopia such as Ethiopia-China, Italy-Ethiopia, UK-Ethiopia,

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[232] See *supra note 222 at,p,143*
[233] *Id*
[234] Hailu Abebe Endale, *The Implications of Bilateral Investment Treaties on Environmental Protection in Ethiopia: The Law and the Practice* un published Addis Abeba University,school of law ,p 48-49 (2020) available at https://www.degruyter.com/document/doi/10.1515/gj-2020-0067/html?lang=en

Turkey-Ethiopia, Ethiopia-Netherlands, Ethiopia Sudan BITs didn't incorporate environmental provisions.[235] Technically speaking, failures to incorporate environmental clauses have a negative effect on both contracting states.

However, pragmatically, Ethiopia will be most affected by this treaty since investment inflow to Ethiopia prevails the investment outflow to other contracting states. So, this leads Ethiopia to expensive international arbitrations claiming compensation than other contracting states. So, fearing this arbitration, an environmental measure that might be taken may be minimal, and this will, in turn, finally pose a risk of environmental pollution. Even among those BITs that incorporate environmental clause except the 2006 Ethiopia-Finland BIT[236], the remaining treaties have not yet entered into force. All this indicates they are contrary to the country's goal and policy of achieving sustainable investment.

Further, it is an infringement of the Constitution of FDRE, which imposes the duty on the government to make sure that the international treaties that Ethiopia signs guarantee sustainable development.[237] One of the reasons for having such weak BITs in terms of environmental protection is the absence of a model investment treaty.Having such weak environmental clause in BITs of ethiopia,it is sound reason Ethiopia required to integrate environmental sustainability in its lending policy and regulation

4.2.4. Analysis of Environmetal Sustainability under Ethiopia Banks Lending Policy

There is no strong and coherent function inside the banking sector Ethiopia that can effectively manage environmental and social policies with a good track record of regular banks. For instance, the national bank of Ethiopia's establishment proclamation,[238] the national bank's credit directive, and other commercial banks' credit policies and regulations did not impose any environmental protection standards in loan provisions.[239] This new business model is not integrated into Ethiopia banking system that ensures the bank to makes a profit by promoting responsible social and environmental behavior by working closely with individuals or companies who borrow money from the bank and invest or expand the existing businesses.

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[235]https://investmentpolicy.unctad.org/international-investment-agreements/countries/67/ethiopia
[236]https://investmentpolicy.unctad.org/international-investment-agreements/countries/67/ethiopia
[237] FDRE constitution,art 86(3),(1995)
[238] See *supra note 217*
[239] See *supra note 218*

But there is an attempt in development banks of Ethiopia in integrating environmental sustainability and social policy in its credit policy.Based on the responsibilities and powers granted to it by Public Enterprises Proclamation No. 25 of 1992 and the Public Financial Enterprises Agency Council of Ministers Regulation No. 98/2004, the Development Bank of Ethiopia's board of management issued the credit policy.[240] The Bank is offering investment loans to borrowers and projects that have undergone a comprehensive evaluation and been determined to be socially, economically, and fiscally viable.[241] This means that for a project to be funded by the Development Bank of Ethiopia, it must not jeopardize societal interests. The bank is responsible for determining whether the project would be beneficial to society. Even if is not well organized fully implemented in terms environmental expert with in the bank, it is a good beginning for the country's banking sector to incorporate environmental sustainability in the credit operations of the banks.Even if the Ethiopia development bank incorporated environmental sustainability in its credit policy there is no a policy for Ethiopia development bank to reviews and strengthens post-loan management, similar to what other nations like China and Bangladesh are doing. Actions for post-loan management that are pertinent and appropriate must be established and put into place for clients who pose potential major environmental and social hazards.In the policy we can not find set up that enhance an internal reporting and accountability system for the key social and environmental risks that their clients face.In addition to these there is no a way in the credit policy that required to perform Environmental Due Diligence (EDD) checklists after receiving the loan proposal like Bangladesh banking lending policy is doing .In the Bangladesh bank lending policy the DOE (department of environment) will require a number of documentation from borrowers in order to issue Environmental Clearance Certificate.[242]

