

Project Finance Contribution to Environmental and Social Sustainability

An Inquiry into the Implementation of the Equator Principles

by

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### Author's Declaration

I hereby declare that I am the sole author of this thesis. This is a true copy of the thesis, including any required final revisions, as accepted by my examiners.

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## ABSTRACT

The Equator Principles are at the center of the financial industry’s voluntary codes for assessing environmental, social, and sustainability risks in project finance transactions. The financial industry’s umbrella association for the Equator Principles—the Equator Principles Association—comprises 89 Equator Principles financial institutions (EPFIs) as of January 2017. As per the Equator Principles Association (EPA), the EPFIs implement Equator Principles in their environmental and social risk management framework in 37 countries, covering over 70 percent of international project finance transactions in emerging markets. However, the EPFIs’ implementation of the Equator Principles is a subject of continued research and debate regarding their contribution to environmental and social sustainability. Premised on the environmental and social performance standards of the International Financial Corporation (IFC) and the environmental standards of the World Bank, the Equator Principles and the uncertainties surrounding them have brought together various stakeholders to face the pressing and significant issues of Equator Principles implementation and the effectiveness of their implementation.

To address the gap in the Equator Principles literature regarding their implementation, and to contribute to the literature, the present thesis examines the following research questions: (a) Why do EPFIs integrate the Equator Principles into their project-finance decision-making processes and how do EPFIs implement the Equator Principles? (b) How do Equator Principles influence the application and the management of environmental and social risks of project sponsors (project proponents)? And (c) How do Equator Principles impact project-affected communities (PACs)? The thesis also uses insights and influences from stakeholder and institutional theories as well as natural resource-based view theory and processes that further explain Equator Principles implementation in practice.

The objectives of the research are, firstly, to analyze the current Equator Principles implementation and to assess how EPFIs align with the intentions of the Equator Principles framework—as well as its evolving character—as a tool for contributing to sustainability. Secondly, the thesis seeks to deepen understanding of Equator Principles implementation at the project sponsor level. Specifically, the objective is to investigate the nature and quality of Equator Principles application and management in project sponsor operations as per Equator Principles framework. Thirdly, the thesis aims to investigate how project-affected communities engage with the Equator Principles and project sponsors. Fourthly and lastly, based on the discoveries related to the preceding three objectives, the thesis aims to evaluate how the Equator Principles stakeholders could move the implementation and application of Equator Principles framework towards a framework that increasingly contributes to sustainability.

Towards this end, the research methods involve: Firstly, research derived from analysis of peer-reviewed journal articles via research repositories, covering ten years of the Equator Principles—since their launch in 2003—to identify key themes and emerging features of Equator Principles implementation. Secondly, the study includes interviewing project sponsors, project-affected communities, and stakeholder organisations, such as NGOs, as well as representatives of nine key EPFIs—with five hundred and thirty-three project portfolios—some of whom were the Equator Principles founders and Chairs of the Equator Principles Association Steering Committee—the Association that manages, administers, and develops Equator Principles. Thirdly and lastly, the research uses a project case example of Kalumbila Minerals Ltd (KML), a Zambian subsidiary of

First Quantum Minerals Limited, to understand the impact of the Equator Principles on a project sponsor, KML. The thesis also compares the character of the implementation practices as revealed in the collected data, with selected sustainability-based assessment criteria, and suggests how the Equator Principles implementation could begin a transition to lasting commitments to sustainability.

The research findings show that the outcomes of the Equator Principles Financial Institutions' (EPFIs') implementation of Equator Principles are a work in progress. The findings also show that project sponsors' contribution to sustainability share and in some cases, reinforce the implementation shortcomings of their lenders, the EPFIs. In addition, the evolution of project sponsor systems and structures for Equator Principles implementation—subject to further research—suggest that they correspond to the extent, frequency, and duration of EPFI-project sponsor interactions, which stakeholders—such as BankTrack—have long argued is barricaded behind EPFI's need for privacy and confidentiality. Moreover, to the extent that there are shortcomings in Equator Principles stakeholder engagement and grievance mechanisms, the research findings also indicate that the Equator Principles' positive impacts on project-affected communities—at least in the project areas—are evolving or minimal, and non-existent at worst.

The findings from this Equator Principles research also contribute to Equator Principles literature in two ways; empirically and theoretically. Empirically, this research suggests that oversight is necessary for two key Equator Principles players—the EPFIs and the project sponsors, and that sustainability-based assessment should be an important consideration because of short-comings identified in the Equator Principles framework. Most importantly, findings from the study imply that the Equator Principles Association's social and environmental policies should explore, and be open to, the possibility that undisclosed implementation gaps exist among the Equator Principles stakeholders—particularly project sponsors—that could impede stakeholders from achieving desired environmental and social policy objectives and sustainability outcomes. The Equator Principles Association could address these gaps of opportunity in their periodic policy reviews. These policy reviews would include the need for increased transparency—for covenants embedded in project-financing documents, and in project-finance advisory services—at the signatory level of the Equator Principles and transparency at the project sponsor (project proponent) level concerning disclosures about Equator Principles implementation.

Theoretically, this study provides Equator Principles literature with a rudimentary framework premised on institutional theory for understanding Equator Principles implementation. It highlights how the concept of “isomorphism” as described in institutional theory affect the implementation of Equator Principles along a chain of three important parties (Equator Principles Financial Institutions, project sponsors, and project-affected communities). A future study would conduct broad empirical investigations to determine if the resulting institutional theory effects at each of these impact points suggest features necessary for potential oversight of the Equator Principles.

Overall, the findings suggest a suite of recommendations that center on reforms for the Equator Principles stakeholders. The Equator Principles stakeholders could consider, for example, an implementation oversight mechanism such as the Equator Principles Compliance Authority (EPCA) for improved Equator Principles implementation to address NGO criticism of lack of transparency among members of the Equator Principles Association.

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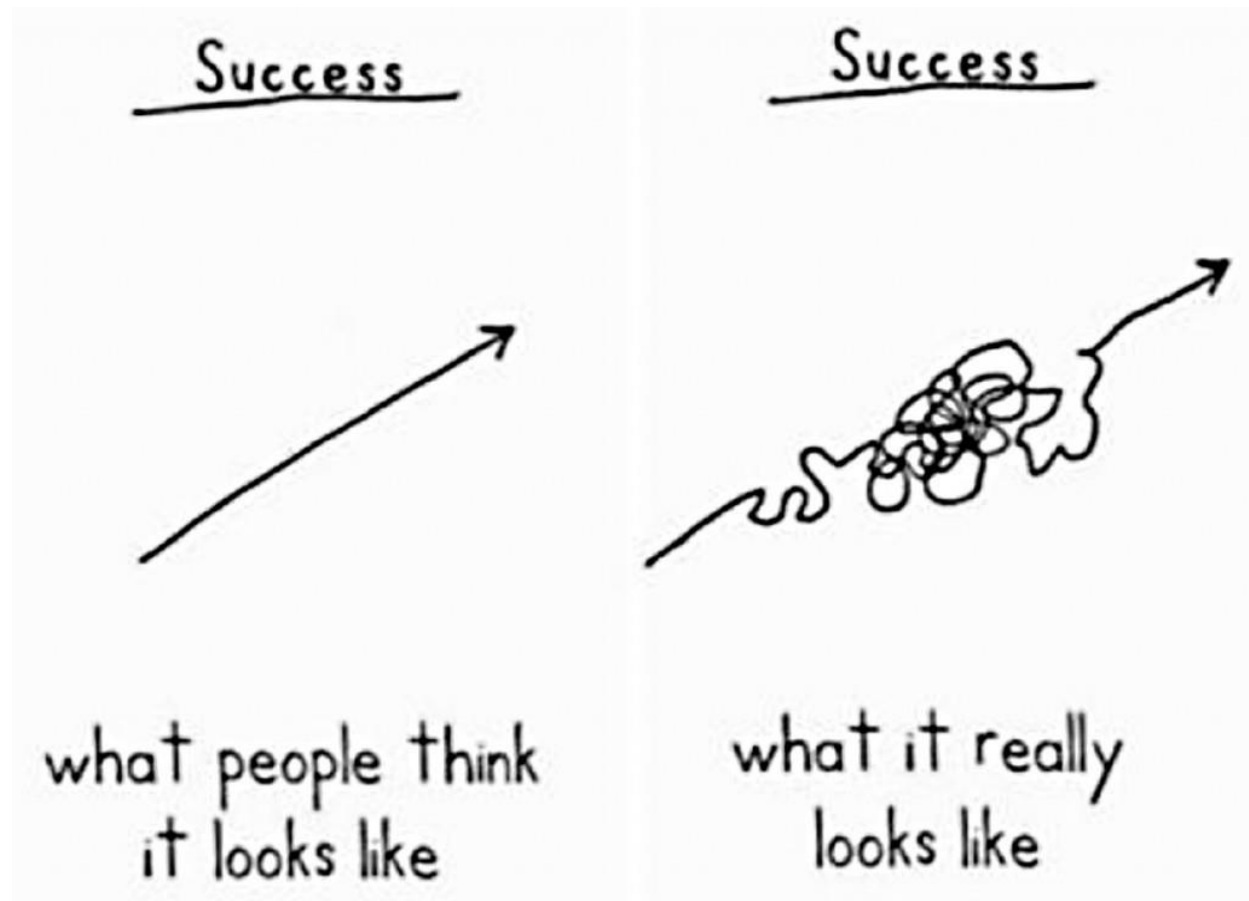
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## Dedication

I dedicate this thesis to Leo Oberu's Teso clan, and all those who travel on, and struggle with, the different phases of this transient life's path to success, as Demetri Martin shows in the graphic below; which is most of us. Some phases are short and pleasurable. Some chapters seem like breakthroughs when in fact they are not. Other moments are long, winding, uncomfortable, and uncertain and even frustrating. This, on reflection, might as well be the story of sustainability assessment processes and sustainable development—a story in which I am but a mere speck.



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## List of Abbreviations

AD	Assessment Documentation
CAO	Compliance Advisor Ombudsman
CMA	Chemical Manufacturers Association
DJSI	Dow Jones Sustainability Index
E & S	Environmental and Social
ECA	Export Credit Agency
EA	Environmental Assessment
EIA	Environmental Impact Assessment
EPA	Equator Principles Association
EPAP	Equator Principles Action Plan
EPCA	Equator Principles Compliance Authority
EPFI	Equator Principles Financial Institution
ESIA	Environmental and Social Impact Assessment
ESMP	Environmental and Social Management Plan
ESMS	Environmental and Social Management System
ESP	Environmental and Social Performance
FOE	Friends of the Earth
FQML	First Quantum Minerals Limited
FSC	Forest Stewardship Council
ICCM	International Council on Mining and Metals
IFC	International Financial Corporation
IFC PS	International Financial Corporation Performance Standards
IT	Institutional Theory
JCTR	Jesuit Centre for Theological Reflection
KML	Kalumbila Minerals Limited
MDBs	Multilateral Development Banks
MNCs	Multinational Corporations
NGOs	Non-Governmental Organizations
NRBV	Natural-Resource-Based View
OECD	Organization for Economic Corporation and Development
PACs	Project-Affected Communities
PRI	Political Risk Insurance

RAN	Rainforest Action Network
SD	Sustainable Development
SEA	Strategic Environmental Assessment
SIA	Social Impact Assessment
SPE/V	Special Purpose Entity/Vehicle
ST	Stakeholder Theory
UNEP	United Nations Environmental Programme
UNGC	United Nations Global Compact
WB	World Bank (The)
WBG	World Bank Group
WBIP	World Bank Inspection Panel
ZEMA	Zambia Environmental Management Agency

## **Chapter 1**

### **Introduction: The Equator Principles and Social and Environmental Sustainability**

#### 1.1 The Equator Principles

The world is witnessing a growing need for infrastructure and industrial projects. These projects have necessitated the investment of billions of dollars for resource exploration, energy generation, telecommunication, and transport infrastructure, industrial upgrades or expansions as well as infrastructure for goods and services distribution. These big, expensive and complex projects have resulted in lasting economic benefits, but have also ushered in serious social and ecological concerns, and doubts about their contribution to positive sustainability. Oil and gas projects in Canada, for example, contribute to adverse climate effects and, land, water and air pollution. Palm oil plantations in Indonesia contribute to global deforestation and species extinction. Hydropower stations in Ethiopia have disruptive effects on social livelihoods and the potential to adversely affect ecosystems. Mines in Zambia destroy landscapes, cause social displacement, and without corrective actions could irreparably destroy pristine environments. The significant adverse effects of these projects have become a source of contention, and have led civil society to engage in campaigns as a means of halting or reversing such negative social and environmental impacts associated with these projects.

In response, financial institutions are increasingly subscribing to multiple voluntary codes as a means of addressing social and ecological threats as well as encouraging initiatives towards sustainability. An example of such initiatives is the voluntary code of conduct in the financial sector known as the Equator Principles. The Equator Principles comprise a set of ten Principles that govern the process of managing environmental and social risks and impacts in large, expensive and complex projects (Equator Principles, n.d.). In existence for more than a decade, the Equator Principles framework is a voluntary code of conduct fraught with ambiguity regarding its implementation. The decision-making for the Equator Principles at the financial or bank level is an issue with limited disclosure (BankTrack, 2004; 2010; Nguyen, 2007; Meyerstein, 2012). More generally, less is still known about the Equator Principles framework at the project level (Weber & Acheta, 2014), and how, if at all, project-affected communities interact with project sponsors regarding embedded stakeholder engagement and associated grievance mechanisms of the Equator Principles framework (Meyerstein, 2012). These aspects among key stakeholders (Equator Principles signatories, project sponsors, and project-affected communities) represent important gaps in the Equator Principles literature that this thesis contributes to filling.

##### 1.1.1 Equator Principles Implementation: Key Stakeholders

I describe here briefly—but will return to in later chapters to address—four key stakeholders in the Equator Principles literature for implementing the Equator Principles. These are Equator Principles financial institutions (EPFIs), project proponents (known in the Equator Principles as Project Sponsors), project-affected communities (or simply Affected Communities), and host country governments. Other project parties include the multitude of project contractors, operating under numerous legal contracts and property rights enshrined in multiple contracts arising from their relationships with the project (Farrell, 2003). Esty (2004) indicates that a typical project “can involve 15 or more parties united in a vertical chain, from input supplier to output buyer, through

40 or more contracts [...] aptly getting an alternative name of ‘contract finance’ (p.216).<sup>4</sup> All these parties play a part in allocating overall project risks among themselves, and may have different approaches and overlaps in risk management. In almost all instances, the way these actors position themselves using individual objectives, and the negotiation that ensues between and among them, has implications for environmental and social outcomes, outside stakeholders, particularly project-affected communities. As a means towards understanding four key actors, I describe them below.

A. Equator Principles Financial Institutions (EPFIs): These are financial institutions that are members of Equator Principles Association—who have “adopted the [Equator Principles] in accordance with the procedures in the [Equator Principles] Association Governance Rules,” are “Active in Project Finance” and implement Equator Principles (Equator Principles, n.d.). Amalric (2005) posits that large established EPFIs with brand names, operating in jurisdictions with strong NGOs, involved in high profile projects, and having a network of branches are at a high risk of NGO attack campaigns. In short, different EPFIs have different reputation risk profiles in their operational contexts.

B. Project Sponsors: These are entities that pledge to apply environmental and social standards that are embedded in the financing documentation that contract the project loans or advisory services from the EPFIs (Equator Principles, n.d.).

C. Project-affected communities: In the Equator Principles framework, these are the Affected Communities, and they are local communities, within the project's area of influence, directly affected by the project (Equator Principles, 2013, p. 15). They are communities that the Equator Principles Association expects and requires EPFIs' clients (e.g., project sponsors) to engage with regarding ongoing or potential environmental and social effects of the project.

D. Host country government: The host country government is expected to provide the overarching legislative environment under which the project operates. In other words, a host country government plays a regulatory role such as preventing potential harm (or enhancing positive benefits) from a project's operational activities, or ensuring that the project does not impair the safety and health of project-affected communities or degrade the environment or, more broadly, the ecosystem of which the project is part. The host country, therefore, legitimizes private sector projects through seeking their compliance with host country laws, regulations, and permits (McCutcheon, 1998; Weber, 2016) as required under EP 8 (Covenants). It may act as a co-project sponsor. The project sponsor aligns its operations to fit with host country policies; or because of the project sponsor, the host country can potentially adjust their policies (Leader & Ong, 2011; Cotula, 2008). According to Leader and Ong (2011), a project sponsor may induce a potential regulatory “chill” or “regulatory downgrading” which can have important implications for achieving sustainable development in a host country.

All these four actors have various risk exposures, which they attempt to manage (but are not likely to eliminate) through negotiated agreements and risk management policy that includes avoidance, allocation, and mitigation (Leader & Ong, 2011, p.111). As well, Equator Principles are opportunities for further re-orienting stakeholders in a more environmentally and socially sustainable direction for value creation. Part of risk management policy includes the implementation or management of a set of Equator Principles shown in Box 1 below.



## Box 1: Equator Principles (Abbreviated)

Principle 1: Review and Categorization: Equator Principles describe three project environmental and social risk categories A, B, C <sup>1</sup> as categorized in IFC's social and environmental screening criteria.
Principle 2: environmental and social Assessment: A mandatory pre-requisite for the client/borrower seeking financing and required to be done to the satisfaction of an EPFI.
Principle 3: Applicable environmental and social Standards: Following from Principle 2, the SEA would have to be conducted in tune with the socio-environmental standards of the host country or jurisdiction of the project. Differences exist between standards in non-OECD High income/ and OECD countries (aka "Designated Countries" as per EP 3
Principle 4: environmental and social Management System and Equator Principles Action Plan: Drawing upon results of Principle 3 and conclusions thereof, the client/borrower must prepare Action Plans describing and prioritizing between mitigation measures, monitoring and corrective actions, the appropriate details of which align with the potential severity of anticipated risks.
Principle 5: Stakeholder Engagement: This is required for category A and B projects. EP requires client/borrower or host country or third-party expert to engage with Affected Communities in a culturally appropriate manner, seeking their Free, Informed Prior-Consent (FPIC) about the project.
Principle 6: Grievance Mechanism: EP require that the borrower/client establish a grievance mechanism appropriate to the level of risks and adverse impacts of the projects and whose existence should be brought to the attention of the affected communities
Principle 7: Independent Review: The EP requires an "Independent Expert" (IE) independent of borrower to review SEA, ESMS and EPAP, consultation process document to inform on the due diligence process.
Principle 8: Covenants: These refer to covenants with host country, compliance with AP, periodic reports and where applicable and necessary, decommissioning plan.
Principle 9: Independent Monitoring and Reporting (IM & R): A client will retain IM & R expert for category A and B projects where "appropriate."
Principle 10: Reporting and Transparency: The EPFIs will report on annual basis their implementation outcomes, or report frequently or scaled to the severity of potential risks. EP3 now require online reporting.

Source: Equator Principles Implementation Guide, 2013; Weber & Acheta, 2014

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<sup>1</sup> According to Equator Principles, a "Category A" project is one with potential significant adverse environmental and social risks and/or impacts that are diverse, irreversible or unprecedented; a "Category B" project is a project with potential limited adverse environmental and social risks and/or impacts that are few in numbers, generally site specific, largely reversible and readily addressed through mitigation measures; and a "Category C" project is a project with minimal or no adverse environmental and social risks and/or impacts (Equator Principles, 2013, p.5).

### 1.1.2 Nature of Sustainability Risks and Project Screening

In financial institutions, sustainability risks take many dimensions, but three sustainability risks in project finance are particularly important. Firstly, there is the risk to the environment, to society, and to the communities in which the projects are situated (Jeucken, 2004; Weber & Acheta, 2014). Secondly, there are the environmental, social, and sustainability risks that affect the financial performance of projects (Leader & Ong, 2011, pp 95-96; Weber & Acheta, 2014). Thirdly, negative publicity from non-governmental organizations (NGOs) arising from environmental and social infractions introduces reputational risks for project funders and proponents (Wright & Rwabizambuga, 2006).

Under the Equator Principles, signatories undertake to screen the projects they finance—or for which they act as consultants. The Equator Principles is a risk management framework for determining, assessing, and managing social and environmental risks; and it is a framework comprised of ten principles (as shown above in Box 1). Principle 1 (review and categorization) assesses projects as either Category A risk, Category B, or Category C projects, assigning different risk profiles and attracting different mitigation measures or monitoring measures, or corrective actions. The degree and extent of attention to the project risk—particularly for projects with risk category A or, in the case of a project with risk category B as “appropriate”—determines the application of the remaining nine Principles.

### 1.1.3 Conceptual Criticisms of Equator Principles

The financial industry launched the Equator Principles as a contribution towards environmental stewardship and social responsibility in their financing of large-scale projects. However, more than a decade since the emergence of the Equator Principles, the financial industry’s implementation of the Equator Principles has attracted applause but also criticism particularly from non-governmental organizations (NGOs) (BankTrack, 2006:2012). This criticism has ranged from the quality of conduct of the environmental impact assessment, stakeholder engagement, and alleged human rights violations (Goetz, 2013) to transparency in decision-making around Equator Principles projects and associated sustainability assessment reports (BankTrack, 2010). These criticisms are:

Firstly, regarding the Equator Principles framework, the Equator Principles Association has no oversight over Equator Principles implementation among its signatories (Equator Principles, n.d.). The absence of an oversight on the activities of EPFIs—and by extension, on EPFIs’ borrowers or project sponsors—heightens the concerns among other stakeholders that the quality of Equator Principles implementation<sup>2</sup> will be lower than the quality the original founders envisaged and,

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<sup>2</sup> The term “implementation” is not defined in Equator Principles literature. The Oxford Dictionary defines “Implementation” as “[t]he process of putting a decision or plan into effect; execution”. In Equator Principles literature, and from the point of view of the Equator Principles Association, the signatory banks (i.e., EPFIs) *implement* Equator Principles. Similarly, from the point of view of the EPFIs, project sponsors implement the E & S covenants embedded in the financing documentation.

Ong & Leader (2011), write that “...It is again important to make the general observation that while the participating Equator Banks or EPFIs adopted the [Equator Principles]-EP, it in fact the borrower [i.e. project sponsor] that is expected to *fulfil* [emphasis mine] the requirements laid down by these Principles” (p.94). This thesis uses the terms “application and/or management” when describing project sponsors’ fulfilment of the Equator Principles.

arguably, that the Equator Principles will be merely a public relations exercise (BankTrack, 2004).

Secondly, among the Equator Principles Association signatories, the nature of project finance, the absence or limited leverage over a project sponsor/borrower during certain phases of Equator Principles implementation introduce difficulties for the Equator Principles Financial Institutions (EPFIs) (Warner, 2006; Watchman et al., 2005). In addition, Richardson (2008) states that the very absence of contractual force or legal effect (e.g., absence of “any rights to, and liability, to any person, public or private”) between the EPFIs and project sponsors regarding the Equator Principles means that EPFIs have limited options against project sponsors and vice-versa.

Thirdly, on an international scale, NGO criticism of EPFIs’ implementation of stakeholder engagement and the grievance mechanisms associated with the Equator Principles (BankTrack, 2011; BankTrack, 2016) and human rights requirements (Herz et al., 2008; Girardone & Snaith, 2011) in the projects they finance are consistent with Ruggie’s (2009) report on business and human rights. The report cited “governance gaps created by globalization . . . [that] provide the permissive environment for wrongful acts by companies of all kinds without adequate sanctioning or reparation (p.5)”.

The issues around Equator Principles implementation are beset with the problems of lack of transparency, absence of reliable and comprehensive data, as well as the difficulty of accessing project data (BankTrack, 2008; Esty, 2004a). Put differently, the big problem underlying a study of this sort regarding Equator Principles implementation is the credibility gap associated with the perceived secretive tendency of financial institutions and potentially their clients (e.g., project sponsors) whose activities are not well monitored or reported (BankTrack, 2012). Also, Warner (2006), for example, indicates that once a “moment of leverage” passes— (i.e., of fulfilling conditions precedent on disbursing a loan), the EPFI’s ability to control the project sponsor declines and often, the EPFI follow-up and monitoring become infrequent or diminishes entirely. Those opposed to monitoring for self-regulation point to potential loss of independence and flexibility in decision-making, business confidentiality and are equally concerned that monitoring results could heighten their exposure to “regulation, environmentalists, and litigation” (Gunningham and Rees, 1997, p.385). For these and other reasons cited in the preceding paragraphs, Equator Principles implementation issues and concerns pose difficulty—and create ambiguity—in understanding how key actors, such as EPFIs, implement Equator Principles. This thesis, therefore, explores Equator Principles implementation, particularly in respect of project sponsors, in the hope that it adds to the existing knowledge base of Equator Principles implementation that future research can build on. More concretely, this research provides an opportunity for further learning about the status of Equator Principles evolving implementation in the hope of influencing Equator Principles’ future direction towards contributing to sustainability. In addition, Equator Principles questions used in this research could further be developed and hypothesis tested with a quantitative approach using evolving, reliable and comprehensive Equator Principles implementation data.

#### 1.1.4 Research Questions

Given the criticism, for example, from NGOs, that the Equator Principles are not effective in contributing to sustainably projects or that the Principles’ positive effects though evolving are not sufficiently evident, , and that there is research gap around their implementation and practice, this

thesis attempts to answer the overarching question: What is the influence of Equator Principles on three key Equator Principles Association stakeholder groups made up of EPFIs, project sponsors, and project-affected communities? Therefore, the research uses three research questions:

1. How and why do EPFIs implement the Equator Principles?
2. How do the Equator Principles influence the application and management of environmental and social risks of project sponsors?
3. Thirdly, how do the Equator Principles affect project-affected communities?

## 1.2 Why Equator Principles Implementation Matters Among Key Stakeholders

The extant literature on Equator Principles and the analysis of Equator Principles implementations provides a starting point for understanding how key Equator Principles stakeholders such as EPFIs in fact implement the Equator Principles, and how project sponsors, in turn, manage them. In addition, the members of the Equator Principles Association, for example, provide unclear disclosures about environmental and social risk management procedures—or are only beginning to understand—the effects of the Equator Principles at the downstream end of implementation, that is, among project sponsors and affected communities (BankTrack, 2014; Meyerstein, 2012). There are several important reasons for investigating Equator Principles implementation. These reasons range from its original conceptual inadequacies, benefits of sustainability orientation to project sponsor application and management of the Equator Principles framework.

First, some EPFI project finance clients (project sponsors) do not know—let alone understand—what Equator Principles are, and do not adequately engage with project-affected communities (BankTrack, 2011; 2017). This is despite increasing worldwide adaption of Equator Principles by project financiers and the Equator Principles framework requirements that project sponsors do so especially for high risk and medium projects. Therefore, the Equator Principles implementation space from EPFIs through project sponsors at the project level—and to the affected communities on the ground—constitutes an empirical void this thesis seeks to fill. It does this through exploring a set of implementation issues that are largely voluntary, and given that their implementation “does not create any rights in, or liability to, any person, public or private” (Equator Principles, 2013, p.11)

Second, an EPFI’s or project sponsor’s orientation towards sustainability can engender shareholder value maximization. This is by paying attention to, and acting on, sustainability value drivers through practices that enhance environmental and social outcomes (e.g., conducting due diligence on the sustainability performance of partnerships or acquisitions, acting as sustainable development practitioner, requiring eco-efficiency in operations through waste reduction or minimal energy input, being sensitive to evolving or reporting/disclosure requirements for environmental risks, etc.) (Weber & Feltmate, 2016, pp. 46-47).

Third, the research questions that this thesis raises are also pertinent due to the potential for transforming the Equator Principles into a more binding “hard-law” framework (Mikadze, 2012) given the absence of oversight in Equator Principles implementation mentioned earlier. Therefore, understanding the nature of current implementation of the Equator Principles provides a route to inquiring whether from an empirical standpoint, “hard law” is necessary for Equator

Principles Association members. Fourth, the diverse and the incomparable implementation (Equator Principles, 2003, p.11) and decision-making among EPFIs and project sponsors supports the need for further investigation into how such differences of implementation diverge from sustainability principles, or creates the impetus to improve or harness the diversity of the Equator Principles framework implementation in the direction of positive sustainability.

Fifth, the EPFI-client confidentiality provisions, the increased Equator Principles uptake, and implementation in jurisdictions of weak environmental regulations or in “Non-Designated Countries”<sup>3</sup> and enforcement (Haglund, 2008; Sambo et al., 2015) lead outside stakeholders such as NGOs to sustain criticism of Equator Principles implementation and related projects (Tickell, 2015) and so trigger the need for understanding the Equator Principles.

These concerns also suggest a need to investigate how best to determine the effectiveness of Equator Principles implementation given the absence, or lack of evidence, of a “model” Equator Principles project that contributes to sustainability<sup>4</sup>. Through an analysis of Equator Principles application—especially at the project sponsor level—this thesis fills an analytical void in the literature regarding how project sponsors apply and manage the Equator Principles.

Sixth, Wright and Rwabizambuga’s (2006) paper, among the earliest seminal research on the Equator Principles, state that EPFIs “are largely concentrated in institutional environments shaped by targeted advocacy campaigns organized by civil society groups and strong regulatory systems [...] which increases the likelihood that environmental malpractice may be exposed by stakeholders and cause damages to corporate reputation” (p.21). These authors called for research that would investigate the relative significance of characteristics of Equator Principles implementation by original Equator Principles banks. This thesis represents a partial fulfillment of these authors’ call.

The elements of these Equator Principles implementation issues also represent how the financial sector seeks to contribute to aligning the financial system with sustainable development through a suite of new actors, emerging coalitions, multiple initiatives, and instruments (UNEP INQUIRY, 2015; Oyegunle & Weber, 2015). Nearly fourteen years since its launch in 2003, the Equator Principles have undergone an evolution (Appendix 1, Figure 13). The first revision in 2006 was in tune with the implementation experience of its first three years. The second revision of the Equator Principles, which evolved into the third version of the Equator Principles in 2013 adopted and focused on emerging issues such as human rights and climate change.

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<sup>3</sup> “Non-Designated” Countries—as opposed to “Designated Countries”—are those countries deemed to have weak environmental and social governance, legislation systems, and institutional capacity (i.e., without robust social and environmental safeguards for their people and the natural environment) (Equator Principles, 2013, p.15).

<sup>4</sup> “Sustainability” [is a goal] and “sustainable development” [is a framework to achieve sustainability] (Harding, 1998, p.18). These concepts are arenas of much—and arguably unsettled—discussion among theorists and practitioners alike. Lele (1991), for example, defines sustainability as “the existence of ecological conditions necessary to support human life at the specified level of well-being through future generations”. “Sustainable development” based on the World Commission on Environment and Development (WCED) definition is “development that meets the needs of present without compromising the ability of the future generations to meet their own (WCED, 1987, p.43). Some scholars such as Tolba (1984), and Hargroves and Smith (2005) use the concepts synonymously—the position of this thesis.

Lastly, the Equator Principles framework has received little scrutiny and research, as compared to other voluntary codes such as that for members of the chemical industry (i.e., Responsible Care established in 1985), and for members operating nuclear power plants (Institute of Nuclear Power Operations launched in 1979) (Gunningham & Rees, 1997). Similarly, the voluntary codes for the Forest Stewardship Council (FSC) members have been in existence since 1993 (Bernstein & Cashore, 2007). In addition, the non-adoption of—or the absence of—an independent oversight mechanism in the Equator Principles deserves an inquiry and potential consideration, particularly for stakeholders to track progress (Sethi & Emelianova, 2006; Abbott & Snidal, 2009; Schepers, 2011) of the Equator Principles projects, to encourage transparency in implementation and to determine whether these projects are contributing to positive sustainability at all.

### 1.2.1 Research Contributions

This thesis contributes to the scholarship on, and the debates about, the implementation of voluntary codes, such as in the case of Equator Principles literature, in four ways. Firstly, it advances our understanding of how Equator Principles financial institutions make decisions for Equator Principles implementation. Secondly, in unifying institutional and stakeholder theories, this thesis adds to the Equator Principles literature through explaining how these two theories engender operational legitimacy in Equator Principles, and how institutional theory processes explain Equator Principles implementation and Equator Principles' perceived inadequacies in the empirical realm. Thirdly, this thesis explores a scantily researched area of Equator Principles: that of the project sponsor application of Equator Principles. Fourthly, through a case example taken from mining as well as insights from field interviews of EPFIs, project sponsors, NGOs, and project-affected communities, this thesis adds to the literature of Equator Principles implementation by exploring the nature of stakeholder engagement and grievance mechanisms on affected communities within the Equator Principles framework.

### 1.3 Methods

To investigate Equator Principles implementation, this thesis used qualitative research methods such as literature reviews, document analysis, and interviews with Equator Principles financial institutions and their borrowers—the project sponsors. It analyzed the implementation of Equator Principles following interviews over the course of 2014-2015 with nine Equator Principles Financial Institutions (EPFIs) whose profiles are in section 7.1. It also conducted document analysis to supplement EPFI interviews. The interview questions for this thesis drew on themes from the Equator Principles literature reviews that covered ten years of available Equator Principles literature, including literature on the emergence and evolution of Equator Principles (Weber & Acheta, 2014).

Data collection on the impact of Equator Principles on Project Sponsors involved using face-to-face interviews—which often exceeded the time requested in the recruitment letter—with project staff of the Equator Principles projects in July 2014 and June/July of 2015, and through an analysis of documents related to project activities and effects in Zambia's Copperbelt and in North-Western

Zambia. The analysis of impacts<sup>5</sup>(Box 7, Appendix 1) of Equator Principles on project-affected communities followed interviews over a period of two and half months with traditional chiefs and individuals within these chiefdoms, anonymous NGO official in the Copperbelt of Zambia, and an environmental official in a government environmental agency. Data collection involved participant observation in project-affected communities in the Copperbelt and in the North-Western Province of Zambia. This sequence of research aligns with the notion that the method and a strategy used in an empirical study are dependent on the overall research objective (Baarda & De Goede, 2001). One research objective in this thesis is to understand how project sponsors manage Equator Principles in their operations.

In addition, the insights and themes from the Equator Principles literature reviews also provided a basis for building an explicit framework for data collection and analysis regarding the project sponsors' implementation of the Equator Principles. As will be detailed later in chapters 3, 4, 5 and 6, the research questions and qualitative research used in this thesis focus on Equator Principles implementation, and provide insights into the operations and decision making for environmental and social risks and impacts within Equator Principles financial institutions, project sponsors and project-affected communities. In other words, through posing an identical set of Equator Principles implementation and Equator Principles framework-based questions to a diverse pool of interviewees active in project finance markets, it is possible to gain insights into behind-the-scenes decision making for Equator Principles implementation and, potentially, their application at the project level. The nature of this research lends itself to the 'How' and 'why' questions over which the researcher has no control (Yin, 1984, p.20). This thesis also in chapter 5 (theory) draws on, for example, the discourse within institutional and stakeholder theories to analyze and explain Equator Principles implementation. A multiple research strategy as described above represents triangulation of methods and sources.

#### 1.4 Structure of the Thesis

This thesis is a triptych of research investigating three key areas: EPFIs' implementation of Equator Principles, the impact of Equator Principles on project sponsors' management of the Equator Principles, and the impact of Equator Principles implementation and management on project-affected communities. The research examines Equator Principles implementation over the past nearly fourteen years of its evolution. The first chapter, therefore, introduces a brief overview of Equator Principles as an industry initiative for addressing environmental and social issues in financing of large-scale projects. It highlights four key actors involved in Equator Principles implementation. The chapter also indicates important conceptual problems with Equator Principles framework—which have provided grounds, for example, to the NGOs to criticize the initiative. These criticisms along with the literature review on Equator Principles shape the research questions for this thesis, and the methods and sources used to gather data on, and to understand the nature of, Equator Principles implementation.

Chapter two reviews the literature on Equator Principles. It commences with the discussion of the nature of project finance, its actor constellation and risk allocation between and among parties in

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<sup>5</sup> "Environmental and social impacts refer to any change, potential or actual, to (i) the physical, natural, or cultural environment, and (ii) impacts on surrounding community and workers, resulting from the business activity to be supported" (IFC, 2012, p.1)

project finance. Project finance is central to Equator Principles implementation—and how actors allocate risk has potential influence on the future of Equator Principles and sustainable development more broadly. The chapter then reviews the literature on Equator Principles, and discusses themes that undergird the Equator Principles implementation, and explain current gaps in the Equator Principles literature regarding actual Equator Principles implementation at the EPFI level and its management at the project sponsor level. It reviews the literature on reputation and institutional pressures as issues underpinning the motives of original founding members of the Equator Principles Association. In addition, it includes a brief review of Equator Principles literature on policy framework conditions—the host country conditions under which EPFIs and project sponsors implement and apply the Equator Principles. Along with the issues of transparency, accountability and disclosure, the chapter provides an overview of how these issues are important in Equator Principles, and, left unattended, how they add to the criticism of Equator Principles. In identifying the gaps of opportunity in these themes for addressing identified problems with Equator Principles, I justify the research questions and objectives—the subject of chapter four.

Chapter three is about the research objectives and questions for this thesis. Using a research question matrix, the chapter outlines three research questions at the heart of this thesis investigation. Research question one is about why and how EPFIs implement Equator Principles. Six subsidiary interview questions along with guiding or clarifying answer structures support research question one. Research question two investigates how Equator Principles impact the project sponsors' contribution to sustainability through the project sponsor operations. The third and final research question is about how Equator Principles impact project-affected communities. It does this by exploring the main practical and conceptual limitations and challenges for project-affected communities during stakeholder engagement in Equator Principles implementation. Subsidiary questions used in interviews along with clarifying and guiding answer structures accompany research questions two and three as well.

Chapter four is the theory chapter for this thesis. It introduces concepts and the institutional, stakeholder, and natural resource-based view theory perspectives for understanding Equator Principles implementation and for potentially reforming Equator Principles implementation as a means towards adding to their legitimacy. In this vein, the co-influence of institutional and stakeholder theories is shown regarding their influence on operational legitimacy for an Equator Principles project. An analytical framework used for understanding project sponsor application and management of Equator Principles is also shown, along with the hypotheses for understanding Equator Principles. Section 4.4 concludes the chapter.

Chapter five is the methods chapter. Specifically, it discusses and justifies the methods for collecting data and analyzing Equator Principles implementation by EPFIs, for analyzing the impact of Equator Principles on project sponsors and on Affected Communities. It explains the methods used to gather data (i.e., structured interviews, literature reviews, document and case analysis), and shows elements of the NVIVO software used to conduct data analysis for EPFIs interviews. The chapter develops six factors (from the analytical framework introduced in chapter five) for understanding Equator Principles implementation and application as an addition to the institutional, stakeholder theory, and natural resource-based view theory discussed in chapter four. The additional factors are: (a) Internal processes, standards and policies, (b) project sponsor's



organizational structure for Equator Principles, (c) Equator Principles Association requirements, (d) host country laws, regulations and permitting and covenants, (e) other external factors, and (f) project social responsibility and Equator Principles framework elements. This is the first analytical framework. The second analytical framework evaluates—using Gibson et al.’s (2005) generic sustainability criteria specified for the project case examples—how project sponsor operations could potentially re-direct Equator Principles implementation efforts towards environmental and social sustainability. To investigate how Equator Principles impact project-affected communities, the thesis draws upon Hodge’s (2004) first question (Relations/Stakeholder engagement) of the Seven Questions to Sustainability (7QS) as a means of understanding stakeholder engagement and dispute resolution or grievance mechanism within the Equator Principles framework. The chapter concludes with a discussion of reliability and validity issues as applied to this research, as well as data limitations identified for this thesis.

Chapter six shows a sample of Equator Principles signatories, a project sponsor and an affected community. The chapter provides a profile of sample of EPFIs, a project sponsor, and related project-affected communities and other stakeholders interviewed for this research. Through a set of research issues, it provides a basis and justification for selecting sample EPFIs, the project sponsor, and project-affected communities.

Chapter seven is the results chapter. It presents findings from the research on EPFI implementation. Outcomes of Equator Principles implementation from interviewed EPFIs are shown in sec 7.1 to 7.1.7. Chapter seven also presents results of the impact of Equator Principles on a project sponsor, Kalumbila Minerals Limited. Here, a case example illustrates the various outcomes of Equator Principles implementation in a host country context of Zambia via a project copper mine. Section 7.4, addresses the practical and conceptual limitations and challenges of stakeholder engagement and associated grievance mechanism via results of interviews with various stakeholders about the impacts of the Equator Principles on project-affected communities. The subsequent section analyses these results through a discussion of six issues pertinent to stakeholder engagement within the project sponsor context of Kalumbila Minerals Limited.

Chapter eight presents summary of research findings and conclusions that follow from three research areas: (1) conclusions regarding Equator Principles Financial Institution (or Project Financiers’ implementation) of Equator Principles; (2) conclusions about the impact of Equator Principles on project sponsors; and 3) conclusions about the impact of the Equator Principles on project-affected communities. This chapter also includes theoretical and conceptual contributions of this thesis.

Chapter nine is the closing chapter and concerns practical recommendations, implications for the Equator Principles Association and further research needs. It calls for Equator Principles framework reforms. For EPFIs’ implementation of Equator Principles, the argument is that improving internal decision-making for Equator Principles is necessary though insufficient by itself. For the project sponsor, better application of Equator Principles increases project legitimacy. As for project-affected communities, stakeholder engagement and grievance mechanisms are better when there is more disclosure and transparency, first from the EPFI, and then from the project sponsor.

The next chapter discusses in more detail how key parties to Equator Principles framework allocate risk among and between themselves, and how potentially such allocations could influence Equator Principles implementation beyond reputation management to implicate sustainable development more broadly. Along with Equator Principles literature review, understanding project finance as applied in Equator Principles provides a background for identifying and justifying subsequent research objectives and questions later in chapter three.

## Chapter 2 Literature Review: Project Finance and Equator Principles

This chapter examines project finance and Equator Principles, and outlines how the nature of project finance influences the implementation of the Equator Principles.

### 2.1 Project Finance

To examine the process by which EPFIs implement the Equator Principles, or how other stakeholders (e.g., NGOs) criticize the Equator Principles, we need to understand the nature and the role of project finance in social and environmental sustainability outcomes of the Equator Principles framework. In fact, the complex and multiple contractual arrangements within project finance carry with them important implications for sustainable development. The Equator Principles, for example, defines project finance as a method of financing where:

*The lender looks primarily to the revenues generated by a single project, both as the source of repayment and as security for the exposure. This type of financing is for “large, complex, and expensive installations ... and takes the form of financing of the construction of a new capital installation, or refinancing of an existing installation, with or without improvements. (Equator Principles, 2013, p.18; Basel 11—Committee on Banking Supervision, 2005).*

Accordingly, EPFIs (lenders or project financiers) pay close attention to project issues that may interfere with cash flows or the integrity of the asset such as social agitation against the project or environmental regulations that may impact project costs (Cotula, 2008; Girardone & Snaith, 2011). The profile of borrower liability in project finance is similar to that of obtaining most conventional loans, where a constant stream of income and collateral provides an assurance to the lender that the borrower is credit worthy. However, in certain limited cases, and depending on the project phase or project circumstances that include abandonment, a lender can exercise some limited recourse against the parent company or companies (consortium) making up the project entity in the event of violations of loan conditions or outright default (Esty & Sessia, 2011; Beidleman, Veshosky, & Fletcher, 1991). Indeed, different structures of debt financing and conditions give rise to a web of property rights in a multi-contract scenario involving project finance (Farrell, 2003), and may impact Equator Principles implementation, hence leading to varying outcomes. Such a potentially complex scheme of project financing means that project sponsors pay attention to aspects that impact (or even interfere with) the performance of the project such as host country policies and social and environmental regulations (Haglund, 2008; Turnbull, 2004; Compagnon, Chan, & Mert, 2012). The nature of the project company's [or project sponsor's] corporate social responsibility (CSR) and reputation implications (Wright & Rwabizambuga, 2006; Gunningham et al., 2004; Kemp, 2010) may also receive attention and may influence how a project sponsor applies Equator Principles.

The actions of NGOs towards a project sponsor and sustainable development concerns of the project sponsor's market or consumers (Leader & Ong, 2011, p.28) are also important implementation aspects for a project sponsor because NGO campaigns or the market can impact sponsor's reputation both positively or negatively. Both the project sponsor and the host state have

investment interest in the project, and can (and do) have different degrees of influence on sustainable development (Dufey & Grieg-Gran, 2011; Eskeland & Harrison, 2003). However, for ease of understanding project sponsor application and management of the Equator Principles, and to avoid analytical confusion, this thesis conveniently refers to all project investors (except the host state) as project sponsors.

## 2.2 Sustainability Risks and Criticisms of Project Finance

Against background information in section 1.1, I present some general observations about the nature of sustainability risks for project finance as they pertain to the relations between the project's two "environments": the internal and the external. Both environments have different influences and impacts on Equator Principles implementation or application. There are three types of impacts, two of which are bi-directional in the sense that the project itself affects the environment and project-affected communities, both of which, in turn, affect the project itself. These impacts arise out of "inside-out" relations [relations because of the company or projects on society during their normal operations], and "outside-in" relations [relations arising out of positive or negative social societal effects on the company or project] (Porter & Kramer, 2006). The inside-outside considerations are also a result of a sustainability-inclination of individual managers (Sharma, 2000; Sethi, 2005, p.20; Adams, 2002; Bansal & Roth, 2000; Rogers, 2003; Henriques & Sadorsky, 1999).

There are also organizational pressures, capacity, and financial resources to capture the advantages of applied sustainability (Stubbs & Cocklin, 2008; Hart, 2005, p.60). The third type of project impact is due to reputation risk. Reputation risk arises because of deficiencies in managing the "inside-out" relationship as well as the capacity and ability of external stakeholders to influence "outside-in" relationship. In other words, there is a performance-expectations gap between "insiders" and "outsiders." Figure 1 illustrates these points. The use here of a mining project example follows from the field interviews I conducted in the mining Copperbelt of Zambia and from the serious environmental and social sustainability issues (World Bank, 2011) that have beset the mining industry in that Southern African nation. However, any other project type, such as power generation or oil and gas, would provide a similar outline of players as well as risk allocation and risk management.

In the example shown in Fig 1, multiple project finance stakeholders hold different degrees of influence regarding sustainability effects of the project. It is the emphasis on risk management and the project sponsor management of environmental and social risks that has attracted criticisms of other stakeholders over its fourteen years of implementation (BankTrack, 2004:2014; Schepers, 2011; Nguyen, 2007; Leader & Ong, 2011). Specifically, a project sponsor's framework conceptualization of Equator Principles implementation of the lender's requirements is as shown in Figure 11, Appendix 1. Project finance stakeholders' influence on the Equator Principles project stems from a risk management policy that consists of risk avoidance, risk allocation, and risk minimization (Leader & Ong, 2011, p 111; Hoffman, 2000). These project finance parties' case for risk avoidance, prevention and reduction of environmental and social risks calls for tighter action plans often issuing from Equator Principles or IFC provisions. According to Leader and Ong (2011), key project finance stakeholders (defined as host country government and project sponsors) base risk allocation enshrined in negotiated agreements on three important principles: 1) allocation of risk to the party well positioned to control it; 2) allocation of risks to the party able

to handle it; and 3) allocation of risks to the party best placed to benefit or profit from it. For risk mitigation, there is no risk allocation among stakeholders or participating parties. Instead, Leader and Ong (2011) argue, the goal is to reduce the severity of risks, particularly environmental and social risks for project finance parties, such as project-affected communities. However, individually and jointly among the project finance parties, risk allocation is more about managing reputation concerns and sustained negative publicity.

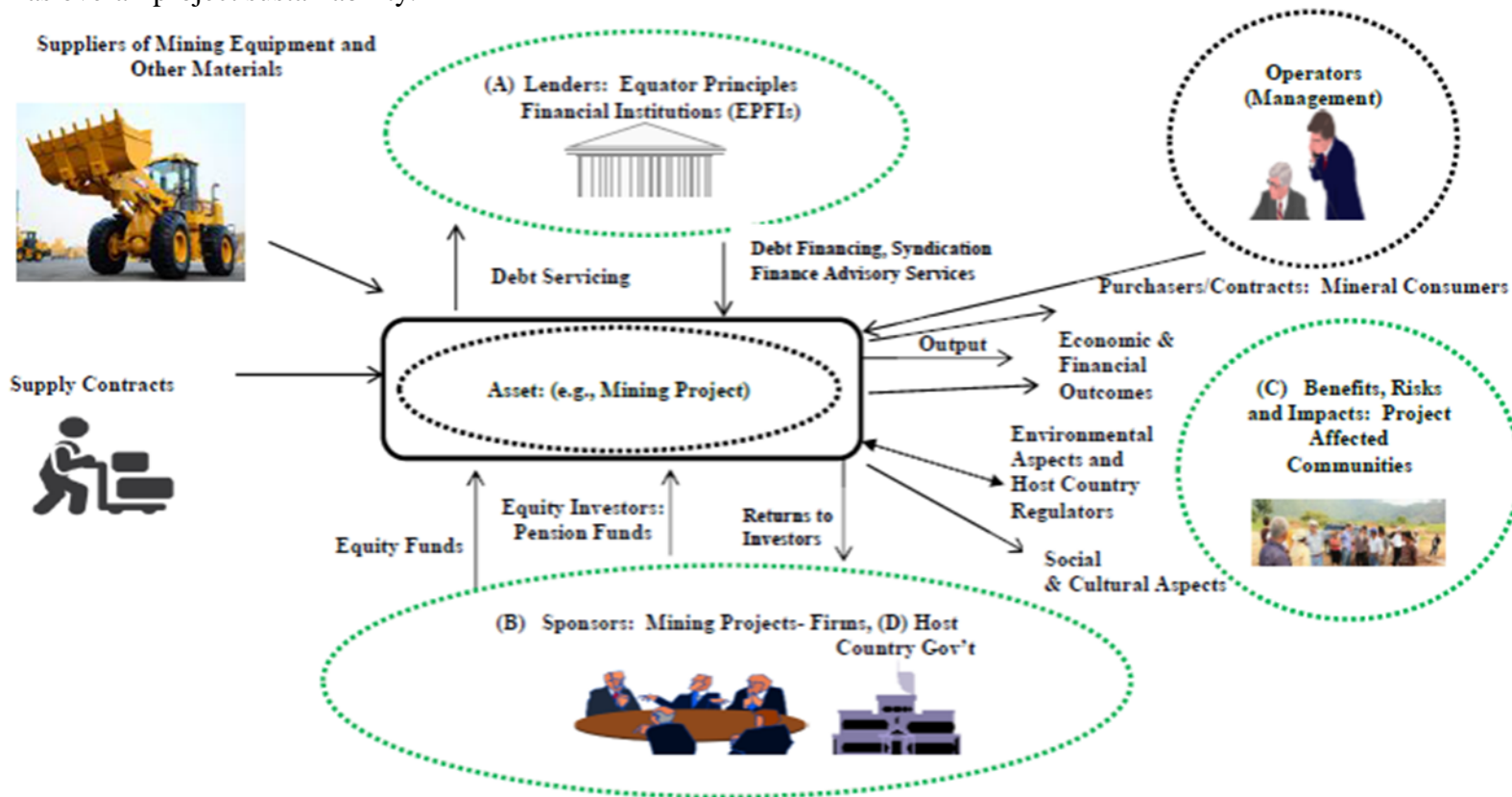
Project finance actors, therefore, use multiple risk mitigation strategies that include financial insurance (project insurance in its various forms) and legal avenues that minimize liability (such as when a project sponsor requests immunity from certain regulations or requests a grace period before paying certain taxes or seeks advantage of a location because of that location's tax-free status) (Cotula, 2008). These different strategies help project finance parties to insulate their operations from risk, and consequently influence their contribution to, or detractions from, sustainable development. In many ways, a project sponsor's interest on desired sustainability outcomes, for example, in Equator Principles is mostly limited to mitigation of environmental and social risks using devices in the preceding paragraph.

Other scholars argue that environmental impact assessments should not be simply about mitigating risks but should also include or emphasize assessment efforts aimed at enhancing maximum positive sustainable development impacts (Hacking & Guthrie, 2008, p.82; Gibson, 2006a; Abaza, 2003). Indeed, scholars', practitioners' and NGO arguments regarding success or otherwise of regarding voluntary codes such as the Equator Principles implementation and associated stakeholders such as project sponsors are multiple. They include challenges of creating third-party beneficiary status for affected communities (Marco, 2011); particularities of the "governing law" for international project financing (Mettala, 1986, p.230); and limited, or in some cases lack of, detailed project-level disclosure and standardized performance evaluation systems (Bulleid, 2004; Macve & Chen, 2010; Monahan, 2005; Hennig & Wörsdörfer, 2015). Other arguments include inadequacies of stakeholder engagement (Nguyen, 2007); "crisis-scandal response" (Vogel, 2009, p.77) nature of voluntary codes [such as Equator Principles]; limited transparency and deficiencies in human rights obligations (BankTrack, 2012); and Equator Principles conceptual vagueness (Thomas & Lawrence, 2004). Clearly, Equator Principles implementation provides fodder for critics to contest the Equator Principles overall effectiveness; and in some way, suggest what issues stakeholders need to address for improving the Equator Principles framework.

In the three preceding sections, therefore, we have seen, albeit briefly, how the project finance scheme operates, how risk allocation occurs, and how project finance actors potentially influence sustainability outcomes in Equator Principles implementation, and the potential direction of sustainable development. Later, this thesis will return to addressing the insufficient aspects of the project sponsors application and management of the Equator Principles and the necessity for thinking strategically of new pathways that contribute towards Equator Principles sustainability. Figure 1, below, shows the various project finance actors discussed above and in sec. 1.1, how they are each linked, and how they could potentially influence the overall project sustainability agenda for a typical project, such as a mining project, as used in this example.

## 2.2.1 Environmental & Social Risk Sustainability Linkage

The figure below represents a typical project finance structure. It shows how various actors influence environmental and social risk as well as overall project sustainability.



**Figure 1:** Project Finance and Sustainability Linkage  
 (Source: Google images; Bodnar, 1996; Yescombe, 2002; Finnerty, 2013, p.3-Modified)

The project finance actors above align with the Equator Principles' definition of stakeholders. The Equator Principles define stakeholders as "those entities and individuals with a direct or indirect interest in the achievement of the aims of the Principles. This [...] shall include but are not limited to: civil society; clients; development finance institutions; industry Associations; Project Sponsors; the International Finance Corporation (IFC); non-government organizations (NGOs); organizations, sharing similar aims such as export credit agencies; public financial institutions; and shareholders of the EPFIs" (Equator Principles, n.d.).

In Figure 1, the bi-directional arrows show the co-influence of stakeholders on the Equator Principles project application. In other words, Equator Principles stakeholders have a co-influence on one another during project activities. Meanwhile, the one-directional arrow shows a stakeholder's influence on sustainability effects of the project, which may vary in duration, severity and frequency (e.g., a government's monitoring and enforcement of environmental laws for a project in a developing country may be contingent on the competence of the government). An equity provider may have a specific influence of note during, for instance, shareholder meetings. In practice and over time, this one-directional influence becomes bi-directional or constituting mutual influence (Brenner, 1995), with the project, in turn, influencing the project sponsor. In addition, the host country faces at least two risks and plays two roles. For Leader and Ong (2011), the host country faces both project revenue risks and project activity risks in process of satisfying the basic rights of project-affected communities, or its citizen, even as it acts as a project regulator. In other words, the host country has a dual role of fulfilling its direct public interest roles such as the environmental protection of communities, and at the same time, it must satisfy its commercial role such as generating or allocating project revenue for environmental protection or social amenities. Both roles present the host country with conflicting and competing concerns and questions about how best to prioritize its dual roles. The next section examines the motivations for the launch and adoption of Equator Principles as an attempt to address the social and environmental issues in the financial industry.

### 2.3. Background context of Equator Principles

The Equator Principles is premised on a history of crises that beset early World Bank infrastructure projects. The criticism of, and scholarship on, the impacts of large-scale projects, for example, intensified in the 1990s with the involvement of the multilateral development banks (MDBs) in high-profile financing of contested infrastructure and development projects (Kapur, Lewis, & Webb, 1997; Rich, 1994; 2007). Targets of such criticisms included MDB's funding of Sardar Saravar dam and Polonoroester highway in India and the Brazilian Amazon respectively, (Schepers, 2011; Hunter, 2007; Morse & Berger, 1992). But the 1990s—according to Wright (2009)—also saw decline of large capital flows to the developing countries with the World Bank "withdrawing entirely from large scale public infrastructure funding" (p.5). Accordingly, that led the private commercial banks to fill that financing vacuum left by the WB, thereby becoming new targets of NGO criticisms.

However, the circumstances that led the founding members of Equator Principles framework to consider social and environmental effects of their lending are multiple and contested. However, evidence suggests that the actions of Rain Forest Action Network's (RAN) campaigns directed at Citibank for its funding of, for instance, destructive fossil fuel industries helped highlight the

environmental and social effects of private commercial banks' lending practices (Hunter, 2007; O'Sullivan & O'Dwyer, 2009; Lobe, 2003; Leader & Ong, 2011; Kulkarni, 2009) that mostly, if not exclusively, seek profit and shareholder maximization. Firstly, these campaigns were particularly against Oleoducto de Crudos Pesados (OCP) pipeline in Ecuador and Camisea gas fields in Peru, and the Chad-Cameroon Pipeline (Brown & Fox, 1999). Parallel attack campaigns from German NGOs were against Deutsche Landesbank for the Peruvian pipeline. Meanwhile NGO attacks also continued against Barclays Bank for its lending activities involving the forestry activities of the short-lived conglomerate, Asia Pulp and Paper (Wright, 2009). To unify these disparate NGO advocacy campaigns, and to provide a more structured approach to negotiations with the financial sector, various NGOs—such as RAN, Friends of the Earth (FOE), World Wide Fund UK (WWF-UK) and so on—formed an operating statement known as the Collevocchio Declaration in January 2003 (O'Sullivan & O'Dwyer, 2009).

This declaration required financial institutions to commit to integrating in their project finance operations commitments which included commitment to the following principles: sustainability, “do no harm,” responsibility, accountability, transparency, and commitments to sustainable markets and governance (Collevocchio, 2003). Against this sustained NGO pressure, a potential future of social and environmental litigations and an evolving awareness among financial institutional customers, key private commercial institutions began outlining a formal response structure in 2002 (Wright, 2009). This led to increased interactions and meetings with the IFC, and the birth of the Equator Principles. In a sense, these interactions bore the hallmarks of actors re-configuring their roles towards common institutional objectives—the coming together of the strands of institutional theory for understanding their actions.

Therefore, in adopting the Equator Principles, EPFIs wanted to signal to multiple stakeholders that the EPFIs were serious about considering environmental and social issues in their activities, thereby protecting, enhancing or defending EPFIs reputation (Wright & Rwabizambuga, 2006). Secondly, for EPFIs, adopting the Equator Principles arose from a business case for sustainability. In other words, the consideration of environmental issues in business strategy in areas such as waste reduction, process improvements and so on, that lead to increased profitability (Bansal & Roth, 2000). Lastly, the International Finance Corporation (IFC) was also ratcheting up pressure for sustainable finance across private sector financial institutions as a strategy to minimize potential competitive losses by non-adopters (Hunter, 2007). Hunter argues that this competitive strategy helped private sector financial institutions to consider sustainable finance as a differentiating competitive niche that would place it at par with IFC but above non-adopters in competitive finance markets.

These background events involving sustained NGO campaigns and the increasing salience of environmental and social issues in IFC policies were among seminal events that led to the creation of the Equator Principles. Following a series of background meetings and the formation of a working group, ABN Amro, Barclays, Citibank, and WestLB—the first visible quartet of NGO targets because of their prominence in the project finance market—would later draft and launch a unified financial industry standard, the Equator Principles. Next, coming on board this initiative would be Crédit Lyonnais (now Crédit Agricole), Credit Suisse, First Boston, HypoVereinsbank (HVB), Rabobank, Royal Bank of Scotland and Westpac (Wright, 2009; Wright & Rwabizambuga, 2006). The existing environmental and social standards of the MDBs (the World



Bank, and its private sector arm, the IFC) offered a preliminary common basis for debate and agreement among the core group of banks (ABN AMRO, Barclays, Citi—formerly Citigroup, and WestLB), and that influence continues as shown in next section below.

### 2.3.1 The World Bank and IFC Influence on Equator Principles

Much of the current Equator Principles' architecture stems from the World Bank Group's Environmental Health and Safety guidelines. Moreover, the World Bank's then "environmental and social risk management (ESRM) policies" (or "safeguard policies") had already received exposure and attention (some of it adverse) from their global application in the infrastructure development, particularly in the emerging markets (Hunter, 2007). Despite the perceived shortcomings of multilateral development banks (MDBs) sustainability standards, and because of this close relationship among these core banks, the private commercial banks active in project finance markets embraced and borrowed the operational structure of MDB's sustainability standards (Wright, 2009). The WBG's private sector lending arm, the International Financial Corporation (IFC), provided its performance standards for social and environmental sustainability to the Equator Principles Association as a founding framework for the Equator Principles (O'Sullivan & O'Dwyer, 2009; Conley & William, 2011; Equator Principles, n.d.). In June 2003, with prior technical support of IFC, the ten private commercial banks launched the Equator Principles at the IFC headquarters in Washington, DC. To strengthen these commercial banks' capacity and commitment to implementing Equator Principles, the IFC also assured these banks that it would provide training to these financial institutions as and when needed (Wright, 2009). This interaction between the IFC and commercial banks now includes holding annual "Community of Learning Events" where IFC brings together commercial banks to share their implementation experience regarding the Equator Principles.

It can therefore be argued that the commercial banks, through the Equator Principles conveniently filled a "due diligence [operational] vacuum" that the World Bank created through its partial if not temporal withdrawal from financing infrastructure projects (Amalric, 2005; Conley & Williams, 2011). Amalric (2005) also observes that the retreat of traditional multilateral development banks (MDBs) from project financing, following incessant NGO criticisms, enabled the private sector financiers (e.g., EPFIs) to easily pass on project-screening costs to project sponsors because project sponsors are not collectively organized as EPFIs and because of the dominant nature of original EPFIs in project finance market (p.12). For the EPFIs, the pull towards complying with the Equator Principles was necessary for gaining legitimacy and forestalling potential damage to reputation as Hunter (2007) and Wright, (2009, p. 12) and Wright & Rwabizambuga (2006, p.98) suggest. Other scholars argue that another motivating force behind an organization's adoption of Equator Principles is due to the conditional nature of loan syndication (Spek, 2005; Conley & Williams, 2011; Leader and Ong, 2011; Amalric, 2005). This is because project finance necessarily involves large-scale financing; and there is a preference—though not always—for a pool of banks that have similarly adopted the Equator Principles (Conley & Williams, 2011). Loan syndication also helps participating banks share potential risks associated with such large projects. The inference from the above point is that by co-opting only Equator Principles-adoptees, Equator Principles Banks involved in loan syndication effectively signal, and in some cases emphasize, their sustainability aspirations and records to parties interested in reaping reputation benefits. Their intent is to avoid implementing or enhancing the Equator Principles implementation to the letter (i.e., to be potential

free riders, adverse-selectors, and project sponsors without proven environmental or social credentials).

It is important to note, however, that there are many other factors and risks that attend to a typical project's viability. The risks that influence the project's performance include risks such as conflict risks (Crossin & Banfield, 2012) within the project's area of influence and political risks in the host country. Project sponsors will often transfer political risk to insurers via the medium of political risk insurance (PRI). However, there have been questions as to whether insurance is a mitigating or aggravating factor in project risk management (Kazimova, 2011). Conflicts could—in a particular jurisdiction—have an impact on debt service terms through creating prohibitive project costs due to project delay, thereby seriously influencing project sponsor credit-status (Ahmed & Fang, 1999, pp 43-44).

The risks attending to an Equator Principles type-project fall into two categories: On the one hand, there are commercial risks. These are project and development risks, including asset maintenance, market or segment targeting or identification. Included in this category of risks are interest rate movements, material or in-put and output price changes, inflation, and so on. On the other hand, there are non-commercial risks that relate to adverse legislative and legal changes in the project's operational area. However, according to Esty (1999), it is useful to think of risks associated with project finance—such as in Equator Principles projects—as generally falling into four clusters: pre-completion risks, operating risks (post-completion risks), sovereign risks, and financial risks. Having examined the emergence and evolution of the Equator Principles and the nature of certain risks that beset project finance, I briefly present how the Equator Principles Association governs the Equator Principles as a means of understanding the implementation of the Equator Principles, and the influence of NGO campaigns for environmental and social considerations in project finance.

### 2.3.2 Equator Principles Governance and NGO Influence

Equator Principles Financial Institutions (EPFIs) operate under an umbrella association launched in 2010 known as the Equator Principles Association. The Equator Principles Association management structure is made up of EPFIs and the Equator Principles Associates. These Equator Principles Association members further sub-divide into management (which is the thirteen-member Steering Committee), and an Administrative Structure (which is the Equator Principles Secretariat—whose services the Equator Principles Association is seeking to outsource). The Equator Principles Steering Committee provides guidance to EPFIs regarding the processes for the management, administration and development of the Equator Principles. The Equator Principles Association Steering Committee Chair—currently held by the Standard Bank Group of South Africa for the 2015/16 term—is responsible for coordinating the Steering Committee, Working Groups and EPFIs. According to the Equator Principles, the Governance Rules of the Equator Principles Association provide guidance to existing and potential EPFIs on aspects related to the Equator Principles as well as the development of the Equator Principles. The Governance Rules also set the process for nomination and appointment of representatives to, and detail the scope of, the Steering Committee and the Chair. The Steering Committee members form subsets of Working Groups dedicated to specific Equator Principles topics and themes, to which Equator Principles financial institutions and associates can contribute through their expertise, or because of their interests or implementation experience.

The Equator Principles Association, however, does not provide an explicit guidance on what constitutes environmental and social risk in the Equator Principles framework. However, because the Equator Principles framework is premised on the International Financial Corporation's (IFC)'s Policy and Performance Standards on Environmental and Social Sustainability, the Equator Principles' environment and social risk management and characteristics are broadly similar to those of the international finance corporation's (IFC's) Performance Standards and World Bank's Environmental, Health and Safety Guidelines. The IFC, for its part, defines environmental and social risk as "a combination of the probability of certain hazard occurrences and the severity of impacts resulting from such an occurrence" (IFC, 2012). This thesis adopts this definition, and because of these environmental and social risks and associated impacts, a plethora of NGOs are tracking, campaigning, and advocating for projects that contribute to positive environmental and social sustainability, or more accurately, these NGOs require project sponsors to engage in initiatives that contribute to sustainability.

In some cases, NGOs argue that corporations and elite groups collude to compromise host country environmental regulations, and ultimately, the social-ecological context of development projects. The resulting negative project "social externalities," therefore, create space for NGOs to provide quasi-operational oversight for accountability and transparency for environmental and social risks and impacts associated with projects.

These NGO campaigns or advocacies against unsustainable projects have been successful in some cases. The perceived NGO failures have largely been due to resource constraints, internal politics, and the nature of their operational environment (Slim, 2002; Nyamugasira, 1998)—such as democratic dispensation in a host country that does not encourage open and free dialogue among its citizenry. To their credit, NGOs such as BankTrack have had some influence on the evolution and revisions of the Equator Principles (See Appendix 1, Figures 13). In their fourteenth year, the Equator Principles have already undergone two revisions. These Equator Principles revisions are more about the reputation of a core group of ten banks that launched the Equator Principles than addressing serious criticism from NGOs concerning inadequacies in the Equator Principles framework inadequacies. This is because NGOs subjected the original Equator Principles Association members to reputational risk exposure—thorough "shame and name" campaigns—due to the environmental and social risks and adverse impacts of the Equator Principles Association members' high-profile projects. In addition, such Equator Principles revisions help members not only to reclaim reputation and improve bottom line-related issues, but also to strengthen and signal their collective intentions to uphold "green credentials" (Hart, 1995) in their financing transactions. Other scholars support this notion of green credentials by arguing that environmental issues—and for some scholars, social aspects as well—play an important part in the strategic calculations of firms in different ways. These diverse ways include outperforming competitors (Hillman & Keim, 2001, p.127); fulfilling a multi-pronged strategy for different firm objectives (Baumgartner, 2009); influencing financial performance (Waddock & Graves, 1997; Schaltegger & Burritt, 2005, p.198; Margolis & Walsh, 2001; Griffin & Mahon, 1997; Orlitzky, Schmidt, & Rynes, 2003) and maximizing shareholder wealth (Eisner, 2004; Campbell, 2007).

Collective action via (claimed) self-regulation has often been the norm when potential social threat poses challenges to industry operations or when there is the specter of the coercive intent of the

sovereign or regulatory power, as well as when there is a lack of response from industry about environmental or social issues (Wright & Rwabizambuga, 2006). Hart (2010), for example, notes that the Responsible Care Program for Chemical Manufacturers Association (CMA) “has helped to change the public’s perception of the industry as a shameless polluter to more responsible actor [...] and has been successful in re-establishing the legitimacy of an industry under tremendous public pressure” (p.114). However, as this thesis argues later, there is evidence that in some cases changes in voluntary codes, such as in Equator Principles have been more cosmetic than substantive (Schepers, 2011), thereby calling into question the organizational effectiveness of EPFIs structures for Equator Principles implementation.

The EPFIs have integrated the environmental and social risk framework into lending operations with varying degrees of efficiency across 89 EPFIs (as at January 2017) worldwide as the Equator Principles implementation suggests. Indeed, even such growth in EPFIs to 89 members in 37 countries (as of January 20, 2017), representing 70% of project finance transactions in emerging economies, represents a remarkable speed of adoption and embrace of environmental and social issues given that the initiative grew out of only ten banks, all of them in the institutional environment of Western industrialized economies (Wright & Rwabizambuga, 2006). Initially these few influential private commercial banks with global reach operated on financial terms, and were unconcerned with either societal and environmental concerns or long-run sustainability issues. It was not until pressures from NGOs led them to consider these “non-business issues voluntarily”—a misleading phrase from an industry that sought to down play the real effect of external pressures (Gibson, 2000). As EPFIs disperse the implementation of Equator Principles worldwide, project-affected communities, NGOs, other stakeholders and scholars continue with criticism of the Equator Principles framework.

For the Equator Principles, both criticism and scholarship have kept parallel pace as the Equator Principles enter their fourteenth year of implementation. Hunter’s (2007) call for research to understand internal processes within financing institutions, however, offers a particularly interesting dimension. Accordingly, the broad questions this thesis takes on to deepen Hunter’s call for additional research includes questions such as: Have financial institutions shifted their lending portfolios because of environmental and social pressures from civil society organizations or to be in tune with increasing public awareness? What has been the effect of environmental and social policies on large-scale projects in the intervening years since Hunter (2007) and civil society agitations against MDBs? Should stakeholders gauge success of voluntary codes on “outcomes” or as contributions in small incremental institutional changes (Meyerstein, 2012) towards sustainability?

These example questions constitute an interesting and intriguing area of ongoing research in the Equator Principles. However, of far greater concern and interest to multiple Equator Principles stakeholders are the ways in which financial institutions—especially private commercial banks, such as EPFIs—are applying environmental and social policies in their financing activities (BankTrack, 2011). Four key themes have, therefore, dominated commentary on Equator Principles and have become anchor points for criticism of the Equator Principles framework over the last fourteen years of its emergence and evolution. For ease of analysis, these issues occur in three clusters: reputation and institutional pressures; transparency in reporting and disclosure; host country framework conditions (e.g., host country policy environment and operating conditions).

## 2.4 Reputation and Institutional Pressures

Wright and Rwabizambuga (2006) hypothesize that voluntary codes of conduct such as the Equator Principles reflect an organization's attempt to convey a positive image by subscribing to a conduct that is responsive to a normative socio-environmental gap, or "in order to avoid public criticism which non-participation can attract" (Brereton, 2002) or even to forestall (potential) common sanctions (King & Toffell, 2009). By subscribing to the socio-environmental codes of conduct, scholars argue that organizations can respond the challenge to their reputation by re-configuring their operational strategies regarding their firm's sustainable agenda (Wright & Rwabizambuga, 2006; Prakash & Potoski, 2007; O'Sullivan & O'Dwyer, 2009; Schepers, 2011). This view is process-oriented (Meyerstein, 2012; Watchman, Delfino, & Addison, 2007; Wright & Rwabizambuga, 2006) rather than performance-based (Meidinger, 2001) and aligns with the scholarship of Hunter (2007) on the subject, and conforms to DiMaggio & Powell's (1983) institutional theory process of "isomorphism" (or equal change)—a process by which the focal organization's operations and tendencies become similar to those of other organizations in its institutional environment. These scholars' perspectives highlight reputational risk management in the face of social pressures and threats. These perspectives do not address the core issue of the impact of the internal processes for sustainability within financial institutions. In other words, the financial institutions' initiatives and programs for sustainability do not naturally arise out of "isomorphism" or equal change. Wright and Rwabizambuga (2006), however, in providing seminal scholarship and literature on the Equator Principles, indicate that "[societal] voice, [its need for and expectation of] accountability... and government effectiveness" were necessary conditions for financial institutions to acknowledge social and environmental concerns. Other scholars of a normative persuasion, such as Bondy, Matten, and Moon (2004), assert that codes of conduct are "a formalization of corporate values or practices designed to guide behaviour of the business as they attempt to manage in nations with different political, social and economic cultures". Voluntary codes of conduct—these authors argue—may in fact represent more of a desire to control the actions of groups within and outside the corporation for risk management purposes and not an attempt to become more environmentally, economically, and socially responsible.

In the Equator Principles framework, for example, each EPFI applies the principles as they see fit within their organizational environment because the Equator Principles is a common baseline or template that EPFIs use for developing "individual, internal environmental and social policies, procedures and practices" (Equator Principles Implementation Note, 2013, p. 2). In this scenario, it is difficult to generalize and determine an overall approach EPFIs take in their internal decision-making for fulfilling Equator Principles implementation. More specifically, it is difficult to understand how EPFIs are implementing the Equator Principles without rigorous research and analysis. Therefore, in the Equator Principles implementation and in Equator Principles project sustainability expectations, the Equator Principles framework is "so fraught with ambiguity, subjectivity, and voluntarism that they may accomplish little more than establishing ephemeral goal that will not, as a practical matter be achieved" (Lawrence & Thomas, 2004).

These scholars' research neither advances mechanisms for explicitly engaging in sustainability, nor offers policy considerations for achieving, measuring or determining, for example, environmental, social or sustainability outcomes among project sponsors or project-affected communities.

Conley and William (2011) in their “interview-based study of [b]anks as global sustainability regulators” suggest that the efficacy of private regulations such as the Equator Principles or their implementation at the EPFI, application at the project sponsor and their evaluation at the level of project-affected communities remains unknown beyond the boardroom of Equator Principles Association members. These authors also reinforce earlier scholars’ views on Equator Principles as a vehicle for reputation management, and that social and environmental considerations “were a by-product of risk management”(Conley & Williams, 2011). This thesis, however, attempts to answer Conley and Williams’s (2011) need for answers about the Equator Principles’ actual impact on project-affected communities, and partially answers the authors’ other need to understand the Equator Principles’ “impact on governance and government”. Conley and Williams clearly reinforce the views and the findings of other scholars about reputation management.

To summarize this aspect of reputation and institutional pressures, the Equator Principles framework arose out of the perceived deficiencies of private commercial banks’ financing activities, namely; their original inability or unwillingness to consider and integrate environmental and social concerns into their operations. In response to pressures from concerned publics, mostly NGOs, current EPFIs’ attempts and strategies, suggest that EPFIs engage in protecting their reputation than in seriously implementing the socio-ecological basis of the Equator Principles framework. This thesis, therefore, sets out to fill the gap resulting from an absence of detailed understanding of how and why EPFI are implementing Equator Principles, given that even the conditions under which members of the Equator Principles Association implement Equator Principles framework remain problematic.

## 2.5 Policy Framework Conditions

Unlike other scholars, Amalric (2005) addresses the issue of Equator Principles sustainability effects by suggesting the need to address “policy framework conditions” [in the location of the project]. By policy framework conditions, Amalric (2005) means the setting under which EPFIs implement the Equator Principles, or more accurately, the conditions that foster the application of the Equator Principles, such as long-term sustainable development goals, especially in a host country. By suggesting that citizens in democratic governance systems can build social pressure required to agitate against unsustainable projects, Amalric (2005) aligns with Wright and Rwabizambuga’s (2006) and Haglund’s (2008) propositions about the importance of voice, accountability, democracy, and institutions regarding voluntary codes. Amalric (2005) illuminates his hypotheses by arguing that in weak states without democratic credentials, financial institutions such as EPFIs are unable or unwilling to integrate social and environmental issues into their projects because such societies suppress voices and local resistance against projects, which in turn fails to create motivations for EPFIs to consider environmental and social issues in their financing activities.

Amalric’s (2005) argument also recognizes the economic incentives underpinning the original ten founding members of the Equator Principles in their adoption and diffusion of the Equator Principles. However, firstly, he fails to explicitly acknowledge or ignores the economic argument through the profit maximization objective within firms (Jensen, 2000) or the EPFIs may partly or even principally explain why EPFIs lack the motivation to increasingly factor in environmental and social issues in their financings. Secondly, external forces within the host country (for

example, multinational corporations) have the potential to also interfere in the host country's policies and so hinder the fulfilment of Equator Principles framework obligations and the achievement of sustainable development goals. Lastly, Amalric's (2005) "frameworks conditions" argument is porous to the extent that he discounts or fails to acknowledge another dimension, namely that suppressed voices in some third world jurisdictions would use help from the financial sector if it were to engage in consumer education beyond consumer awareness drives that are self-serving towards their private profit maximizing—rather than a public interest—objective.

To summarize this aspect of policy framework conditions, the Equator Principles studies with different explanatory foundations, illuminate the influence of host country settings, such as policy framework conditions, as important influences for application of Equator Principles framework. However, the application and management of Equator Principles ultimately occurs through embedded financing covenants that immunize EPFIs and project sponsors from scrutiny, often under the guise of EPFI-project-sponsor privilege, as elaborated in the next section. For this reason, part of the work of this thesis is to examine how project sponsors in fact operate within the policy framework conditions, particularly in emerging economies, in remote locations that are most times outside the scrutiny of other stakeholders interested in understanding the implementation of the Equator Principles.

## 2.6 Transparency and Accountability and Disclosure

For an EPFI, adopting the Equator Principles also means embedding the Equator Principles framework within their organizational processes. In short, it is about institutionalizing the responsibility to implement the ten principles of the framework. If EPFIs have committed to sustainability, then the outcomes and the obligations that come with integrating Equator Principles elements into organizational systems leads to the following:

- (a) The EPFI will need to publicize or at least to make known the outcomes of its Equator Principles implementation. In other words, the EPFI as an organization will need to provide its stakeholders the information on how it is in fact performing regarding the implementation of environmental and social aspects it has committed to upholding.
- (b) As members of the collective action group known as the Equator Principles Association, other interested stakeholders will compare overall performance, progress, and contribution towards socio-ecological sustainability between, and among, members both on temporal and geographical basis.

Since the Equator Principles launch in 2003, these twin aspects of performance disclosure from both individual EPFI and collective EPFIs, as related to transparency, have engaged scholars (Sethi & Emelianova, 2006; Schepers, 2011 ; Missbach, 2004; Richardson, 2005; Meyerstein, 2012; Watchman, Delfino, & Addison, 2007) and NGOs—particularly the NGO BankTrack (BankTrack, 2011; BankTrack, 2005; Banktrack, 2007). These scholars and NGOs alike have criticized the lack of transparency among the Equator Principles Association members and their clients regarding the Equator Principles implementation. One basis of evaluating a contribution to sustainability involves understanding how projects have made decisions about indicators of sustainability, monitoring, management and reporting systems (Gasparatos, El-Haram, & Horner, 2008; Gibson, 2006a; Azapagic & Perdan, 2000; Bond & Morrison-Sauders, 2009). In addition, there are

questions such as, how did project sponsors incorporate, if at all, the views of project-affected communities, other stakeholders and project participants in environmental and social impact assessment? Without answers to these questions and other related aspects or indications that the project sponsor and the financier have in fact considered them, it is difficult to gauge the performance of members of the Equator Principles Association or their borrowers, and by extension the efficacy of the Equator Principles framework as a financial industry benchmark for environmental and social risk management. Perceived deficiencies about transparency in Equator Principles implementation suggest a need for independent oversight for the Equator Principles to add to their legitimacy, and potentially to their effectiveness given the ‘voluntary’ nature of the Equator Principles. However, such an independent oversight is only practical if an EPFI and a project sponsor commit to, and exercise, accountability. Accountability will facilitate monitoring for compliance thereby adding credibility to the project and the stakeholder involved (Schepers, 2011). In the context of this thesis, accountability “in its broadest sense [. . .] refers to the giving and demanding of reasons of conduct” (O’Dwyer & O’Sullivan, 2009, p.559 citing Roberts & Scapens, 1985).

Accountability itself relies on the firm foundation of transparency, which in the case of the Equator Principles requires that the Equator Principles Association members and stakeholders uphold prior agreed-to voluntary obligations. The exercise of transparency within the Equator Principles framework requires disclosure of not just project information, but timely, accurate, and relevant information on the part of EPFIs. Sethi & Emelianova (2006, p.234) suggest that project sponsors and EPFIs, who produce more and better information than peers, for prior periods, or above minimum reporting standards regarding Equator Principles implementation that satisfies project-affected communities and other stakeholder groups, enjoy legitimacy in the eyes of the broader publics.

Echoing similar concerns about transparency and disclosure, BankTrack, in its 2011 submissions to the Equator Principles Association during the Equator Principles version three (3) review, states that implementation of the Equator Principles should be:

*"[B]ased on the notion that proper risk management for all involved requires transparency of process, inclusion, rather than secrecy, [and] recognition of the fallibility of everyone and therefore the need for accountability and access to redress. [It also requires] dialogue rather than desk studies as a means to understand perspectives and risks [as well as] the careful weighing of options and legitimate interests of all involved. [It requires] an understanding of the limits to business imposed by nature and the environment. [And the cognition of] the fundamental rights of all people [as well as] a general and clear understanding of the responsibility of a bank to help achieve a more sustainable world” (slightly modified).*

In short, for the benefit of stakeholders, especially project-affected communities, the demands on both EPFI and project sponsors for proper Equator Principles implementation are exacting. Fox (2007), citing Scheduler (1999), argues that understanding the connection between transparency and accountability requires that we first understand the inherent duality of the concept of accountability—which could mean “the capacity or the right to demand answers—answerability, as well as the capacity to sanction”.



To summarize, the discussion in the preceding theme has centered on the role of transparency, accountability, and disclosure as important attributes for evaluation of Equator Principles implementation performance and sustainability assessment more generally (Sethi & Emelianova, 2006; Schepers, 2011). In this preceding section, the thesis has argued that NGOs (such as BankTrack) and scholars such as Fox (2007) both assert that transparency facilitates accountability and disclosure. Sections 2.4 to 2.6 above have demonstrated how reputation and institutional pressures, policy framework conditions, transparency, accountability, disclosure, have shaped and will continue to define Equator Principles implementation even as other issues such as human rights and climate change take center stage.

## 2.7 Conclusion

This chapter reviewed the themes and perspectives in Equator Principles implementation and provided insights for understanding some of the issues, challenges and weaknesses members of the Equator Principles Association face in implementing the Equator Principles. The chapter also indicated how the actions or inactions of EPFIs—or adverse outcomes of project finance—could lead to increased stakeholder concerns that engender negative reputation. Equator Principles as an example of voluntary standards are situated within the corporate sustainability practises of EPFIs and project sponsors, and draw on the norms and rules that govern decision-making in project finance markets. Accordingly, the preceding chapter was aimed at providing background information on project finance, its typical actors, and with it, Equator Principles as a tool for preventing or addressing the undesirable sustainability outcomes of project finance.

Thus, to understand how and why Equator Principles emerged, it is necessary to understand project finance processes, its various stakeholders and related institutions for a typical Equator Principles project. These aspects influence the implementation of Equator Principles through capital investment (investors), regulations (for state authorities), advocacy campaigns (for NGOs), and potential protests in project-affected communities in case of environmental and social breaches. In fact, it is often the interactions between and among the Equator Principles actors and the subsequent negotiations around their disparate individual objectives and interests that contribute to potential risks and impacts for project-affected communities (Leader, 2011, p.113). Therefore, project finance as a method of financing Equator Principles projects provides a conceptual lens through which multiple Equator Principles stakeholders internalize, discuss, determine, assess and manage environmental and social issues briefly discussed in this preceding chapter.

This chapter has contributed to shaping and influencing three research questions for this thesis. The research questions that follow are an attempt at examining and understanding the influence of the Equator Principles in contributing to sustainability. They, therefore, address identified gaps in Equator Principles literature about Equator Principles implementation within key stakeholder groups.

## Chapter 3 Research Questions and Objectives

Following from the preceding chapter, there are three key research questions in this thesis; the first concerns the reason why and how financial institutions implement the Equator Principles and integrate them into their project finance decision-making processes. The second addresses Equator Principles' influence on the application and management of environmental and social risks of project sponsors. The third question examines the impact of Equator Principles on project-affected communities.

### 3.1 Research Objectives


Following the three questions above, this thesis has the following objectives, namely, to:



- (a) analyze how and why EPFIs' integrate social and environmental concerns into their decision-making processes for Equator Principles-related project finance.
- (b) deepen understanding of Equator Principles implementation at the project level. Specifically, the objective is to investigate the nature and quality of Equator Principles application and management in project sponsor operations as per the Equator Principles framework.
- (c) investigate the limitations and challenges for project-affected communities throughout the process of stakeholder engagement, and in the established grievance mechanism as per the Equator Principles framework.
- (d) Based on the discoveries in the preceding three objectives, a further objective is to evaluate how Equator Principles stakeholders could move the Equator Principles framework into one that increasingly contributes to sustainability.

To aid this discovery effort, the thesis maps the research questions (Column 1), the interview questions (Column 2), and the guiding and clarifying answer structures (Column 3) in Table 1 below (next page).

Column (2) contains, in descending order, interview questions first for Equator Principles Financial Institutions (EPFIs), then for project sponsors, and lastly for project-affected communities. The detailed interview questions for project-affected communities regarding stakeholder engagement and grievance mechanisms are taken from Hodge's (2004) first question in *Seven Questions to Sustainability (7QS)* in Appendix 1, Box 2.