Apart from DBE, there is no any visible policy in the national banks of Ethiopia or others commercial banks regarding environmental sustainability in banks credit operations.If we look at the Ethiopia National Bank risk management guideline in relation to its credit operation it is the integrity, reputation, and legal ability to assume the liability is taking into account before entering into any new credit relationship with debtors.[243] As a result, before beginning any new credit connection, a bank needs to become familiar with the borrower or counterparty and be certain that

[240] Development Bank of Ethiopia, Credit Policy, September, 29,2009
[241] *Id* art 2,
[242]See *supra note 167 at,p* 26
[243]See *supra note 219*

it is doing business with someone or something of good standing and creditworthiness.[244]This guideline seriously avoids affiliation with anyone engaged in illegal activity.[245]Depending on the type of credit exposure and the nature of the credit relationship with the counterparty, the factors to be considered and documented in credit granting include, purpose of the credit and sources of repayment, borrower's repayment history and current capacity to repay, based on historical financial trends and future cash flow projections under various scenarios,terms and conditions of the credit including covenants designed to limit changes in the future risk profile of the borrower, adequacy and enforceability of collateral or guarantees under various scenarios, current risk profile of the counterparty (including the nature and aggregate amounts of risk), and sensitivity to economic and market developments, especially for major exposures; and borrower's business expertise and management capability.[246] Thus, this guideline gives only attention for borrower's repayment history and current capacity to repay the current debt and adequacy and enforceability of the collateral to repay back the loan if the borrower in default without giving any environmental sustainability consideration of the the project or business financed by the bank.

In addition to this, looking through the check list of credit request document of certain commercial banks of Ethiopia like CBE, Abssiniya Bank, Awash Bank, Dashen Bank, Oromica cooperative bank, Wegagen Bank and Oromia International Bank practically shows that there is no a requirement that demand the borrower to come up with EIA certificate to be granted loan from the bank.[247]Simply they are implementing the National Banks of Ethiopia bank risk management guideline which has no place EIA as criteria for loan provision.

Due to the absence of green economic development regulations in the present credit-granting legislation in Ethiopia, credit institutions are free to reject business investment projects that adhere to the green economic development standards.Besides, business investment projects on demand of green growth require significant investment capital, slow capital recovery time, higher content of science and technology in green financial products. Therefore, credit institutions still focus on finding business investment projects with fast capital turnover and guaranteed capital recovery.

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[244] *Id*

[245] *Id* at p,6

[246] *Id*

[247] *See credit request check list of governmet and private commercial banks annexed to this paper*

The China green credit guidelines (which are considered as a policy at the national level for banks for banks in china) urge lending institutions to promote green credit in order to improve resource efficiency and serve the real economy.[248] It also mandate financial institutions to adopt risk management across all stages of the lending process and to comprehensively identify measure, monitor and control environmental and social risks. But regarding environmental and social risk management in all banks of Ethiopia, there is no environmental and social risk management as a policy to make the credit activities of the bank environmentally sustainable. Regarding environmental risk assessment, social and environmental risk assessment tool in terms of credit provision no policy or regulation in the national bank of Ethiopia or commercial banks to implement EIA. The Ethiopian banking institutions or the regulatory body must establish and continuously improve the policies, systems, and procedures for managing social and environmental risks as well as specify the directions and top priority areas for supporting green credit, in accordance with national environmental protection laws and regulations as well as other applicable regulations and the green initiative that has been launched.

If we look at the Nigeria bank regulation, it incorporated environmental protection integration in its decision-making processes an approachs that systematically identifies, assesses and manages environmental risks and potential impacts associated with the client or business engagement.[249] The regulation also required the country's banking industry to engage with clients to reduce and/or offset recognized risks and impacts, as appropriate, in cases when complete avoidance of environmental risk is not feasible.Similarily,Country like Bangladesh enacted (ERM) environmental risk management) which is also considerd as policy frame work of financial institutions of the country.There is a way in the Bangladesh credit guideline that required to perform Environmental Due Diligence (EDD) checklists after receiving the loan proposal .In the Bangladesh bank lending policy the DOE (department of environment) is organized and established to perform environmental due diligence in order to issue Environmental Clearance Certificate for a boworrors.[250]It clasifies projects into high, medium and low-risk categories and division into sector-specific aspects to complement the general due-diligence guidelines.[251] It also focuses on strengthening the banks' ability to evaluate environmental risks as part of