**Table 1:** Research Questions

Main Research/Thesis Questions (1)	Interview Questions (2)	Clarifying the Interview Questions (3)
<p>1. How and why do financial institutions implement Equator Principles?</p> <p>(EPFIs Interview Questions)</p> 	<p>a) What are the main benefits of Equator Principles for your organization?</p> <p>b) What are the main risks of Equator Principles for your organization?</p> <p>c) What are the impacts of Equator Principles on project assessment procedures?</p> <p>d) How do Equator Principles help in assessing the sustainability effects of Equator Principles projects?</p> <p>e) How do Equator Principles help in assessing general project risks?</p> <p>f) What are problems with respect to the application of the Equator Principles in the project assessment process?</p>	<ul style="list-style-type: none"> <li>• The first question’s intent is to understand the value of Equator Principles to EPFIs in relation to project finance transactions and consultations (Equator Principles BENEFITS for EPFIs).</li> <li>• The second question helps determine if any adverse costs to EPFIs arise in EPFIs’ implementation experience (MAIN RISKS).</li> <li>• The third question determines whether adopting or implementing Equator Principles improves project assessment as per the Equator Principles framework (Equator Principles BENEFITS for EPFIs).</li> <li>• The fourth question investigates whether the adoption of new (or additional) environmental and social risk standards such as Equator Principles improves Equator Principles (BENEFITS FOR ASSESSMENTS).</li> <li>• The fifth question Investigates whether Equator Principles have any bearing on the management of other project risks given that the risks facing projects are many and complex (ADVANTAGES FOR GENERAL PROJECT RISKS).</li> <li>• The sixth question investigates the challenges of applying Equator Principles among EPFIs and project sponsors (PROBLEMS/CHALLENGES OF Equator Principles APPLICATION).</li> </ul>

<p>2. How do Equator Principles influence the management of environmental and social risks of project sponsors?</p> <p>(Project Sponsor Interview Questions)</p> 	<p>a) What are the strengths and weaknesses of Equator Principles from your point of view?</p> <p>b) Does the project team members' participation in environmental and social aspects have any influence on the project approval and sustainability outcomes?</p> <p>c) Do project team members' decisions regarding the project's sustainability effects have legal, institutional, and cultural basis?</p> <p>d) What are the gaps in overseeing and managing Equator Principles project sustainability effects, environmental and social risk assessment process and implementation of action or mitigation plans?</p> <p>e) What influence do EPFIs have on the organization regarding project social and environmental sustainability outcomes?</p> <p>f) On the issue of legacy, how does the organization plan for, and implement, if at all, community development programs?</p>	<ul style="list-style-type: none"> <li>• Understanding opportunities, limitations and challenges involved in the operationalization of uniform Equator Principles social and environmental sustainability standards notably in the context of project sponsors (HOST COUNTRY LAWS, REGULATIONS, PERMITS AND CONCESSION AGREEMENTS)</li> <li>• Understanding internal decision-making organizational structure and systems for managing and reconciling Equator Principles project sustainability issues with profit maximizing objectives (INTERNAL PROCESSES, POLICIES AND STANDARDS)</li> <li>• Understanding the inadequacy of, and needed improvement of, project sponsor processes and external influences for addressing project environmental and social risk and financial risk during project life cycle stages (SUCH AS IN IMPLEMENTING EPFI COVENANTS)</li> <li>• Analyzing the importance of other actors (OTHER EXTERNAL FACTORS AND STAKEHOLDERS)</li> <li>• Discussing Equator Principles and society (CORPORATE SOCIAL RESPONSIBILITY AND CORPORATE SUSTAINABILITY)</li> <li>• Understanding and identifying Stakeholders (POWER, LEGITIMACY, AND URGENCY OF A STAKEHOLDER GROUP)</li> <li>• Analyzing Equator Principles Stakeholders (ENGAGEMENT, PARTICIPATION AND GRIEVANCE MECHANISMS AND PROJECT SPONSOR POWER)</li> </ul>
<p>3. How do Equator Principles impact project-affected communities?</p> <p>(Project-Affected Communities Interview Questions)</p> 	<p>a) What are the main practical and conceptual limitations and challenges for project-affected communities during stakeholder engagement and grievance resolution for sustainability outcomes in Equator Principles?</p> <p>(Detailed Question 1: Appendix 1, Box 2)</p>	<ul style="list-style-type: none"> <li>• Discussing Communities and Equator Principles (PROJECT-AFFECTED COMMUNITIES AND ESIA)</li> <li>• Analyzing suggested Good Practice Stakeholder Engagement in other contexts (International Finance Corporation-IFC).</li> </ul>

## 3.2 Conclusion

In this chapter, this thesis frames the research questions to understand the aspect of Equator Principles implementation among of EPFIs and project sponsors. It also intends to understand the impact of the Equator Principles on project-affected communities through the stakeholder engagement and grievance mechanisms. Through these three questions, this chapter advances an analytical approach that examines EPFIs' impacts on project sponsors, and in turn, the project sponsor's influence on project-affected communities. In effect, the research questions guide the examination of the interactions between institutional actors (EPFIs) and other stakeholders (project sponsors and project-affected communities) involved in the Equator Principles framework. These mutual interactions help unify institutional and stakeholder aspects that are important in influencing operational legitimacy of the Equator Principles and institutional theory processes at work in Equator Principles implementation.

In the next chapter, the conceptual and theoretical aspects of the Equator Principles develop these institutional and stakeholder aspects in depth, thereby illuminating how two key Equator Principles players (EPFIs and project sponsors) could influence outcomes among project-affected communities, and more broadly, for sustainable development. The chapter begins with a restatement of the context underlying the emergence of Equator Principles—narrated earlier on in section 2.3—as a means of justifying the stakeholder and institutional theories suggested for understanding Equator Principles implementation. The chapter then introduces a schematic of the Equator Principles implementation framework as an aid in situating these suggested theories.

## Chapter 4 Conceptual-Theoretical Framework

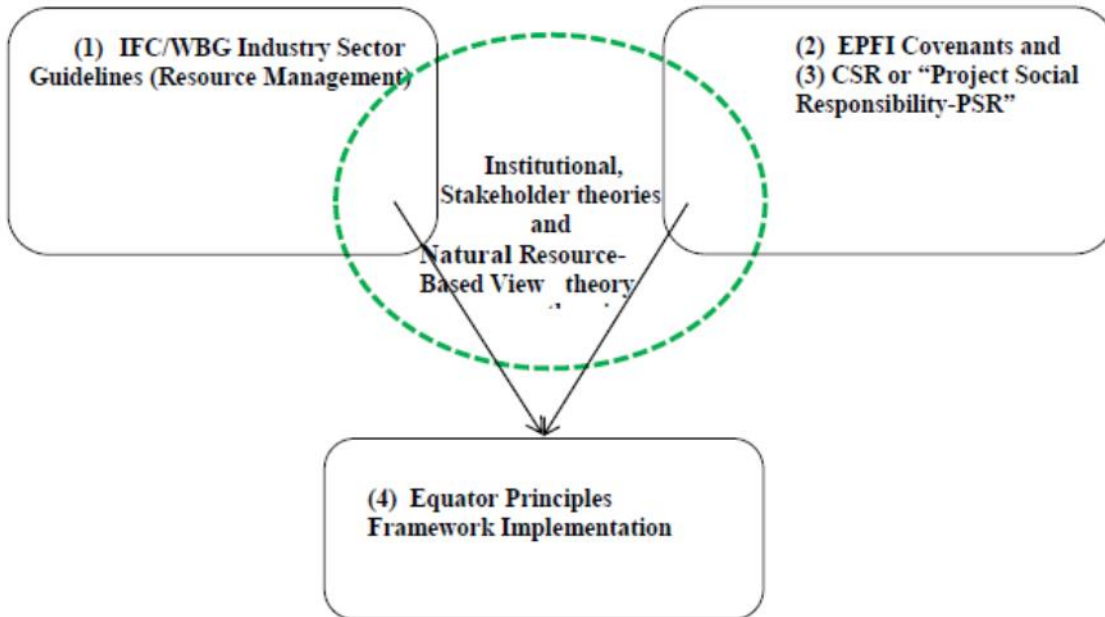
The conceptual framework (Figure 2) below, and the suggested theoretical basis for understanding Equator Principles implementation, draw on a broader narrative underpinning Equator Principles launch as explained in chapter 2 (section 2.3). It is that the period leading to the launch of the Equator Principles in 2003 saw increased international NGO campaign activities (O’Sullivan & O’Dwyer, 2009; Leader & Ong, 2011) regarding the adverse environmental and social effects of commercial bank financing of large-scale projects. The objective of the NGO advocacy campaigns was aimed at compelling commercial banks to integrate serious attention to environmental and social issues into their project finance activities (Wright, 2009). The NGO coalitions and networks—as part of activist stakeholders—set off increased interaction within the private commercial banks aimed at facilitating a coordinated institutional response to the NGOs.

These NGOs sought to influence institutional change within the financial sector (and ultimately, among their clients) that was responsive to environmental and social risks and impacts of commercial bank’s lending and financing activities (Wright & Rwabizambuga, 2006). These stakeholder interactions, therefore, commenced the deepening of institutional relationships between international organizations such as the IFC, multinational corporations such as some private commercial banks active in global finance markets, and activist NGO stakeholders such as BankTrack. The aim of the interactions between these multiple stakeholders was, as Conely and Williams (2011) indicate, to situate the private banks as institutions that could play the role of potential “global sustainability regulators” (p.1), suggesting the important institutional role of rule-setting, monitoring, and sanctioning activities. This need for an orientation towards sustainability suggests that natural resource based-view of the firm [e.g., EPFIs], on its part, is important because it provides an understanding of why environmental and social concerns are increasingly part of financing and investment decisions.

Against this brief background, the concepts in this thesis draw on stakeholder theory, institutional theory and natural resource-based view, to explain Equator Principles implementation. The Equator Principles, for example, require signatory institutions (EPFIs) to undertake “internal environmental and social review and due diligence commensurate with the nature, scale and stage of the Project” (Equator Principles, 2013 p.5) and the anticipated level of social and environmental risks. Due diligence for EPFIs includes recognizing host country laws, regulations, and permitting as part of project sponsor financing covenants, which in effect suggests the importance of institutional, cultural, and political contexts for understanding Equator Principles implementation.

The thesis uses the term “theory” from the realist perspective, and in the construct of Maxwell (2012, p.86), namely as a lens for “making sense of the world” to reveal some aspects of that reality, while being mindful that the lens can also potentially distort or conceal other aspects. The use of multiple theories is to avoid a dominant theory distorting analysis (Becker, 1986, pp.147-149), to enrich alternative ways of making sense of data, and to draw on ideas from these multiple theories as means to understanding phenomena (in this case, Equator Principles implementation). This chapter builds up a framework for understanding implementation of a suite of 10 Principles (i.e. Equator Principles), using eight factors. For now, it suffices to explain how three of these factors (as shown below) contributed to the set of principles in the Equator Principles. The remaining factors for understanding Equator Principles implementation occur during the analysis of project sponsor application of Equator Principles and will be developed and explained further

in chapter 6, section 6.2. Briefly, the conceptual framework in Figure 2 below shows:  
 (1) IFC/WB Industry Sector Guidelines (Resource Management): As indicated in the discussion of the evolution of the Equator Principles, the Equator Principles is a direct offshoot of the environmental and social standards (i.e. Performance Standards) of the World Bank Group (WBG).



**Figure 2:** A Conceptual/Theoretical Framework for Understanding Equator Principles Implementation

The International Finance Corporation (IFC) provided, and continues to provide through its internal policy revisions—much of the present base of the Equator Principles environmental and social sustainability architecture. The Equator Principles framework also uses WBG environmental, health, and safety (EHS) Guidelines for assessing social and environmental risks in all industries and sectors. The content of the guidelines reflects “information on industry-specific impacts and performance indicators, plus a general description of industry activities” (Equator Principles, 2013, p.22). In short, the guidelines play a key role in resource management across all industries and sectors. This public-private institutional relationship represents a route through which the WBG public policy objectives can be integrated into private sector business and sustainability practices.

(2) EPFI covenants and (3) corporate social responsibility (CSR): These factors have a co-influence in determining or shaping Equator Principles framework implementation. The place of these analytical units in understanding project sponsor application of the Equator Principles will become apparent later in the thesis in section 8.2 At present, it is sufficient to say that EPFI covenants, for instance, are a means for an EPFI to influence desirable sustainability outcomes from a project sponsor, and CSR provides a broader basis for Equator Principles framework implementation (Scholtens & Dam, 2007).

(4) Equator Principles Implementation: The implementation phase is the culmination of the influence of all factors—which represents the interaction of the institutional and stakeholder theories in the empirical realm of the project sponsor—the key party responsible for fulfilling the Equator Principles.

Against this Equator Principles background of actors, interactions, activities, resources and covenants, the thesis holds the view that institutional and stakeholder theories and the natural-resource based view (NRBV) provide a reasonable platform to explain or inform Equator Principles implementation. There are three reasons undergirding this perspective. First, understanding the influence of stakeholder theory on Equator Principles implementation and associated entities (EPFIs, project sponsors, PACs, host country regulations, etc.,) could, for example, provide insight into how each entity uses relationships as an instrument to influence sustainability outcomes. Second, on its part, institutional theory could be important for understanding the perceived similarities among EPFIs (Wright & Rwabizambuga, 2006) because of uniform uptake of Equator Principles' Association requirements (BankTrack, 2008) even when critics argue that sustainability outcomes are different for each EPFI. Lastly, and related to the preceding point, institutional theory as suggested in this thesis for understanding Equator Principles implementation could shed light on the influence of its processes from the institutional space of EPFI through that of the project sponsor, and finally among PACs.

Admittedly, there are potentially many alternative theories that could explain Equator Principles implementation. O'Sullivan & O'Dwyer (2009), for example, use legitimacy theory in their study to theorize mostly about the analysis of the Equator Principles "initiation and evolution" rather than the Equator Principles implementation. Macve and Chen (2010) apply "enlightened shareholder theory" to explain the reporting dimension of the Equator Principles.

In addition, the Equator Principles framework as a means of understanding and addressing environment and social risks has been criticized as insufficient and narrow (Sethi & Emelianova, 2006). An improvement for understanding Equator Principles that goes beyond risk mitigation, could also draw on sustainability assessment theory, including the application of sustainability-based analysis for undertakings, for example, in mining and requirements for effective post-approval monitoring of effects and enforcement of commitments and obligations (Gibson, 2013, 2015).

Understanding Equator Principles implementation outcomes, particularly in a project case example used in this thesis, could also draw on systems-based approaches. Prno & Slocombe (2013), for example, show the utility of applying systems-based conceptual framework for "assessing social licence to operate (SLO) determinants and outcomes in mining industry" (p.1). Moreover, the Equator Principles as a credit framework for addressing social and environmental risks and impacts involves drivers, processes, interactions, and outcomes that are not unlike elements of, and functions in, complex social-ecological systems (Holling, 2001).



The use of institutional and stakeholder (Weber & Acheta, 2016)<sup>6</sup> theories in the present thesis arose from the need to broaden the epistemological base for understanding Equator Principles framework implementation and to centralize the place of institutions and stakeholders in Equator Principles implementation.

Following Cilliers (2001), this thesis also recognizes that there is difficulty in creating frameworks, in determining constituent elements—and in interpreting outcomes—because “[n]o matter how we construct the model, it will be flawed, and what is more, we do not know in which way it is flawed’ p. 137). Put differently, we do not understand the complexity and the boundaries of the frameworks we put forth because of the cognitive limitations of decision-making and the subjective selection of framework elements. Each framework, including the preceding one suggested in this thesis for understanding the Equator Principles, is an installment towards some better future framework, given the evolving implementation experience as in the Equator Principles (Equator Principles, 2013, p.2).

#### 4.1 Suggested Equator Principles Implementation Theories

As indicated in sec 2.3, the emergence and evolution of the Equator Principles arose out of NGO dissatisfaction with private commercial banks’ lack of socio-ecological considerations in their financing and investing activities. In some sense, NGO frustration was a continuation of emerging and growing awareness and anxieties around the short-termist approaches of the financial institutions (Jacobs, 1991, p.7; Hayes & Abernathy, 1980; Loescher, 1984). In other words, environmental degradation, disregard for vulnerable communities in resource-rich settings, and broad disregard for the impossibility of limitless growth were agenda issues of great concern to the NGOs (Hunter, 2007). We now examine institutional, stakeholder and natural resource-based view theories as suggested in this thesis for understanding Equator Principles implementation.

##### 4.1.1 Institutional Theory

According to institutional theory, an entity is not an island separate from external influences. External impacts on entities such as EPFIs take the form of public policies, societal norms, values, business strategies, and activities of competitor organizations (DiMaggio & Powell, 1983). The conduct and the outcomes of each organizational process arise from societal rules, laws, regulations, norms, cultures, and other influences. The study of institutional theory, therefore, provides anchors with which to explain why organizations, for example, behave as they do and conduct their affairs in certain ways. As such, they enrich our understanding of the influences and pressures under which organizations operate, and how, in turn, organizations direct those pressures and influences. Institutional theory using coercive, mimetic, and normative processes explains why and how organizations act similarly.

In short, EPFIs are subject to these outside influences that cause convergent change processes

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<sup>6</sup> This argument, for the place of stakeholder theory in Equator Principles implementation, draws on the working paper the author co-authored with his thesis advisor, Dr. Olaf Weber presented at the workshop of the UNEP Inquiry and Center for Innovation Governance Innovation (CIGI) held on 2-3 December 2014 in Waterloo, Canada. The United Nations Environment Programme (UNEP) published the paper as part of its Inquiry into the Design of a Sustainable Global Financial System. (Weber, O., & Acheta, E. (2016). *The Equator Principles: Do They Make Banks More Sustainable?* INQUIRY WORKING PAPER 16/05

(Dacin, Goodstein, & Scott, 2002) in their institutional environment. Institutional theory also asserts that for strategic reasons, organizations can exhibit resistance, passive conformity, or proactive manipulation in their operational processes (Oliver, 1991). Studies premised on institutional theory link the firm's conduct of corporate sustainability to consequential benefits of codes of conduct (Xun, 2012; Cheung, Welford, & Hills, 2009; Dutta, Lawson, & Marcinko, 2012). Accordingly, even as a voluntary code, the Equator Principles, may generate a strong institutional pressure on Equator Principles Association members to implement the Equator Principles framework in their project financing activities and decision-making processes for sustainability. In the framework above (Figure 2), the host country is in the category of institutions and hence subject to institutional theory. The host country has a dual role in project-financed undertakings as both a project participant and a representative of its subjects or as a role player for its other commercial and public interests (Leader & Ong, 2011, p. 122). In short, the host government can be both an institutional and a stakeholder player. However, for ease of analysis, this thesis places the host country in one category at a time either as an institutional player or as stakeholder.

#### 4.1.2 Stakeholder Theory

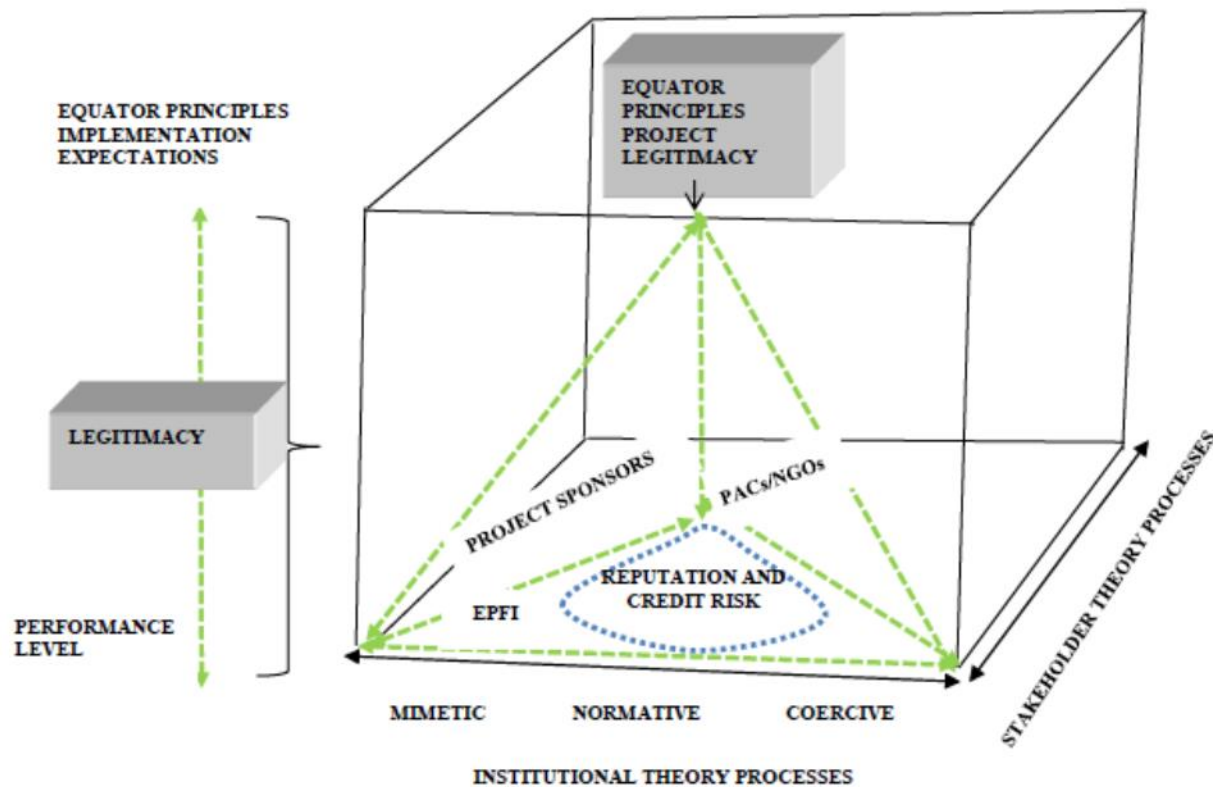
The nature of the multiple interests, claims, and influences in large-scale projects suggests that stakeholder theory (ST) is useful for understanding project sponsor operations. The most often cited definition of a stakeholder is this: "A stakeholder in an organization is any group or individual who can affect or is affected by the achievement of the organization's objectives" (Freeman, 1984, p.46). In the world of project finance, Freeman's (1984) definition provides a premise for project sponsor influence on the project's multiple stakeholders. This influence can arise as a mutual influence between project sponsor and outside ("secondary") stakeholders who can affect the project sponsor through project input (resource suppliers) as capital providers in the form of equity owners or providers of debt, as rights-holders, contract holders, moral claimants (Mitchell, Angle & Wood, 1997), or as policy changers. As such, these authors introduce a novel approach to understanding stakeholder diversity through classifying stakeholders. Phrased in terms of project finance, a project's stakeholder classes arise from the possession of multiple attributes such as: the stakeholder's power to influence the project sponsor, the stakeholder's legitimate relationship to the project sponsor, and the urgency of the stakeholder's claim on the project sponsor. Essentially, this classification is about the theory of stakeholder identification, and not a theory about how the project sponsor should address specific stakeholder concerns. These stakeholder aspects have varying levels of relevance and implications for contributing to sustainability in the stakeholder environment of Equator Principles project finance, depending on the context of application. Thus, there is the need among project sponsors to recognize "situational uniqueness" (Mitchell, Agle, & Wood, 1997). In prioritizing stakeholder relationships, these authors re-state this aspect of context.

From the stakeholder theory, a description of various actors and interests within the project environment is provided. The relationships between a business (or a project sponsor) and multiple constituencies (or project stakeholders) is a unit of analysis in stakeholder theory by which an EPFI, a project sponsor, or project-affected communities can affect or be affected by an Equator Principles project (Parmar et al., 2010). By acting as a tool for understanding multiple (and sometimes contradictory) interests as in the Equator Principles, stakeholder theory can contribute to sustainability through its use of diverse knowledge and value sets within and among stakeholders. Stakeholder theory, therefore, suggests that actors through interacting with one

another could consider aspects of equity and empowerment. Mutual interaction could also nurture trust and co-learning in a project environment when there is deliberative participation (Reed, 2008; McCormick, 2007; Oakley, 1984). In the next section, this thesis explains how two theories in sections 5.1.1 and 5.1.2 interact to explain Equator Principles implementation.

#### 4.1.3 The Co-influence of Institutional and Stakeholder Theories in Equator Principles

From the preceding section, it can be inferred that stakeholder theory explains the processes leading to the founding of Equator Principles, and in explaining the dynamics underlying various stakeholder processes in a typical Equator Principles project. Institutional theory, for its part, explains the behavior of the EPFIs. When there is active stakeholder engagement and institutional pressure, as seen in the preceding section, both ST and IT can contribute towards, for example, furthering environmental and social goals of Equator Principles, positively influencing sustainable development and understanding Equator Principles implementation, as both Figure 3, and the narrative below shows.



**Figure 3:** The Co-Influence of Institutional and Stakeholder Theories in Understanding Equator Principles Implementation.

(Sources: DiMaggio & Powell, 1983; Dowling & Pfetter, 1975; Mitchell et al., 1997; Suchman, 1995)

Drawing on Gunningham and Rees (1997) and their model for co-regulation in voluntary codes, the present thesis applies insights from the dynamic structure of Gunningham and Rees' model. The above model in Fig. 3 uses a three-dimensional pyramid. The three faces of the pyramid represent EPFIs, project sponsors and project-affected communities (PACs/NGOs)—the key players in the Equator Principles in a typical ongoing Equator Principles project.

While these parties (EPFIs, project sponsors, project-affected communities and NGOs) are key to understanding Equator Principles implementation, the host country or government is also a necessary and an important stakeholder or institution in so far as it is capable of compensating for the observed inadequacies or inefficiencies of project finance (Leader, 2011, p.122) as represented in a voluntary code such as the Equator Principles, and requiring that the parties uphold the obligations they have entered. Indeed, the threat of government oversight is often given as one rationale for self-regulation (Gibson, 2000), and it is debatable that voluntary codes alone are operative without the shadow or the threat of government involvement.

Each of these parties is a sub-set of large constituencies of institutions and stakeholders, forming the universe of actors in project finance and equator principles as seen in section 2.2.1. The sides of the square represent institutional theory processes (mimetic, normative, and coercive) of isomorphic (equal) change, stakeholder theory. A performance gap or deficit represents legitimacy "measurement." In this context, the legitimacy gap is the Equator Principles implementation deficit. Within this framework, the dynamic processes from the co-influence of institutional theory and stakeholder interactions create pressures for EPFIs and project sponsors to seek—and for project-affected communities—to confer legitimacy on Equator Principles implementation.

To paraphrase Dowling and Pfeffer (1975, p.122) and to draw on their insights for the Equator Principles framework, the normative goal of an EPFI or a project sponsor is to implement the Equator Principles in such a way that it establishes equivalence between its own [social and environmental] values with those values acceptable to the wider society. When there is a mismatch between the social and environmental values of an EPFI and the project sponsor with those of broader society of which project-affected communities is part, we consider that a potential threat to an organization's (i.e., EPFI's or project sponsor's) legitimacy (Lindblom, 1994). In Fig. 3 above, it represents a loss or reduction of Equator Principles implementation legitimacy or a negative shift in societal perceptions about implementation of Equator Principles. On the contrary, when there is equivalence of environmental and social] values between parties (Pfeffer & Salancik, 1978) (or project constituencies), the EPFI or project sponsor is more likely to achieve Equator Principles implementation legitimacy. In other words, the project-affected communities have endorsed the action of parties implementing an action (Ashforth & Gibbs, 1990). This is because the EPFI or the project sponsor—particularly for an ongoing project—has met society's expected Equator Principles implementation outcomes; the norms and values of the broader social system (Galaskiewicz, 1985). Equator Principles project legitimacy in these scenarios is, therefore, both a dynamic and a static concept (Deephouse, 1996).

Understood, then, from this perspective, Equator Principles legitimacy changes in tune with societal perceptions (especially from PACs and NGOs) of how the EPFIs and project sponsors are implementing the Equator Principles voluntary codes. Differences in reaction among EPFIs and project sponsors to perceptions of legitimacy account for different organizational Equator

Principles implementation processes (and subsequent Equator Principles outcomes). These outcomes—according to some critics—rarely exceed, or more accurately always fall short of, broader societal norms and values. Similarly, the multiple strategies used in entities (such as EPFIs and project sponsors) use for repairing dents to legitimacy, or the shifting approaches EPFIs and project sponsors activate for re-claiming and gaining legitimacy (Suchman, 1995; Meyer & Rowan, 1977; Carroll & Delacroix, 1982) represent different examples of why Equator Principles outcomes differ among Equator Principles signatories.

Put differently, managing reputation risk through Equator Principles implementation involves multiple and various actors in the Equator Principles framework and their underlying internal processes, standards, or policies. For project-affected communities, however, context factors affecting their power, legitimacy [of project-affected communities' environmental and social need, and urgency [of their environmental or social need] (Mitchell et al, 1995) influence the degree to which they can confer legitimacy on the Equator Principles implementation process. When Equator Principles actors improve on (or degrade) their internal processes, policies, standards, or when context factors (for PACs) positively (or negatively) change, the legitimacy of Equator Principles implementation increases(decreases) and the project sponsor's social license to operate renews (or flounders). In other words, Equator Principles project legitimacy occurs when all three factors move up the sides of the pyramid. In this instance, there is a co-influence of three processes acting together; project sponsor processes for environmental and social risk management are improving, broader EPFI or institutional processes for positive sustainability are occurring, and PACs context factors are aligning and uniting to bring about greatest influence on sustainability. At the peak of legitimacy as well, the EPFI's or project sponsor's reputation risk will have been greatly reduced. However, the reduced reputation risk will not eliminate all the credit risk associated with environmental and social risk management. There will always be some residual reputation risk. This is because Equator Principles project sustainability effects involve complex institutional and socio-ecological system processes whose outcomes and influence we cannot predict with certainty or manage with much confidence.

However, the operational legitimacy explained in the preceding paragraphs, has manifested itself in different ways, driven in part by multiple motivations. These motivations include, but not limited to, the need to affirm sustainability credentials or the corporate need for public recognition of its "green" credentials. More specifically, it is about the reputation benefits of membership and possibilities for "free riding" (Schepers, 2011; Dawson & Segerson, 2003), for being part of the industry collective (Nadelmann, 1990), and the need to continue and affirm internal sustainability vision (Salzmann, Ionescu-Somers, & Steger, 2005; Keay, 2002). Some EPFIs have subscribed to the Equator Principles as an aid in facilitating loan syndication (Spek, 2005). Yet others have done so as a preventative action to ward-off government regulation, and to yield to pressure from civil society adverse attention (Wright & Rwabizambuga, 2006). In other words, original decisions for EPFIs subscribing to the Equator Principles were not entirely around reorienting their organizational structures for Equator Principles implementation. This account suggests that some financial institutions may have joined the Equator Principles framework as a means of obtaining organizational legitimacy from one another (i.e., seeking "cross-legitimacy") rather than necessarily obtaining broader public's endorsement.

This observation is consistent with the findings of Tolbert and Zucker (1983) whose institutional theory work affirms that organizational structures do not arise entirely (or do so only minimally)

from rational choices. Rather, the institutional environment of organizations places the quest for strategic legitimacy over operational efficiency considerations (Thornton & Ocasio, 2008, p. 100; Meyer and Rowan, 1977). To the extent that EPFIs seek legitimization of their project finance activities from peers and skepticism abounds regarding efficiency of Equator Principles implementation and management, Tolbert and Zucker's (1983) findings are relevant in the current discourse about Equator Principles implementation. As a practical response to Tolbert & Zucker's (1983) findings, Sethi and Emelianova's (2006) study argues, for example, that "[i]ndustry-wide CSR-related codes that depend on voluntary compliance and rarely incorporate enforcement measures, greatly suffer from the problems of free rider and adverse selection" (p.229). I now examine the natural resource-based view theory for a consideration of the environment beyond the "free-riding" argument.

#### 4.1.4 A Natural-Resource-Based View of Equator Principles Implementation

Both internal and external factors are important for a firm when it comes to decision-making. Until the advent of the natural-resource-based view of a firm, two defining camps among management scholars have dominated the perspectives on how to ensure (or even secure) a competitive advantage for a firm. One camp emphasized the importance of internal capabilities, or the "core competence of the corporation" (Prahalad & Hamel, 2006) and core skills (Wrigley, 1970) as being necessary factors for outcompeting rivals. In other words, it was vital that the firm have "distinctive competence" (Selznick, 1957) if it was to have a competitive advantage in the market place. The other camp—the environmental factors camp—emphasized the importance of external factors (Andrews, 1971; Hannan & Freeman, 1977). A compromise proposition later emerged with Barney (1991), who argued that both internal and external resources were important for a firm's competitive advantage. To offer a competitive edge, a resource must be valuable, rare, inimitable, and organized appropriately (Barney, 1991). Crossan, Fry, and Killing (2005, p. 101) raise these resource characteristics in their study of strategic analysis and action.

However, echoing other scholars (Stead & Stead, 1992; Shrivastava, 1994), Hart (1995) argues that the perspectives of the scholars' camps, as cited above, suffer from a historical deficit in the management literature that had defined and emphasized the firm's "environment" in narrow social, economic, political, and technological terms (pp 986-987). To broaden the firm's perspective and improve managerial decision-making, Hart introduces the aspect of the natural (biophysical) into the "competitive advantage" argument via the natural resource-based view of the firm (NRBV). Hart's (1995) proposition is consistent with, among other issues, broad trends towards environmental considerations (Weber et al., 2010). These environmental considerations carry profound business implications that shape business decision-making and Equator Principles implementation as well. In addition, an NRBV finds subsequent allies in Dyllick and Hockerts (2002), Gasparatos, El-Haram, and Horner (2007), Salzmann, Ionescu-Somers, and Steger (2005), and Weber and Feltmate (2016, pp 4, 22), who add to the call for the need to moving beyond a business case for sustainability.

All considered, mounting ecological problems fueled in part by unsustainable practices (Rockström et al., 2009) and consumption patterns (Blumstein & Saylan, 2007; Gibson et al., 2005, p. 101; Westley et al., 2011) have the potential to also influence firms' and project sponsors' operational objectives in the direction of environmental considerations. Consistent with the views of the authors above, Hart's (1995) NRBV aligns with the observation that the emergence of the

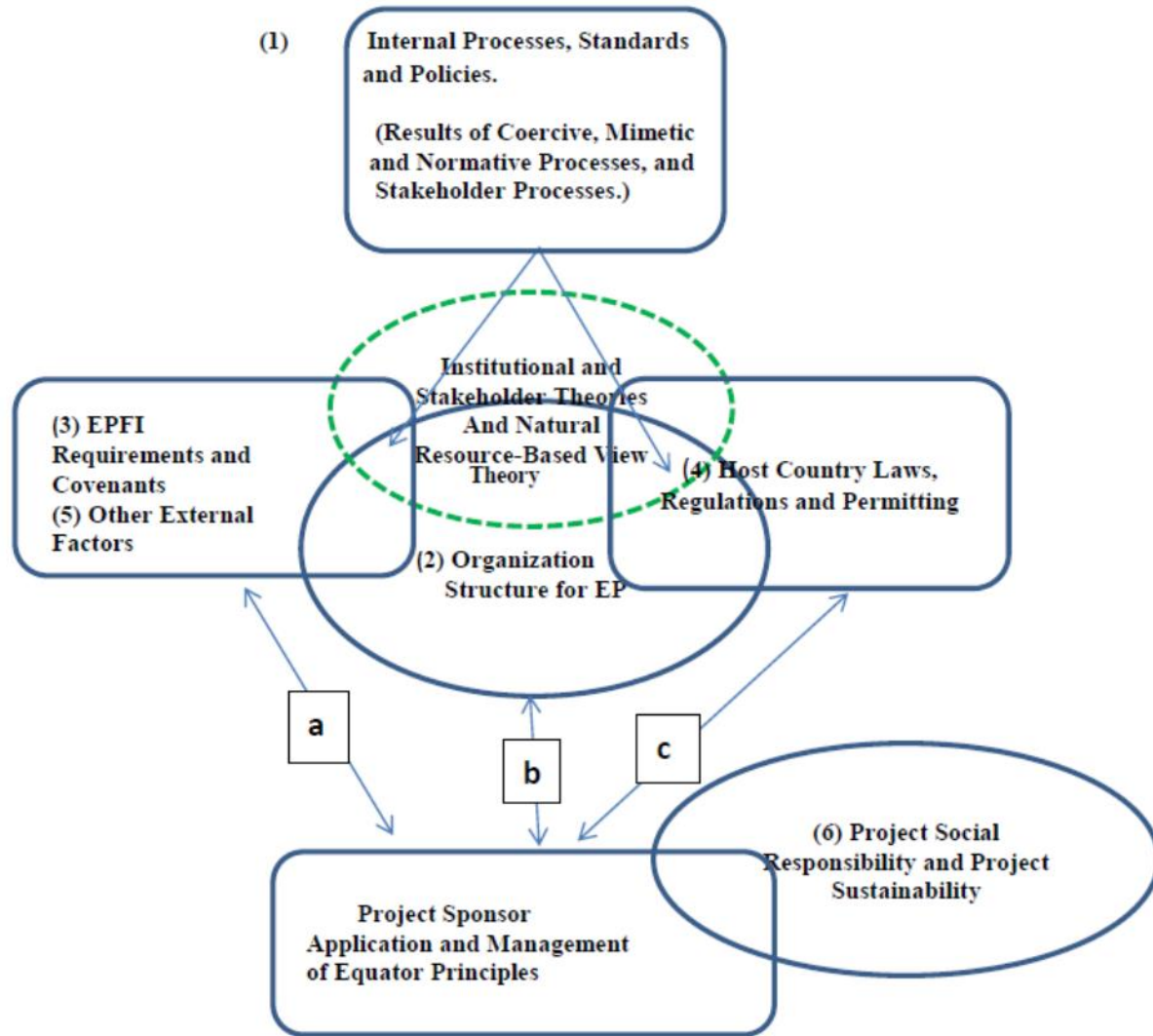
Equator Principles was part of NGOs' (BankTrack, 2005; Fern, 2002) agenda to compel project sponsors to recognize the need to include attention to environmental and social effects in decision-making for project finance transactions. Goodland (2005) and Hunter (2007) both argue that much of the late 1980s and early 1990s was an era in which the World Bank Group began thoughtful consideration of the protestors' groundswell of criticism of environmental aspects of their infrastructure projects, particularly in Latin America and Asia. In short, the management literature's definition of, and project sponsors' perspectives of, "external environment" was inadequate to the extent that business operations were slow in acknowledging—or were choosing financial or economic considerations over—the natural environment as a significant factor in business decision-making.

The usefulness of and the contribution of the concept of NRBV (Hart, 1995) to Equator Principles implementation and sustainable development occur when project sponsors and project financiers centralize environmental issues. This prioritization of environmental issues means increasing project sponsor's operational resources, capabilities and improving social processes, taking up clean technology and considering the poor—which entails recognizing, building and sustaining internal "core competencies"—for Equator Principles implementation and sustainable development. However, nearly fourteen years later, the Equator Principles Association's reviews and changes regarding Equator Principles implementation is attempting to address these core issues.

#### 4.2 Analytical Framework for Equator Principles Implementation

Drawing on the stakeholder elements shown in environmental and social linkage in section 2.2.1 (Figure 1), and Figure 2, this research proposes a framework below (Figure 4) for analyzing Equator Principles implementation in the empirical realm. Stakeholder processes and institutional processes work individually and jointly to impact EPFIs, project sponsors and project-affected communities. The Equator Principles analytical framework, (Figure 4), as presented, has six parts, (1) internal processes, standards and policies (largely from influences of institutional, stakeholder and natural resource-based view theories); (2) organizational structure for Equator Principles; (3) Equator Principles requirements and covenants; (4) Host country laws, regulations and permitting; (5) Other external factors; and (6) project social responsibility and Equator Principles elements. Arrows a, b, and c reinforce the notion that there is a bi-directional influence between actual Equator Principles implementation on the one hand, and host country laws, regulations and permitting, organizational structure for Equator Principles, Equator Principles covenants and the Other external factors on the other hand.

In chapter 7 (section 7.2), the proposed framework above analyses how project sponsors apply and manage environmental and social standards globally and across sectors, and to gain EPFIs' perspectives on project sponsor operations based on the six factors above. This framework aligns with Equator Principles because EPFIs and project sponsors operate globally, implying that some jurisdictions "will have [or lack or have evolving] robust environmental and social governance, legislation systems and institutional capacity designed to protect their people and the natural environment" (Equator Principles, 2013, p. 6).



**Figure 4:** Analytical Framework for understanding the project sponsor application and management of the Equator Principles.

### 4.3 Hypotheses

The Equator Principles preamble underlines the responsibility of EPFIs to “not provide project finance or project-related corporate loans to projects where the client will not or is unable to comply with the Equator Principles [. . .] and require that the client] explicitly communicates their intention to comply with the Equator Principles” (Equator Principles, 2013, p.2). As in any efficient organization, the anticipated benefits of projects that contribute to sustainability, for example, within the Equator Principles framework are numerous: competitive advantage, brand loyalty, positive reputation and efficient financial operations (Porter, 1980; 1985), and less public or NGO pressure. The organization’s (i.e. EPFI’s or project sponsor’s) internal processes, policies and standards, and external impacts all operating within its corporate or projects social responsibility and in the regulatory context of the host state should move the organization towards positive environmental and social sustainability. Accordingly, based on these premises and the



interview questions above, I advance three important but related hypotheses.

Hypothesis 1: Equator Principle Financial Institutions (EPFIs) implement Equator Principles because of potential financial and reputational risks, and as means towards value creation.

Hypothesis 2: Project sponsors subject to Equator Principles manage or attempt to fulfill social and environmental covenants in their financing documentation to serve the goal of sound social responsibility and responsible environmental stewardship, and to align with the needs of EPFIs.

Hypothesis 3: The Equator Principles through proper implementation activities of EPFIs and the social and environmental covenants embedded in the financing documents of project sponsors offer significant benefits to project-affected communities.

#### 4.4 Conclusion

In this chapter, this thesis has proposed an analytical framework and hypotheses to understand the aspect of Equator Principles implementation and management among of EPFIs and project sponsors respectively. It also intends to understand the impact of the Equator Principles on project-affected communities through the stakeholder engagement and grievance mechanisms. Put differently, through three questions research (interview) questions, this chapter advances an analytical approach that examines EPFIs' impacts on project sponsors, and in turn, the project sponsor's influence on project-affected communities. In effect, the research questions help us to understand the interactions between institutional actors (EPFIs) and other stakeholders (project sponsors and project-affected communities) involved in the Equator Principles framework. The research questions also help us to understand why and how such interactions between project finance stakeholders in Equator Principles define the contribution to sustainability of the Equator Principles framework. These mutual interactions help unify institutional and stakeholder aspects that are important in influencing operational legitimacy of the Equator Principles and institutional theory processes at work in Equator Principles implementation and more broadly, for sustainable development. The next chapter presents the thesis' research methods.

## Chapter 5 Methods Used in this Research

This chapter discusses the methods used for, firstly, data collection, and then for analysis of implementation, management, and the effects of the Equator Principles among three key actors introduced in chapter one, and as in the research questions namely, for the Equator Principles Financial Institutions (EPFIs), project sponsors, and project-affected communities (PACs). The methods used for data collection regarding Equator Principles implementation, and management and understanding its impacts fall under three clusters: semi-structured interviews, document analysis, and participant observation.

For the EPFIs, semi-structured interviews with nine Equator Principles Financial Institutions (EPFIs) (detailed profile in section in 6.1) were conducted in 2014, and 2015 to collect data on Equator Principles implementation. The semi-structured interviews were supplemented by insights from sustainability reports of sample EPFIs. Parts of interview responses were useful for obtaining the perspectives of the nine EPFIs on their client project sponsors. In addition, the staff of Kalumbila Minerals Limited working on projects under the umbrella of voluntary codes provided responses to interview questions about how they managed Equator Principles. In addition, the thesis analysed Kalumbila Mineral's Limited application of the Equator Principles through Gibson et al.'s (2005) decision criteria for a progress towards sustainability.

To collect data on the impact of the Equator Principles on project-affected communities, the author conducted field research that involved interviews with two traditional chiefs, one in North-Western Zambia and adjacent to Kalumbila Minerals Limited, and the other in Ndola in the Copperbelt Province of Zambia, as well as interviews with individuals within these two chiefdoms because these chiefdoms fell within Equator Principles definition of project "affected communities". The field research included interviews with an NGO official, an environmental officer in a monitoring and compliance unit of a government agency, company project officers associated with projects that are subject to the Equator Principles in Kalumbila Minerals Limited, and in Zambia's Copperbelt province. Data sources also included sustainability reports and other open source documents from EPFIs and civil society organisations such as BankTrack, and the Jesuit Centre for Theological Reflection, regarding project-affected communities (PACs).

This chapter also justifies the use of, and recognizes the general criticism of, case studies as a research strategy. It also discusses the philosophical and conceptual assumptions used in the research. Through a combination of data collection methods such as interviews from field trips, documents and participant observation, the author then conducted an analysis—with the aid of NVIVO qualitative data software—of implementation of the Equator Principles at the EPFIs. The analysis of the impact of the Equator Principles on a project sponsor involved a case study of a mining company, Kalumbila Minerals Limited (KML), located in North-Western Zambia. KML is a subsidiary of a Canadian-mining giant, First Quantum Minerals Limited. The analytical framework (Figure 4, section 4.2) was used in understanding the character of project sponsor management of Equator Principles. However, the context nature of sustainability means that the analytical framework as constituted is subject to operational changes of Equator Principles implementation, and this will influence outcomes or findings. For this reason, an iterative approach to match the framework to its findings and vice-versa becomes necessary and desirable.

In addition, the literature review of the Equator Principles (Weber & Acheta, 2014), and the gaps in the Equator Principles literature about Equator Principles implementation provided a background to the research questions (Shown as “A” in Figure 5 below). Additional themes emerged from the review of Equator Principles literature. The ten Equator Principles voluntary codes including their implementation guides, and eight (8) decision criteria for requirements for a progress towards sustainability (Gibson et al., 2005) were particularly helpful in informing subsequent coding and shaping research questions. The themes in the Equator Principles literature (B) were then compared with the themes in the transcribed interviews of sample EPFIs, project sponsors, and project-affected communities. Theme identification in interview scripts involved open coding (C)—which involved “thematic grouping of units of text” (Lillis, 1995). Other third-party documents related to the Equator Principles implementation activities of EPFIs, project sponsors, and responses of project-affected communities and NGOs to Equator Principles implementation activities were also used.

Following from the preceding paragraphs, the goal of this research design and methodology is to close a gap in Equator Principles literature (i.e., research questions) about the character of Equator Principles implementation through a suite of recommendations that follow findings arising from this study.

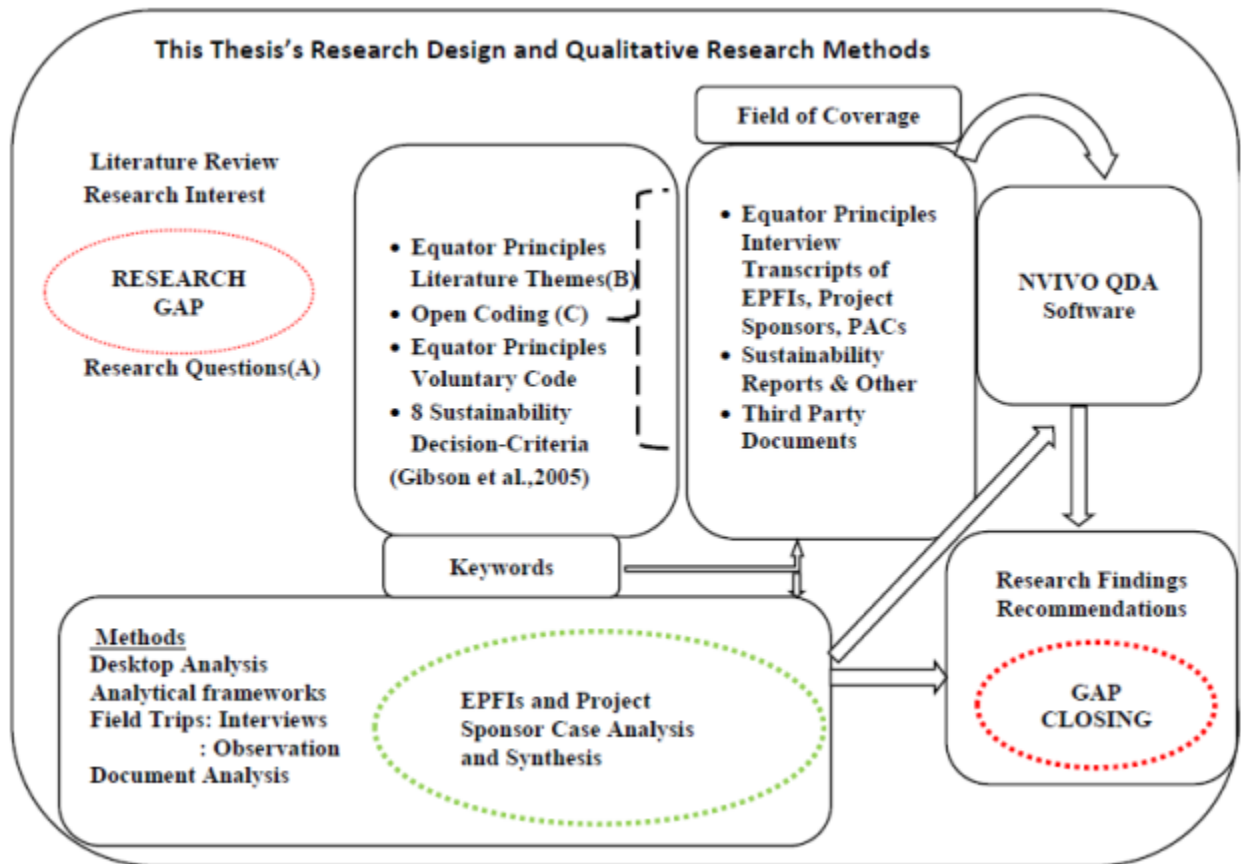


Figure 5: Research Design and Methodology

The premise of this thesis is the ontological assumption that better understanding of phenomena about Equator Principles implementation arises from appreciating the contextual viewpoints of multiple stakeholders involved in the Equator Principles. This involves interacting with the specific culture or organizational settings of stakeholders with “multiple realities” (Krauss, 2005, p.759).

Based on the preceding paragraphs and the approach described above, the thesis uses a qualitative approach for answering the research questions. Qualitative data analysis presupposes that constructing and organizing “meaning” necessarily entails going beyond behavior description to behavior interpretation about those who hold a view regarding an event or a phenomenon (Krauss, 2005, p.764). Creswell (2013) concurs, adding that the holistic account of research involves setting forth multiple perspectives. These may include questions such as what does an adequate grievance mechanism mean to a project-affected community? How do project sponsors in comparison with project-affected communities conceptualize what constitutes a grievance? Thus, each stakeholder has, arguably, a unique perspective related to a given phenomenon, such as in Equator Principles implementation. It is not about a researcher seeking pre-designed cause and effect factors, but rather it is about considering the totality of the complex influence of contextual factors (Cresswell, 2003; p.47).

The contextual and subjective nature of “realities” associated with various stakeholders in Equator Principles implementation, and the difficulty of accessing data due to “commercial confidentiality” (BankTrack, 2004; O’Sullivan & O’Dwyer, 2009; Morimoto, 2012) suggests a fit with, and the need for the qualitative research method. Moreover, project-affected communities’ perspectives offered in subtle and subjective nuances imply that participants’ meanings are vital (Van Den Hoonaard, 2012). This assertion finds indirect support in Dey's (1993) observation that “the more stable and fixed the meanings we can assign to data, the more we can use with confidence the elegance and power of mathematics. The more ambiguous and elastic our concepts, the less possible it is to quantify our data in a meaningful way” (p.29), once more suggesting an analytical fit with Equator Principles implementation and qualitative research, more broadly.

The research for the present thesis aimed at understanding the impact of Equator Principles on project financiers, sponsors and the project-affected communities. Accordingly, three main methods were used for data collection namely, semi-structured interviews, document analysis and participant observation as described below. An explanation for the choice of case study strategy for understanding Equator Principles implementation follows the explanation of these data collection methods.

## **5.1 Semi-structured Interviews**

The study used semi-structured interviews as a primary means for collecting primary data, following an earlier comprehensive systematic review of Equator Principles literature. The interviews conducted with the EPFIs were derived from a purposive sample and should not be taken to represent the population of EPFIs; rather, the aim was to capture the range and diversity of experience, beliefs, and opinions (Baker, Edwards, & Doidge, 2012) of reasonably typical Equator Principles interviewees. The interview data are consequently indicative and are not a basis for quantitative findings.

The EPFIs interviews though based on a small sample size (largely influenced by the difficulty of accessing EPFIs and resource constraints), nevertheless aimed at offering sound qualitative insights, without trying to mimic a quantitative ‘representative’ logic (Baker, Edwards, & Doidge, 2012). It is important to also note that the evolution of the project finance market has retained the historically small club character of a “relatively small number of institutions” (Meyerstein, 2012) particularly in loan-syndications, with the continued dominance, influence and experience in the project finance market of some of the early co-founders of Equator Principles as reflected in their responses for the interviews conducted for this study.

The nature of the semi-structure interviews was that, even though the author used an interview guide, there was flexibility in the follow up of new topics that emerged as the interview progressed. This provided the interviewee a further opportunity to respond in their own terms. Such an embedded flexibility enables the author to probe or to ask follow up questions whose answers explain or elaborate or provide an example to support an earlier response, and because data collection is emergent (Van Den Hoonaard, 2012, p.86).

The semi-structured interviews as used here also draw upon the theoretical understanding that various stakeholders hold “multiple realities” (Krauss, 2005, p.759) about Equator Principles implementation across the EPFIs, and downstream on the chain of Equator Principles impact (i.e. project sponsors and project-affected communities). Semi-structure interviews are premised on a set of questions that—when posed to a group of similar interviewees (i.e. EPFIs)—can facilitate comparison across themes, and afford the researcher cross-analysis of corresponding interviewees performance or responses. Semi-structured interview methods, however, receive criticisms for several reasons ranging from potential interviewer bias (Lellis, 1995) through potential for impression management (Laufer, 2003) to problem of access (attributed to “Gatekeeper”) (Moysen, 2006). However, these concerns are counterbalanced by the understanding that interviews “elicit inner views of respondents’ lives as they portray their worlds, experiences, and observations” (Charmaz, 1991b), which may be at variance with their organizations’ positions.

## **5.2 Document Analysis**

To supplement semi-structured interviews, the present thesis used document analysis—the systematic procedure for reviewing and evaluating documents [...] to elicit meaning, gain understanding, and develop empirical knowledge (Bowen, 2009)—to further understand the nature of Equator Principles implementation, and as complementary source for data related to Kalumbila Minerals Limited (KML) such as in understanding the nature of interactions (such as conflict

between KML and traditional chief-A) (Appendix 1, Box 5). This involved the use of primary documents of stakeholders involved in Equator Principles implementation. Specifically, document analysis requires reviewing and evaluating both printed and electronic documents in a systematic way (Bowen, 2009).

These documents included annual sustainability reports of EPFIs identified in the sample, and KML's sustainability reports (see samples in Appendix 1, Box 4). The documents used include those generated by various external stakeholders such as press releases of NGOs such as those from Jesuit Centre for Theological Reflection, host country environmental monitoring and enforcement agencies (ZEMA), electronic reports of a host country such as state of environment (SOE), hard copy documents of online newspapers (Siame & Mumba, 2015) and hard copy magazines pertinent to the research inquiry at hand.

The use of EPFI sustainability reports was because of the need to understand—through examining and interpreting data—the underlying or emerging themes to gain an empirical knowledge (Corbin & Strauss, 2014) about Equator Principles implementation. Document analysis is often used in combination with other methods (as shown in Table 2) with the aim of establishing ‘a confluence of evidence that breeds credibility’ (Eisner, 1991, p. 110) or as one method jointly with other methods for triangulation—the merger of methods in the study of the same phenomena (Denzin, 1970, p. 291). The addition of document analysis to EPFI interviews in this present thesis was therefore to elicit support from multiple sources of evidence to bring about “convergence and corroboration” that ensues from the use of multiple and different data sources and methods (Bowen, 2009). The aspects of convergence and corroboration are important given the difficulty of accessing information in a financial industry prone to secrecy and confidentiality.

Document analysis—of sustainability reports, press releases and so on—was therefore important for this thesis, but arguably more important was the need, as Bowen (2009) indicates, to carefully consider documents against the context of their original purpose, their authenticity, as well the audience to which documents are directed. This thesis considered these aspects of data collection through document analysis via continuous review and cross-comparison of Equator Principles literature, sustainability literature and elaborated responses drawn from multiple EPFIs interviewees, further harnessing the advantage of data and methodological triangulation.

### 5.3 Participant observation

As a supplement to semi-structured interviews and document analysis, part of data collection for this study involved participant observation. The geographic and interviewee choice (traditional chiefs) of project-affected communities arose because these communities are within the area potentially subject to negative environmental and social risks of the project, and are the “local communities, within the Project's area of influence, directly affected by the Project” (Equator Principles, 2013). Given the potential environmental and social issues suggested for consideration in Box 7, Appendix 1, it was important for this thesis to further explore them, and take advantage of a unique opportunity availed to the author by the authorities in the communities to understand and immerse into the interactions between the project sponsor and affected communities.

Following DeWalt & DeWalt (2011), this thesis defines participant observation as “a method in which an observer takes part in the daily activities, rituals, interactions of the people being studied

as one of the means of learning the explicit and tacit aspects of their culture” (p.260). Participant observation therefore entails an observer participating in the daily life of people under study either openly or in some disguised role (Becker & Geer, 1957).

In the present thesis, this involved observing as a participant and attempting to understand the activities of the project-affected communities such as how the traditional chief conducted his meeting with his subjects, and how they made their decisions regarding environmental and social issues that affected their community. The author was careful in not identifying so strongly with the project-affected communities to preserve analytical independence that the study required (De Van Hoonard, 2011). It was important for the author to take advantage of being a “known incompetent”—where insiders teach and tell things they would never tell one another” (Schwartz & Jacobs, 1979, p.55) because of the potentially contentious nature of issues in the project-affected communities adjoining Kalumbila Minerals Limited.

The disadvantage of participant as an observer is the potential that an adequate understanding of the project-affected community will not be achievable because of absence of connectivity to the core or “inside” activities of the community. Also, participant observation has been criticized as susceptible to impression management—the concept that people’s impression of themselves could be a “controlled” one, through demeanour, dress, expression and so on (Van Den Hoonard, 2011, p.195). But this was counter-balanced by other methods involving triangulation such as documentary analysis that helped minimize the loss of “inside information” as open source documents provide some background and context (Bowen, 2008) about the impact of the project sponsor’s activities on the project-affected communities.

#### **5.4 Case Study**

This thesis also used a case study as an additional research strategy to understand sustainability assessment in particular contexts. Creswell (2013) defines a case study research” as a qualitative approach in which the investigator explores a real life, bounded system (i.e. a case or multiple bounded systems (cases), over time, through detailed, in depth data collection involving multiple sources of information [...] and reports a case description and case themes” (p. 98). This definition coheres with that of Yin (2009) in which he adds that in a case study the phenomena-concept boundaries are unclear or ambiguous (p.18).

While the logic of replication would suggest that one case’s outcomes (such as from this study) might help determine or shape another Equator Principles implementation or sustainability assessment case, sustainability assessment is never a one-on-one comparison. Generalization is difficult and imprudent because the outcomes between and among cases differ due to context. However, arguments exist in support of certain common principles in sustainability assessment such as accurate, relevant, and complete information disclosure and transparency in decision-making processes.

Case study method, therefore, has its supporters and opponents. The arguments of both schools of thought centre largely around the epistemological basis of case study method (Feagin et al., 1991; Stake, 1995; Giddens; 1994, Hamel et al., 1993; Yin, 1994). The issues are multiple but include: the problem of generalization of single case results, the importance of setting study parameters rather than emphasis on sample size, the ability to appreciate the perspective that it’s the system

of actions in a case context that is of value rather than merely an individual voice or point of view.

In the present thesis, the rationale for case selection arose because the case study in this thesis lends itself to addressing the 'how' and 'why' questions (Yin, 1984, p.20). In other words, the inquiry into a project sponsor's management of Equator Principles therefore becomes explanatory by nature. It focuses on Equator Principles implementation, and provides insights on the operations and decision-making concerning environmental and social sustainability of the project sponsor and project-affected communities. Accessing multiple case study projects with internal decision-making for Equator Principles was not feasible due to confidentiality provisions in financing documentation between the EPFIs and project sponsors.

There were several reasons for selection of the particular project sponsor (KML) as will be highlighted later in section 6.2.1, but for now it suffices to mention, firstly, that the rationale for adopting, and limiting this study to, a single project case rather than to multiple cases was because of the need to conduct an in-depth analysis of Equator Principles management and to highlight important aspects in Equator Principles implementation that would only be covered or reported in aggregate in a study of multiple cases of Equator Principles projects. The goal was not particularly about an abstract or empirical generalization, but was about building a rich analytical and detailed narrative—and not about statistical logic (Baker, Edwards, & Doidge, 2012)—of Equator Principles management befitting the unique context of the project case. KML is an emerging leader in copper and gold mining operations in Africa. In addition, KML's operations engender potential adverse environmental and social risks and impacts as well as a potential contribution to lasting environmental and social sustainability

Secondly, KML had self-identified in its environmental impact statement (EIS) that it was applying Equator Principles in its operations (Coastal and Environmental Services, 2012, p.330). It was therefore a unique Equator Principles project case with informative new or original data, potentially unlike that of existing multiple cases operating under the veil of confidentiality provisions within Equator Principles Association. Moreover, there was an unusual interest from the public, particularly NGOs (e.g. Jesuit Center for Theological Reflection, Zambia), about the environmental and social effects of the mining projects.

Thirdly, this single case study drew upon multiple sources of evidence (interviews, project documents and observation)—as would be a study involving multiple cases—to understand background and context of management of Equator Principles, thereby enabling the author to develop converging lines of inquiry, so that findings, conclusions or recommendations are plausible as would be possible under multiple cases subjected to a rigorous inquiry.

Lastly, through an in-depth study of a single project case, as opposed to multiple project cases, it may be possible to identify, link and potentially predict how particular Equator Principles management issues can engender certain outcomes, or illuminate decision-making in a particular case environment (Schramm, 1971).

Table 2 below summarizes the methods and sources of data collection for each research area (column 1) as well as highlighting their associated strengths and weaknesses. The sources generally fall into three categories: semi-structured interviews, documents (e.g., sustainability



reports, and NGO reports) (column two), and participant observation. The strength and weakness of each source is shown in columns 3 and 4 respectively. Different methods and sources of evidence were important because of data limitations identified in section 5.9. Partly, for this concern, data triangulation or method triangulation provides an investigator a means of pursuing multiple lines of inquiry, whose results provide a means of crosschecking interpretations of research phenomena or dovetail to plausible findings or conclusions (Denzin, 1978).

**Table 2:** Thesis’ Profile of Methods and Sources of Evidence in Equator Principles Implementation

<b>Research Area/Aspect</b>	<b>Sources (Data Collection)</b>	<b>Strengths of Source</b>	<b>Weaknesses of Source</b>
<b>Analysis of EPFI Implementation</b>	Semi-structured Interviews with EPFIs personnel	<ul style="list-style-type: none"> <li>• Interviewer and an EPFI Interviewee address relevant issues/ or focus on themes for research topic.</li> <li>• Interview guide engenders flexibility in the EPFI interviewer or interviewee responses.</li> <li>• EPFI interviewee responses provide basis of cross-verifying with, for example, EPFI sustainability reports and cause-effect suggestion.</li> </ul>	<ul style="list-style-type: none"> <li>• Assumes homogeneity in understanding or relating to the question between interviewer and interviewee (Mishler, 1986)</li> <li>• Interviewer is subject to the wishes of the “Gatekeeper” (Moysen, 2006).</li> <li>• Interviewee perspective may be divergent from corporate attitude towards sustainability (Sharma &amp; Henriques, 2005)</li> </ul>
	Sustainability Reports	<ul style="list-style-type: none"> <li>• Representative of EPFI/Corporate attitude towards Equator Principles/Sustainability.</li> </ul>	<ul style="list-style-type: none"> <li>• Potential bureaucratic hurdles, for example, in follow-up questions/probes for observed inconsistencies in reports.</li> <li>• Potential for impression management tactics and content manipulation (Milner &amp; Gray, 2007; Laufer, 2003).</li> <li>• Risk of limited/ selective information due to project-sponsor confidentiality considerations (Equator Principles, 2013, pp 4, 10)</li> </ul>

	NGO Reports and Interviews	<ul style="list-style-type: none"> <li>Act as independent project oversight documents.</li> </ul>	<ul style="list-style-type: none"> <li>Bias due to potential for NGO capture.</li> <li>Risk of politicized reports</li> </ul>
	Project Sponsor Interviews	<ul style="list-style-type: none"> <li>Useful as a source for general information for EPFI interaction with Equator Principles projects</li> </ul>	<ul style="list-style-type: none"> <li>Constraint of confidentiality may impair quality and nature of information</li> </ul>
<b>Analysis of Project Sponsor application of Equator Principles</b>	EPFIs: Semi-structured Interviews	<ul style="list-style-type: none"> <li>Potential to provide quality information prior to operation of the project on required covenants in the financial documentation.</li> </ul>	<ul style="list-style-type: none"> <li>Risk of limited/selective information due to reputation concerns, poor or undeveloped reporting systems</li> </ul>
	Case-projects	<ul style="list-style-type: none"> <li>Provide and enable use of multiple perspectives or sources of evidence for data validity (Yin, 1984, p.23; Feagin et al., 1991)</li> <li>Map—and provide—audit trail of decision(s) and/or and case actors to the final implementation of their decisions and their outcomes (Schramm, 1971)</li> <li>Useful for such unique cases such as rarely available ones such as project sponsors in equator principles (i.e., it is a revelatory case) (Yin, 2009, p.49)</li> </ul>	<ul style="list-style-type: none"> <li>Support for, and criticism exists about, case studies (Yin, 1994; 2009; Hamel et al., 1993, Stake, 1995) such as difficulty of generalizing case study results (Tellis, 1997)</li> </ul>
	Project CSR/Sustainability Reports	<ul style="list-style-type: none"> <li>Offer project sponsor perspective and priorities on sustainability</li> </ul>	<ul style="list-style-type: none"> <li>As in EPFIs, there is risk of limited/selective information due to project-sponsor confidentiality considerations</li> </ul>
	Project Sponsors: Semi-structured Interviews	<ul style="list-style-type: none"> <li>Relate directly to the project issues and are thus are focused</li> <li>Provide context-rich insights as they provide a potentially system/project-wide-based perspective</li> </ul>	<ul style="list-style-type: none"> <li>May tailor the quality of responses to quality of questions to please the interviewer</li> <li>Subject to memory lapses and therefore lead to incorrect responses</li> </ul>
	Analytical frameworks	<ul style="list-style-type: none"> <li>Portray a holistic/big picture notion of phenomena under investigation.</li> <li>Introduce a systems-based approach to problem thinking and solving.</li> </ul>	<ul style="list-style-type: none"> <li>Spatial and temporal boundary problems (e.g., For Affected Communities and/or cut-off time periods)</li> <li>There are no frameworks for</li> </ul>

			frameworks (Cilliers, 2005)
<b>Analysis of Equator Principles Impact on Affected Communities</b>	Affected Communities Semi-Structured Interviews	<ul style="list-style-type: none"> <li>Counter or undermine hierarchy of credibility.</li> </ul>	<ul style="list-style-type: none"> <li>Risk of low quality and limited level of interviewee interaction due to context factors (manipulation, interference, coercion and intimidation)</li> </ul>
	NGO Semi-Structured Interviews and Documentation	<ul style="list-style-type: none"> <li>Portray proximity to, and familiarity with, affected community issues.</li> </ul>	<ul style="list-style-type: none"> <li>Risk of being unrepresentative of broad community sentiments</li> </ul>
	Participant Observation	<ul style="list-style-type: none"> <li>Provides ability to tap into immediate or emerging issues on the ground</li> </ul>	<ul style="list-style-type: none"> <li>May induce different result at research time because participant is under observation</li> </ul>

This methods section unfolds in the following order: first, the methods for analyzing Equator Principles impacts on EPFIs, the method for analyzing Equator Principles impacts on project sponsors follow, and lastly, the method for analyzing Equator Principles impact on project-affected communities (PACs). For the EPFIs, the research question was: How and why do EPFIs implement Equator Principles? This main research question was supplemented by six research questions shown in chapter 3, Table 1.

5.5 Methods of Analyzing the Impact of the Equator Principles Implementation on Project Financiers

Regarding EPFIs, and to answer this first research question, this thesis analyzed the following sources: the perspectives of nine EPFIs’ interviewees on six questions in chapter 4, Table 1, about Equator Principles implementation and project sponsor operations involving 533 projects (Table 3, p.66). The thesis also used insights from the Equator Principles literature review and commentary (BankTrack 2004:2012; Weber & Acheta, 2014; Wörsdörfer, 2013; Wright & Rwabizambuga, 2006) to inform its analysis of the impact of the Equator Principles on project financiers such as understanding how EPFIs’ quest for reputation impacts risk management.

In addition, this research used qualitative data analysis software to analyze EPFIs interview data. The NVIVO software was used for storage of interview data, iterative coding, analysis of data, and memo-writing—research aspects that align with Charmaz’s (2006) protocols for research. The units of texts of EPFI interviews provided a basis for codes used in NVIVO (and corresponded with themes captured in the research questions (i.e. Equator Principles benefits, risks, problems, sustainability assessments, etc.), whilst allowing for the potential for other categories or themes to emerge from the interview transcripts (Burnard, 1991).

As the NVIVO 11 Pro print-screen in Figure 6 below and Figure 9 shows, the richness of this

software is its ability to help a researcher understand data from multiple viewpoints, or as in this thesis, the character of Equator Principles implementation such as find answers to the questions : which EPFI was more concerned about a specific implementation issue, X? Which implementation issue was dominant in region, Y? , and for a particular EPFI or EPFIs, it helps identify which implementation issue suggests a need for more attention or was dominant and hence calls for improvement. As later sections of this thesis show, NVIVO's versatility facilitates easy, and cross comparison across categories of data. It, therefore, provides opportunity for refining and interrelating categories of information (Corbin & Strauss, 2014, p.13; Charmaz, 2006), as in the transcripts of multiple EPFIs interviewed for this thesis. To support the NVIVO analysis, the author used Microsoft Excel as a supplement for data manipulation, and for graphical presentation (Figure 9, section 7.1.1). The analysis in NVIVO was premised on EPFI-consented recordings, and EPFIs' clarified and approved transcripts. The EPFI-approved transcripts were then subjected to NVIVO qualitative data analysis software. The outcomes of EPFIs', project sponsor and PACs interviews appear in the chapters that follow. A screen shot of an example of NVIVO appears below in Figure 6.



The analysis of key themes involved paragraph-by-paragraph examination of interviewee responses to the interview research questions through coding. Paragraphs and sections of interviewee responses were coded and categorized into different and multiple code categories based on the structure and components of interviewee responses. Examination of interviewee responses involved determining their potential “fit” with the Equator Principles Association’s illustrative list of potential environmental and social issues that a consultant or an assessor should address in the environmental and social assessment documentation (Equator Principles, 2013, p.20), such as assessment of baseline environmental and social conditions (item a); requirements under host country laws and regulations, applicable international treaties and agreements (item c); consultation and participation of affected parties...(item n) . The author considered sustainability “requirements for a contribution to sustainability” (Gibson et al., 2005, p.88-121) as well as their associated illustrative implications during the coding process.

The NVIVO analysis also sought out intersecting themes as these themes together helped in understanding the research question regarding Equator Principles implementation. Interviewee responses, therefore, helped highlight the meaning of EPFIs operations in the context of other research questions while at the same time expressing such new ideas, for example, the Equator Principles implementation need for compliance oversight. The interconnectedness of project sustainability issues supports this coding approach as it provides a potential basis for integrating sustainability policy themes and issues (Swart, Raskin, & Robinson, 2004; Gibson et al., 2005; Kemp, Parto, & Gibson, 2005; Guthrie & Abeysekera, 2006). Data codes (Equator Principles Benefits, Risks, Implementation Problems, etc.,) were further explored using NVIVO software.

Following coding and subsequent analysis, the author translated interview contents into thematic agenda sample quotes, reflecting EPFIs’ actual Equator Principles implementation experience and outcomes associated with projects and project finance advisories in EPFIs’ operational regions. The interview outcomes also included key themes identified in both interviews and sustainability reports<sup>7</sup>. Excluding three European EPFIs (EPFI-E, EPFI-N2, and EPFI-D2), all other EPFI interviewees in the table below included senior individuals whose EPFIs are on Equator Principles Steering Committee (EPASC). The sample EPFIs included both dominant EPFIs by portfolio size and maturity of Equator Principles implementation as well as those EPFIs that were comparatively small in terms of project finance portfolios. Except for EPFI-N1 that was involved in multilateral developing country project finance deals, the remaining EPFIs were among the global initial mandated lead arrangers involved in oil and gas, power, and transport deals.

One Asia-based EPFI, EPFI-S, for example, was among the top five project financiers in the Americas, clearly implying its important role in promoting environmental and social sustainability practices in that region.

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<sup>7</sup> Sustainability Reports of EPFI-A; EPFI-Q; EPFI-Y; EPFI-E; EPFI-S; EPFI-N1; EPFI-N2; EPFI-D1; EPFI-D2

## 5.6 Methods of Analyzing the Impact of the Equator Principles on Project Sponsors

This thesis analyzes the impact of the Equator Principles on Project Sponsors, using interview transcripts from face-to-face interviews with Kalumbila Minerals Limited staff working on the Equator Principles project. Two analytical frameworks, premised on Equator Principles and sustainability assessment literature, also supplement project sponsor interviews. Analytical framework 1, for example, provides EPFIs responses on 533 projects in different sectors. The six subsidiary questions (from Chap 3, Table 1) used in interviews that answer the second research question and shape the project sponsor's application and management of Equator Principles are re-introduced below, namely:

- i. What are the strengths and weaknesses of the Equator Principles from your point of view?
- ii. Does the project team members' participation in environmental and social aspects have any influence on the project approval and sustainability outcomes?
- iii. Do project team members' decisions regarding project sustainability effects have legal, institutional, and cultural bases?
- iv. What are the gaps in overseeing and managing the project's sustainability effects, its environmental and social risk assessment processes, and in implementing its action or mitigation plans?
- v. What influence do EPFIs have on the organization regarding project social and environmental sustainability outcomes?
- vi. On the issue of legacy, how does the organization plan for, and implement, if at all, community development programs?

Question (i) seeks to know what opportunities, limitations and challenges the project sponsor faces in implementing uniform Equator Principles social and environmental sustainability standards. It examines the internal and external influences and factors that enable or hinder the project sponsor's implementation of the Equator Principles.

The participation of project teams in environmental and social sustainability is an aspect of internal decision-making. Question (ii) is therefore about managing and reconciling project environmental and social risk considerations with profit maximizing objectives. The extent of project teams' participation affects the project because inadequacies in Equator Principles implementation on the part of the project sponsor affect the project's profitability—and potentially its overall viability, thereby making it unable to provide reasonable and ongoing cash flows (Esty, 1999; Pollio, 1999, p.4). The purpose of question (iii) is to inquire into the impact of the external factors on the project. Understanding how these external factors influence the project offers preliminary insight into how a project sponsor prioritizes and integrates sustainability issues into business and organizational strategy.

Question (iv) helps us understand how the inadequacy of, and needed improvement of, project sponsor processes and external influences affect how the project sponsor manages environmental and social risk and financial risk during project life cycle stages (such as in implementing EPFI covenants).

Question (v) is an attempt to understand how a project sponsor deals with external factors such as

the primary lender—the EPFI. Other multiple external factors affect the project sponsor’s performance. Risks and opportunities in the project life cycle come from factors such as resource supply constraints, host country politics, and the regulatory environment, which— depending on their magnitude, severity, or duration—can co-operatively heighten or reduce environmental and social risks, potentially damaging or improving overall project financial viability (Leader, 2011; Girardone & Snaith, 2011). The project sponsor’s internal policies and mechanisms for managing the conflict between sustainability and financial objectives and priorities lie at the heart of this question.

Question (vi) provides a context for inquiry into project sponsor’s consideration of lasting social and ecosystem effects and benefits resulting from project operations. In other words, it points to the instrumental aspect (Donaldson & Preston, 1995; Brenner, 1995) of the Equator Principles for their lasting contribution to sustainability. To the extent that it is about a project’s potential decommissioning, the question is also about the project sponsor’s implementation of Equator Principles covenants (Equator Principle 8).

One of the significant problems in designing research is the selection and definition of categories—the “pigeonholes into which content units are to be classified” (Holsti, 1969). In the project sponsor’s application or management of a lengthy list of illustrative sustainability assessment issues (Appendix 1, Box 7), the choice of categories is infinite and potentially confusing even when context considerations are an important guiding factor. The contested nature of the meaning of sustainable development (Ortolano & Shepherd, 1995, p. 16; Farrell & Hart, 1998; Tolba, 1984; Gibson et al., 2005, p.52; Lele, 1991; Glasson et al., 2012, pp. 8–10; Goodland & Leduc, 1987; Daly, 2006; Robison et al., 1990) also remains a continuing challenge. There is particularly a difficulty in determining “applicable” constituents of sustainable development and their implication for policy (Redclift, 1987). The difficulty of determining categories does not lie in their scarcity but rather in choosing (and justifying) the categories that best reflect or at least cohere with the intent of the research questions. Hence, the question this thesis faced was which categories to apply concerning six interview questions raised about a project sponsor management of Equator Principles. Based on the review of the Equator Principles literature covering 10 years since the Equator Principles launch (Weber & Acheta, 2014; Wörsdörfer, 2013), including analysis of ten Equator Principles, the thesis took the approach of using the following themes:

- Internal processes, policies and standards
- Organizational structure for Equator Principles,
- EPFI requirements and covenants,
- Host country laws, regulations, and permitting,
- Other external factors, and
- Project social responsibility and/or Equator Principles framework elements.

This approach was necessary to determine where the EPFI interview transcript responses and the case study data fell within the research questions. Further examination and cross-comparison indicated that themes mentioned above had close enough similarity and aligned with EPFI interview transcript contents as well as with the themes in secondary sources such as project sponsor Equator Principles-related corporate social responsibility and sustainability reports. Moreover, if the Equator Principles “affords [EPFIs and Project Sponsors] opportunities to promote responsible environmental stewardship and socially responsible development” (Equator



Principles, 2013, p.2), we should see emerging institutionalization of that aspiration in organizational structures, covenants, internal processes, standards and policies, and other implementation systems and initiatives. Wotruba (1997) concurs, saying, '[a] necessary prerequisite for the implementation of any industry self-regulatory code of conduct is the existence of an organization for its administration' (p. 50). In the results section of chapter 7, Tables 7, 8, and 9 present EPFIs' and a project sponsor's perspectives on Equator Principles implementation—and project sponsor Equator Principles implementation outcomes for Kalumbila Minerals Limited.

The analysis of the impact of the Equator Principles on project sponsors also involved the use of Zambia environmental management agency (ZEMA) reports as well as ZEMA's online repository of environmental impact statements for individual organizations.

The literature sources from the Equator Principles Association (Equator Principles, n.d.), insights and themes from corporate sustainability reports, and the environmental impact assessment report for KML's mine sites (collectively known as the Trident Project), provided an additional basis for building two frameworks for analyzing the impacts of the Equator Principles on project sponsors. The first analytical framework draws on the perspectives of interviewees (EPFIs and a project sponsor-KML) on application and management of Equator Principles by project sponsors using the more generic but albeit high-level factors such as host country laws, covenants, organizational or project sponsor policies and so on. The second analytical framework draws on KML's sustainability reports, applies the Equator Principles to project sponsor operations and evaluates how these operations could potentially re-direct Equator Principles implementation efforts towards environmental and social sustainability (chap 7, section 7.3). It does this through evaluating the impact of the Equator Principles on project sponsors using four selected requirements, of Gibson et al.'s (2005) generic requirements for sustainability, namely, socio and ecological integrity, precaution and adaptation, livelihood sufficiency and opportunity, socio-ecological civility, and democratic governance (see Appendix 1, Box 8, for the complete list of generic requirements). The choice of four generic requirements (with the remaining generic requirements to be applied to this case more substantively in future research) arose out of their alignment with aspects of the Equator Principles that have received much criticism in the Equator Principles literature. These aspects include (a) environmental and social assessment (EP 2) (Schepers, 2011; Leader & Ong, 2011, p.89-97; Lawrence & Thomas, 2004; Hardenbrook, 2007); (b) Stakeholder Engagement (EP 5) (Marco, 2011; Mikadze, 2012; Weber & Acheta, 2014; BankTrack, 2011); and (c) Grievance Mechanism (EP 6) (Bjurling, 2006; Lee, 2007). This second analytical framework, therefore, evaluates performance of KML in the light of what would be expected in a sustainability-based assessment and implementation.

Moreover, the Equator Principles literature devotes little, if any, attention to the aspect of project decommissioning under Principle 8 (i.e. Covenants). As such, to the extent of nearly fourteen years of available Equator Principles literature, the Equator Principles literature has yet to contribute more substantively to understanding how project sponsors address post-project considerations. Some scholars (Gibson, 2014; Miranda et al., 2005) have suggested that it is useful to think of post-project considerations in terms of laying a foundation for positive legacies and as an NGO-Industry collaboration for aspects such as livelihood sufficiency and opportunity. This thesis recognizes the Equator Principles' theoretical void concerning post-project positive legacies, and provides some suggestions in the second analytical framework. For implementation of generic sustainability criteria, Gibson et al. (2005) require that the parties involved in the sustainability-

assessment process specify, elaborate, or clarify these criteria for places and application (p.95). The Equator Principles project selected for this thesis—Kalumbila Minerals Limited—provides some suggestions for applying these selected criteria, albeit briefly, as a more detailed application of these criteria to these research projects represents part of proposed future work.

Alternatively, assessing the three mine sites (as in the project case used in this thesis) could also be approached through establishing an explicit sustainability-based framework for examining and comparing the three mine sites, drawing upon the assessment processes of, for example, the joint review panel for the Canadian Mackenzie Gas Project (Gibson, 2011). This would require major categories of long-term issues to be integrated into an analytical framework premised on key issues such as cumulative impacts on the biophysical environment; cumulative impacts on the human environment; equity impacts (fair distribution of benefits and risks); legacy and bridging impacts; and cumulative impacts management and preparedness (capacities for managing the risks and opportunities) (p.234).

The two analytical approaches proposed here for understanding project sponsors' application and management of the Equator Principles use multiple data sources—such as project sponsor sustainability reports, NGO reports, sustainability literature, and project sponsor interviews. Petty, Thomson and Stew (2012), for example, observe that data variety—which, in qualitative studies often includes data from interviews, observation and analysis—“helps deepen understanding of the case” (p.2). The approaches used in the cases highlighted in the present thesis are helpful for understanding an issue as intriguing as the project sponsors' implementation of the Equator Principles.

## 5.7 Methods for Analyzing the Impact of the Equator Principles on Affected Communities

The analysis of impacts on project-affected communities involved understanding the main practical and conceptual limitations and challenges for project-affected communities during stakeholder engagement, using participant observation and open-ended questions, drawing on the first of Hodge's (2004) *Seven Questions to Sustainability (7QS)*. The 7QS approach was relevant for this final research question because it was an initiative that was informed by an initiative from the mining industry. The project case for this thesis also draws from the extractive industry. The first of the 7QS—particularly its five sub-elements help in framing stakeholder engagement in Equator Principles implementation as well (See Appendix 1, Box 2). The first question centers on the issue of relationships—how mining projects build understanding and empower those dissatisfied with the distribution of risks, benefits and costs associated with the project or infrastructure development. Hodge's (2004) first question is, therefore, relevant for the Equator Principles projects such as that of Kalumbila Minerals Limited. Accordingly, the present thesis draws on the first issue—that of relationships, addressed in Hodge's (2004) approach under “engagement”. The interview questions are:

- What are the strengths and weaknesses of stakeholder engagement processes?
- How effective is the dispute resolution mechanism for the project or infrastructure developments?
- How effective is the reporting system and verification mechanism for stakeholder engagement outcomes and for environmental and social risks and impacts?

- How adequate and effective are the resources for stakeholder engagement and dispute resolutions?
- What is the stakeholder's assessment of informed and voluntary consent in the stakeholder engagement process?
- What other issues do you think are pertinent in stakeholder engagement?

Therefore, this analysis centers on Principle 5—Stakeholder Engagement; Principle 6-Grievance Mechanisms; and Principle 8—Covenants in Equator Principles. The research questions encouraged the project-affected communities—particularly traditional chiefs—to expand into an in-depth discussion of stakeholder engagement via. The interview questions also drew responses from an NGO official in Zambia's Copperbelt, individuals in the affected communities, project personnel on Equator Principles projects, and an environmental officer in a government's environmental agency.

## 5.8 Validity and Reliability

Different scholars conducting qualitative research offer varying perspectives on the meaning of the terms validity and reliability. These varying perspectives are not unlike the subjective views of different stakeholders and interviewees about Equator Principles implementation mentioned earlier. Patton (2002, p.549), for example, argues that validity and reliability are among important factors worthy of attention during the design of the study, the analysis of results, and in the assessment of study quality. Golafshani (2003), citing Lincoln & Guba (1985, p. 290), adds that validity and reliability are about the question: "How can an inquirer persuade his or her audiences that the research findings of an inquiry are worth paying attention to?"

To answer this question, Healy and Perry (2000) observe that reliability and validity are concepts that are mostly an import from quantitative research because researchers use them for testing and evaluating quantitative data. On the other hand, in qualitative research, the essential criteria for quality in place of reliability and validity are the "paradigm's terms": Credibility, Neutrality or Confirmability; Consistency or Dependability; and Applicability or Transferability (Lincoln & Guba, 1985; Venkatesh et al., 2013). In the context of the author as an "involved" researcher, only the interviewee could check the veracity of his transcribed responses through ensuring that his or her intended meaning was as actually on the transcripts.

Application of transferability requirement in this thesis meant ability to gain insights from the research findings, and to determine their applicability in other sustainability assessment settings or context (Pope & Grace, 2006; Gibson et al., 2005), considering that the Equator Principles apply globally and to all industry sectors (Equator Principles, 2013, p.3).

Confirmability for the thesis meant repeated examination of research from the design stage to the results stage, triangulation— (collecting a variety of data from various perspectives to crosscheck interpretations) (Petty, Thomson & Stew, 2012)—and checking how evolving empirical data impacts the reliability and accuracy of the information. It also meant careful attention to the audit trail of the process of data analysis (Guba & Lincoln, 1981), which provides assurance concerning research interpretations, implications, and conclusions. Critical, too, for the thesis was to pay proper attention to interview equipment, interview transcription, interviewee clarification of

responses (through probes and e-mail follow-ups) to elicit confidence in ultimate script analysis (Den Hoonaard, 2012, p.92), that it reflects the focus of the enquiry and not the bias of the researcher (Guba, 1981).

## 5.9 Data Limitations

Of the 89 current EPFIs, this thesis concentrated on nine EPFIs whose five hundred and thirty-three project finance portfolios cover multiple sectors and global jurisdictions (both OECD and Non-OECD countries) with varying levels of governance quality and EP implementation contexts. Some of these sample EPFIs were part of the core or original launchers of the Equator Principles framework, and among top project finance players. The premise of the research was that all interviewee EPFIs understand and relate to the specific intention of research questions. In reality, “validity across social contexts” (Van Den Hoonaard, 2012, p.77, citing Mishler, 1986) is difficult to achieve as each EPFI interviewee interprets the questions based on his personal experience, knowledge, and sensitivities of his financial institution to unfettered disclosure. For this reason, considering multiple and rival interpretations from other EPFIs was important for this thesis. The increasing adoption of the Equator Principles should help future researchers increase our understanding of behind-the-scenes decision-making for Equator Principles. This suggests that the data as currently available are limited and provide reason for caution against wholesale acceptance of the interviewees’ representations in reports and interview responses as a basis for generalizing Equator Principles implementation across the project finance landscape.

The author conducted research interviews with financial institutions that have signed onto the Equator Principles (i.e. EPFIs). The research did not include interviews with financial institutions that were not implementing the Equator Principles even though their investment and financing activities include project finance. These non-EPFIs managed environmental and social risks through their umbrella CSR initiatives rather than through the Equator Principles framework. These non-EPFIs also engaged in loan syndication (collaborative funding) with EPFI banks, hence behaving as though they were (and in most cases, they consider themselves as) environmentally and socially responsible. In synthesizing findings about Equator Principles implementation, this mixture of non-EPFIs and EPFIs in syndicated financing can cloud Equator Principles implementation analysis. Accordingly, it does call for careful attention in understanding the status of the Equator Principles framework implementation, in suggesting the trajectory of Equator Principles implementation, and in premising future Equator Principles research on the thesis’s contribution. The thesis leaves it to future researchers to disentangle the extent of the influence, if any, of these non-EPFIs on Equator Principles implementation.

In section 4.2, the thesis presented arguments setting forth the theoretical framework for understanding the Equator Principles implementation at the EPFI level and for analyzing project sponsor application of the Equator Principles. At the introductory conceptual level, the thesis suggested additional Equator Principles implementation factors as pertinent to understanding Equator Principles implementation. The argument would be that these factors in interacting and influencing one another provided an important dynamic useful for explaining and clarifying outcomes of Equator Principles implementation. However, two potential problems exist: 1) the absence of an oversight body such as the Equator Principles Compliance Authority (EPCA) necessary for monitoring the implementation of the Equator Principles; 2) the reality of non-EPFIs

also engaged in financing activities under their CSR initiatives without reference to the Equator Principles framework. These dual aspects—influencing Equator Principles implementation—restrain the proposed Equator Principles implementation framework from acting as a control laboratory for Equator Principles implementation. Under these circumstances, the proposed analytical frameworks for project sponsor application of Equator Principles lose their potential predictive power and the ability of determining what, if any, the proposed aspects or variables of Equator Principles implementation are important for desirable outcomes or for contributing to sustainability effects of the Equator Principles.

This preceding chapter has discussed methods used for this research. The next chapter continues this discussion through providing samples used for this study.

## Chapter 6 Sampling strategies

This chapter explains the strategy used to sample EPFIs, provides details of the sample EPFIs, the profile the project sponsor used in this thesis as well as the underlying rationale for the project sponsor selection. Within this chapter as well, the present thesis shows locations of project-affected communities.