[248] See *supra note 136*
[249]See *supra note 148*
[250] See *supra note 167*
[251] *Id* at p,21

lending and investment activities. The guidelines were established as a minimum standard on what banks and other financial institutions should be having in terms of ERM. The main goals are to protect the banks' financing from the risks of a deteriorating environment and ensure sustainable banking practices.[252]It mandate the banking institutions to increase their capacity for building green credit, set up and improve a system for labeling and tracking green credit, upgrade pertinent credit management systems, improve training for green credit, and hire and develop people in the field.[253] If necessary, they can outsource related expert services or hire an eligible, impartial third party to evaluate environmental and social hazards.The Environmental Risk Management of Bangladesh has a responsibility to ensure that additional financing conditions (covenants), if any, in the financing agreements are met prior to initiating disbursement.[254] Prior to the disbursement where environmental risk is high, Banks/FIs have to verify that the conditions or a covenant like securing environmental clearance certificate is met prior to disbursement. Documented evidence of adhering to the conditions or covenants should be provided.[255]

The banking sector in Ethiopia as apolicy needs to have a comprehensive environmental sustainability covenants that urges its clients to improve social and environmental risk management. Even to have a comparable environmental sustainable policy, there must be policy that requires clients who pose significant environmental and social risks, to submit environmental and social risk reports and pledging their willingness to be under the lender's supervision. The writer urges Ethiopian banking institutions to have a policy or regulations that reviews and strengthens post-loan management, similar to what other nations like China and Bangladesh are doing. Actions for post-loan management that are pertinent and appropriate must be established and put into place for clients who pose potential major environmental and social hazards. They must set up and enhance an internal reporting and accountability system for the key social and environmental risks that their client's face.The Ethiopia Banking institutions should have periodically plan and conduct internal auditing on green credit as well as include the implementation of green credit in the scope of internal compliance evaluation.

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[252] *Id*
[253] *Id*
[254] *Id*
[255] *Id*

As a result, it is imperatives that there must be environmental sustainable credit policy that implies the incorporation of environmental and social indicators in the risk assessment and control process of its credit lines. Incorporated within this policy, requires the creation of an appropriate environmental risk management procedures and guidelines that will define, environmental and social risk assessment procedures and strategies, importance of environmental and Social risk assessment outcome for the loan approval, environmental and Social risk follow-up upon loan disbursement,measures that are going to be taken by the bank in case the client proves to fall out of compliance with the environmental and social requirements of the bank related to the risk performance,roles and responsibilities related to environmental and social risk management in the bank, reporting to the top management on the exposure of the loan portfolio has to this risk and etc.

By the implementation of such a procedure, Ethiopia banks even if it does not support a full line of green services and products, actually act as a green bank, because it places specific requirement on its client to abide by certain Environmental and Social criteria. In such a way, depending on the strictness of these criteria, banks will have the power to restrict access to finance to polluting industries and to give preferential terms to businesses that are socially just and environmentally-friendly.

Therefore, Commercial Banks should implement environmental and social risk management systems which may have two major components, such as internal environmental and social management system and environmental and ocial risk management in lending which ascertains that banks will be pushing towards more sustainable changes in its daily business activities and operations gradually offsetting its environmental and social footprints; and bank credit lines and lending will be more towards projects or business initiatives that are commercially viable, socially acceptable and environmentally friendly providing a fertile ground for a sustainable development of the country.

As mentioned earlier, Ethiopia as a signatory to international conventions and treaties pertaining to environment and climate change, it's also the first country in Africa in having its own strategic plan that stipulates clear strategy that incorporates climate resilience, sustainable development and zero net emission by the year 2025. In this age of tough competition from internal and external financial institutions, it's impossible to excel regionally and/or globally without having clear Environmental and Social policies with a strong institutional capacity to implement it .Thus, all

commercial banks of the country can manage the risk associated with Environmental and Social issues that pertinent to the international treaties and conventions on environment and the subsequent ratification of Ethiopia to these treaties, the financial institutions of the country would confirm its commitment to these conventions.

Therefore, Ethiopia banks needs to confirm its compliance to these traties and convetions while financing different levels of projects within the dominion of the territory of the country. The policy that the writer recommend the financial regulator of the country should mandate banks to assign a dedicated organ that thoroughly looks at the environmental and social impacts of the project design and provide recommendation if it's outside the set guidelines and standards. If it happens to deviate from the set standard bank should have a policy power to recommends for the redesign of the project to meet the requirement before proceeding to the financial aspects of the project

Bank must have a strong Environmental and Social impact assessment team led by an expert in the area that will recommend the clear impact of the project to be financed. Without the full recommendation of the team of experts, bank should not commit itself to any project that is deemed to have negative environmental and social impacts or will cause any long term impact that will harm the natural habitat or social and cultural values.