### 6.1 Sampling Strategy and Sample Profile of Equator Principles Signatories

The study commenced with 78 EPFIs (as at 2013), with the author conducting a preparatory analysis of Equator Principles prior to the author's field trips and EPFIs interviews. This culminated into an Equator Principles paper (Weber & Acheta, 2014). After a detailed profiling of 78 EPFIs based on, for example, certain reporting criteria (such as in Appendix 1, Box 3), 15 EPFIs were identified as potential subjects for detailed research. The remainder of the EPFIs were new Equator Principles members undergoing organizational re-structuring for Equator Principles, or were without significant or active project finance portfolio or were yet to adequately meet Equator Principles Association's reporting and implementation requirements. Moreover, inclusion of new adopters still in the early phases of structuring their organizations for Equator Principles implementation would mean that any outcomes about implementation—though informative, would likely be unstable. The EPFI identification was partly enabled by guidance of the author's thesis supervisor, based on his industry connections, and the author's own field work contacts.

Following Bryman (2012), sample limitations for this study are recognized and only appropriate inferences are made befitting the kind and size of sample. In that vein, the study offers caveats in instances of assertions made or in conclusions or recommendations advanced. Also, the aim was to include EPFIs that have been central to the evolution of EPs, have shown a sustainability orientation in their sustainability reporting, and generally in their implementation of Equator Principles implementation.

In some of the EPFIs used in the study, however, the research used the snowballing or chain sampling approach—defined as 'a method of locating information-rich, key informants or critical cases' (Patton, p.36) through seeking additional interviewees from current interviewees (Welch et al., 2002, p.620). Most of these 15 EPFIs were either original founding members of the Equator Principles, were active in project finance markets, or were instrumental in Equator Principles evolution through their contribution as members of the Equator Principles Working Groups. However, 9 EPFIs with a portfolio of 533 projects under Equator Principles responded to—and agreed to—requests for an interview about their implementation of Equator Principles. This was understandable, given the difficulty of releasing and accessing information in an industry often shrouded in confidentiality (BankTrack, 2004). However, most of the EPFI interviewees are senior individuals who are intimate with the key details of large projects in environmentally and socially sensitive sectors located globally, whose institutions were among co-founders of Equator Principles, who are respected as sustainability experts in their own rights, and who are active in different Working Groups of Equator Principles, thus compensating for a would-be broad field of interviewees. Moreover, after the author interview with EPFI-E, the seventh interviewee, there was a sense of theoretical saturation as there were no new emergent themes or new discoveries regarding Equator Principles implementation.

To further provide an additional or alternative perspective on Equator Principles implementation, this study was designed to seek the viewpoints of various other stakeholders such as project sponsor and, particularly, project affected communities. The interest was also more about understanding Equator Principles implementation than choosing statistical representativeness of the context. Therefore, the aim was not directed towards particularly extrapolating or generalizing research findings of the sample to the population (i.e. external validity). Rather, it was about understanding how EPFIs implement the Equator Principles and seeking a plausible explanation of why EPFIs implement Equator Principles and downstream impacts of such implementation.

Some EPFIs are directly involved in projects as sole financiers, but mostly as a syndicate or playing the role of mandated arrangers<sup>8</sup> as shown in Table 3.

The designation of the interviewee within the EPFI is included. Together, these interviewee EPFIs invested approximately \$17 billion USD in 168 deals of 2013 project finance deals (Thomson Reuters, 2013). The Thomson Reuters project finance annual league tables provide information on project finance activity globally, showing the scale of project finance transactions. In the context of these project finance transactions, the EPFIs' decision-making centers on risk management, reputation enhancement, operational efficiency and improvements in environmental and social impact assessments (Wright, 2009).

The interviewees in the study were individuals from institutions that were either among the "original historicals" [banks that originated the Equator Principles], "regional power players" [banks that are active in project finance in certain geographical areas], and aligned with most pre-set Equator Principles reporting and /or implementation screening criteria (such as in Appendix 1, Box 3) based on the author's Equator Principles literature review. They also included individuals in NGOs who have followed, campaigned against unsustainable Equator Principles projects, and who have been active and contributed to Equator Principles reforms since their launch in 2003.

The interviewees in the sample (e.g., Equator Principles managers, environmental and social, reputation analysts) offered their perspectives on their Equator Principles financial institutions' implementation of Equator Principles, internal decision-making, implementation experience and stakeholder observations. Confidentiality and anonymity requests enabled the interviewees to share their perspectives of Equator Principles and expound on the interviewer's probes. Many of the subsequent e-mail follow up for clarifications and additions to the transcribed notes provided the interviewer with the opportunity to ask, re-direct, and probe entirely new themes (Van Den Hoonard, 2012, p.86).

Table 3 below (next page) shows the profile of EPFIs interviewees. The first column identifies the EPFI. The second column shows the corresponding region and country of the EPFI. The third column identifies whether or not the EPFI was a mandated arranger (i.e. whether it led or was key in arranging a syndicated loan for a major financing such as for project finance in this case). The fourth column identifies whether the EPFI is a member of Equator Principles Working Groups

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<sup>8</sup> Mandated arrangers are those financial institutions or organizations that lead or are key in arranging a syndicated loan for a major financing such as for project finance in this case. The mandated arrangers are therefore "mandated to originate, structure and syndicate the transaction" (Gadanecz, 2004, p.79). Thus, syndicated loans arise when a group of banks collaborate to grant credits to a borrower under a "leader" (a mandated arranger).

(i.e. Groups what work on important or core Equator Principles issues). Column five shows the total number of deals or project finance (PF) deals in which the EPFI was involved or was undertaking. Column six contains the interviewee’s designation within the interviewee EPFI and the last column show the date and duration of interviews for corresponding EPFIs.

**Table 3: EPFIs Interviewee and Project Finance Activity**

Equator Principles Financial Institution	Region (Country)	Mandated Arranger (in 2013 & 2014)	Member of Equator Principles Association Working Group	Combined Number of PF Deals (or Equator Principles Projects) & Combined % Share*****	Interviewee’s Position	Date of Interview	Duration of Interviews (excluding time for follow up) *****
EPFI-A	AFRICA (SA)	Yes	Yes	12 (1.2%)	Environmental Manager	04-12-2014	42 minutes
EPFI-D1	EUROPE (DE)	Yes	Yes	62 (1.9%)	Equator Principles Manager	04-22-2014	30 minutes
EPFI-D2	EUROPE (DE)	Yes	No	3 (1.3%)	Project Manager	05-08-2014	25 minutes
EPFI-E	EUROPE (ES)	Yes	No	47 (1.6%)	Equator Principles Manager /Reputation Analyst	8-10-2014	30 minutes
EPFI-N 1	EUROPE (NL)	**	No	45 ***	Specialists*	27-01-2015	43 minutes
EPFI-N 2	EUROPE (NL)	Yes	Yes	125 (4.9%)	Equator Principles Manager	04-23-2014	36 minutes
EPFI-S	ASIA (JP)	Yes	Yes	140 (7.4%)	Project Manager	22-05-2014	33 minutes
EPFI-Q	EUROPE (UK)	Yes	Yes	53 (2.2%)	Senior Manager	31-03-2014	45 minutes
EPFI-Y	N/AMERICA (US)	Yes	Yes	46 (2.9%)	VP, Sustainability	24-02-2014	25 minutes
Total Number of Equator Principles Projects or Equator Principles Related Project Finance Deals				533			

\*The two individuals were environmental and social specialists.

\*\* The EPFI was involved multiple in multilateral developing country project finance deals.

\*\*\* The number excludes Equator Principles projects in financial institutions in which EPFI-N1 has investments. \*\*\*\*\*Project details from Project Finance International. (Source: Author Interview Transcripts, 2014:2015; PFI League tables, 2013: 2014; Corporate Reports, 2013: 2015.)

\*\*\*\*\*Does not include follow up time spent in clarifying and adding to the transcripts.



## 6.2 Project Sponsors and Projects

This section presents a self-identified Equator Principles project or project sponsor— Kalumbila Minerals Ltd (KML) (for The Trident Project) and brings together Equator Principles framework implementation strands outlined in the body of this thesis. In a sense, this section supports the implementation information in Tables 8 and 9, and acts as a supplement to the arguments advanced—thus far—in response to the research questions posed in chapter three. Section 6.2.1 provides a brief overview of KML.

Data collection for KML was through interviews—premised on research questions 2 and 3 in Table 1—that were conducted face-to-face.

With interviewees’ consent, all interviews were recorded and in two cases, hard copy notes were also taken. Transcription followed thereafter for purposes of analysis. Interviewee request for anonymity and confidentiality concerning specific aspects of the Equator Principles projects was agreed to, and respected. All the interviews were conducted face-to-face. The profile and details of interviews are shown in Table 4 below, with name of interviewee organization or region of interview in column (1), position or designation of interviewee in column (2) and interview duration in column (3). Explanatory notes on interviewees follow on the next page.

**Table 4** Profile and Details of Interviews for Equator Principles-related Projects in Zambia

<b>Organization/Region (1)</b>	<b>Position/Designation (2)</b>	<b>Duration (3)</b>
Kalumbila Minerals Limited	5 Project Officers (b) Project Officer-A (c)	3 hours 1 hour 30 min
Zambia’s Copperbelt (Ndola)	Environmental Officer	2 hours
Zambia’s Copperbelt (Ndola)	Equator Principles Senior Project Officer	1 hour 30 mins
Government Environmental Agency	Monitoring/Compliance Officer	1 hour 30 min
NGO in Copperbelt	Social Affairs Officer	1 hour 30 min
Chiefdom adjacent to KML	Traditional Chief-A	2 hours 30 mins
Chiefdom adjacent to KML (Project-affected communities)	Individual KML1 Individual KML2 Individual KML3	2 hours
Chiefdom adjacent to NL	Traditional Chief-B	1 hour 45 mins
<b>Chiefdom adjacent to NL (Project-affected communities)</b>	<b>Individual NL1 Individual NL 2</b>	<b>3 hours</b>

Notes to this table are on the next page.

(a) Interviewees and observations were conducted over the period of 2 ½ months during July 2014 and June/July of 2015. Some of these interviews resulted from seeking additional interviewees from current interviewees (chain sampling approach).

(b) These interviewee project officers were involved in several aspects of the Equator Principles projects, and their responsibilities extended to mine sites within the geographical area that were affiliated with KML. Within the Copperbelt of Zambia—and following the author’s review of other environmental and social impact assessments associated with the mine such as ESIA for local airstrip for KML—the project officers were considered key resource persons/experts.

(c) The senior project officer indicated that his views or responses were representative of the views and experiences of those involved in the project.

(d) The anonymous NGO officer indicated above has campaigned for social issues related to development infrastructure in Zambia’s Copperbelt for decades, including work related to the World Bank-funded program aimed at among other things, strengthening the capacity of Zambia’s environmental regulatory institutions to address and improve environmental and social regulations in the mining sector.

(e) Traditional chiefdoms are located adjacent to the mine sites and represent areas that are environmentally and socially-affected by operations of the mines. In the next sections, we examine the profile of project sponsor—Kalumbila Minerals Limited (KML).

Kalumbila Minerals Limited.

Kalumbila Minerals Ltd—the subsidiary of First Quantum Minerals Ltd—represents the first of this thesis’ interesting case studies on Equator Principles implementation given the company’s explicit observation that it applies the Equator Principles in its projects—in particular the Sentinel mine site (Coastal Environmental Services, 2012, pp.330, 379). However, the potential negative effects of its operations—if not addressed—have the potential to cause serious and rising concerns about environmental and social impacts and risks (Songolo, Moono, & Mwenya, 2016).

In addition, KML’s operations shed light on how its project assessments contribute to the broader issues of sustainability assessment given its location in a resource-rich country with poorly enforced environmental regulations or susceptible to foreign investor override (Clapp, 1998; Christmann, 2004 ; Rutledge, 2004; Haglund, 2008, Sambo et al., 2015).

### 6.2.1 Kalumbila Minerals Ltd: Project sponsor Profile

Kalumbila Minerals Ltd, is corporate entity established to manage operations on the areas of five big exploration licenses that the government of Zambia awarded to First Quantum Minerals Limited (hereafter, FQML)—a Canadian International mining company—for a project dubbed, the Trident Project, operating under its Zambian registered name, Kalumbila Minerals Ltd, (hereafter, KML). FQML has operations in seven sites around the world. With major operational sites in the mining hub of Zambia—the Copperbelt, Sentinel is anticipated to have an estimated lifespan of 25 years, according to Sentinel Project’s EIS assessment prepared in 2012 (Coastal Environmental Services, 2012). KML mineral output came to market for the first time in 2014, and its output is but one among those of several mining companies in the Copperbelt region of Zambia.

Kalumbila Minerals Limited was chosen for the following reasons:

Firstly, FQML is currently operating the largest copper-gold mine in Africa (FQML, n.d.) with a planned expansion of production to 400,000 tons of copper annually by 2017 at its Zambian Kansanshi site (FQML Sustainability Report, 2014). The Trident Project at KML with low grade copper—already a Category A risk project under IFC/EP classification—will potentially amplify environmental and social risks and impacts, given that low-grade ore mining generates more waste for an identical amount of metal (Klare, 2012; Tilton, 1996). Such evolving mine prominence makes the Trident Project a subject of timely and urgent scrutiny, particularly about its environmental and social record as well as its broad sustainability implications. Given its location in a developing country, the Trident Project is an excellent case for investigation.

Secondly, the government of Zambia approved the environmental impact assessment (EIS) report for five big explorations and subsequently awarded four concession licenses to KML (Coastal and Environmental Services, 2012). Since receiving the operational green light for these projects, KML has had to deal with changing governments in Zambia and a skeptical traditional chiefdom. In addition, the activities of powerful MNCs in poorly governed but resource-rich domains with weak environmental monitoring and institutional capacity for regulation provide an interesting power-imbalance dynamic (Goodland, 2012) that any research would want to investigate.

Thirdly, such a powerful MNC operating in a remote jurisdiction with weak environmental governance calls for a substantive or at the very least, an effective international legal framework in the home country of a mining company (Canada, in this case) for addressing potential human rights and environmental infractions abroad. This is particularly the case where the voluntary codes, such as Equator Principles, to which the company subscribes, lack a monitoring or oversight capacity.

Fourthly, for 70 years since Zambia began mining operations, mining companies have contributed to serious environmental risks and impacts (World Bank, 2011, p.9) with serious legacy implications. Furthermore, NGOs believe KML and all mines in Zambia are projects with intriguing environmental, social, and human rights records worth exploring (JCTR, 2015).

Lastly, operational information is available, and the analysis of KML's records and practices is possible due to public disclosure policies of KML's financial partners—such as the government of Zambia. The World Bank and the International Monetary Fund, because of their disclosure policies (World Bank, 2011), require partners, such as government of Zambia to publicly disclose important due diligence information (e.g., information on public debt, mine royalties and tax revenue, environmental and social impact assessments from mine companies such as KML). Therefore, access to, and the availability of privileged information between KML and the government of Zambia, a subject of ongoing contention between the traditional chiefdom and KML (JCTR, 2015; MiningWatch, 2013)—facilitates Equator Principles research. These disclosure requirements from external partners enable access to research data that would otherwise be difficult to access.

## 6.2.2 General Description of Kalumbila Minerals Ltd: The Trident Project

The Trident Project, under KML, is part of FQML's sites projected to contribute to making FQML one of the premier mining companies of the world. The Trident Project is thus part of FQML's attempts at becoming a leader in "mineral exploration, development, and mining" (FQML Sustainability Report, 2014). KML's Trident Project is in Northwest Province of Zambia, within the resource-rich Zambia Copperbelt and lies about 700 Km from the capital, Lusaka (see Fig. 7 below). The regional provincial city of Solwezi is about 150 Km to the east of the Trident Project. Solwezi itself has received boomtown effects attributed to the surge of mining explorations and developments. The Trident project comprises the Enterprise nickel, and Sentinel copper mine and other mining deposits, and holds five large prospecting licenses from the government of Zambia, covering approximately 2,300km<sup>2</sup>, most which falls within the traditional Chieftdom. The Trident project mines have had major environmental, social and economic effects on the Chieftdom. The KML Trident Project acquisition cost FQML about \$279m following the purchase of Kiwara in January 2010 (FQML, n.d.).

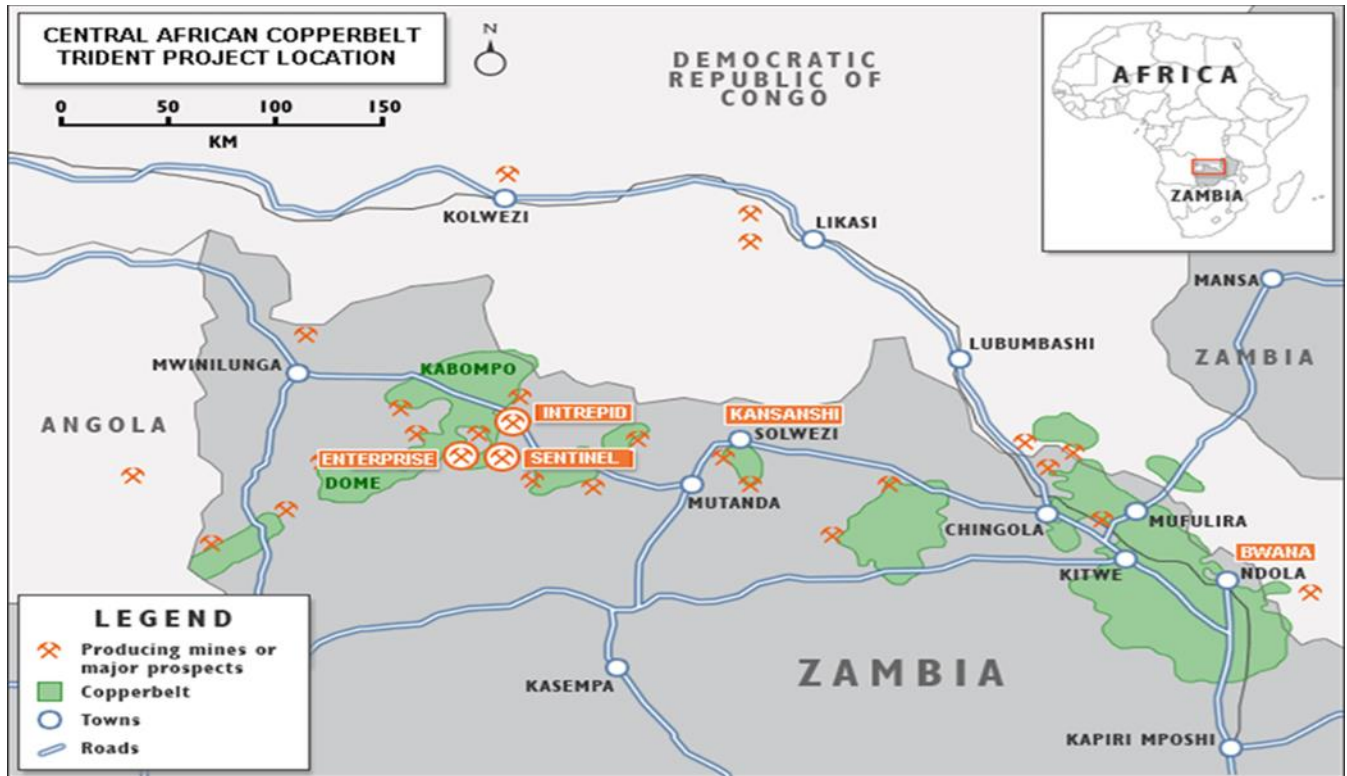
## 6.2.3 The Trident Project

Operating as the Trident Project (Figure 7 below), the three sites and other exploration prospects have brought approximately \$2 billion (Trident Project Presentation, 2015; Zambian Economist, 2013) into Zambia's mining industry, the single largest investment infusion (FQML, 2014a, p.17) in more than 70 years of Zambia's mining history (Lungu & Mulenga, 2005). The company's important location issues included land acquisition and the resettlement of affected communities. The Trident Project has also led to the diversion of two rivers—Musangezhi and Chisola—which had historically remained pristine. The environmental impact statement (EIS 2012-Addendum) maintains that it has preserved the integrity of the ecosystem goods and services (Coastal Environmental Services, 2012, p.127); however, it is difficult to ascertain conclusively or with precision the impact of such large river diversions. This is because, such local and/or regional ecosystems operate as a part of complex systems (Cilliers, 2005 ; Holling, 2001), whose interactions and effects are difficult to understand or predict.

## 6.2.4 EPFI Financing of the Trident Project

The underwriters for FQML equity offering for project expansions, including KML's Trident Project are comprised of RBC Capital Markets, Goldman Sachs Canada Inc., Barclays, BNP PARIBAS, Deutsche Bank Securities, Jefferies International Limited, and Nomura (collectively, the "Underwriters") (FQML, 2015). These institutions are signatories of Equator Principles (RBC, Barclays, and BNP Paribas) or are Equator Principles "compliant" through overlapping in-house environmental and social standards.

The next page shows - Kalumbila Minerals Limited—The Trident Project.



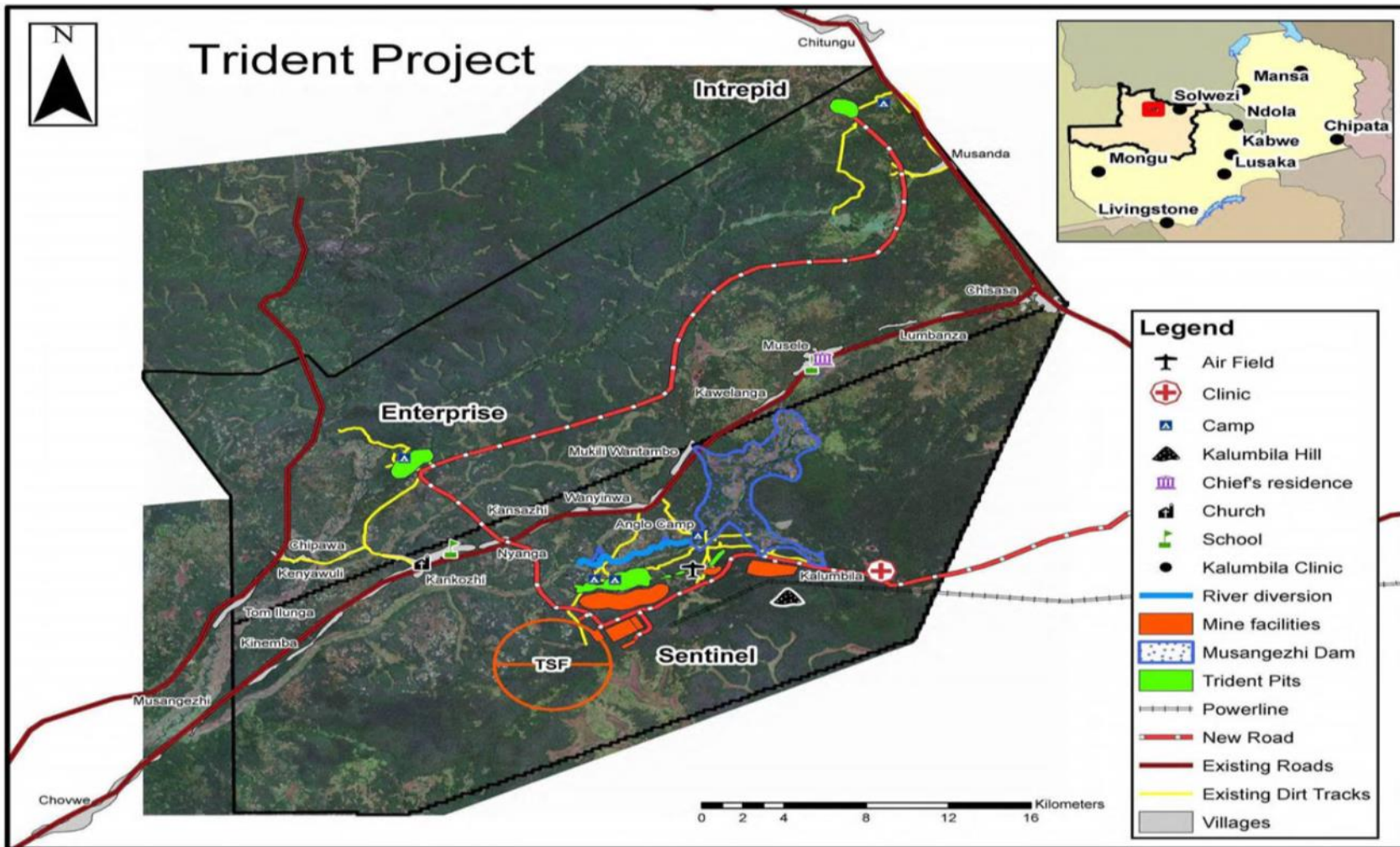
**Figure 7:** Kalumbila Minerals Limited (Trident Project). Source: Trident Project Presentation, Oct 8, 2015, [www.first-quantum.com](http://www.first-quantum.com)

### 6.3 Affected Communities

The Equator Principles Association defines Affected Communities as “local communities, within the Project’s area of influence, directly affected by the Project” (Equator Principles, 2013, p.15).

#### 6.3.1 Kalumbila Minerals Limited

The Affected Communities for KML extend from one administrative unit (Ward) in Solwezi (Provincial Township) to one administrative unit in Mwinilunga (Figure 8) (Coastal Environmental Services, 2012, p.135). The KML is largely within the Chiefdom of Senior Chief Musele. As in most of Zambia, local communities fall under a traditional chief who governs the jurisdiction under customary laws. The Constitution of Zambia defines the responsibilities of the Chiefs towards their local communities from oversight of specific natural resources, making of laws, to adjudicating land disputes and conserving natural resources for the benefit of present and future generations. Natural resources harvesting (fishing, wild fruit gathering and game hunting) and self-sustaining income activities such as bee-keeping, wood carving, and wood burning for charcoal are the main livelihood activities for project-affected communities (Coastal Environmental Services, 2012, p.239). Local communities often view the opening of natural resource development ventures to mining companies as heralding the loss of access to, and loss of harvesting, natural resources as government awards land to mining companies, and thereby becoming private property (JCTR, 2015, p.29).



**Figure 8:** Affected Communities-Kalumbila Minerals Limited

(Source: Coastal and Environmental Services, 2012, p.21, Final Sentinel EIS, November 2012)

## Chapter 7 Results

The thesis research set out to understand how the Equator Principles Financial Institutions implement Equator Principles Financial Institutions, the impact of Equator Principles on project sponsors (i.e., how the project sponsors in turn apply and manage Equator Principles), and the impact of the Equator Principles on project-affected communities (PACs).

Accordingly, this chapter presents the results and outcomes of the interviews with EPFIs, project sponsors, and project-affected communities. The chapter also includes descriptions and analyses of, and conclusions from, these outcomes—first for EPFIs regarding the first research question, then for the project sponsors regarding the second research question; and lastly, in section 8.4, for impacts on project-affected communities regarding stakeholder engagement and the related grievance mechanism in Equator Principles. This is followed by results and an analysis of interviews related to project-affected communities. Conclusions follow each of these three research issue areas or sections.

The sections below reveal the differences in implementation among EPFIs of the Equator Principles issues researched for this thesis (Sec 7.1, Table 5). For example, in sec 7.1.1, Figure 9 shows regional differences of implementation among EPFIs. Section 7.1.3, Table 6 relates the present thesis' Equator Principles implementation research questions to organizational themes among EPFIs, and highlights interview findings. The closing section, 7.1.4, and the related Table 7, are responses or implementation outcomes from each the interviewee EPFIs.

## 7.1 Implementation of the Equator Principles by Project Financiers

In seeking to understand, the implementation of Equator Principles, the interview questions below (shown in chapter 3, Table 1) were asked of the EPFIs:

- What are the main benefits of Equator Principles for your organization?
- What are the main risks of Equator Principles for your organization?
- What are the impacts of Equator Principles on project assessment procedures?
- How do Equator Principles help in assessing the sustainability effects of Equator Principles projects?
- How do Equator Principles help in assessing general project risks?
- What are problems with respect to the application of the Equator Principles in the project assessment process?

Following from the preceding section, Table 5 below represents sample quotes from the EPFI interviewees regarding the six research questions shown above. The first column shows the EPFIs. The second re-introduces research questions in chapter 3 Table 1—albeit in abbreviated form—by highlighting themes in Equator Principles implementation. The third column clarifies the issues in the research questions, and the last column contains sample quotes from the interview script for the matching EPFI.

**Table 5:** Sample Quotes on Equator Principles Implementation by Project Financiers

<b>Interview EPFIs (1)</b>	<b>Equator Principles Research Questions (Themes/Agenda) (2)</b>	<b>Description and Clarification of Issues in Research Questions (3)</b>	<b>EPFI Sample Quotes (4)</b>
EPFI -Q	Equator Principles Benefits	Advantages of the Equator Principles that facilitate or improve Equator Principles implementation.	“It is obviously us do the right thing [in managing social and environmental risks] as well enhancing our reputation as a responsible bank.”
EPFI-Y	Equator Principles Impact on Project Assessment	Assessing environment and social project impacts within the Equator Principles framework.	“...we set about identifying gaps and putting together an environmental and social action plan or commenting on an action plan if the consultant has put one together.”
EPFI-N2	Equator Principles Impact on Project Sustainability	Integrated appraisal of environment, social, and economic effects of an Equator Principles project for long-term sustainability.	“Time will tell what the track record of Equator Principles [will be] over the next 10, 20, or 30 years. From my limited experience in dealing with it, I have seen a lot of positives from it.”



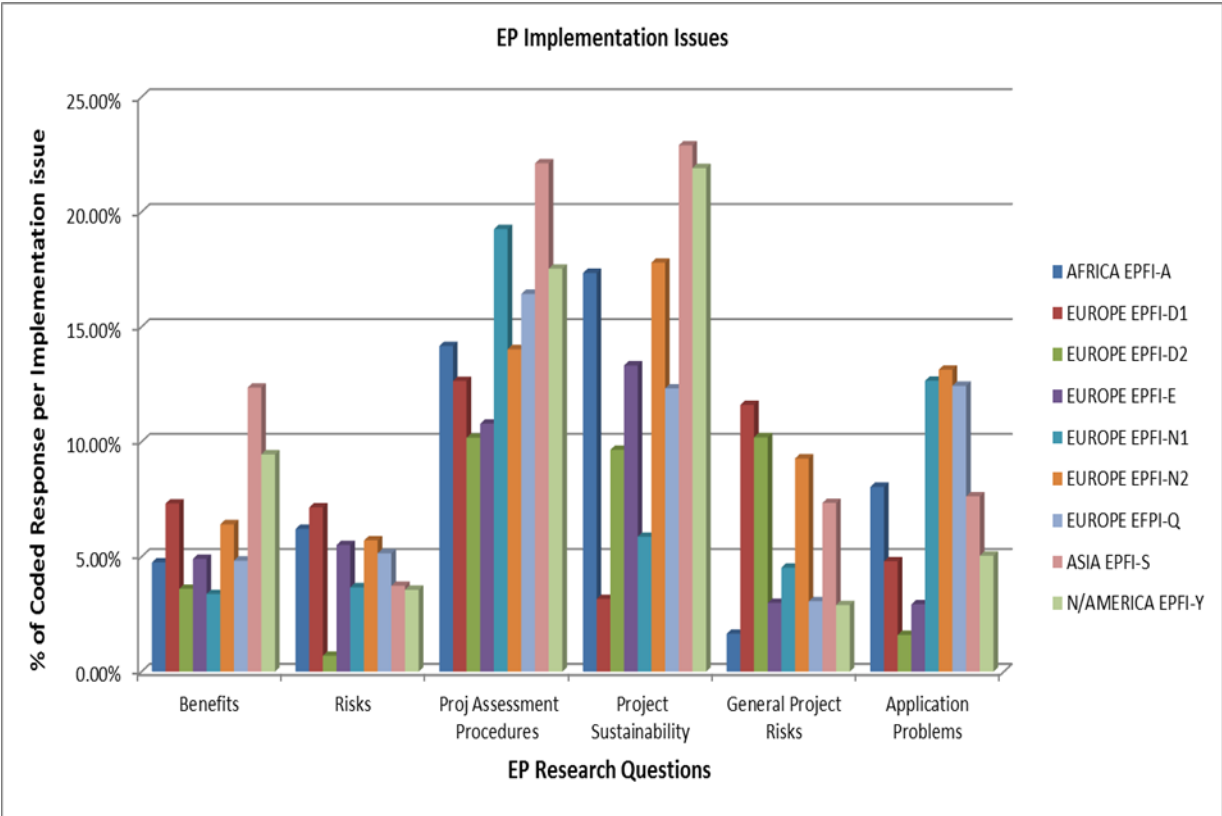
EPFI-S	Equator Principles impact on General Project Risk	Impacts on all potential project risks for which the management objective is to increase positive impacts and decrease the likelihood of negative outcomes on the project.	“As you may be aware, there are many projects whose financial viability has been put in question because of environmental and social issues [...] Therefore, all these aspects impact on general risk, and [on] the sustainability of the project.”
EPFI-Q	Equator Principles Implementation Problems	Challenges of implementing Equator Principles	“Determining borderline categories between B and C is a little bit of a challenge. More guidance is needed in how to categorize and to do it more consistently between A, B and C.”
EPFI-D1	Improving Equator Principles Implementation	Strategies and suggestions for improving Equator Principles implementation both organizationally and institutionally (i.e., at EPFI and Equator Principles Association).	“What is missing is consistency. There are different philosophies within the EPFIs Association Community [regarding social and environmental risk assessment] .... And environmental and social action plan.”
EPFI-E	Equator Principles Agenda Going Forward	Required changes and outstanding issues to address Equator Principles implementation issues effectiveness.	“We have been talking about setting up independent complaints mechanisms (ICMs) to arbitrate between the banks and these groups.”

### 7.1.1 Regional EPFIs: Comparison of Equator Principles Implementation Issues

One of the research findings was the difference in implementation of research issues among interviewed EPFIs regionally and within regions even though “Equator Principles serve as a common baseline and framework (Equator Principles, 2013, p.2). Figure 9 below (on the next page) shows how the EPFIs compare regarding the issues investigated for the present thesis. The sample EPFIs operate in or represent the regions of Africa, Europe, Asia, and North America. To distinguish between the EPFIs, the EPFIs are shown in different colours. The elaborated responses of EPFIs to the interview questions are in the order of the six research questions (in chapter 3, Table 1) namely, the benefits of the Equator Principles, the risks of the Equator Principles, the impacts of Equator Principles on project assessment, Equator Principles sustainability effects, how the Equator Principles help in assessing general project risks, and lastly, the problems of applying the Equator Principles during project assessment.

In other words, the figure shows the character of implementation of Equator Principles—and suggests implementation issues that are dominant—in each EPFI and among sets of EPFIs. The percentages on the vertical axis reflect the extent of each EPFI’s interviewee answers to the implementation issue. NVIVO assigned numerical percentages to the coded text for each elaborated response (i.e., it related the sentences or text in the interview transcript with the Equator Principles implementation themes that the author reflected in each of the research questions). The issues of project assessment procedures and overall project sustainability, for example, were more dominant or important for EPFI-S as compared to other EPFIs. Results show that EPFI-S in comparison to other EPFIs considered Equator Principles more beneficial.

Figure 9 also shows issues whose dominance or importance differs across the sample EPFIs in a specific region. There were, for example, differences in application problems among European EPFIs EPFI-D2, EPFI-N2, and EPFI-E. Yet EPFIs that provided elaborated responses about the importance of project sustainability and assessment procedures were also ones that were among early Equator Principles adopters or were members of the Equator Principles Working Groups devoted to similar implementation issues. In addition, application of the Equator Principles was less a risk for EPFI-D2 than for EPFI-D2 even though these EPFIs operated within the same country. The detailed and combined analysis of Figure 9 and other Equator Principles data in the subsequent Tables occurs in section 7.1.7.



**Figure 9:** EPFIs Implementation of Equator Principles. (Source: Author Interviews 2014-2015; Author/NVIVO Analysis.)

A combined results description of Fig. 9 and Tables 5, and 6 (below) occurs in section 7.1.5. Overall discussion and analysis is in section 7.1.7

### 7.1.2 Equator Principles Implementation: Organizational Themes and Related Findings

Table 6 below relates the present thesis' Equator Principles implementation research questions in column 1, to the EPFIs' organizational themes (Column 2). Column 3 highlights interview findings. The findings in column three reflect an overview of the identified themes in Equator Principles implementation and across the EPFIs in the sample. The dominant themes of risk management and operational efficiency suggested the rationale for the implementation of the Equator Principles among EPFIs.

**Table 6:** Equator Principles Implementation Research Questions, Themes and Findings

<b>Equator Principles Research Questions (1)</b>	<b>Themes (2)</b>	<b>Findings (3)</b>
1. What are the main benefits of Equator Principles for your organization?	Risk Management	There is acceptance among interviewed EPFIs that Equator Principles are important and necessary for organizational and business strategy.
2. What are the main risks of Equator Principles for your organization?	Reputation, Legitimacy, and Social License (SOL)	EPFIs in interview sample do not consider Equator Principles adoption as risky to the organization. Periodic Equator Principles revisions/iterations imply recognition of stakeholder concerns and input.
3. What are the impacts of Equator Principles on project assessment procedures?	Operational efficiency, process improvements and organizational-wide learning	Among some EPFIs, Equator Principles influenced decision-making and raised awareness within the upper ranks of the EPFIs regarding environmental and social issues. Equator Principles were significant, had emerged or existed as organizational mechanisms to resolve sustainability-financial dilemmas.
4. How do Equator Principles help in assessing project sustainability?	Organizational and process change, Improvement of environmental and social Impact assessments (ESIAs)	There is recognition that Equator Principles facilitated the detailing of specific actions, deadlines, and roles and responsibilities for addressing identified environmental and social gaps. Encouraged and promoted broader stakeholder input in the EPFI.
5. How does Equator Principles help in assessing general project risks?	Risk management, Outside Influences, decision-making and issue resolution	Effective implementation of Equator Principles may be indicative of proper management of risks and execution of other organization-wide systems.
6. What are problems with respect to the application of the Equator Principles in the project assessment process?	Host country institutional weaknesses, organizational policy, processes and standards weaknesses.	There are problems of reconciling Equator Principles sustainability considerations in jurisdictions with weak/non-existent laws and regulations. Variations in interpretation inconsistencies, and competitive pressures from Non-EPFIs.

Source: Author Interview Transcripts and EPFIs (Sample EPFI- sustainability reports, 2014-2015)

### 7.1.4 Equator Principles Implementation Outcomes among EPFIs

The last of the results of Equator Principles implementation are shown in Table 7 below. It brings together the EPFIs' responses identified in the interview transcripts regarding their implementation of the Equator Principles, as set out in the six research questions summarized below. Table 7 covers all the six research questions (summarized as headers) and shows the responses from each EPFI regarding Equator Principles benefits, risks, its impacts on project assessment, project assessment effects, how Equator Principles impacts general project risks and the problems associated with applying Equator Principles during project assessment.

**Table 7:** Equator Principles Implementation Outcomes among EPFIs

<b>QN 1: Benefits of Equator Principles</b>	<b>QN 2: Risks of Equator Principles Adoption</b>	<b>QN 3: Impacts of Equator Principles on Project Assessment</b>
•Standardizes environmental and social risk management, and minimizes financial losses management (EPFI-A)	•Fosters potential resistance from clients due to implementation cost (EPFI-A).	•Nurtures organization-wide learning and sustainability re-organization (EPFI-A).
•Enhances reputation and helps in social and environmental risk assessment (EPFI-Q)	•Nurtures potential NGO target for non-performance (EPFI-Q)	•Increases due diligence & approval delays (EPFI-Q)
•Connects and affirms ethical values, and is the state-of-environmental and social risk management tool (EPFI-D1)	•Engenders potential loss of market to non-EPFI adopters (EPFI-D1).	•Influences & integrates Equator Principles into credit policies, due diligence & transaction rating (EPFI-D1).
•Aligns with the EPFI's risk management (EPFI-D2)	•Lacks experience in Equator Principles implementation (EPFI-D2)	•Increases the breadth of assessed projects & related reports (EPFI-D2).
•Is an insurance against potential lawsuits, expensive fines, and negative media attention (EPFI-E)	•Neither shields nor protects from NGO criticism (EPFI-E).	•Increases work force and resources for project assessment (EPFI-E).
•Is a competitive niche, helps environmental and social risk identification as well as a shield against negative societal attention EPFI (EPFI-S)	•Heightens reputation risk if project goes wrong (EPFI-S).	•Engenders pro-active deal teams & led to extensive environmental and social training (EPFI-S).
•Streamlines environmental and social risk management and safeguards against bad deals from new adoptees (EPFI-Y)	•Limits loan syndication with new Equator Principles adoptees (EPFI-Y).	•Reinforces our organizational systems. We co- founded and continue to shape Equator Principles (EPFI-Y)
•Helps identify E &S risks within a portfolio & provides easy access to capital (EPFI-N1)	•Engenders potential market loss in the short-run (EPFI-N1).	•Increases transparency and causes integrated reporting (EPFI-N1)
• Brings environmental and social standards to the fore (even for deals that do not fall within the scope of Equator Principles)-EPFI-N2	•Tempts client to ignore or abandon Equator Principles due to its onerous requirements in certain jurisdictions (EPFI-N2).	•Raises the level of due diligence for some of the social issues (Equator Principles <sup>3</sup> ) and Equator Principles 3 brought more attention to climate change and human rights (EPFI-N2).

<b>QN 4: Equator Principles Role in Project Sustainability Effects</b>	<b>QN 5: Equator Principles role in General Project Risks</b>	<b>QN 6: Equator Principles Implementation Problems</b>
•Engenders adaptive management of environmental and social risks in project portfolios (EPFI-A)	•Lowers overall project risks by providing early warning/red flags for E& S risks (EPFI-A)	•Onerous due to lengthy ESIA document reviews & language problems (EPFI-A)
•Equator Principles role on Equator Principles project sustainability unknown due to lack of “control” projects. Increased monitoring stipulated (EPFI-Q)	•Broadens risks assessment beyond financial risks (EPFI-Q)	•Introduces risk categorization inconsistencies on syndicated loans among EPFIs (EPFI-Q)
•Triggers client capacity to enhance environmental and social management systems and performance (EPFI-D1)	•Predicts organizational-wide management and status of risk management (EPFI-D1)	•Introduces EPFI inconsistencies in framing action plans & weights attached to consultant reports (EPFI-D1)
•Introduces detail to environmental and social project assessment (EPFI-D2)	•Carries minimal impacts on general project risks due to rigorous attention on individual risks (EPFI-D2)	•Offers positive praise (e.g., EPFI considers advanced country context facilitates Equator Principles implementation) (EPFI-D2)
•Operates as a deal-maker/breaker beyond traditional environmental regulations (EPFI-E)	•Forecasts the state of organization’s risk management (EPFI-E)	•Criticizes Equator Principles as having insufficient arbitration/independent oversight mechanisms between EPFI and project-affected communities (EPFI-E)
•Acts as a yardstick for client screening and a gauge for client willingness to undertake environmental and social action plans (EPFI-S)	•Determines economic and financial risks and therefore overall risks (EPFI-S)	•States that clients lack Equator Principles awareness and introduces small clients/borrowers to Equator Principles procedures (EPFI-S)
•Acts as quality assurance for enhanced credit decisions & loan covenants (EPFI-Y)	•Indicates, overtime, overall project risk management (EPFI-Y)	•Criticizes absence of uniform Equator Principles interpretation between EPFIs (EPFI-Y)
•Enhances opportunities for learning and knowledge sharing between EPFI and Clients around Equator Principles implementation processes (EPFI-N1)	•Helps clients think beyond E& S risks (other risks) (EPFI-N1)	•Recognizes that clients are inadequately informed and calls for ratchetting up of client understanding of ESIA and Equator Principles standards (EPFI-N1)
•Vacillates between record of accomplishment and non-performance of Equator Principles over the next 10, 20 or 30 years. So far, a lot of positives (EPFI-N2)	•Facilitates strategic environmental assessment (SEA as in Box 6, Appendix 1) but adds cost and time burden to the client-EPFI-N2	•Argues that Equator Principles are a disadvantage in locations where there are competitive non-EPFIs, lucrative projects and weak environmental regulations, and problems of dual reporting—one for host country mandatory regulations and voluntary Equator Principles (EPFI-N2)

The discussion and analysis of the interview results in the above table follows in section 7.1.7 below.

From the data in tables above, certain important observations can be made regarding similarities and differences between the EPFIs regarding Equator Principles Implementation as represented in

the six research questions. Because project assessment process and project sustainability effects are among important issues in Equator Principles implementation, and as represented in the research questions, these two issues are examined below.

#### 7.1.5 Project Assessment Process

First, from the interview data regarding Equator Principles implementation presented in the preceding Tables, and highlighted in Figure 9, a general observation made for this implementation issue is that at the core of Equator Principles framework is the project assessment process. Unsurprisingly, all the sample interviewees mentioned the centrality of ensuring and conducting a project assessment process that provided for the financial and economic viability of their investment in keeping with their profit and shareholder-maximizing objective. Another aspect EPFIs identified with was the importance of achieving the objective of social responsibility and environmental stewardship.

The African-EPFI bears some similarity with a London-based Europe-EPFI-Q in its impressions about the environmental and social assessment processes. Arguably, the British EPFIs, their subsidiaries and project-finance markets are more active in Africa than other comparable EPFIs whose headquarters are in North America or Western Europe. The reason for this is the global nature of project finance (Sorge, 2011) under Equator Principles, marked by the flow of bank sustainability policies to branch networks, and South Africa's appeal as of one of Africa's largest and modern capital markets. For these reasons, EPFI-A and EPFI-Q Equator Principles implementation practices bear some similarity to, or are susceptible to, providing a near-identical evaluation of Equator Principles assessment process. Lastly, the N/America-EPFI-Y and Asia-EPFI-S bear, arguably, a striking similarity in their project assessment process. Both were among the early adopters of the Equator Principles, and both have been instrumental in shaping the Equator Principles and the place of stakeholder input in Equator Principles periodical review processes.

#### 7.1.6 Project Sustainability Assessment

From the sample of EPFIs interviewed, attention drawn to the sustainability effects of Equator Principles has been limited. EPFIs based in North America and Western Europe (EPFI-Y, EPFI-Q, EPFI-N1, EPFI-N2) provided some understanding of environmental and social sustainability in that their credit evaluation systems integrated social and environmental concerns, considered community role or stakeholder engagement in assessment (EPFI-E), and projected concerns about sustainability development well into the future (see EPFI-N2 on project sustainability effects, Table 7). Like all other sample EPFIs, EPFI-A, and EPFI-Y considered socio-ecological aspects only in terms of near-term, and to the extent that they posed a financial risk to the project rather than a means of bridging towards long-term sustainable livelihoods, equity, empowerment, and parallel care for the environment. EPFI-A, for example, suggested that full-blown and long-term sustainability assessment considerations were mostly the domain of host country governments, suggesting their environmental and social considerations were narrow, and shareholder or profit-focused.

The aspects of the Equator Principles described in these preceding sections have identified several important outcomes and regional implementation patterns among sample EPFIs. The EPFIs in

regions where substitute environmental and social regulations are weak or evolving (Compagnon, Chan, & Mert, 2012) have praised the Equator Principles. However, there are regional differences between EPFIs in how they implement certain aspects of the Equator Principles such as procedures regarding client orientation on impact assessments. As well, EPFIs have generally not considered the Equator Principles as a major risk to their project finance operations.

#### 7.1.7 Discussion and Analysis of EPFIs Implementation of Equator Principles

Several observations arise from implementation of issues among EPFIs as shown in Tables 5, 6 and 7, and suggested in Fig. 9 above.

Firstly, EPFIs with application problems, particularly those with extensive networks in Africa sub-regions were also willing to recognize the need for measures and policies to fix existing implementation problems. EPFIs whose Equator Principles portfolios were "smaller or declining" were unlikely or unwilling to propose the way forward for improving implementation (i.e., their application problem was 'small'). An EPFI in Germany, for example, indicated that their involvement with project finance was small. As such, this German EPFI suggested it was probably more appropriate that EPFIs operating in emerging markets take a lead role in deriving solutions to implementation problems.

Secondly, results also show that mature EPFIs (i.e., early Equator Principles adopters or "historicals") operating in emerging economies were likely to experience implementation problems unrelated to their internal Equator Principles execution structure. These implementation issues—subject to further research—include on-ground problems or are related to the project context (e.g., consultant language problems, Equator Principles awareness, priority of local mandatory regulations and so on) as supported by EPFI respondents from Africa, Asia and Spain who were interviewed for this thesis. (See e.g., Fig. 9: EPFI-A).

Thirdly, the notion of stakeholder engagement among Western-based EPFIs regarding project-affected communities was not a top agenda item as the Equator Principles literature suggests or as the Equator Principles Association demands (Equator Principles, 2013, EP 5, p. 7). Except for one EPFI interviewee based in Spain, most EPFIs interviewees considered stakeholder engagement as an interaction mainly between the EPFIs, its borrowers, and environmental and social consultants. Stakeholder engagement with project-affected communities was synonymous with engaging a proxy representative—an environmental and social consultant. Two reasons may account for this attitude. First, the pressures from the social environment or social threats that led to Equator Principles among Western-based EPFIs may have been reduced because EPFIs are increasingly internalizing the Equator Principles, though disparately. Therefore, EPFI necessity and a project sponsor motivation for conducting stakeholder engagement with project-affected communities may have waned. And second, the location for most of the Equator Principles projects is increasingly the far-flung corners of the world. As such, the present thesis concurs with Spek (2005) that loan syndication or club transactions has created a due diligence distance between an EPFI and the borrower, and increasingly with project-affected communities. In other words, due diligence now resides with a potentially remote syndicate leader or rating agency that may—due to competitive pressures—give project-affected communities little consideration or may altogether unwittingly facilitate a slow erosion of stakeholder engagement.



Fourthly, one particularly surprising observation from the interviewee data was that certain EPFIs (in regions with increasing uptake of Equator Principles such as Africa and Asia, and regions that were among the first to adopt Equator Principles such as North America and Western Europe) often indicated limited need or no impetus for improving the effectiveness of Equator Principles implementation. Several potential responses to African and Asian EPFI line of thinking exist. One is that their Equator Principles implementation experience may not have yet encountered “difficult” sustainability issues requiring reform. The second is that it is also likely that these EPFIs are yet to deploy the full agenda suite of Equator Principles to be concerned about additional burden of new Equator Principles initiatives or policies. The third alternative response is that, for these EPFIs, their internal benchmark—subject to full disclosure and transparency—against which to measure their Equator Principles implementation is low. Fourth, and more likely, it could be that other related E& S voluntary codes to which they subscribe—or mandatory domestic environmental regulations to which they also subscribe—are clouding these EPFIs’ analysis of the impacts and outcomes of their implementation of the Equator Principles.

In addition to the preceding paragraph, except for European EPFIs, all other interviewed EPFIs in the developed Western countries showed absence of impetus for Equator Principles change. Either this may signal the increasing irrelevance of Equator Principles for these EPFIs given that domestic social and environmental regulations meet or exceed Equator Principles (also an IFC position) (Equator Principles, 2013, p.6), or because of limited project finance activity as suggested above, or that their self-serving financial interests have not materialized to a level occasioning needed change.

Fifthly, in the results above—even for large, early, and mature EPFIs such as (EPFI-Y, EPFI-D2, and EPFI-Q) their Equator Principles implementation could be evolving in response to learning experience, a point suggested by Conley and William’s earlier study (2011, p.543). The EPFIs are constantly adapting to markets and shifts in their institutional context and to environmental and social location of their project financing (Wright & Rwabizambuga, 2006). The EPFIs’ implementation of the Equator Principles is, therefore, as strong as—or depends on—the influences of the institutional environment on the EPFI’s organizational structures for Equator Principles, and in some cases their sustainability decision-makers, high-up committees, and boards that ultimately resolve complex environmental and social sustainability and project assessment issues.

In addition, for some EPFIs, the implementation of the Equator Principles bears similarity with that of other original founding Equator Principles members because some new or recent EPFIs model themselves on the original Equator Principles founders’ implementation “success or because Equator Principles implementation serves as a reputational risk management approach to forestall (potential) common sanctions (Toffell & King, 2007). These Equator Principles implementation aspects align with DiMaggio and Powell’s (1983) institutional theory assertion that organizations are dynamic in their operational and policy frameworks and re-orient their structures per “mimetic processes than to any concrete evidence that the adopted models enhance efficiency” (p.152).

Last, but by no means least, EPFIs provided considerable responses and exhibited wide latitude in matters of project assessment. Positive legacy issues beyond the life of the project featured

infrequently or received at best a tangential reference, even then, only during an interview with an EPFI-A where this EPFI regarded it as an issue for host country governance systems. However, all EPFIs disclosed that they had integrated environmental and social considerations into their project finance and advisory transactions as well as into their credit systems.

#### 7.1.8 Conclusion

The study of EPFIs implementation of the Equator Principles framework shows variations in how EPFIs implement Equator Principles. The institutional environment of Equator Principles implementation is subject to several influences such as the Equator Principles association requirements—the ten environmental and social principles that EPFIs implement, the multiple but unique organizational procedures, policies, and standards each EPFI applies, and other mandatory and voluntary codes to which sample EPFIs are subject. The investigation and analysis thus far shows that among the interviewed EPFIs, implementation of the Equator Principles varies even within the same geographical region, highlighting the influence of context. The different periods of Equator Principles adoption among EPFIs and various EPFIs' strategic considerations influence Equator Principles outcomes as well. The voluntary nature of the Equator Principles suggests that quality assurance may be absent or inadequate due to lack of oversight. That a few EPFIs in the research sample also gave differing accounts—as in project assessment—of their Equator Principles implementation experience, suggests that other implementation factors are at work.

One such factor includes the common denominator of the Equator Principles as “a baseline and framework for developing individual, internal environmental and social policies, procedures and practices” (Equator Principles, 2013, p.11). The presumed commonality of the Equator Principles framework among members is misleading because the framework does in fact introduce variations in implementation outcomes due to differences in internal organizational capabilities, and different periods of individual Equator Principles adoption—and accordingly differences in maturities and qualities of individual Equator Principles implementation structures (Weber & Acheta, 2014). The portfolio and frequency of project finance transactions are additionally shrinking amongst some members, as interviewees have indicated. This reduction in project portfolios could influence the frequency, tempo, and, potentially, the quality of the Equator Principles implementation.

In addition, if an EPFI's visibility increases in proportion to its project finance transactions, as Wright and Rwabizambuga (2006) indicate, we should anticipate the intensity of NGO attacks to correspond with the quality of EPFI implementation of Equator Principles. Intermittent NGO engagement with the EPFIs can also potentially discourage Equator Principles implementation practice on the part of the EPFI, and may engender only reactive responses and thus impair Equator Principles implementation. The findings then suggest that in the absence of uniform quality of Equator Principles outcomes among members, the need for an overarching Equator Principles Compliance Authority (EPCA) or a performance validating third party such as in the mold of ISO 14001 (Potoski & Prakash, 2005), or the Forest Stewardship Council (Bernstein & Cashore, 2007). Therefore, based on these observations, and given the limitations of this study, a finding that an EPFI's integration of Equator Principles into their operations has yielded a positive contribution to sustainability, is at best tentative. The findings above also appear to strengthen the notion in Hypothesis 1 (Section 4.3), namely that Equator Principle Financial Institutions implement Equator Principles because of potential financial and reputational risks, and as means towards value creation. The pressure from the Equator Principles association and the need to appear to

institutionalize “best sustainability” practices may explain the uptake of the Equator Principles among some EPFIs. This observation should not be surprising because it is the actions of project sponsors that are expected to contribute to sustainability in a practical way. The next section examines the impact of the Equator Principles on project sponsors.

## 7.2 Impact of the Equator Principles on Project Sponsors

As shown in sections in chapter 3, Table 1, and section 5.6, the second research question set out to understand the impact of Equator Principles on project sponsors. Two analytical frameworks—Framework 1 and Framework 2—premised on Equator Principles and sustainability assessment literature, are presented. This section begins with the analytical framework 1. Accordingly, a set of corresponding interview questions (Appendix 1, p.151) that inform analytical framework 1, for project sponsor application of Equator Principles are reproduced below:

- What are the strengths and weaknesses of the Equator Principles from your point of view?
- Does the project team members’ participation in environmental and social aspects have any influence on the project approval and sustainability outcomes?
- Do project team members’ decisions regarding project sustainability effects have legal, institutional, and cultural bases?
- What are the gaps in overseeing and managing the project’s sustainability effects, its environmental and social risk assessment processes, and in implementing its action or mitigation plans?
- What influence do EPFIs have on the organization regarding project social and environmental sustainability outcomes?
- On the issue of legacy, how does the organization plan for, and implement, if at all, community development programs?

This project sponsor section includes the perspectives of EPFIs and Kalumbila Minerals Limited on how project sponsors apply Equator Principles. These perspectives are from the interviews and field trips the author conducted between from 2014 to 2015. Each of the interview responses to the above questions was then considered under the high-level Equator Principles implementation themes. This high-level thematic consideration generated results under analytical framework 1, whose results begin in section 7.2.2 to 7.2.7, under Table 8. Section 7.2.8 discusses and analyzes the findings, and section 7.2.9 concludes the section.

Before presenting results of project sponsor operations for sustainability, however, it is necessary first to explain the high-level Equator Principles implementation themes used in analytical framework 1, as developed in the theory chapter (sec 4.2), and their impact on project sponsors. These themes are part of “institutionalizing responsibility” (Gunningham & Rees, 1997), a necessary feature for the success of self-regulation such as in project sponsor management of Equator Principles. The place of the host country government both as a stakeholder and a contributor to regulation is particularly highlighted here. The high-level Equator Principles implementation themes are as below, in section 7.2.1.

## 7.2.1 Impact of the Equator Principles on Project Sponsors—Analytical Framework 1

The following Equator Principles implementation factors are necessary minimum starting points for understanding how the project sponsor applies and manages Equator Principles:

- (a) Internal processes, policies, and standards,
- (b) project sponsor's organizational structure for Equator Principles,
- (c) EPFI covenants or Equator Principles Association requirements,
- (d) host country laws, regulations and permitting,
- (e) other external factors, and
- (f) project social responsibility and Equator Principles framework elements.

The circumstances or context of each project sponsor will merit attention, and the influence of listed or non-listed aspects here may amplify the success or failure of project sponsor EP implementation.

These themes (explained in depth below) also influence the linkage between environmental and social sustainability and project finance elements as seen in Fig 1 earlier on.

### a) Internal Processes, Policies and Standards

The internal processes, policies and standards in individual EPFIs are outcomes of interactions amongst all stakeholders and result from EPFI-specific inside-outside and outside-inside considerations outlined earlier. In institutional theory, isomorphic (equal change) processes, namely coercive, mimetic, and normative (DiMaggio & Powell, 1983) are the driving forces for these processes, policies, and standards among the EPFIs even though these forces produce no evident internal efficiency outcomes (p.153).

### b) Organizational Structure for Equator Principles Implementation

The EPFIs and project sponsors' organizational structures provide the means for implementing and managing the Equator Principles. The organization's structure also embeds the processes, policies and standards for Equator Principles implementation. The Equator Principles Association considers the emergence and creation of dedicated roles and responsibilities for Equator Principles implementation as necessary steps for institutionalizing and reporting implementation of environmental and social risk management practices (Equator Principles, 2013, p.14). These roles and responsibilities inform and shape how the project sponsor, for example, integrates Equator Principles environmental and social risk management systems into project sponsor's financial system or project operations and how the project sponsor manages due diligence processes. External pressures ultimately shape and affect the internal processes within the organization (DiMaggio & Powell, 1983) (a project sponsor, in this case). The EPFI by the same logic transfers the responsibility and its environmental and social policies to the project sponsor for actual application (Equator Principles, 2013, p.14).

### c) EPFI Covenants

The covenants are the lender's financing terms and conditions embedded within the financing agreements. The periodic guidelines from the Equator Principles Association shape the project sponsor's application of the covenants. Examples of covenants include compliance with

environmental and social management plans and the Equator Principles Action Plan (where applicable) during the project setup and the operational phase of the Project (section a) (Equator Principles, 2013). The covenants also entail provision of periodic reports in agreed formats in response to the law or the severity of the impacts (p.9). The lender covenants regarding Equator Principles implementation are especially pertinent because the project is the main point of contact for Equator Principles and the covenants may—if tested in courts of law—suggest legal obligations for the both EPFI and project sponsor once adopted (Richardson, 2005). The covenants are also “coercive”(DiMaggio & Powell, 1983) tools by which the project sponsor receives a financier’s (i.e., and EPFI’s) operational endorsement, continued support, or through which the EPFIs—under EP 8 (Covenants) “reserve the right to exercise remedies”(Equator Principles, 2013, p.9).

d) Host Country Government as a Stakeholder

The host government is a regulatory stakeholder that legislates, monitors, enforces, and enters into concession agreements or otherwise sets forth guidelines or prefaces the intention of laws or regulations (e.g., environmental law) (Leader & Ong, 2011). This category includes government agencies such as Environment Canada, Zambia Environmental Management Agency, Environmental Protection Agency (EPA) of the United States, and so on. The Equator Principles operate within these different regulatory arms of the host state. The Equator Principles Association requires EPFIs—and by extension, project sponsors—to follow these legislative and institutional requirements of the host state. The host country, therefore, legitimizes private sector projects through seeking their compliance with host country laws, regulations, and permits (McCutcheon, 1998; Weber, 2016) as required under EP 8 (Covenants). It may act as a co-project sponsor. The project sponsor aligns its operations to fit with host country policies; or because of the project sponsor, the host country can potentially adjust their policies (leader & Ong, 2011; Cotula, 2008). Hence, there is a bi-directional influence arising out of the host-country project sponsor relationship which is sometimes positive or negative, though such influence is disproportionately skewed against the host country in developing countries (Clapp, 1998 ; Christmann, 2004 ; Rutledge, 2004).

e). Other external factors and stakeholders

NGOs, working individually or collectively with project-affected communities, bring scrutiny to the project operations. The nature and quality of environmental and social impact assessment, as well as the project consultant or consultants, also shape the potential project deliberations and outcomes. The project sponsor too may affect the NGOs and project-affected communities via the framing of debates (BankTrack, 2003: 2013). The market for the output of the project sponsor’s operations may influence its operations depending on how the market prioritizes or reacts to sustainability and sustainable development concerns (Park, 2006). Input or resource suppliers may require the customers (such as project sponsors) to abide by environmental and social obligations in global supply chains (Bernstein & Cashore, 2007), thus influencing the project sponsor’s own sustainability orientation.

External factors also include the political, economic social and cultural aspects that have a co-equal if not preponderant, influence on outcomes, especially in the third world (Turnbull, 2004). The media (Sharbrough & Moody, 1995) and the rise of social media such as twitter, Facebook, Tumblr and so on (Bonsón & Flores, 2011; Juris, 2012), are all important elements that can be

mobilized for or against a project sponsor or provide a medium for dialogue for a project sponsor particularly in times of project crises or “crises scandal responses”( Vogel, 2010).

f). Project Social Responsibility and Equator Principles framework elements

Project social responsibility for this thesis, is a derivative of corporate social responsibility (CSR), and is similarly a multi-faceted construct. It relates to external concerns for reputation arising from project operations and activities especially in the project’s area of influence. It arises out of a need to build “reputational capital” (Gunningham et al., 2004) for the project. The project sponsor’s concerns for reputation requires the project sponsor to engage in “corporate citizenship” (Wood & Logsdon, 2001) as part of long-term concerns for society of which the project is part (Miranda et al., 2005). This means facilitating the means of or contributing to economic, social infrastructure in resource communities with embedded long-term strategies for the infrastructure maintenance and sustenance (Goodland, 2012). In short, if CSR is to act as a bridge into the future, then project sponsors must ensure that CSR programs, initiatives and activities in collaboration with project-affected communities do offer positive legacies, or at the very least, lay a foundation for desirable livelihoods in a mutually re-enforcing manner well into the indefinite future (Gibson, 2014).

Table 8 shows the perspectives of EPFIs regarding the impacts of Equator Principles on project sponsors’ application and management of Equator Principles issues on 533 projects. One project sponsor’s (Kalumbila’s Mineral Limited’s) perspective is included. The first column shows the EPFIs interviewed. The second column through column six shows the implementation themes covered in Equator Principles literature. The description of results by themes occurs in section 7.2.2 to 7.2.7.

**Table 8** Perspectives of EPFIs and KML on Equator Principles Impacts on Project Sponsors.

EPFI/Project Sponsor By Region (Country) and (# of associated projects 2013 and 2014)	Internal Processes, Standards, and Policies	Organizational Structure for Equator Principles	Implementation of EPFI Requirements, Covenants; and Decommissioning Issues (e.g., Legacies)	Impacts of Host Country Laws, Regulations, and Permits	Impact of Other External Factors and Other Stakeholders	Social Responsibility and Equator Principles Elements
EPFI-Q Europe (UK) (53)	Reliance on external consultants for EIA.	Not adequately developed to meet Equator Principles Implementation but ESAP & ESMS required.	EPFI suggested not applicable because the EPFI had no developing country Equator Principles projects.	Projects only in Designated Countries (Canada, UK, US, & Germany)— Therefore, projects subject to robust laws, regulations, and permits.	Negligible and limited interaction with Other Stakeholders-PACs Equator Principles Association reviews.	Part of environmental and social risk management; Limited suggestions/considerations of project legacies.
EPFI-A AFRICA (SA) (12)	Use of ENV+Social Consultants; Quality of Equator Principles processes varies on project case-by-case basis.	Structure for Equator Principles is weak and premised on an EPFI's requirements for ESAP & ESMS.	Required to follow EPFI's financing conditions.	EIAs (such as in baseline studies) accord with host country laws; Equator Principles projects often not up to International Standards.	Impact from IFC community of learning events, NGOs; Traditional chiefs. Equator Principles Association reviews.	Sustainability narrowly defined as environmental and social risk management; Contribution to lasting positive legacies non-existent.
EPFI-D1 EUROPE (DE) (62)	Require an EPFI's facilitation efforts.	Project sponsor E & S structures unknown but incorporates EPFI's ESAP & ESMP requirements.	Required to follow EPFI's financing conditions.	Strong regulation-Projects in Designated Countries (Therefore projects subject to robust laws, regulations, and permits).	Potential Impacts on project sponsor from the competition-- non-Equator Principles Banks such as Commerz Bank, UBS, OECD Guidelines and NGOs.	Corporate Social Responsibility is important. Equator Principles project sustainability subsumed within CSR.

<p>EPFI-D2 EUROPE (DE)</p> <p>(3)</p>	<p>(a)Limited or minimal attention to project sponsors processes EPFI’s own internal due diligence strong.</p>	<p>Does not engage with project sponsor’s internal structures.</p>	<p>Limited knowledge of project sponsor’s compliance with Equator Principles covenants Relies on EPFI’s own environmental and social policy conditions.</p>	<p>Projects only in Designated Countries (Western Europe, Germany— “Euro Area”); Therefore, projects subject to robust laws, regulations and permits.</p>	<p>Domestic laws and compliance with OCED rules, Equator Principles Association, ISO certification, UNGC, ISO 26000, GRI, FTSE4Good, DJSI, ICMM and requirements.</p>	<p>Corporate Social Responsibility is important. Equator Principles project sustainability subsumed within CSR.</p>
<p>EPFI-E EUROPE (ES)</p> <p>(47)</p>	<p>Use of ENV +Social consultants, Weak Equator Principles environmental and social policies. Mechanisms for PACs grievance mechanisms exist but are weak.</p>	<p>(a) Equator Principles structures evolving. (b) Premised on an EPFI’s requirement for ESAP &amp; ESMP (c) Domestic environmental and social laws for infrastructure projects-EIA.</p>	<p>Required to follow EPFI’s financing conditions.</p>	<p>Strong regulation-Projects in Designated Countries; (Therefore projects subject to robust laws, regulations and permits).</p>	<p>Impact from IFC Guidelines and community of learning events, OECD rules, Equator Principles Association, ISO certification rules, and other organizations.</p>	<p>Corporate Social Responsibility is important. All other Equator Principles project sustainability subsumed within CSR.</p>
<p>EPFI-N1 EUROPE (NL)</p> <p>(45)</p>	<p>Use of ENV +Social consultants, Weak Equator Principles environmental and social policies.</p>	<p>Premised on an EPFI’s requirement for ESAP &amp; ESMS.</p>	<p>Required to follow EPFI’s financing conditions.</p>	<p>Strong regulation-Projects in Designated Countries (Therefore projects subject to robust laws, regulations, and permits).</p>	<p>Competition from non-Equator Principles actors; OECD rules, OECD rules, Equator Principles Association, ISO certification rules, and other organizations.</p>	<p>Corporate Social Responsibility is separate; Equator Principles project sustainability subject to dedicated Equator Principles reporting</p>
<p>EPFI-N2 EUROPE (NL)</p> <p>(125)</p>	<p>Use of ENV +Social consultants, Weak Equator Principles environmental and social policies.</p>	<p>Limited knowledge of project sponsor E &amp;S but includes EPFI’s requirement for ESAP, ESMP.</p>	<p>Required to follow EPFI’s financing conditions.</p>	<p>Projects in Designated &amp; Non-Designated countries—affect Equator Principles projects differently.</p>	<p>Domestic laws and compliance with OCED environmental rules, EPA, ISO certification, etc.,</p>	<p>Corporate Social Responsibility is important; Equator Principles subsumed within CSR.</p>



EPFI-S ASIA (JP) (140)	Use of ENV +Social consultants, Weak Equator Principles environmental and social policies.	Suggests limited knowledge of the project sponsor's E &S but includes EPFI's ESAP, ESMP requirements.	Required to follow EPFI's financing conditions.	Projects in Designated & Non-Designated countries— Regulations, laws and permits affect Equator Principles projects differently.	NGOs and broader publics, Domestic laws, on-Equator Principles competitors.	Corporate Social Responsibility is important; Equator Principles project sustainability subsumed within CSR.
EPFI-Y NORTH AMERICA (US) (46)	Use of ENV +Social consultants, Weak Equator Principles environmental and social policies.	Project sponsor E &S limited but includes EPFI's requirement for ESAP & ESMP.	Required to follow EPFI's financing conditions.	Strong regulation- Projects in Designated Countries and Non-Designated countries through loan syndication.	NGOs Environmental and Social Risk Management (ESRM) reviews.	Corporate Social Responsibility is important; All other Equator Principles project sustainability subsumed within CSR.
KALUMBILA MINERALS LTD (PROJECT SPONSOR) [ZAMBIA]	Project sponsor's Equator Principles internal processes Equator Principles evolving; Reliance on external consultants and in-house expertise.	Project sponsor has no separate Equator Principles structures and systems for Equator Principles Implementation.	(a) Selective application of Equator Principles as in resettlement and stakeholder engagement.  (b) Some consideration given to project legacies (Conservation Agriculture, employee asset ownership).  (c) Limited or no interaction with finance dept. over Equator Principles covenants.	(a) Host country environmental laws have weak project impact.  (b) Strong need for corporate and project compliance with mandatory laws exists (c) Considers government inspection weak, legislative framework for PAC's resettlement absent.  (d) Potential for political influence/interference strong.	(a) Host country environmental laws have weak project impact.  (b) Strong need for corporate and project compliance with mandatory laws exists (c) Considers government inspection weak, legislative framework for PAC's resettlement absent  (d) Potential for political influence/interference strong.	(a) Elements of both CSR and Equator Principles project sustainability.  (b) Equator Principles project sustainability subsumed within CSR.

ENV = Environmental; ESAP=Environmental and Social Action Plan; ESMP=Environmental and Social Management Plan; ISO=International Organization for Standardization. Author Interview Transcripts, 2014:2015; Corporate/EPFI Sustainability Reports, 2013: 2015; PFI League tables, 2013: 2014; Zambia Environmental Management Agency (ZEMA).

In this section, the thesis describes the Equator Principles results above as a means of understanding how project sponsors apply and manage Equator Principles. The research questions about or for the project sponsors were framed within the umbrella of the Equator Principles implementation themes of internal processes, standards, and policies; organizational structures; covenants; host country laws, regulations and permits; other external factors; and corporate social responsibility (CSR) and sustainability effects.

### 7.2.2 Project Sponsor's Internal Processes, Standards, and Policies

The internal processes, policies and standards in individual EPFIs are outcomes of interactions amongst all stakeholders and result from EPFI-specific inside-outside and outside-inside considerations outlined earlier. From Table 8, we see a mixed report about project sponsors' internal processes, standards, and policies for Equator Principles implementation and sustainability assessments. According to the interviewees, five project sponsor profiles for decision-making for Equator Principles exist; sponsors who hire external environmental and social consultants for Equator Principles decision-making with seven of nine EPFIs expressing that view. Then there are project sponsors with weak internal organizational processes, standards, and policies for Equator Principles decision-making. The project sponsor reported here considered CSR decision-making as a proxy for Equator Principles decision-making. In one case (EPFI-D2), the EPFI had limited or no knowledge of the project sponsors' Equator Principles decision-making processes. In addition, one EPFI had indicated that in one project sponsor case, decision-making for Equator Principles was only evolving.

### 7.2.3 Organizational Structure for Equator Principles Implementation

The Equator Principles Association considers the emergence and creation of dedicated roles and responsibilities for Equator Principles implementation as necessary steps for institutionalizing and reporting implementation of environmental and social risk management practices (Equator Principles, 2013, p.14). In the assessment of the project sponsor's organizational structures dedicated to Equator Principles management, the EPFIs suggested during the interviews that project sponsors had not developed separate structures for responding to the Equator Principles requirement. Any existing patchwork of the project sponsors' Equator Principles structures arose from EPFIs' insistence on an Environmental and Social Action Plan (ESAP), Environmental and Social Management Systems (ESMS) and/or prepared an Equator Principles Action Plan (EPAP). In some cases, the EPFIs (e.g. EPFI-A) indicated that the project sponsors' Equator Principles implementation structures were weak. In addition, the actual project sponsor indicated they lacked separate structures for Equator Principles but used CSR structures as well for decision-making for Equator Principles application and management. EPFI-S suggested that it lacked knowledge of the project sponsors Equator Principles structures but required project sponsors to have structures or systems to capture or maintain ESAP and ESMS requirements. Almost all interviewed EPFIs indicated that they required project sponsors to adhere to Equator Principles requirements or (covenants) as a prerequisite for (continued) loan disbursements and business relations regarding project financing. Some EPFIs did not indicate or emphasize the aspect of follow-up monitoring and enforcement once projects were ongoing.

#### 7.2.4 Implementation of Equator Principles Covenants and Decommissioning Issues

The covenants are the lender's financing terms and conditions embedded within the financing agreements. The outcomes from EPFIs included a response from (EPFI-Q) that Equator Principles covenants were not applicable for their organization because the EPFI had no developing country Equator Principles Projects. An official from one project sponsor suggested that the project implemented Equator Principles covenants on a selective basis under the umbrella of CSR initiatives, and that it was not apparent that EPFIs linked environmental and social risk management directly to project financing. At the very least, according to this official, the finance department of the project had not explicitly indicated to the company's environmental department that the project's financing was conditional on fulfilling the Equator Principles. However, the project sponsor considered project legacies as an important part of post-mining activities, and that cross-government partnerships were either evolving or ongoing and essential.

#### 7.2.5 Impacts of Host Country Laws, Regulations, and Permits

Most of the Western-based EPFIs suggested that project sponsors in Designated Countries (Canada, UK, US, and Germany, etc.) generally proposed and assessed projects according to the stringent environmental laws in advanced industrialized countries because the laws, regulations, and permits exceed Equator Principles covenants or requirements for projects. Western-based EPFIs involved in loan syndication for projects in developing countries indicated that developing country environmental and social regulations and governance were weak, or that the enforcement of the regulations was limited or non-existent. Project sponsors in poor countries interviewed for this research also acknowledged that host country government laws were weak, but nevertheless expressed stronger preference to abide by domestic environmental regulations than by voluntary codes such as Equator Principles; and they indicated that political interference from local governance systems (such as traditional chiefdoms) was an occasional concern.

#### 7.2.6 Impacts of Other External Factors and Other stakeholders

NGOs, working individually or collectively with project-affected communities, bring scrutiny to the project operations. EPFI-Q indicated that it had limited interaction with stakeholders such as NGOs and project-affected communities. Across most EPFIs (n=8), reviews of Equator Principles implementation guidelines influenced EPFIs interactions with project sponsors. It was unclear if that subsequent EPFI influence on project sponsors translated into discernable project sponsor impact for on-the-ground operations or project-affected communities. The competition, NGOs, other international voluntary codes, regional laws, and regulations also influenced how most EPFIs, and particularly project sponsors, implement the Equator Principles. Regional initiatives such as OECD's recommendations (Common Approaches), for example, for due diligence on environmental and social matters influenced both EPFIs and ultimately project sponsors according to EPFI-Q.

#### 7.2.7 Corporate Social Responsibility and Sustainability Effects of Equator Principles Projects

According to most EPFIs, project sponsors considered CSR and the quest for positive sustainability effects of Equator Principles projects as fulfilling the same roles of environmental and social risk management, hence deserving no special management approach. In other words,

project sponsors, for example, had no dedicated or stand-alone Equator Principles systems and structures for environmental and social reporting or for tracking the sustainability effects of Equator Principles projects. These EPFIs argued that Equator Principles reports fell within the general purview of the goal of their EPFI's CSR: ensuring that environmental and social activities or initiatives served corporate purposes and values. Even though EPFI-N1 differentiated CSR reporting from Equator Principles implementation reporting, it was unclear if such reporting on Equator Principles benefited the project sponsor with equally dedicated Equator Principles reporting systems. The interviewee project sponsors reported Equator Principles project sustainability within their CSR umbrella reporting.

#### 7.2.8 Discussion and Analysis of Findings

Firstly, findings from the project sponsors indicated that abiding with host country regulations, rather than the voluntary Equator Principles, was important from a compliance standpoint due to their mandatory nature. Yet the selective use of Equator Principles guidelines that project sponsor (KML) indicates in the data reported here would seem to support the view that even though EPFIs require project sponsors to abide by Equator Principles covenants, it is sometimes not possible. This is because—as the extractive industry officials<sup>9,10</sup> indicated to the author over the course of the research—EPFIs on their part conduct project monitoring infrequently and sometimes in a cursory way. Taken together, these two preceding assertions appear to support the need for an independent third-party oversight. EPFIs, by themselves, seem unable to—or project sponsors lack the motivation to—self-track their progress towards environmental and social sustainability as Sethi and Emelianova (2006) argue in their study (i.e. about the importance of compliance). Further, Thomas & Lawrence (2004) debate the discretion afforded Equator Principles implementers, which—these authors argue—introduces either opportunity or risk; and Schepers (2011) criticizes Equator Principles as “this minimal governance mechanism.” However, we need to interpret the assertions above regarding management flaws of a given project sponsor with caution because they are a product of assertions of a single self-identified Equator Principles project sponsor. Because other Equator Principles implementation assertions relate to view points of EPFIs with sizeable project portfolios (involving 553 projects as Table 3 shows), the findings, nevertheless, provide some interesting Equator Principles implementation considerations.

Secondly, a project sponsor's results show the willingness to acknowledge the deficiencies and limitations of some host country governments, suggesting certain aspects of government oversight and project appraisals may be of lower quality. However, input or resource suppliers could fill the vacuum resulting from weaknesses in host country regulatory authorities by requiring the customers (such as project sponsors) to abide by environmental and social obligations in global supply chains (Bernstein & Cashore, 2007), thus influencing the project sponsor's own sustainability orientation.

Also, avenues such as the media (Sharbrough & Moody, 1995) and the rise of social media such as Twitter, Facebook, Tumblr and so on (Bonsón & Flores, 2011; Juris, 2012), are all important

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<sup>9</sup> Interview with a senior project officer whose company is a client of an EPFI with an extensive network of branches in Africa, July 22, 2014.

<sup>10</sup> Interview with a project officer whose company is a client of an EPFI with an extensive network of branches in Africa, July 23, 2014.

elements that can mobilize for or against a project sponsor or provide a medium for losing or (re)building “reputational capital” (Gunningham et.al, 2004) in times of project breaches of environmental or social regulations or failures in corporate social responsibility (i.e., “crises scandal responses”) (Vogel, 2009). The project sponsor’s concerns for reputation requires the project sponsor to engage in “corporate citizenship” (Wood & Logsdon, 2001) as part of long-term concerns for society of which the project is part (Miranda et al., 2005).

Thirdly, most EPFIs find that Equator Principles project sponsors rely on external environmental and social consultants for environmental and social impact assessments regarding Equator Principles projects. In other words, this suggests that for Equator Principles projects, the mandates of Equator Principles reviewers (e.g., required staffing and responsibilities) (Equator Principles, 2013, p.14) are only emerging, or that project sponsors lack the environmental and social expertise that the Equator Principles Association expects of EPFIs clients—the project sponsors. Two EPFI interviewees, from EPFI-A and EPFI-N1, concurred, indicating that out-sourcing of environmental and social expertise is partly because in-house environmental and social expertise is only evolving. The project sponsor’s need for external Equator Principles environmental and social experts is necessary because of the observed conflation of general CSR initiatives with sustainability issues regarding Equator Principles projects.

This observation arises from one project official’s assertion that his organization’s CSR initiatives are sufficiently comprehensive to cover the implementation of the Equator Principles even though, as one project officer indicated “*[W]e have great interest in the principles and are yet to familiarize ourselves with Equator Principles obligations*” [personal communication]. There are several possible explanations for this project sponsor’s observation. One, it reflects a misunderstanding about certain sustainability issues regarding Equator Principles projects such as project legacies. Corporate social responsibility though sometimes comprehensive enough relates to specific initiatives that may be time-bound or arise from certain transient societal influences (e.g., short-term philanthropy). Secondly, the evolutionary nature of the Equator Principles itself suggests that project sponsors’ own structures and systems for Equator Principles are also evolutionary. In the formative stages, therefore, some project sponsors may not see the necessity of a separate or full-fledged Equator Principles structures and systems.

Lastly, from Table 8, and as implementation guide confirms (Equator Principles, 2013, p.7), most EPFIs require project sponsors to establish and maintain systems and structures for implementing ESAPs and ESMS and for capturing related data. This requirement for systems and structures is only obligatory and without legal consequences for Equator Principles signatories. Though EPFIs indicate that a follow-up monitoring regime is in place, the interviewed EPFIs neither shared the contents of the Equator Principles monitoring and review reports nor pointed the frequency with which EPFIs or project sponsors make such reports available to the public. This is consistent with extant Equator Principles literature (Sethi & Emelianova, 2006; Schepers, 2011) that suggests that monitoring occurs only infrequently, a point a senior project officer interviewed for this research upheld, stating: “*The bank has sent the technical team to follow up or audit the technical aspects of the project. However, the [bank] has not been keen on environmental aspects of the EP [Equator Principles]. They do not ask.*”<sup>11</sup>

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<sup>11</sup> Interview with a senior project officer whose company is a client of an EPFI with an extensive network of branches in Africa, July 21, 2014

It suggests, therefore, that whether in Designated Countries (Most of Western-Industrialized countries) or in poor countries (Non-Designated Countries), EPFIs rarely, if at all, publicize such project sponsor reports, or if they do, only general aspects of “successful” projects as in the Equator Principles sustainability report of EPFI-A.

### 7.2.9 Conclusion

The EPFIs are the drivers of the project sponsors’ implementation of the Equator Principles. To the extent that there are project sponsor deficiencies in implementation, we must be careful in interpreting project sponsor application and management of the Equator Principles as failings solely with original roots in environmental and social policies of EPFIs. We must recognize, therefore, the impact of the Equator Principles on project sponsors, and the project sponsors’ potential contribution, in turn, to the Equator Principles framework in broader terms. Each project sponsor operates in a unique context; and it is arguable that the Equator Principles Association recognizes this reality as well as how individual project sponsors ultimately address these issues. The author accepts Scheper’s (2011) view that internal challenges of finance culture and managerial orientation have an additional influence on the project sponsor application and management of Equator Principles. Simply put, the challenges of EPFI implementation intertwine with those of project sponsors.

Because each EPFI implements the Equator Principles in its own unique way, each project sponsor implements—to the greatest extent—the Equator Principles according to the unavoidable requirements of the specific project financier (EPFI), and within internal resource and capacity limitations. Under these circumstances, Equator Principles implementation becomes a “negotiated” and largely an unenforced Equator Principles Action Plan (EPAP) with the potential that the quality of Equator Principles implementation will—particularly under a competitive market ethos—be less than what the Equator Principles Association originally envisaged. The absence of transparency about the product—let alone the outcomes—of the “negotiated” EPAP between the EPFI and project sponsor has been a subject of BankTrack’s (2004; 2005a-2005c; 2012) criticisms of project sponsors—and of Equator Principles more generally.

Clearly then, based on the above perspectives and the output of Table 8, the Equator Principles need support and firming up. Drawing on the earlier work in the preceding chapters, the analysis revealed—in section 7.2—how Equator Principles implementation themes help us understand how project sponsors manage Equator Principles or how these themes shape the nature of Equator Principles implementation at the project sponsor level. These thematic elements are internal processes, organization structure, EPFI covenants, host country environmental regulations, and other external factors and stakeholders as well as project social responsibility (i.e., “CSR”). The analysis then tested these elements against the perspectives of project sponsors KML, and EPFI, resulting in preliminary findings in sections 7.2.2 to 7.2.7—such as project sponsor preference and inclination towards mandatory rather than voluntary codes such as Equator Principles, acknowledgement of host country deficiencies in environmental oversight, and the nature of project responsiveness to new government policies. The importance of this Equator Principles implementation framework with identified thematic elements above is to show that project sponsors are at the core of Equator Principles implementation and so provide some indication of the strength or usefulness of Equator Principles.

In addition, an independent oversight entity would have, as Schepers' (2011) indicates, an authority to examine EPAP outcomes and potentially to establish some meaningful, objective and measurable metrics that reflect, and prioritize, forms of development in the context or location of the project. An independent oversight mechanism independent of the Equator Principles Association would also represent an experimental pathway for assessing the impact of the Equator Principles on project sponsor operations, which, thus far, has been difficult to determine or affirm with certainty.

The next section—under Analytical Framework 2—is an example of how, subject to a more substantive future application, project sponsors could apply Gibson et al.'s (2005) requirements for a progress towards sustainability. Table 9 offers suggestions for transitions to—and project sponsor attempts towards—project sustainability. The present thesis uses a case example of Kalumbila Minerals Limited project to support Framework 2, and immediately after, uses the case example to describe the results of field-based interviews.

### 7.3 Towards a Positive Impact of the Equator Principles on Project Sponsors

In the analytical framework 2 presented in this section, this thesis extends the interview responses from the project staff at Kalumbila Minerals Limited (KML), and the analysis of its sustainability reports to research question 2 (i.e., the impact of the Equator Principles on project sponsors). Using interview responses and document analysis, it suggests how the project sponsor—KML—could potentially re-direct Equator Principles management of environmental and social covenants towards attention to lasting environmental and social sustainability. It does this through evaluating the impact of the Equator Principles on project sponsors using four of Gibson et al.'s (2005) generic requirements for sustainability, namely, socio and ecological integrity, precaution and adaptation, livelihood sufficiency and opportunity, socio-ecological civility, and democratic governance (see Appendix 1, Box 8, for the full list of generic requirements).

The choice of four generic requirements (with the remaining generic requirements to be applied to this case more substantively in future research) arose out of their alignment with aspects of the Equator Principles that have received much criticism in the Equator Principles literature. These aspects include (a) environmental and social assessment (EP 2) (Schepers, 2011; Leader & Ong, 2011, p.89-97; Lawrence & Thomas, 2004; Hardenbrook, 2007); (b) Stakeholder Engagement (EP 5) (Marco, 2011; Mikadze, 2012; Weber & Acheta, 2014; BankTrack, 2011); and (c) Grievance Mechanism (EP 6) (Bjurling, 2006; Lee, 2007).

Accordingly, based on the preceding paragraphs, the first column in Table 9 below briefly describes seven Equator Principles. The second column shows four selected requirements for a progress towards sustainability, premised on the criticism of the Equator Principles. The third column—based on interview responses from interviewees at Kalumbila Minerals Limited, its sustainability reports, and reports of NGOs as well as insights from sustainability literature—attempts to reconcile Equator Principles assessment issues in column one (1) with selected Gibson et al.' (2005) requirements for progress towards sustainability in column two (2). Column (3) reconciles column (1) and column (2) by suggesting potential transitions to—and current attempts towards project—environmental and social sustainability at Kalumbila Minerals Limited.