Lack of cooperation in establishing, implementing, and enforcing rules and standards has been a significant shortcoming with present methods to financial and environmental policy and regulation. In order to place the national economy on a more stable and sustainable foundation, authorities at the highest level have to combine financial policy and environmental policy.Although country-specific techniques might not always be transferable, many central banks in the sustainable banking network have established national strategies that could serve as a model for other nations. Successful strategies typically call for nations to establish a strong line of communication between their finance and environmental ministries in regards to financial exposures to systemic environmental risk.

CHAPTER FIVE

5. FINDING, CONCLUSION AND RECOMMENDATIONS

5.1. Findings

1. Carefully looking to the Ethiopia environmental legal framework, it can be easily understand that there is inadequacy in the laws that is enacted to protect the environmetal or the laws that included environmental protection clauses in their establishment. For example EIA proclamation number 299/2002 some of the terms of the Proclamation cannot be applied by itself without the assistance of other legal documents.Thus, there are gaps that must be filled by issuing subsidiary documents in order for the Proclamation to be properly executed.The Proclamation first specifies that these acts should be established by the directions to be given by FEPA to enact directives that could clearly list down projects that can be subject to EIA which is not yet enacted .This illustrates that no one will be legally obligated to undertake an EIA in the absence of these guidelines since a proponent cannot determine which action is subject to an EIA and which is not.
2. The investment proclamation number 1180/2020, on the other hand, does not mandate conducting an EIA as a condition to get an investment license and only grants investment licences after the fulfillment of the requirements listed in the proclamation. A completed application form must be submitted to the investment authorities in accordance with the Investment Proclamation (Proclamation No. 1180/2020) in order to get an investment permit. The application form requests information about the applicant's status, the type of intended investment activity, the amount of investment capital, the investment area (restricted to a region), the nature and scope of the intended production or service, and the anticipated number of jobs the investment will support.Aside from this, the application form does not call for the submission of an EIA or any other data pertaining to the prospective investment project's environmental impact. In addition to this the Environment-related provisions found in bilateral investment agreements are not monotonic and inserted either in the treaty's preamble or substantive provisions.
3. Apart from DBE, there is no any visible policy in the national banks of Ethiopia or others commercial banks regarding environmental sustainability in banks credit operations.

Carefully examining Ethiopia's banking business proclamation show that there is no a single phrase that encourages banks to incorporate environmental sustainability into their banking lending business activities.This proclamation's preamble states that banks play a significant role in economic development through the mobilization of funds from inside and outside the country and the channeling of those funds to various sectors of the economy.We can infer from this preamble that the bank finances nearly every economic sector in order to highlight the economic development of the nation without paying adequate attention to the environmental sustainability of the projects funded.It can be a full meaning of the proclamation that environmental protection is not the banks' line of business, as long as the creditor's business activities are profitable enough to pay back the loan.The national bank of Ethiopia's credit directive is more concerned with the loan repayment and loan classification than with the inclusion of environmental protection in loan provisions.The Ethiopia National Bnak Risk Managment Guideline, gives only attention for borrower's repayment history and current capacity to repay the current debt abd adequacy and enforceability of the collateral to repay back the loan if the borrower in default without giving any environmental sustainability consideration of the the project or business financed by the bank.

5.2. Conclusion

Ethiopia is a signatory to numerous international environmental treaties and framework agreements, from Rio 1992 Earth Summit to COP 15 Paris climate change agreement. However, the Ethiopian banks did not incorporate environmental protection into their credit business activities. These international treaties and conventions should be implemented by the country's banking sectors as a way to support and implement its credit activities. Additionally, banks should take into account national legislation in connection with environmental and social agendas. The country's banking sector should collaborate with other stockholders to implement the CRGE (climate resilient green economy) strategy and the country's sustainable development agenda.