**Table 9:** Kalumbila Minerals Ltd and Prospects for Contributing to Positive Sustainability in Equator Principles projects

Equator Principles Assessment Issues /Profile	Requirements for Progress Towards Sustainability (Gibson et al., 2005)	Potential Transitions and Current Attempts Towards Project Sustainability at Kalumbila Minerals Ltd
<p><b>EP 1: Project Risk and Categorization</b></p> <p>Based on the magnitude of potential environmental and social risks and impacts Screening and project risk categories (A, B, C) based on IFC screening criteria</p> <p><b>EP 2: Environmental and Social Impact Assessment Seeks to:</b></p> <ul style="list-style-type: none"> <li>• Address environmental and social risks and impacts</li> <li>• Minimize, mitigate, and offset adverse environmental and social risks/Impacts</li> <li>• Include baseline studies and human rights due diligence.</li> <li>• Include alternatives analysis to identify least GHG intensive options</li> </ul> <p><b>EP 3: Applicable Environmental and Social Standards Includes:</b></p> <ul style="list-style-type: none"> <li>• Compliance with local environmental and social Laws, regulations &amp; permits</li> </ul> <p><b>EP 4: Environmental and Social Management System and Equator Principles Action Plan</b></p>	<p><u>Social and Ecological Integrity</u></p> <ul style="list-style-type: none"> <li>• contribution to human-ecological relations for long-term integrity of socio-biophysical systems</li> </ul> <p>Multiple factors have a bearing on social-ecological integrity. These range from factors within the project’s area of influence and external factors such as regional/national economic and governance influences and the complex system dynamics undergirding social-ecological integrity (Gibson, unpublished work, 2016; Gibson et al.,2005).</p> <p>Comment on EP2</p> <ul style="list-style-type: none"> <li>• The project sponsor conducts ESIA in-house or out-sources it to the consultant, on agreed to terms of reference (ToR) which may mirror, within limitations, the environmental and social issues or expectations of KML’s partner EFPIs</li> <li>• KML’s partner EPFIs apply IFC’s risk categorization and draw EP Action Plan with KML. Tendency is more towards minimizing risks and impacts.</li> </ul> <p>Some scholars have lamented about the incompleteness and the insufficiency of ESIA approaches and missed opportunities for contributing to sustainability (Gibson et al., 2005; Audouin &amp; de Wet, 2012; Hacking &amp;</p>	<ul style="list-style-type: none"> <li>• De-emphasize “checklist” Equator Principles approach currently applied among project sponsors (Equator Principles, 2013, p.20). Need for Equator Principles Association to internalize or “understand the complex system implications” (Gibson et al, 2005, p.116) of project sponsor activities on the integrity of socio-biophysical systems, and the need to properly conceptualize social impacts (Vanclay, 2002).</li> <li>• Encourage efforts towards sustainability-based assessments “with positive contribution to sustainability” (Gibson, 2006), from both government of Zambia and project sponsor (KML). The progress towards sustainability requires the project (Trident Project) to move beyond mitigation to include enhancement of lasting positive impacts. Efforts underway in this direction</li> <li>• The need to consider cumulative project impacts (Gibson, 2006a; Gibson, 2006b) and one-on-one (“cross-project”) impacts and risks of KML’s three mine sites—Intrepid, Enterprise &amp; Sentinel as part of broader need to preserve ecosystem integrity.</li> <li>• Consider affected communities’ needs for explicit changes to the Equator Principles framework to afford these communities the explicit option of legal challenge or direct representations at the financial institutions such as EPFIs.</li> <li>• Affected communities could require that a clause such as “The [Environmental] Fund shall be used for such other purpose as may be prescribed in “ZEMA Act No. 12 of 2011, Sec 95” and Sec 86-Environmental Fund of The Zambian Mines and Mineral Development Act No. 11 of 2015 (ZEMA, n.d.) demand that both explicitly include</li> </ul>



<ul style="list-style-type: none"> <li>• Development and Maintenance of ESMS, ESMP, EPAP</li> </ul>	<p>Gutherie, 2006).</p> <p><u>Precaution and adaptation</u></p> <ul style="list-style-type: none"> <li>• “Respect uncertainty, avoid even poorly understood risks of serious or irreversible damage to the foundations for sustainability, plan to learn, design for surprise, and manage for adaptation.” (Gibson et al., 2005)</li> </ul> <p>Comment: The extent to which project sponsors implement any of the multiple options in ESMS, ESMP and EPAP in the face of potentially significant socio-ecological risks is dependent on resource availability, the robustness of the host country’s environmental and social governance systems legislation and enforcement (Compagnon, Chan, &amp; Mert, 2012; Sambo et al., 2015) and institutional capacity—particularly for Equator Principles projects—in developing countries.</p>	<p>“intervenor financing” (Gamble,1978, pp 945-950) as one such potential purpose.</p> <p><u>Current Initiatives and Considerations</u></p> <ul style="list-style-type: none"> <li>• Respect and need for protection and maintenance of local ecosystems through proper management of waste (tailings, chemical effluents, etc.) (FQML, 2011; Songolo, Moono, &amp; Mwenya, 2016; FQML, 2014b; Montague, 1998; Kriebel et al., 2001). Use of state-of-art</li> <li>• KML partnership with Zambia Wildlife Authority (ZAWA). Aimed at training wildlife game scouts and involve the chiefdom and its subjects and headmen (Ndunas) in the management and protection of natural resources.</li> </ul>
<p>No explicit Equator Principle for livelihood sufficiency and opportunity for Project-affected communities or region. Livelihood gains are assumed to be a by-product of the project’s economic benefits</p>	<p><u>Livelihood sufficiency and opportunity</u></p> <p>Comment</p> <p>Regional and local communities of the project area of influence determine what constitutes having sufficient livelihoods, and opportunities themselves are a factor of many variables such as how project proponent and stakeholders have considered current opportunities as bridges for positive legacies (Gibson, 2014; Gibson, 2015).</p>	<p>Mining is vital for mineral royalties and tax revenues for the government of Zambia. (It accounts for about 75% of Zambia’s exports or 30% of GDP (IMF, 2015). As a mine, KML operates on a non-renewable resource that requires attention to post-mining initiatives, and programs for lasting positive legacies. Current on-going and contemplated initiatives (bridges for positive legacies) include:</p> <ul style="list-style-type: none"> <li>• KML’s (Trident Project’s) current conservation agriculture program (FQML Sustainability Report, 2014b).</li> <li>• Funding community infrastructure not entirely dedicated to current KML mining activities (e.g. contributing to development of Kalumbila Town, and facilitating local and regional infrastructure development) [Interview with KML Project Staff].</li> <li>• Skills training for the local people, KML is partner/funder of the national Joint Forest Management Program (FQML Sustainability Report, 2014b).</li> </ul>

<p><b>EP 5: Stakeholder Engagement, should be:</b></p> <ul style="list-style-type: none"> <li>• an ongoing process</li> <li>• structured and culturally appropriate</li> <li>• one that involves an informed consultation and encourages an inclusive participation</li> </ul> <p><b>EP 6: Grievance Mechanism (Part of ESMS)</b> (For all Category A and, as appropriate, Category B Projects), the EPFI will require the client to establish a grievance mechanism that:</p> <ul style="list-style-type: none"> <li>• Resolves concerns and grievances about the Project’s E&amp; S performance</li> <li>• Is understandable, transparent and readily accessible and at no cost to PACs.</li> <li>• Potentially facilitates access to administrative and judicial remedies</li> </ul> <p><b>EP 7: Independent Review</b> For project risk categories, A &amp; B assessment documentation (including ESMPs, ESMS, Stakeholder Engagement process documentation</p>	<p><u>Socio-ecological civility and democratic governance</u></p> <ul style="list-style-type: none"> <li>• Equipping individuals and PACs for sustainability through more open arena for participation in assessment</li> <li>• Collective responsibility.</li> <li>• Integrated use of administrative, market, customary and personal decision-making practices</li> </ul> <p>Comment: One suggested approach to address issues in EP environmental and social impact assessment involves the use of panel of experts (PoE) to examine potential assessment issues for a project sponsor and to recommend an ESIA consultant or consultants who would then produce the first draft (Goodland, 2012).</p> <p>Responses to this approach would focus on the fact that any negative final decision and its consequences could potentially rest on the panel of experts rather than on the ESIA team (Goodland, 2012)</p> <p>Cost considerations for the project sponsor could be significant with large-scale projects such as KML’s Trident Project. An independent third-party expert review could raise the quality of the ESIA report but also increases the potential field of arguments—an aspect that industry says is untenable in a competitive field of project financing</p>	<ul style="list-style-type: none"> <li>• The need for PACs particularly in the adjoining chiefdom to hold veto rights for KML’s project sites. Veto rights are part of broader aspects important for “social license to mine” (Joyce &amp; Thomson, 2000; Kemp, 2010 ; Prno &amp; Slocombe, 2014) and for stability of financing agreements with EPFIs (EP 5, EP 8 &amp; EP 10)</li> <li>• Encourage efforts that avoid matching EIA to pre-conceived project designs (Leaton, 2005, p.2) particularly for current and future mine sites in KML’s expansion strategies (e.g., Intrepid and Enterprise mine sites).</li> <li>• Need for community legacy funds (Gibson, 2014; Gibson, 2015) as a preparation for a post-mining future or prior to decommissioning of the Sentinel mine—part of the broad Trident Project-- as anticipated in 2031 or 2039) (Coastal and Environmental Services, 2012, p.20)</li> <li>• Analysis of community resource strengths and weaknesses as a basis for guiding or forecasting a post-mining future (Miranda et al., 2005; Gibson, 2014). Related to above, plan and develop strategies for acquiring skills for new post-mining economic future. Trident Foundation Advisory Committee represents good initiative (www.lusakatimes.com)</li> <li>• Need for resolution of outstanding land claims, conflicts and issues about land management among KML, central government and the traditional chiefdom (See Appendix 1, Box 5) required as a basis for proper planning for the lasting legacies.</li> <li>• Need for sufficient information and engagement with PACs about project life (for expected Intrepid and Enterprise mine developments) to allow for robust economic planning for PACs before 2031 or 2039—the anticipated time for closure of the Trident Project.</li> <li>• Encourage negotiations around project design and implementation for outstanding Intrepid/Enterprise mine sites to ensure longer project life, cushion against boom-bust effects (Gibson, 2006a)</li> </ul>
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In this section, the thesis describes the results of field-based interviews with staff of Kalumbila Minerals Limited (KML) responsible for a project that was financed under the Equator Principles. The responses center on research question two: The impact of Equator Principles on Project Sponsors. The project sponsor responses—partly shown in in Table 8 (under Kalumbila Minerals Limited)—are premised on the analytical framework 1 in section 4.2, using six Equator Principles implementation themes as shown below. However, the corresponding interview questions were respectively: on the strengths and weaknesses of the Equator Principles; the influence of the team members’ participation on the project approval and sustainability effects; the team members’ legal, institutional and cultural bases for sustainability effects; gaps in overseeing and managing the projects’ sustainability effects, environmental and social risk assessment process, and in implementing its action or mitigation plans; the influence of EPFIs on project environmental and social sustainability outcomes; and finally, on organizational plan for, and the implementation of, programs that address positive legacies.

### 7.3.1 The strengths and effectiveness of the Equator Principles

On the evaluation of the Equator Principles as parts of internal processes, standards, and policies: KML’s project officer indicated that the effectiveness of the Equator Principles “is problematic because it relies on members for self-enforcement. It is an area of potential conflict of interest”<sup>12</sup>. KML’s project officer indicated that as a tool of sustainability, Equator Principles caused a conflict with voluntary ISO programs that “are, for example, more rigorous in its enforcement of voluntary rules as it demands on-site verification. Where internal rules are not properly followed, ISO can withdraw certification. On the other hand, voluntary standards without such rigorous enforcement[exist]. The [Equator Principles] EP, [for example], should demand the same”<sup>13</sup>. KML’s project officer pointed out that because Equator Principles were not a subject of on-site verification, there was a risk that project sponsors could not seriously undertake Equator Principles management. However, the KML project officer acknowledged that:

*“the Equator Principles [EP] have helped us streamline these processes and to some extent, it has helped bring more consideration of environmental and social issues. The weaknesses of the banks in not following up on us on the ground may be because they are just about window dressing and they are not serious about social and environmental issues. It creates the potential for borrowers to avoid self-reporting if there are violations of [the Equator Principles]-EP. In short, it seems that EP may be about reputation”<sup>14</sup>.*

### 7.3.2 Kalumbila Minerals Limited’s Internal Processes, Standards, and Policies

The research also aimed to improve understanding of how the project staff roles influenced decision-making within the project sponsor’s operation, especially with respect to project approval and sustainability outcomes. While project approval, is arguably, the domain of high-level management, the interviewees indicated that they were “100 percent” involved in approval and

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<sup>12</sup> Interview with the project officer working on an Equator Principles project, June 24, 2015

<sup>13</sup> Interview with the project officer working on an Equator Principles project, June 24, 2015

<sup>14</sup> Interview with the project officer working on an Equator Principles project, June 24, 2015

sustainability outcomes. KML’s project officer, said that staff within the environmental unit “had mandate to deal with environmental issues.... The social-economic aspects are the domain of another department”<sup>15</sup>. It was understood that project staff considered the environmental considerations and implications of the Equator Principles within the overall umbrella of the project’s environmental agenda.

The availability of resources, the environmental mandate available to the team, and teamwork facilitated the project staff in their work. One project officer, also on the Equator Principles project, suggested that KML implemented Equator Principles covenants on a selective basis, and under the umbrella of CSR initiatives, and that it was not apparent that EPFIs linked environmental and social risk management directly to project financing.

### 7.3.3 Organizational Structure for Equator Principles Implementation

The project officer indicated that Equator Principles management occurred within the umbrella of corporate social responsibility. There were no standalone structures for Equator Principles implementation. KML’s organizational structure for reporting on environmental and social issues fell under corporate sustainability reporting, were the KML (or more accurately, FQML) made environmental decisions based on the need for compliance.

On the gaps in overseeing and managing the projects sustainability effects, environmental and social risk assessment process, and in implementing its action or mitigation plans, the KML project officer, indicated that monitoring would be important in ensuring:

*“that we stakeholders live up to their obligations under EP [the Equator Principles]. Even the issue of complete compliance is hard because environmental and social issues could perhaps be split. This is because environmental issues can perhaps be addressed with ease. However, social issues are so complex. This could entail setting two different standards. The EP [the Equator Principles] is good instrument but they must be implemented very carefully because the illiterates could put it aside in preference of economic considerations”<sup>16</sup>.*

The KML project officer added that it does mean that stakeholders should not be treated as an identical unit.

### 7.3.4 Equator Principles Covenants: Planning for Post-Mining Issues

Given the nature of mining as an activity that involves a depletable resource, an alternative stable post-mining future—suggested under Principle 8 (Decommissioning)—is important for project-affected communities, particularly through establishing lasting positive legacies. On the issue of legacy, the interview question sought to understand how KML and its Equator Principles projects planned for, and implemented, post-mining activities that “contribute for lasting positive legacies (Gibson, 2014) within its community development programs given that mining activities in Zambia’s Copperbelt have often left negative legacies (World Bank, 2011) for communities. KML’s project officer indicated that several initiatives were ongoing to address the issues related

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<sup>15</sup> Interview with the project officer working on an Equator Principles project, June 24, 2015.

<sup>16</sup> Interview with the project officer working on an Equator Principles project, June 24, 2015.

to a post-mining future. As a concept, KML designed a town—Kalumbila Town—outside the geographical area of the mine so it is free for development (FQML, 2014, p.67). The design includes an industrial park for potential entrepreneurs. One area in an initial design represents a vision for a farming hub. The premise for this vision was that prior to the commencement of mine developments in 2010, the project-affected communities were small-scale farmers, and had lived that way of life, for generations. Therefore, such an approach bridged a need to main cultural ways with the increasingly modern lifestyle associated with mining. Specifically, *“this is especially because our activity [mining] is subject to depletion [and therefore time-constrained], and the [farming] activity that matched with the history and the geography of this place was agriculture”*<sup>17</sup>. KML’s project officer believes that the company can build small scale farming skills, and expresses the desire to upgrade them with the hope that the idea can lead to sustainable agriculture.

Moreover, the KML’s project officer said that the KML Equator Principles project did not receive the full effect of all the Equator Principles because the KML project did not adopt all Equator Principles but *“we have taken up EP 5 [Stakeholder Engagement] and EP 6[Grievance Mechanisms]. Stakeholder engagement also depends on where you are engaging. There are different stakeholders: the technocrats, the traditional chieftom, and the subjects themselves.”*

### 7.3.5 Implementation of Equator Principles Covenants

The intent of the interview question was to understand if the project team members’ decisions regarding project sustainability had legal, institutional and cultural bases as the Equator Principles require project sponsors to abide by host country laws, regulations and permits. The project officer acknowledged that the host country government’s regulatory systems were weak “so standards such as [Equator Principles] EP help fill the gaps in capacity”. Nevertheless, the project officer expressed stronger preference to abide by domestic environmental regulations than by voluntary codes such as Equator Principles; and they indicated that political interference from local governance systems (such as traditional chieftoms) was an occasional concern.

### 7.3.6 Impacts of Other External Factors and Other stakeholders

The project officer indicated that there was likely EPFI influence on the activities of the project. However, he acknowledged that the environmental unit knew little or nothing about the financing package [covenants] regarding the project. “I would not say it is the bank pressures that move us in the sustainability direction. Most of what we do environmentally is based on our corporate environmental policies”<sup>18</sup>.

About the cultural basis of the environmental unit’s actions and decisions on the Equator Principles projects, the project officer suggested that on occasions the environment unit considered the influence of cultural issues. The project officer added

*“Sometimes we refuse to act based on cultural needs [of the chieftom]. In some cases, there are instances where a traditional chieftom seeks control for selfish reasons. For example,*

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<sup>17</sup> Interview with the project officer working on an Equator Principles project, June 24, 2015.

<sup>18</sup> Interview with the project officer working on an Equator Principles project, June 24, 2015.

*were the chief would require compensation for the chieftom deposited into his personal account. Because of the absence of transparency and accountability, we refuse to abide with decisions [of the chieftom] that do not align with our corporate values”<sup>19</sup>.*

### 7.3.7 Discussion and Analysis of KML Equator Principles Implementation

The KML’s environmental unit’s assertion that there are different classes of stakeholder suggests a loose fit with the theories of power, legitimacy, and urgency (Mitchell et al, 1997). Mitchell et al. (1997) argue that through understanding the attributes of power, legitimacy and urgency, it is possible for managers to identify different stakeholders and understand stakeholder salience by which the authors mean managers, the firm or even an EPFI-type project can determine to what or to whom managers pay attention. The project officer proposed that there “there is a danger that some uninformed stakeholders could engage in ignorance and harden positions among other illiterates”<sup>20</sup>.

On EPFI covenants that project sponsors are expected to apply or manage in their operations, we must exercise care in understanding their nature. Shihata (1995), for example, called for caution observing that covenants in legal documents do not ensure that appropriate action will come through (p. 207). Even for projects financed under Equator Principles, the existence of the Equator Principles covenants does not necessarily translate into better environmental and social impact assessment as this thesis demonstrates in the preceding chapters. This is because the overarching legal and governance umbrella under which voluntary codes operate are weak (Richardson, 2005). Where EPFIs lack monitoring capacity, or do so only infrequently, oversight could come from a team of project stakeholders as a starting point towards a more independent review panel.

However, related to the observation in the preceding paragraph, it is important to make a caveat about a project’s contribution to sustainability; In some environmental and social impact assessments (ESIA as defined in Box 6, Appendix 1) such as for a mine, an EPFI’s (or an ESIA assessor’s) evaluation of all potential risks and impacts is difficult, perhaps even unrealistic. One reason is that because mining exhausts or depletes the orebody, mines are resource projects with limited lives. The challenge, therefore, is how to prepare for lasting positive contributions (Goodland, 2012; Gibson, 2006), particularly for the project-affected communities, so that the mine effects offer prospects for greater sustainability. The overarching approach towards this end is through actions that enable bridging for positive legacies (Gibson, 2014; Miranda et al., 2005). Spitz and Trudinger (2009) similarly point out “that the socioeconomic impacts of mining and mine closure in the host country are often of a higher significance than the physical and ecological environmental effects, particularly in the short term and in the political sphere.”

Moreover, Kalumbila Minerals Limited, on its part, operates in a jurisdiction with a weak government and poor environmental governance record due to capacity issues (Sambo et al., 2015). Wright and Rwabizambuga (2006) show in their seminal Equator Principles paper that the governance conditions or the practice of democracy and the enabling legal architecture of the jurisdiction help shape, nurture and influence an open participative forum. Given the democratic and legal challenges in the host country (Zambia), it is plausible that the nature of community

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<sup>19</sup> Interview with the project officer working on an Equator Principles project, June 24, 2015.

<sup>20</sup> Interview with the project officer working on an Equator Principles project, June 24, 2015.

stakeholder engagement may not be free of external manipulation, interference, coercion, and intimidation (Equator Principles, 2013, p.7) or does not nurture an environment that enables or affords access to effective legal redress of social and environmental conflicts or matters. This may foreshadow negative Equator Principles outcomes. In fact, a weak regulatory environment calls into question the Equator Principles association's rationale of linking a voluntary code such as Equator Principles to host country laws and regulations or to more stringent IFC performance standards that may be of limited use or that are weakly enforced in a host country. Specifically, the question about the effectiveness of Equator Principles implementation will be a question about the laws or regulations upon which they are pegged.

In addition, the Equator Principles grievance mechanism in Kalumbila Minerals Ltd resides within its management structure. Such an arrangement has encouraged criticism of potential conflict of interest. Beyond that, such a grievance mechanism attracts charges of lack of transparency particularly given perceived power imbalances that influence potential and real conflicts as indicated in Box 5, Appendix 1.

### 7.3.8 Conclusion

The case study example of Kalumbila Minerals Limited (KML) is unique as are other case studies in qualitative research involving environmental and social impact assessments. The different histories, power asymmetries and diverse sustainability assessment practices define each case. Application of analytical framework 1 demonstrated how the project sponsor application and management of Equator Principles could be understood in practice through examining high level themes. Application of analytical framework 2 linked select Equator Principles to select Gibson et al. 2005 decision criteria for a progress to sustainability through suggesting potential issues for consideration or highlighting sustainability attempts at Kalumbila Minerals Limited (KML). The idea is to transition Equator Principles to lasting environmental and social sustainability. This implies that sustainability assessment must proceed beyond the narrow social and environmental project goals in Equator Principles to encompass far-reaching considerations and reforms than currently obtain, as Gibson et al., 2005 criteria indicate. In addition, the benefits and costs of the KML case show the need for stakeholders to fairly assess their impacts on future generations. The use of industry guidelines to which the project proponent subscribed such as the Equator Principles, and applying mandatory government regulations represent, arguably, first steps towards comprehensive approach in sustainability assessment of KML.

The comparatively narrow Equator Principles implementation approach for appraising KML is insufficient. While it is true that we cannot use the KML's case to make broad generalizations about the case's contribution or non-contribution to sustainability, the KML case is nevertheless informative. Indeed, it now joins a list of few select openly available project sponsor cases in Equator Principles literature so far, with evolving information regarding internal decision-making for Equator Principles implementation. Access to the cases of project sponsors subject to Equator Principles as in KML represents an opening for understanding and improving project sponsor management of Equator Principles, and potentially for developing or testing theories about Equator Principles implementation and application in the empirical realm.

This is especially important for project sponsors, as they represent bridges between EPFIs and

project-affected communities. For this reason, an approach to sustainability assessment such as Gibson et al.'s (2005), contributes to a “systemic view” of elements of Equator Principles implementation, may act as an implementation guide or an alternative critique of Equator Principles. The background reasons for these observations are multiple.

Firstly, perspectives of interviewed EPFIs and project sponsors such as KML show that CSR implementation tends to overshadow Equator Principles implementation thus clouding the implementation aspects to emphasize and the assessment criteria to apply. The research found that project sponsor perception of how to apply the Equator Principles is unclear and disjointed even within KML related operational units, and to some extent differs from the perspectives of some EPFIs whose Equator Principles practices are equally dissimilar.

Secondly, and related to the preceding point, the evolving if not the disparate implementation structures within project sponsors as indicated in the EPFI perspectives, suggest implementation variance—and potentially different sustainability outcomes—among project sponsors.

Thirdly and lastly, the extent of follow up monitoring is in some cases adhoc, and the re-active response of the Equator Principles association in some cases drives the evolutionary nature of Equator Principles implementation. These findings, given the limitations of this study, suggest that the earlier second hypothesis (H2) (section 4.3) about the project sponsors in Equator Principles serving the goal of sound social responsibility and responsible environmental stewardship and to align with the needs of EPFIs, may be partly plausible and, arguably, may be about some project sponsors aligning their operations with the concerns of EPFIs for reputation. Therefore, while more comprehensive than environmental and social impact assessments under the Equator Principles framework, sustainability-based assessments with more strategic-level directedness and review panel-facilitated such as those proposed or undertaken under along the lines of Gibson et al.'s (2005) decision criteria could, arguably, cure some of the lacunas inherent in the Equator Principles, and in project sponsor operations. In the following chapter, the thesis continues this discussion by examining the impact of the Equator Principles on project-affected communities via stakeholder engagement and grievance mechanisms.



## 7.4 Impacts of Equator Principles on Affected Communities

This section addresses the last of the research questions about the impacts of Equator Principles on project-affected communities (PACs) through understating the limitations of, and challenges of, the Equator Principles Stakeholder Engagement, and its related grievance mechanism as stated in chapter 4, Table 1. The questions are as below:

- What are the strengths and weaknesses of stakeholder engagement processes?
- How effective is the dispute resolution mechanism?
- How effective is the reporting system and verification mechanism for stakeholder engagement outcomes regarding environmental and social risks and impacts?
- How adequate and effective are the resources for stakeholder engagement and dispute resolutions?
- What is the stakeholder's assessment of informed and voluntary consent in the stakeholder engagement process?
- What other issues do you think are pertinent in stakeholder engagement?

The above set of interview questions was premised on the first of Hodge's (2004) *Seven Questions to Sustainability-7QS*. Hodge (2004) divides his first question into two sub-questions namely;

“(a) Are processes of engagement committed to, designed and implemented that: ensure all affected communities of interest (including vulnerable or disadvantaged sub-populations by reason of, for example, minority status, gender, ethnicity or economic status) have the opportunity to participate in the decisions that influence their own future; and

(b) are [the processes of engagement] understood, agreed upon by implicated communities of interest and are consistent with the legal, institutional and cultural characteristics of the community and country where the project is located?”

Hodge (2004) then clarified the above relationship/engagement question under five sub-elements namely, engagement processes, dispute resolution mechanism, reporting and verification, adequate resources, and informed and voluntary consent (See Appendix 1, Box 2, and Table 10, below). These sub-elements correspond with the elements of stakeholder engagement in Equator Principles framework, under Equator Principle 5 (Stakeholder Engagement), and Principle 6 (Grievance Mechanism). This thesis' research suggests that the elements of stakeholder engagement, within the Equator Principles framework (Equator Principles, 2013, pp.7-8, 17) and IFC (2007, p.22), taken together, have the following objectives:

- To encourage input and participation from among project-affected communities in decision-making regarding project development and resource management.
- To engender, share and validate knowledge for both current and future management of potential risks and affected communities' concerns about the project.
- To provide the project-sponsor organization a basis for institutionalizing consensus decision-making for projects.

These Equator Principles and IFC derived stakeholder engagement objectives, taken together, align with the third objective of this thesis, which is to investigate the limitations and challenges

for project-affected communities throughout the process of stakeholder engagement, and in the established grievance mechanism as per the Equator Principles framework. This objective is important for projects or for an organization because “relatively small actions or inaction by a company can result in significant negative reactions from the local population” (Joyce & Thomson, 2000). Against this background, Table 10 below presents the results of this study through the perspectives of interviewees regarding the implementation of stakeholder engagement, and related issues. Column (1) shows the interviewees. Column (2) provides interviewees’ comments about the stakeholder engagement process. Columns (3) to Column (7) identify the pertinent issues within stakeholder engagement (or “relationships”) and show different interviewee responses.

**Table 10:** Perspectives of Interviewees on Stakeholder Engagement and Grievance Resolutions

<p><b>Equator Principles Implementation</b></p> <p><b>Interviewee by Designation</b></p> <p>(1)</p>	<p><b>Stakeholder Engagement Processes</b></p> <p>(2)</p>	<p><b>Dispute Resolution Mechanism (Grievance Mechanism)<sup>21</sup></b></p> <p>(3)</p>	<p><b>Reporting and Verification (Project Sustainability Effects)</b></p> <p>(4)</p>	<p><b>Adequate Resources</b></p> <p>(5)</p>	<p><b>Informed and Voluntary Consent</b></p> <p>(6)</p>	<p><b>Other Related Issues</b></p> <p>(7)</p>
<p>Traditional Chief-A KML</p>	<ul style="list-style-type: none"> <li>• Chiefdom’s input in participation is limited consultation.</li> <li>• “Absence of Memorandum of Understanding on important issues” (i.e., critical issues, how to measure progress on these issues and what “progress” is)</li> <li>• Exclusion of Chiefdom from Gov’t +Mine Agenda.</li> </ul>	<ul style="list-style-type: none"> <li>• “Not balanced for all” as chiefdom not included in the management of concerns and grievances.</li> <li>• KML liaison to chiefdom not independent.</li> </ul>	<ul style="list-style-type: none"> <li>• Selective consideration of “our concerns” by KML.</li> <li>• Limited reporting of environmental and social impacts/outcomes</li> <li>• Absence of co-management/ verification of community environmental and social issues</li> <li>• Chiefdom reports concerns to other organizations (E.g., NGOs).</li> </ul>	<ul style="list-style-type: none"> <li>• More resources required to engage adequately with KML.</li> <li>• Resources required to facilitate understanding certain agenda items.</li> </ul>	<ul style="list-style-type: none"> <li>• Government Interference in Chiefdom/KML issues</li> <li>• No consent from Chiefdom for on-going project developments.</li> <li>• Chiefdom/Community lacks access to relevant agenda and information about KML’s activities.</li> </ul>	<ul style="list-style-type: none"> <li>• Certain positive project developments but should be long-term.</li> <li>• Problem of waste management (Tailings)</li> <li>• KML stakeholder engagement approach fragmented without chiefdom input.</li> </ul>

<sup>21</sup> The interactions/ conflict between adjacent chiefdom/local communities and KML is chronicled in Appendix 1, Box 5

Traditional Chief-B NL	<ul style="list-style-type: none"> <li>• Process understood but not for the Equator Principles framework.</li> </ul>	<ul style="list-style-type: none"> <li>• Could be improved through “including many economic things”.</li> </ul>	<ul style="list-style-type: none"> <li>• In the process of setting a co-management of reporting and verifying environmental and social impacts/risks.</li> </ul>	<ul style="list-style-type: none"> <li>• A problem but the company facilitates meetings.</li> </ul>	<ul style="list-style-type: none"> <li>• Company activities and stakeholder engagement agenda somewhat understood.</li> </ul>	<ul style="list-style-type: none"> <li>• CSR activities are beneficial and positive for the community.</li> </ul>
Chiefdom adjacent to KML (Project-affected communities) Individuals KML1, KML2, and KML3	<ul style="list-style-type: none"> <li>• Processes not well understood</li> <li>• Concern about adequate gender representation in agenda setting</li> </ul>	<ul style="list-style-type: none"> <li>• Depends on the company not on “our request”.</li> <li>• Preference for government resolution</li> </ul>	<ul style="list-style-type: none"> <li>• Community Reporting role on environmental and social outcomes falls on the Chief and based partly on community findings.</li> </ul>	<ul style="list-style-type: none"> <li>• Problem defining “adequate resources”.</li> <li>• Issues not well-defined and difficult to know the extent of required resources</li> </ul>	<ul style="list-style-type: none"> <li>• Not enough information about KML. Government imposes and negotiates with KML (Absence of veto rights).</li> </ul>	<ul style="list-style-type: none"> <li>• Concern for Competition for jobs and other economic opportunities with “immigrants” into the area.</li> </ul>
Project Officer KML	<ul style="list-style-type: none"> <li>• Stakeholder Engagement based on KML Corporate Values</li> </ul>	<ul style="list-style-type: none"> <li>• Differences in the category of Chiefdom Stakeholders.</li> </ul>	<ul style="list-style-type: none"> <li>• Required to follow KML’s processes not chiefdoms’ procedures.</li> </ul>	<ul style="list-style-type: none"> <li>• “A lot of resources have been put in the Community”.</li> </ul>	<ul style="list-style-type: none"> <li>• All this was part of ESIA since Mine Development (2010)</li> </ul>	<ul style="list-style-type: none"> <li>• “Active” planning for post-mining future</li> </ul>

<p>Civil Society (NGOs)</p>	<ul style="list-style-type: none"> <li>• Some initial progress in contacting KML.</li> <li>• Stakeholder engagement process requires improvement in agenda setting.</li> </ul>	<ul style="list-style-type: none"> <li>• Project sponsor dispute resolution structures unclear.</li> <li>• Tendency to defer to gov't rather project-affected communities</li> </ul>	<ul style="list-style-type: none"> <li>• Required to follow Equator Principles financing conditions.</li> <li>• Absence of KML indicators that communities are satisfied with mechanism.</li> </ul>	<ul style="list-style-type: none"> <li>• Project-affected communities do not have adequate financial and expert resources to engage with “powerful companies such as KML”.</li> </ul>	<ul style="list-style-type: none"> <li>• The project-affected communities are not sufficiently resourced and powerful to have adequate information and veto rights.</li> <li>• There is “subtle forced consent”.</li> </ul>	<ul style="list-style-type: none"> <li>• Concerns about political interference/ and lack of government leadership on environmental issues</li> </ul>
<p>Project Officer Ndola</p>	<ul style="list-style-type: none"> <li>• Process understood as per Gov't regulations and corporate policies Some consideration of the Equator Principles framework.</li> </ul>	<ul style="list-style-type: none"> <li>• Dispute Resolution per Company policies and Gov't regulations.</li> <li>• Not per Equator Principles</li> </ul>	<ul style="list-style-type: none"> <li>• Reporting per company Stakeholder Engagement policies.</li> <li>• Occasional Independent audit verification</li> </ul>	<ul style="list-style-type: none"> <li>• There are adequate resources for stakeholder engagement.</li> </ul>	<ul style="list-style-type: none"> <li>• The project-affected communities are adequately informed.</li> <li>• There is “negotiated” consensus on stakeholder issues.</li> </ul>	<p>Resettlement and Compensation issues conducted as per company policies.</p>
<p>Chiefdom adjacent to NL (Project-affected communities) Individuals NL1, and NL2</p>	<p>The Equator Principles stakeholder engagement process not known/understood.</p>	<p>Not well-conducted per community assessment and differs with community</p>	<p>Community concerns about inadequate reporting on Environmental and Social impacts</p>	<p>Communities do not recognize company resources for stakeholder engagement</p>	<p>Current company information to communities does not enable informed decision-making for full consent to company activities. Company is powerful.</p>	<p>Co-management of stakeholder engagement agenda and environmental monitoring required.</p>

<p>Environmental officer Environmental Management Agency</p>	<ul style="list-style-type: none"> <li>• Stakeholder engagement is required per gov't regulations.</li> <li>• The nature of stakeholder engagement process per Equator Principles is less understood among communities.</li> </ul>	<ul style="list-style-type: none"> <li>• Dispute resolution related to the environment or enforcement occurs within procedures in judicial system.</li> <li>• Equator Principles Grievance mechanism supplements or informs.</li> </ul>	<ul style="list-style-type: none"> <li>• Environmental and Impact Assessments (EIA) reports and briefs is the domain of the proponent.</li> <li>• Agency is required by law to review/verify project sponsor reporting.</li> <li>• "Institutional and Capacity issues influence our verification work".</li> </ul>	<ul style="list-style-type: none"> <li>• Financial resources for overseeing stakeholder engagement process may inadequate.</li> <li>• "Logistics are always a problem for remote communities and others who may want engage with project owners".</li> </ul>	<ul style="list-style-type: none"> <li>• Project-affected communities room for rejecting project is limited. Mostly a high level political decision.</li> <li>• "There is subjectivity which is left a lot to those who are doing the work and is a [potential] source of abuse [of the process]"</li> </ul>	<p>Political interference in enforcing environmental law. "...projects are highly politically motivated and involve repeated moving up the political ladder".</p>
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Source: Interview Scripts; Field Notes 2014-2015

Based on Table 10 above, the sections below describe the results of interviews, highlighting various themes namely, grievance or dispute resolution; verification and reporting; resources for stakeholders and other stakeholder issues.

#### 7.4.1 The Impact of the Equator Principles on project-affected communities.

The first sub research question was about the interviewee assessment of the general process of stakeholder engagement. Among the interviewees, there were mixed opinions about stakeholder engagement. Concerns ranged from agenda setting (traditional chief-A), through adequate understanding of the process (traditional chief-B)<sup>22</sup>, gender representation (some individuals within chiefdom-B), issue framing based on corporate values (project officer) to the stakeholder requirements and necessity under the law (environmental officer). However, under the Equator Principles framework, the originating party for stakeholder engagement—the Equator Principles financial institutions (EPFIs) require project sponsors to “demonstrate effective Stakeholder Engagement as an ongoing process . . . for all Category A and Category B Projects” (Equator Principles, 2013, p.7). However, stakeholder engagement has had a mixed record (Reed, 2012) including in remote resource-rich communities as shown in Table 10 in the preceding page.

#### 7.4.2 Dispute or Grievance Resolution Mechanism

From Table 10, the assessment of some interviewees (traditional chief-A) was that the dispute resolution mechanism was “not balanced” because its structure was unclear among stakeholders outside KML; it operated as expected but could be made more comprehensive; it was dependent on KML but preference was for government mechanisms, and there was an absence of KML/Chiefdom indicators on community satisfaction with the grievance resolution mechanism. The traditional chief-A and individuals interviewed within the chiefdom of traditional chief-A cited the ongoing but inconclusive resolution of land matters between KML and the chiefdom (Appendix 1, Box 5). Understood from a vantage point of the project sponsor, individuals within project-affected communities, government representatives, and civil society, a dispute resolution mechanism and stakeholder engagement more broadly introduce competing or even conflicting interests and assessments.

Where there is a need for breadth or depth of agenda (traditional chief-B), there is a competing need for collective input in setting a dispute resolution mechanism (traditional chief-A) to a need for clarity of structures dedicated to dispute resolution and a measure of satisfaction with the dispute resolution mechanism (Civil Society). Yet among others (environmental officer and some individuals in project-affected communities adjoining KML), the dispute resolution is understood as the domain of government. Again, it is worth noting that the Equator Principles Association requires EPFIs to ensure that clients (such as project sponsors) make known to the project-affected communities the existence of a grievance resolution mechanism (Equator Principles, 2013, p.8)

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<sup>22</sup> Interview with traditional chief-B, at his palace, Jul 18, 2015

### 7.4.3 Reporting and Verification

In the assessment of some interviewees, KML engaged in selective reporting about their concerns and there was absence of co-management or verification of issues (Chief-A). Some members within traditional chief-A's Chieftdom opined to the author after a conclusion of the meeting between the chief and his subjects—that reporting and verification was the work of their chief. KML's project officer indicated that KML's community reports were a product of KML's reporting policies and values, and not per chieftdom's dictates or structures. An NGO was concerned about absence of indicators or means of determining community satisfaction with the mechanisms. What communities emphasized were the environmental risks and impacts real or perceived.

Even though KML was expected to follow the Equator Principles, the communities did not know the contents and processes of the Equator Principles. An environmental officer in another mine site indicated that while there is reporting and verification for the Equator Principles (i.e. Equator Principles requires independent reviewers/consultants), what was important was for projects to follow mandatory reporting guidelines for dispute resolution within the umbrella of stakeholder engagement. Nearly most interviewees were of the view that the dispute or grievance resolution mechanism needed improvements to varying degrees depending on the interviewee.

### 7.4.4 Resources for Stakeholder Engagement.

Except for KML, there was a near unanimity among interviewees that communities needed financial resources to improve stakeholder engagement process and the grievance resolution mechanism. Resource needs ranged from financial resources for awareness drives about stakeholder issues to the need for resources to engage experts. Project-affected communities indicated that because of limited knowledge of what grievance resolution mechanism or stakeholder engagement involves both for government mandated process and for the Equator Principles, it was difficult to determine the extent of needed resources.

KML's project officer indicated there were adequate resources in the community because “we have put in a lot of resources”<sup>23</sup>—a point at variance with that of an NGO official who indicated that the alleged KML resources were not visible and were potentially inadequate for the community to “*contest powerful multinationals like FQML*”<sup>24</sup>. Yet other individuals within the community indicated that they did not recognize any company resources dedicated to stakeholder engagement. While the environmental officer for a government agency indicated that financial resources for stakeholder engagement could be increased, he recognized that all stakeholders could improve stakeholder engagement process and grievance redress mechanism through more transparency and outside the appeal to politics and politicians.

### 7.4.5 Informed and Voluntary Consent

There were mixed opinions among interviewees on this aspect. The traditional chief-A indicated that he could not exercise free consent or have informed decisions because of KML's tendency to

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<sup>23</sup> Interview with the project officer working on an Equator Principles project, June 24, 2015.

<sup>24</sup> Interview with an anonymous NGO official in Zambia's Copperbelt in July 16, 2015.



engage with government to the exclusion of his chiefdom. Some individuals in the community argued that not enough information was available to them to make informed decisions and give voluntary consent because “government imposes and negotiates with KML”. The KML project officer indicated that informed and voluntary consent was part of the environmental and social impact assessment (ESIA) since “mine development in 2010”<sup>25</sup>. Yet another project officer on another project indicated that project-affected communities were adequately resourced to engage in “negotiated” consensus leading to informed and voluntary consent on project sponsor issues. The environmental officer’s view about informed decision and voluntary consent was that project-affected communities’ room for rejecting projects is limited because project approval—including projects that would be subject to the Equator Principles—is mostly a high level political decision.

#### 7.4.6 Other Stakeholder Engagement Related Issues

Across the range of interviewees, and beyond process issues related to stakeholder engagement, substantive issues related to stakeholder engagement were of important concern. Traditional chief-A wanted management of mining waste (especially tailings) to be a key agenda issue in most stakeholder engagements, followed by the issue of community-sanctioned development projects. Traditional chief-A’s subjects were concerned about competition for jobs from those migrating to the area even though these individuals from the chiefdom lacked sufficiently competitive skills for most mine jobs.

The NGO official’s concern was the need for government to avoid instances of perceived political interference in KML’s activities that generated concern among project-affected communities. The preceding point was supported by an officer in a government environmental unit, who was concerned about the politicization of environmental and monitoring mandate of the agency, stating that “...projects including projects subject to Equator Principles are highly politically motivated and involve repeated moving up the political ladder”. The concern that a project officer working on KML’s projects had was about the nature of mining as a time and resource- constrained activity, and hence indicated that KML was engaged in collaborative planning for a post-mining future.

#### 7.4.7 Discussion and Analysis of Findings

Several observations originate from the preceding description of stakeholder engagement process. Project-affected communities—and their traditional chiefs—indicated that the Equator Principles is unknown in the community. The communities’ understanding of the stakeholder engagement process and its associated part—the grievance mechanism, is that it follows from the mandates of traditional host country regulations governing resource projects such as mines or development projects such as roads. The Equator Principles are clearly alien or unknown. The Equator Principles Association (EPA) requires EPFIs to ensure that project sponsors make known to the project-affected communities the existence of a grievance mechanism (Equator Principles, 2013, p.8). The EPA also clearly sets certain safeguards for project-affected communities concerning its procedural elements. However, the EPA potentially undermines assessment issues including grievance mechanisms through embedded safeguards in its financing documents in the following ways:

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<sup>25</sup> Interview with the project officer working on KML projects, June 24, 2015

First, the veil of confidentiality or the consent for the EPFI to openly name the project as an Equator Principles project (Equator Principles, 2013, p. 14) resides with the project sponsor, even though comprehensive project profiles are accessible through paywalled databases. However, devoid of public identity, the project—especially its stakeholder engagement and the embedded grievance mechanism—escapes the necessary test and scrutiny from project-affected communities, and other stakeholders. The implication here is that the EPFIs’ and the project sponsors’ need for confidentiality through lack of explicit mention of the Equator Principles may explain the lack of understanding about—or knowledge of the existence of the Equator Principles among the project-affected communities.