Banks are making money because that is how their establishment is designed to operate. By managing banks and including environmental impacts into financial decision-making, it is possible to transfer financial resources to those businesses or projects that adhere to environmental protection standards. In this way, banks play a significant role in achieving sustainable

development. In order to encourage green finance, many nations with comparable development pathways to Ethiopia are establishing environmentally sustainable financing transactions (lending). However, due to a lack of legal requirements for banks in Ethiopia's current environmental and financial laws, banks are lending significant amounts of money to sectors that do not properly carry out environmental impact assessments because of huge investment profits. However, banks are inevitably responsible for the environmental consequences of their investment decisions.Banking activities that promote environmentally friendly internal processes and environmentally friendly external financing practices are referred to as environmentally sustainable banking. In order to increase customer happiness and the economy as a whole while not negatively affecting people or the environment, many nations banks have decided to only supply goods and services to customers who take these factors into account.

In order to integrate environmental sustainability into their loan company activities, the researcher consulted other nations, banking policies, and legislation. These nations include China, Bangladesh, Nigeria, and Mongolia, all of which have implemented financial sector sustainability policies and regulations in their banking industries. The regulations incorporate sustainability concerns like environmental contamination, climate change, and social sustainability into financial sector regulations. These regulators contend that addressing sustainability issues increases the banking sector's positive influence on sustainable development and that integration increases the financial stability and performance of the banking sector.

It is firmly believed that banks have an impact on communities and the environment in Ethiopia as a result of their commercial activities.Thus, it needs a comprehensive policy and set of rules must include the bank's direct and indirect activities that have an impact on the economies, communities, and environment in which it operates.Apart from DBE, there is no any visible policy in the national banks of Ethiopia or others commercial banks regarding environmental sustainability in banks credit operations. The China green credit Guidelines (which is considered as a policy at the national level for banks for banks in china) urge lending institutions to promote green credit in order to improve resource efficiency and serve the real economy.It also mandate financial institutions to adopt risk management across all stages of the lending process and to comprehensively identify measure, monitor and control environmental and social risks.If we look at the Nigeria bank regulation, it incorporated environmental protection integration in its decision-

making processes an approaches that systematically identifies, assesses and manages environmental risks and potential impacts associated with the client or business engagement. The regulation also required the country's banking industry to engage with clients to reduce and/or offset recognized risks and impacts, as appropriate, in cases when complete avoidance of environmental risk is not feasible.Country like Bangladesh enacted (ERM) environmental risk management) which is also considerd as policy frame work of financial institutions of the country.It clasifies projects into high, medium and low-risk categories and division into sector-specific aspects to complement the general due-diligence guidelines. It also focuses on strengthening the banks' ability to evaluate environmental risks as part of lending and investment activities. The guidelines were established as a minimum standard on what banks and other financial institutions should be having in terms of ERM. The main goals are to protect the banks' financing from the risks of a deteriorating environment and ensure sustainable banking practices.

The banking sector in Ethiopia as apolicy needs to have a comprehensive environmental sustainability covenants that urges its clients to improve social and environmental risk management. Even to have a comparable environmental sustainable policy, there must be policy that requires clients who pose significant environmental and social risks, to submit environmental and social risk reports and pledging their willingness to be under the lender's supervision.

5.3. Recommendations

Based on the comparative analysis of the research and the conclusions drawn above, the researcher recommends the following points that he deems will contribute in directing Ethiopia banks to integrate environmental sustainability in their credit business activities.

1. The Ethiopia Minister of Finance (MoF) should establish the Ethiopia Sustainable Finance Principles and Sector Guidelines, which provide a framework to help local banks to integrate environmental considerations into lending decisions.
2. The National Banks of Ethiopia should establish environmental sustainable credit guidelines as a policy that urge lending institutions to integrate Environmetal Sustainability (green credit) in order to serve the real economy.

3. The boards of directors of each commercial bank should develop a broad environmental policy which has details of auditing procedures, reporting formats, and checklists including post loan periods.
4. A sizeable budgetary commitment from the bank's annual budget must be made for green banking from their annual profit.
5. Commercial banks should establish a separate Green Banking department that lead by senior executive who will be in charge of planning, analyzing, and managing the bank's associated green banking concerns.
6. The Ethiopia Bankers Association should enact self regulatory a guideline that promote environmental sustainable bank credit activity and should commited to the guideline to enhance the environmental policy of the country.

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Annexes

Credit request check list of government and private commercial banks of Ethiopia