Second, the viewpoints among interviewees in Table 10 about grievance mechanism or dispute resolution suggest that the key concern revolves around its substantive and procedural aspects. There is concern, for example, among project-affected communities about the real or potential override of stakeholder engagement outcomes from external parties. This is because “[t]here is political interference in these issues [in the chiefdoms’ stakeholder engagement attempts with the mine]”<sup>26</sup>. The Equator Principles clearly set certain safeguards for project-affected communities concerning procedural elements of stakeholder engagement such as that it be free of “external manipulation, intimidation, coercion and interference (Equator Principles, 2013, p.7).

Adnan (1992) has highlighted typologies of participation from consultation to participation (Appendix 1, Box 9), and demonstrates differences between consultation and participation. Whiteman & Mamen (2002) argue that participation moves beyond simple consultation and allows affected communities to meaningfully contribute to shared decision-making responsibility including for issues of natural resource management. In Arnstein’s (1969) more succinct rendering, meaningful participation is nothing more than citizen power.

Third, the multiple and various narratives of the interviewees in Table 10 about the nature of stakeholder engagement suggests that other stakeholders (besides project-affected communities) could help in improving the process because of their access to the needed resources for effective stakeholder engagement. Such an improvement would align with the need for an effective stakeholder engagement, or the need to confer legitimacy to the project’s ESIA (Lockie et al., 2008, p.179; Gibson, 1993; Mikadze, 2012; Glick, 2000), help nurture seeds of democracy, and tolerance of plural opinions (Winz, Brierley & Maani, 2007; Shepherd and Bowler, 1997; Habermas, 1987; Sinclair and Diduck, 1995; Aaltonen, 2005; Rozema, Bond, Cashmore, & Chilvers, 2012; Esteves, Franks, & Vanclay, 2012).

## 7.5 Conclusion

The preceding section considered the practical limitations and challenges attending to Equator Principles implementation of stakeholder engagement. The concerns among project-affected communities are the elements of stakeholder engagement that have limited considerations for their sustainability needs. In both stakeholder engagement and grievance mechanisms, the project sponsor is disproportionately powerful in framing project agenda including influencing the project assessment process. Privacy and confidentiality norms of the EPFIs and project sponsors are also partly to blame for some of the concerns in project-affected communities. Necessary positive

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<sup>26</sup> Interview with traditional chief-A, at his palace, June 25, 2015

changes among EPFIs and project sponsors should include increased disclosure of Equator Principles implementation processes, and an emphasis on participative openness on the part of project sponsors for the affected communities. In short, all Equator Principles framework actors and the aspects of stakeholder engagements need—for their success—an inclusive and open forum that co-operatively nurtures trust and encourages education to inform issues that contribute towards sustainable projects and communities. All actors must be willing to engage in good-faith negotiations that lead to or at the very least give rise to a sense of fairness among participants in the distribution of project costs and benefits, particularly those that impact project-affected communities. Moreover, sustainability literature emphasizes repeatedly that context will always dominate and influence stakeholder engagement elements and potentially, their outcomes. The emergence of Equator Principles framework has been gradual, and the extent to which it will offer significant benefits to project-affected communities—Hypothesis 3—will be subject to the emergence of improved stakeholder engagement processes, and the implementation of a sound grievance mechanism. Realistic “best practice” Equator Principles stakeholder engagement, arguably, in the mold of IFC’s framework of “Good Stakeholder Engagement” (Figure 12, Appendix 1) represents an important starting point.

Sections 7.1 to 7.4 have provided narratives and analysis on Equator Principles implementation from the vantage points of Equator Principles Financial Institutions, project sponsors and project-affected communities—the subject of the preceding chapter. These chapters have addressed three research questions and the objectives set out for their study.

In Chapter 8 that follows, this thesis brings together and identifies important findings, and conclusions for each of the research areas, and this thesis’ contributions. Chapter 9 concludes this thesis by offering a set of recommendations and implications for Equator Principles framework, as well as suggesting areas for further research.

## Chapter 8 Summary of Research Findings and Conclusions

### 8.1 Summary of the Results

In chapter four, this thesis set four main research objectives. Firstly, to analyze how EPFIs' integrate social and environmental concerns into their decision-making processes for Equator Principles-related project finance. Secondly, to investigate the nature and quality of Equator Principles application and management in project sponsor operations. Thirdly, it sought to investigate how the Equator Principles impact project-affected communities—specifically the practical and conceptual limitations and challenges on addressing impacts on project-affected communities. And lastly—based on the discoveries of the preceding three objectives—to evaluate how the Equator Principles' stakeholders could move the Equator Principles framework towards the direction that increasingly contributes to sustainability. The findings and conclusions are structured along the units of the analytical framework developed in section 4.3.

#### 8.1.1 The Equator Principles Financial Institutions, and Implementation Issues

**Internal Processes, Standards, and Policies:** For EPFIs, this study reveals six implementation issues. Firstly, as shown in Table 5, for example, there is acceptance among interviewed EPFIs that Equator Principles are important and necessary for organizational and business strategy. While some EPFIs suggest that the proper uptake of the Equator Principles would lead to standardized environmental and social risk management, some EPFIs adopted the Equator Principles partly because of institutional pressures mostly from civil society and the need to guarantee EPFI reputation. In other words, it is possible that some EPFIs—subject to full disclosure and continued research—are not using Equator Principles as an operational tool to assess the environmental and social risks of projects as they use other tools to assess financial risks. Alternatively put, for most EPFIs in the sample, the existing level or extent of disclosures about their implementation of the Equator Principles pose difficulties for researchers in determining, assessing or predicting how changes in the Equator Principles association's suggested organizational variables for Equator Principles implementation (Equator Principles, 2013, p.14) influence, for example, environmental outcomes of Equator Principles projects. This finding coheres with Weber's (2010, p.24) study findings that most banks and financial institutions—most which were EPFI banks—lacked monetary disclosures of environmental risks and benefits associated with environmental risk management—essentially missing an opportunity to report on the overall level of enterprise risk attributed to potential environmental risks.

Among some EPFIs such as EPFI-A and EPFI-S, the Equator Principles influenced decision-making and raised awareness within the upper ranks of the EPFIs regarding environmental and social issues. According to responses from the EPFIs from Table 7, Equator Principles were significant, had emerged or existed as organizational mechanisms to resolve sustainability-financial dilemmas. Before the advent of the Equator Principles, EPFI-S and EPFI-A made financing and/investment decisions largely on the strength of financial parameters, with little or limited consideration of environmental and social issues.

**Project Sponsor-EPFIs-Host Country Reporting and Linkages:** The results show that Equator Principles financial institutions' responses about Equator Principles implementation, and related Equator Principles reports are partly premised on the project sponsor's understanding and

application of the Equator Principles. As EPFI-N2, for example, indicates, a project sponsor's dual or the unintegrated environmental and social reporting (i.e., for mandatory host country environmental regulations and for the Equator Principles)—may be less substantive due to the cost and organizational burden of dual reporting. The argument from EPFI-N2 was that because Equator Principle 8 (covenants) require reporting on compliance with host country regulations, permits and rules (aspects that are mandatory for project sponsor in a host country), the project sponsor's integrated reporting around these regulations—rather than on comprehensive ESIA—would provide more legitimacy, and arguably, enhance quality of Equator Principles reporting.

In addition, interview responses of some EPFIs (such as EPFI-E, EPFI-S) do not corroborate related EPFI reporting of the impact of the Equator Principles on their project financings, and as such do not provide a clear picture, arguably, because of the disclosure concerns of EPFIs—as O'Sullivan & O'Dwyer (2009) indicate—and project sponsors regarding their application and management of the Equator Principles. In most of the sustainability reports of EPFIs in the research sample and in those of the project sponsor KML, Equator Principles implementation data or an analysis comparing an EPFI's and project sponsor's Equator Principles implementation performance or impact from the year of adoption of the Equator Principles or in comparison with a reference point was either sketchy or missing. EPFI's performance analysis of a funded-project in relation to earlier or periodic external stakeholder criticisms such as from an NGO such as BankTrack was equally absent. EPFIs' interviewees were appreciative of Equator Principles. Yet the EPFI performance report or analysis (or summary thereof) against issues identified, for example, in the periodic updates or revisions of Equator Principles as they impact projects was also missing.

**Project Social Responsibility and Project Sustainability:** From Table 7, for example, on the question about risk of an EPFI adopting Equator Principles, the results reveal that EPFIs in the interview sample do not consider Equator Principles adoption as risky to their organizations. Most of the EPFIs interviewed for this study recognize that their acceptance of periodic stakeholder revisions or iterations of the Equator Principles is due to EPFIs' need to encourage and promote broader stakeholder input, though the way that input is considered during implementation remains contested. In addition, the EPFIs recognized that the Equator Principles have facilitated the detailing of specific actions, deadlines, and roles and responsibilities for addressing identified environmental and social gaps, a result that coheres with Watchman et al.'s (2006) as well as Conely and Williams' (2011) finding that Equator Principles have redefined project finance lending. These EPFIs' observations remain contested due to the difficulty of verifying actual internal decision-making and documents related to Equator Principles implementation.

Against the foregoing findings, the contribution of project sponsors to the sustainability effects of the Equator Principles is open to debate because—except for project sponsor mentioned in this research, and to the best of the author's knowledge—no adequate, independent public accounts or study exists of other project sponsor's internal decision-making for Equator Principles application. The potential alternative source of validating project sponsor accounts of application—the EPFIs—barricade the accounts of project sponsor application and management of the Equator Principles—or only provide a few selective projects—behind the veil of privacy and confidentiality.

**Organizational Structure for Equator Principles:** This thesis found that, generally, all interviewed EPFIs require project sponsors to have an internal structure or organization for implementing or at least for capturing results of Equator Principles implementation. This suggests that there is diffusion of—though not necessary a robust implementation of, or a robust organizational structure for—the Equator Principles evident among project sponsors. Subject to further research and disclosure, this may be due to evolving implementation experience, and/or the need to control, minimize or avoid environmental or social costs of Equator Principles implementation as Freshfields Bruckhaus Deringer’s (2005, p.89) study suggests.

Another significant finding was that Equator Principles implementation varies among EPFIs, with large and mature Equator Principles signatories calling for more precision and guidance in project categorization. The later or new signatories voiced few concerns in this regard, pointing to evolving implementation experience or the need for comprehensive studies across the expanding membership of Equator Principles. And these variations mirrored project sponsors’ own management of Equator Principles, and were, arguably, attributed partly to the unique financing covenants of their lenders, as shown in the perspectives on Table 8. Regional influences from the existence or absence of other regulatory standards in the jurisdiction of the EPFIs (whether in an OECD or Non-OECD country) may partially explain evident variations in the quality of the Equator Principles implementation, suggesting the potential need for variations in intensity and rigor of the Equator Principles association outreach or efforts of the Equator Principles Consistency Working Group or concerted NGO advocacy campaigns. Research findings by Lennox and King (2000) also point towards need for sanctioning or monitoring mechanisms if voluntary regulation is to achieve a degree of compliance equivalent to that in mandatory regulations.

**EPFI Requirements and Covenants:** The third component of this research—the impact of the Equator Principles on affected communities—determines that there are shortcomings in the implementation of Equator Principles 5 (Stakeholder Engagement) and Equator Principles 6 (Grievance Mechanisms).

As shown on Table 10 (section 7.4), PACs and traditional chiefdoms in Kalumbila Minerals Limited indicated that they had either vague or no knowledge or awareness of the Equator Principles. This suggests that either project sponsors and civil society organizations do not explicitly state that the conduct of the stakeholder engagement and grievance mechanisms occur under the umbrella of the Equator Principles or, as is most likely, the absence of knowledge about Equator Principles suggests that the nature of EPFIs’ monitoring of the Equator Principles projects does not attract the local attention of PACs because EPFIs and project sponsors conduct Equator Principles framework under the veil of privacy and confidentiality. The results at least in these areas (stakeholder engagement and response to grievances), show that the Equator Principles as a framework for addressing environmental and social risks and impacts is unknown among project-affected communities (PACs).

In addition, PACs generally perceive project sponsors as disproportionately powerful in setting, and influencing agenda items during stakeholder engagement, including the management of grievances and conflicts related to projects more generally. Because stakeholder engagement and grievance mechanisms are part of the project sponsor’s administrative structures, the byproduct of the second finding to emerge from this study is that PACs—and NGOs—consider the resolution

of concerns and grievances as susceptible to manipulation and interference from the project-sponsors' administrative structures as partly suggested in Box 5, Appendix 1 and shown in Table 10 (section 7.4). This perception influenced, according to the interviewees, the extent of informed and voluntary consent among PACs for decisions about the project.

The third finding was that, generally, PACs lack sufficient funding for stakeholder engagement. Partly in recognition of this potential problem, the Equator Principles framework requires the project sponsor to facilitate the process through making “the appropriate Assessment Documentation readily available to the Affected Communities” (Equator Principles, 2003, p.7). However, PACs argue that funding problems means that they are unable to introduce the input of other interested parties or the views of experts alongside their ordinary or traditional knowledge for better decision-making about project sustainability issues and effects, a perspective that aligns with Castro & Nielsen's (2001, p.237) study.

**Other External Factors and Host Country Regulatory Environment:** One potential remedy—used in other jurisdictions—to overcome potential quality problems and enhance stakeholder engagement is the use of intervenor funding—public funding that enables stakeholders to engage effectively through availability of adequate resources (Gamble, 1978, pp.949-950). The feasibility of such an approach may be in doubt where funding is limited, not just for stakeholder engagement but for the whole environmental regulatory process or bureaucracy—particularly in poor countries. Compagnon, Chan & Mert (2012), for example, found that “in many of these [‘developing’ countries], environmental policy is usually the lowest ranking priority, and agencies in charge of the environment are least influential of the bureaucracies”—an observation which is consistent with the findings of the present thesis in this area of stakeholder engagement.

Fourthly, and lastly, the preceding findings about the nature of stakeholder engagement and grievance mechanisms within the Equator Principles framework suggest that PACs consider the effects of stakeholder engagement in project-affected communities as arising from traditional and mandatory state laws “whenever these projects locate here” [personal communication from an official of the traditional chiefdom]. In other words, to the interviewees, stakeholder engagement processes do not arise from the unknown Equator Principles-type voluntary codes to which the project sponsor and/ or the EPFI subscribe.

## 8.2 General Conclusions: Contributions to Research

This thesis introduced the concept of sustainability through recognizing that project finance activities may contribute to greater unsustainability by increasing environmental and social risks. To address this unsustainability, it examined the Equator Principles framework as an example of financial industry initiative for managing environmental and social risks in a structured way, and for standardizing environmental and social risks assessment in the financial industry. However, the thesis determined that the implementation of the Equator Principles as well as its progress suffers from original conceptual problems. The singular pursuit of profit and the objective of shareholder-maximization, for example, associated with the financial industry may be at the root of these problems. Against this background, this thesis contributes to Equator Principles literature in three principal ways:

**Contributions based on Institutional and Stakeholder processes and effects:** Firstly, in the least researched area of the Equator Principles, this thesis has offered insights and advanced our understanding of project sponsor implementation of Equator Principles by revealing that the implementation challenges associated with EPFI are increasingly manifested, and in some cases compounded, at the project sponsor level. In other words, the original attempts—and subsequent difficulty—in establishing uniformity of implementation among EPFIs is because of EPFIs need for positive reputation (Wright & Rwabizambuga, 2006)—a perspective consistent with the notion of “collective reputations” (Tirole, 1996) or because firms share a “reputation commons” (King, Lenox, & Barnett (2002) associated with “spillover harm” (King & Barnett’s, 2002, p.1152), or because of their desire to partake in syndicated loans (Spek, 2005). This suggests that drivers of institutional change at the EPFI level or the observed structural changes in EPFI—partly attributed to “isomorphic” processes—are mostly for reputation risk management, and this in turn, reduces the impetus to implement Equator Principles properly and introduces grounds for concerns for the quality of sustainability assessment at the project sponsor level.

Second, and related to the preceding contribution, as well as Equator Principles implementation results in Chapter 7, this thesis also contributes to Equator Principles literature through calling for new institutional arrangement in the form of an Equator Principles Compliance Authority (EPCA). The EPCA could play a vital role in streamlining Equator Principles implementation, given the identified shortcomings of implementation by EPFIs and application by project sponsors. This observation is consistent with scholars’ (Weber, 2014; Macve & Chen, 2010) findings that call for improvement in Equator Principles disclosure and implementation through mechanisms such as independent assurance or third-party validation. In addition, other scholars show that successful outcomes of voluntary codes are possible when premised on robust institutional change (Meyerstein, 2012, p.36) that includes tracking implementation of compliance systems (Parker & Nielsen, 2008, pp 5-6).

Thirdly, in highlighting scantily researched areas of project sponsor management of EPFI financing covenants, and Equator Principles impacts on project-affected communities, this thesis expands the Equator Principles literature by suggesting the need to include sustainability-based assessment in project sponsor application of the Equator Principles. This proposed sustainability-based assessment for the Equator Principles would align with improved outcomes premised on Gibson et al.’s (2005) requirements for a progress towards sustainability, paying special attention to the need to specify them for each case and context. This contribution advances the current Equator Principles Association’s vague, potentially, misleading checklist approach which holds that “[t]he Equator Principles apply globally and to all industry sectors” (Equator Principles, 2013, p.3)—a checklist approach itself devoid of the important “positive contribution to sustainability test” (Gibson, 2006) necessary for project evaluations, decision-making, and application in the proposed EPCA-type mechanism.

Finally, even the argument for a proposed Equator Principles Compliance Authority (EPCA) raises a more general question whether the EPFIs can comply more steadily with some of the recommendations in the present thesis (in chapter 10) that would shape the Equator Principles implementation, given the intractable lack of transparency in most of the EPFIs’ present institutional behavior, and an earlier perceived resistance to the creation of EPCA-type institution by some of the key founding members (O’Sullivan & O’Dwyer, 2015, p.42), and by an EPFI-N2 in this thesis.



Finally, for the Equator Principles framework to contribute towards sustainability, and for an EPCA-type entity to achieve its mandate of oversight over Equator Principles implementation, certain pre-conditions must be in place. These include nurturing well-informed, facilitated, and participative stakeholders, especially project-affected communities—aspects now gaining attention with recent initiatives such as the United Nations Environmental Programme (UNEP) Financial System Inquiry of 2014 and 2015. There will also be a need to address power imbalances among stakeholders in the Equator Principles framework through understanding the sources of political power, how political power flows and how to re-direct power in the interest of the most vulnerable—the affected communities.

### 8.3 Conclusions: Implementation of the Equator Principles by Project Financiers

**Internal Processes, Standards and Policies:** In section 8.1.1, one main finding was that some EPFIs adopted the Equator Principles partly because of institutional pressures and the need to guarantee reputation. In other words, the EPFIs are interested only in the appearance of social and environmental responsibility, to maintain a positive reputation in the face of external criticism.

This observation is partly consistent with Wright and Rwabizambuga’s (2006) findings that the Equator Principles framework is a tool for managing corporate reputation risk amidst well-informed citizens in an environment or location of active civil society. In addition, even for EPFIs within the same geographical zone of active NGOs (such as EPFIs in Western Europe), the adoption of Equator Principles may have been convergent when Wright and Rwabizambuga indicated as much in 2006.

Another finding in this research is that the EPFIs are not keen to demonstrate transparency regarding behind-the-scenes decision-making for sustainability. They did not allow this author to verify their public sustainability reports or to validate interviewee responses against their internal Equator Principles compliance assessments, which they asserted is an evolving product of internal reorganizations underway for the Equator Principles. As well, the pressures from stakeholders such as NGOs has engendered environmental and social considerations among some EPFIs and project sponsors alike (BankTrack, 2014; O’Sullivan & O’Dwyer, 2015). However, recurring criticisms from BankTrack suggest that EPFIs are still wedded to traditional low-cost corporate social responsibility initiatives as a proxy for efforts towards project sustainability, all behind a veil of “commercial confidentiality”.

**Organizational Structures and Other External Factors:** More than ten years later, the implementation of the Equator Principles differs among EPFIs even as the Equator Principles adoption continues apace. The evidence of internal re-structuring and organizational changes to facilitate application of the Equator Principles among some EPFIs appears to support this observation. Each EPFI interviewed for this thesis, however, provided a nuanced interpretation of their implementation experience, suggesting contextual influences informed by aspects such as social learning and peculiar factors in the location of the application of the Equator Principles. This could be mostly likely—but subject to further research—due to the emerging influence or overlap of other competing environmental and social sustainability standards such as the UN Guidelines on Business and Human rights (Ruggie, 2008), OECD’s Common Approaches, or other similar international voluntary standards or European environmental and social legislations (Richardson, 2008a).

Additionally, through NVIVO-aided analysis, this thesis examined further reasons why and how EPFIs adopt and implement Equator Principles. Even though EPFIs were undertaking some internal re-organizations for Equator Principles implementation, confidentiality considerations in Equator Principles Financial Institutions (EPFIs) often clouded public awareness of how specific EPFIs were implementing the Equator Principles or how published Equator Principles projects performed under alternative or other independent assessments.

This suggests that internal reorganizations may be unrelated to core on-the-ground-social and environmental risk and impact considerations that EPFIs expect of project sponsors in project-affected communities. This frustration with the Equator Principles has led Schepers (2011) to criticize the Equator Principles as “this minimal governance mechanism”—an assertion, and an opportunity, for which this thesis calls for an oversight entity in the form of the Equator Principles compliance authority (EPCA) whose policy framework considers different drivers, tools, and players behind the Equator Principles.

#### 8.4 Conclusions: The Impact of the Equator Principles on project sponsors

**Institutional and Stakeholder Theories:** In seeking to understand how project sponsors contribute to sustainability and how Equator Principles impact project sponsors, in chapter 4 (section 4.1.3), the thesis suggested, and joined strands of, institutional and stakeholder theory, as a means of understanding project legitimacy. It also proposed an analytical framework in section 4.2, to explain the project sponsor application and management of the Equator Principles. The approach to this point in time in the Equator Principles literature and research would be to suggest that Equator Principles implementation can be explained from the vantage point of institutional theory and through stakeholder theory (Wright, 2009 ; Wright & Rwabizambuga, 2006 ; Watchman, Delfino, & Addison , 2007; O’Sullivan & O’Dwyer, 2009) with different scholars highlighting more aspects of either institutional theory or stakeholder theory. This characterization and emphasis created an uncomfortable gap and an ambiguity regarding the importance of both theories in explaining Equator Principles implementation. Parmar et al. (2010), for example, suggest that institutional theorists have “practically ignored” an opportunity for bridging this gap. By suggesting that these dual theories belong together in Equator Principles implementation, the thesis has commenced the identification of factors—and potentially processes—by which to provide oversight to, and evaluate, Equator Principles application especially among project sponsors and related project stakeholders.

**EPFI Requirements and Covenants:** One second finding about project sponsors is that the project sponsors’ reporting of the Equator Principles does not provide a clear picture of Equator Principles projects. This finding coheres with Benjamin’s (2008a, p. 256) study, which revealed that mandated disclosures in voluntary standards often “entail vague, boiler plate statements” premised on hidden or “protected” methodology behind investment decisions. Macve and Chen (2010) agree, indicating that “without more detailed project-level information and a standardized formal performance evaluation system,” assessing the positive effect of the Equator Principles on the environment makes for a difficult undertaking (p. 897). This is partly due to EPFIs’ concerns about confidentiality provisions, unease about negative reputation, and the absence of time-tested (or the existence of ad hoc) Equator Principles structures and systems that report on project sponsors’ Equator Principles application.

**Other External Factors:** It may seem at first that the founding members of the Equator Principles tailored the Equator Principles for these very eventualities for ultimate impact or use among project sponsors in the developing world, excluding the project sponsors in the developed world. This is because—as the Equator Principles Association would later indicate—OECD-based projects already faced stringent domestic environmental and social laws (Equator Principles, 2013, p.7). However, the notion by Western-based EPFIs that the project sponsors in Western countries—(“Designated Countries” in Equator Principles lexicon)—apply more stringent EIA than their counterparts in the developing world may be misleading. This is because EPFIs’ satisfaction with prior assessment standards and criteria could be misplaced and inadequate because Equator Principles projects generally have long life cycles. In the interim, the environmental and social regulations could have become more stringent, but there is a lead time before new environmental policies kick in or trickle downwards. For this reason, it may be incorrect to argue or imply that projects subject to Equator Principles in developed countries operate under an additional umbrella of more stringent environmental regulations than projects in poor countries or that the impacts of the Equator Principles are relatively lower in poor countries than in developing countries.

## 8.5 Conclusions: Impact of Equator Principles on Project-Affected Communities

**Project Social Responsibility and Project Sustainability:** The research outcomes of this thesis show that there is limited awareness of the Equator Principles among project-affected communities—and consequently, affected communities are unable to assess the usefulness of the Equator Principles. Stakeholder engagement processes for project assessment, and grievance mechanisms for remedying violations of Equator Principles implementation are glaringly insufficient in conception and implementation. The power of project sponsors to shape Equator Principles implementation and the nature of the host country regulatory environment do not adequately help—or shield—PACs from short-comings of the Equator Principles framework related to limited or non-existent education or information sharing about Equator Principles. Limited disclosures from project sponsors, EPFIs’ concerns for confidentiality, and inadequate project sponsor and EPFI accountability for social and environmental risks and impacts have much to blame for limited understanding—and in some cases, negative appraisal of the Equator Principles—among PACs. Watchman et al. (2005) echoed this point for all facets of Equator Principles implementation thus:

“[I]nformation on the positive impacts of the Equator Principles is scant and difficult to find. This is due to the fact that information in this area tends to be partial, sporadic and not necessarily representative of the full picture concerning a project; a “snapshot” in time rather than a balanced review of the impacts of the project” (p.29).

Notwithstanding that Watchman et al. (2005) made this observation nearly 11 years ago, certain aspects of Watchman et al.’s observation—partly due to, or despite, confidentiality—still hold true. In other words, even though Watchman et al.’s (2005) finding coheres with the present thesis’ finding of limited or no discernable impacts of the Equator Principles on PACs, we need to be careful and modest in appraising the effects of voluntary standards (such as the Equator Principles) or in interpreting their influence on an issue area such as impacts on project-affected communities. Bartley (2011) and Gibson (2000), for example, observe that most individual organizations or stakeholders who have signed onto specific voluntary codes also operate within the arena of other voluntary and mandatory standards. Accordingly, the actual outcomes on the ground—such those

related to stakeholder engagement or grievance mechanisms among PACs—are a confluence of various streams of rules that reflect “complementarity, rivalry, and hybridity in the interplay of multiple standards” (Bartley, 2011).

## 8.6 Conceptual and Theoretical Contributions

Through a set of research questions and an analysis of Equator Principles literature themes and other Equator Principles implementation documentation, this thesis contributes to theory and provides conceptual insights and important factors for understanding Equator Principles implementation. It has translated these important variables into potential theoretical Equator Principles implementation frameworks that future research could use for empirically testing Equator Principles implementation. The frameworks could also be useful for suggesting how the individual elements (EPFIs, project sponsors, PACs, host country regulations, etc.) interact, inform or predict Equator Principles implementation in different contexts. This thesis also makes several theoretical contributions.

First, the present thesis contributes to stakeholder theory by explaining that initial advocacy campaigns against Equator Principles founding members were a result of stakeholder groups (i.e., civil society groups) concerned about the adverse environmental and social effects of large scale projects (Hunter, 2007; Wright, 2009). That the founding Equator Principles members recognized the influence of civil society groups such as BankTrack, and the Collevechio Declaration, suggests that EPFIs pay attention to these groups or that institutions (such as EPFIs) care about stakeholder groups (Laplume et al., 2008; Agle, Mitchell, & Sonnenfeld, 1999; Eesley & Lenox, 2006; Mitchell, Agle, & Wood, 1997; Etzioni, 1998; Henriques & Sadosky, 1999) and the ability of these groups to influence EPFIs’ reputation.

The present thesis also contributes to institutional theory in two ways (see figure 10 below); firstly, this thesis contributes to institutional theory by explaining how and why EPFIs all respond to the Equator Principles Association requirements regarding implementation of Equator Principles. Each EPFI, however, does so in diverse ways based on compliance and risk management. One of the findings of the present thesis was that EPFIs recognize the Equator Principles as a guiding compass for EPFIs’ objective of contributing towards social and environmental sustainability, through standardizing, for example, environmental and social impact assessment in a structured way. This finding about Equator Principles process standardization among EPFIs aligns with the institutional theory process of isomorphism (equal change) whereby each EPFI’s organizational structure and culture becomes similar to that of their peers or another unit in an institutional environment “by way of competition, the [threat] of state [regulation], or the professions, and later, by way of [emergent] powerful forces” (DiMaggio & Powell, 1983, p.148)—the powerful forces reminiscent of the intense advocacy campaigns that marked early campaigns of civil society organizations against founding Equator Principles members (Hunter, 2007; Parker, 2006).

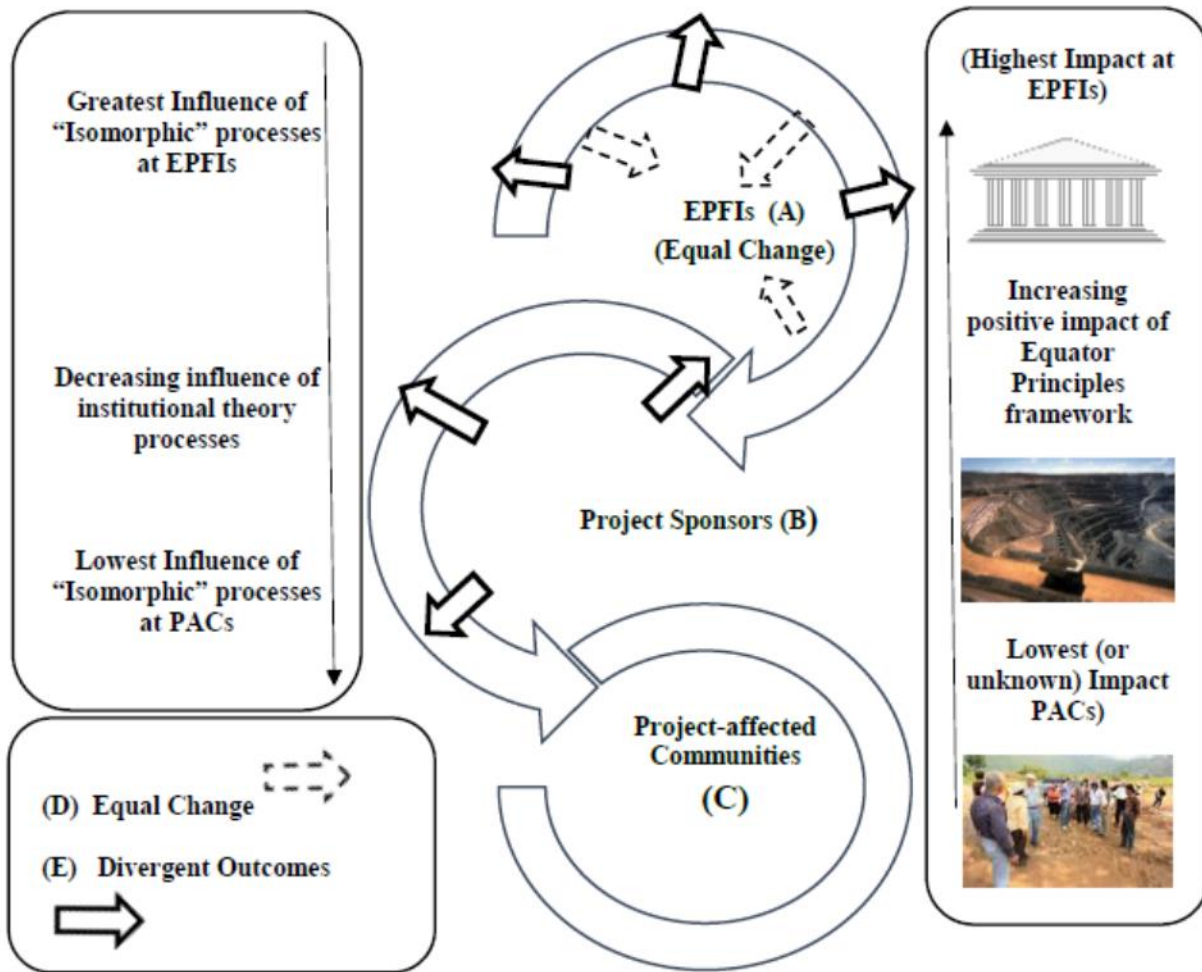
However, the related finding is that there are different implementation outcomes even when EPFIs are subject to similar organizational change processes. These differences in Equator Principles implementation outcomes among EPFIs manifest themselves downstream among project sponsors and PACs with equally different outcomes. One of the present thesis findings among the project sponsors is that, the nature of application and management of Equator Principles—and therefore implementation outcomes—mirrors that of the EPFI financier, or that the project sponsor

application outcomes vary in tune with the disclosure character, transparency, experience, and learning outcomes of the financier—the EPFI. The nature of implementation of Equator Principles and related outcomes among EPFIs will be because EPFIs are at different points on the learning curve, are under the influence of different external pressures, have organizational structures with different maturities, and different capacities devoted towards standards implementation or sustainability strategies (Weber & Acheta, 2014).

In some cases, critics such as BankTrack have expressed concerns about the nature of outcomes among project sponsors citing subjective selection of Equator Principles such as shown in Table 8. These sub-optimal outcomes suggest that organization changes or “project sponsor” level changes that would result from the diffusion of environmental and social sustainability standards of Equator Principles are minimal, evolving, or absent. In the institutional theory perspective, the present thesis suggests that the impact of coercive isomorphism (from the EPFI influence) ; 2) mimetic isomorphism (change attributed to mimicry, which the present thesis suggests is evident because of project sponsor uncertainty about how to implement Equator Principles or because of absence of a model project; and 3) normative isomorphism (resulting from professionalization; such as present attempts at best practises through EPFI Community of Learning Events), are similarly absent or evolving in the Equator Principles framework.

Secondly, the findings demonstrate that the strength or the influence of institutional theory processes diminish or wane progressively from the institutional space of EPFI through that of the project sponsor, and finally among PACs. The highest positive impact of institutional processes is on the EPFIs, though this positive impact varies even among EPFIs, project sponsors, in the region of implementation or application of Equator Principles, and concerning the nature of project financing (i.e. whether loan syndication is present or absent). The positive impacts of institutional processes are lower for project sponsors and are lowest for PACs.

Thus, the present thesis proposes the following implementation framework as a conclusion to the thesis results (see Figure 10 below). The framework describes how institutional influences operate. At the apex of the institutional framework are the Equator Principles signatories—the EPFIs shown as (A) in the diagram. EPFIs implement the sustainability requirements of the Equator Principles Association. The second entities are the Project Sponsors (B); they are the entities that apply and manage Equator Principles. It is at the third level, of the project-affected communities-PACs, (C), that the ultimate assessment of the on-the-ground impacts of the Equator Principles takes place. The institutional processes of change (i.e., “isomorphic processes”— (DiMaggio & Powell, 1983))—marked by dotted arrows (D)—occur across all EPFIs where their influence is highest. However, these processes of change cause differentiated external outcomes, marked by solid arrows (E). These external outcomes at the EPFI level cause differentiated outcomes at the project sponsor level, which in turn, affect outcomes at the project-affected communities (C), indicating the progressive reduction of the effects of institutional processes or “isomorphic processes” down the Equator Principles implementation chain.



**Figure 10:** Institutional Theory Processes in Equator Principles Implementation

From above findings, we see that the voluntary nature of the Equator Principles framework blunts the effects of these equal change or “isomorphic” processes at the project sponsor and the PAC level, resulting in different sustainability outcomes. In other words, to increase the effectiveness of these institutional theory change processes—originating from the EPFIs—for positive outcomes in voluntary codes such as the Equator Principles, the present governance structure of the Equator Principles Association, requires, for example, explicit oversight functions, a new entity such as Equator Principles Compliance Authority or an administrative entity as Wotruba (1997) counsels or monitoring functions as Reinhardt (2000) notes or include a coercive or special device to compel individuals to act in group interest as Olson (1965) observes.

Below, in the closing chapter of this thesis, I present some recommendations, implications for Equator Principles Association, and suggestions for future research for improving the Equator Principles framework.

## Chapter 9 Recommendations

On-the-ground field interviews for this thesis attest to how project sponsors often prioritize the implementation of mandatory host country environmental and social regulations rather than voluntary codes such as the Equator Principles.

### 9.1 Practical Recommendations

In the preceding paragraph, and the implementation outcomes outlined particularly in Tables 6 and 7, the analysis in Sections, 7.1.7 and 7.2.9, we note that the Equator Principles Association did not recognize key aspects of the requirements for progress toward sustainability (Appendix, Box 8) in the drafting of Equator Principles. Instead, the following recommendations recognize that the motives that will lead EPFIs and the project sponsors to compliance reside in the three important bases of compliance indicated in institutional theory, namely punitive (as in potential sanctions), cognitive (informed by power of social interactions such as peer pressure), and normative (as driven by values and formalized through roles that exemplify appropriate actions (Scott 1995).

#### 9.1.1 Recommendations to the Equator Principles Financial Institutions (EPFIs)

The EPFIs should liaise with project sponsor and host country regulatory authorities on how to prioritize or integrate Equator Principles environmental and social risk or sustainability reporting into their reports for mandatory local environmental regulations. Such environmental and social integration may also help an EPFI to gain legitimacy, and hence positive reputation as it conforms to the dictates of audiences in its institutional environment (Suchman, 1995, p.587). Second, and related to the aspect of integrated reporting in the preceding point above, the EPFIs should indicate to their borrowers or project sponsors that full disclosure of a project profile (name, location, and co-financing institutions, etc.) will no longer be voluntary or consent-based. Rather, full disclosure will be a mandatory clause in financing agreements to track Equator Principles implementation in a comprehensive and transparent way.

Third, the EPFIs should bring to the attention of the project sponsor that the extent and quality of disclosure regarding Equator Principles implementation has important implications for assessing future or potential legal liability for social and environmental violations.

Fourth, as a preliminary step to overcoming the obstacles needed for Equator Principles implementation, project sponsors should contribute alongside the Equator Principles Association towards the creation of an oversight entity such as an Equator Principles Compliance Authority. The EPFIs could also collaborate with host country regulatory institutions to develop capacity and strengthen host country regulatory institutions to streamline client reporting for social and environmental obligations under the Equator Principles.

Fifth, given the increasing salience of Equator Principles projects in emerging economies and their potential for adverse risks and impacts, the EPFIs should encourage partnership among the Equator Principles Association, host country authorities, and EPFI borrowers for periodic review of Equator Principles implementation as a means of “renewing” a social license among project-affected communities.

Lastly, to demonstrate accountability and transparency, EPFIs should open their environmental and social reports and tracking records to renowned credit rating agencies such as Moody's, Standard and Poor's, and Fitch. This will serve as an additional independent verification of EPFIs' seriousness about Equator Principles project transparency, and will potentially provide a better understanding and evaluation of both operational and financial risk attending to EPFIs' environmental and social considerations.

#### 9.1.2 Recommendation to Project Sponsors

The greatest onus on application and management of the Equator Principles in project finance rests on project sponsors. Therefore, project sponsors should:

First, disclose all material aspects of their operations to aid all stakeholders in their attempt at understanding how project sponsors interact with project-affected communities. This includes educating stakeholders about the operations of the project sponsors' mechanisms for addressing communities' grievances. Such disclosures reduce misunderstanding and build trust on the part of the other stakeholders, particularly the NGOs. Moreover, project sponsors should avoid or, at the very least, control competitive pressures through in-house policies and procedures that prevent the potential to "trade-off" resources and incentives for dedicated Equator Principles implementation.

Second, project sponsors should develop, and strengthen Equator Principles dedicated structures within their CSR structures. This will provide emphasis and full attention to Equator Principles application and management thereby, arguably, improving disclosure about Equator Principles implementation within a more structured CSR.

Third, this thesis recommends that project sponsors consent to EPFIs' need to disclose both the ownership and location of Equator Principles projects. Such disclosures should include aspects of how the project sponsors or their environmental and social consultants define and prioritize environmental and social issues within a socio-ecological system of the project's operations. Disclosures should as well include the project sponsors' verified and anticipated costs of Equator Principles implementation. The present thesis agrees with Prakash and Potoski (2007) that the uptake of such costs and related implementation budgets for pro-environmental activities signal seriousness on the part of the regime signee about implementing voluntary standards.

Fourth, since community support for projects is necessary, for example, to avoid negative reputation, and potentially continued project viability, project sponsors need to prioritize disclosure of consultant reviews of assessment documentations (ADs) and the underlying internal-decision making, with stakeholder engagement reports regarding affected communities at the forefront of such disclosure. In addition, project sponsors should conduct Equator Principles implementation training to encourage uniform understanding among project stakeholders (including project staff) and to internalize emerging best practices. Lastly, project sponsors should publicize how they identify stakeholder groups and ecosystems potentially affected by their projects; how stakeholder engagement procedures are gender-sensitive; and how projects set priorities for project-affected communities and individuals within the project's area of influence. The effectiveness of Equator Principles implementation partially depends on how project sponsors address these core issues.



### 9.1.3 Recommendations to Equator Principles Stakeholders—Project-Affected Communities

In making recommendations for project-affected communities (PACs), this thesis recognizes the potential difficulty of realizing positive outcomes given the complex aspects of power relations or power imbalance skewed against PACs. Nevertheless, in continued concert with their allies in civil society and in some cases, with certain power centers, progress towards sustainability may be slow but possible. As the case example in chapter 7 shows, currently available information about Equator Principles implementation does not provide an adequate evidentiary basis for determining their positive impact—and by extension, their effectiveness. Accordingly, project-affected communities and other Equator Principles stakeholders, particularly, project sponsors must recognize that working towards satisfactory environmental and social standards is a collaborative effort premised on shared values. Accountability, transparency, equity considerations, and empowerment of project-affected communities are aspects worthy of attention, and must be insisted upon and emphasized in any collaborative effort towards Equator Principles effectiveness and desired outcomes.

Second, the Equator Principles stakeholders—specifically the project-affected communities—should demand detailed, material, and operational disclosures of how EPFIs and project-sponsors make internal decisions regarding Equator Principles implementation. As well, through their political representatives, project-affected communities in poor countries should demand stakeholder facilitation in the form of intervener financing, and where such is absent, project-affected stakeholders should demand a mandatory inclusion and enforcement of such a clause in investor or project concession agreements.

Third, to enhance legitimacy of Equator Principles disclosures, project-affected communities must—in addition to using other engagement approaches—demand, for example, an independent monitoring and oversight entity—that is disengaged from project sponsor administrative structures—to vouch and verify actual on-site Equator Principles implementation. However, project-affected communities need to contextualize and consider differences in individual Equator Principles implementation as minimum standards for the assessed Equator Principles implementer. In addition, project-affected communities must recognize that current project assessments are a product of the Equator Principles that has had a relatively short span of implementation experience. As such, implementation quality is bound to be a “best efforts” output short of that they envisage.

Fourth, project-affected communities, under facilitation of scientific experts or researchers, should periodically review implementation of similar environmental and social initiatives and standards to understand how similar initiatives launched earlier (such as Responsible Care, UNGC, ICMM, etc.) are undergoing implementation, and how stakeholders internalize standards, to share and draw upon their insights.

And lastly, project-affected communities need to understand that mutual trust and the willingness to learn from each other, including from project-sponsors, is important. This includes outlining what constitutes desirable and acceptable operating conduct, along with determining the goals of sustainability assessment and stakeholder engagement. These starting points help shape the ultimate outcomes on the lived experience of the Equator principles implementers. Implementation desires based on a normative basis of what constitutes best practice may be unrealistic. Such

implementation outlook is contrary to scholars' findings, which hold that contributing to sustainability, or sustainability assessment for that matter, is not an exercise in seeking a specific sustainable "best" state towards which to aim. Instead, all considered, effective SD-directedness of Equator Principles project assessments or outcomes may be a confluence of many operating considerations that enrich the livelihoods of all stakeholders in small hopeful measures.

#### 9.1.4 Recommendations to the Equator Principles Association

Stakeholder-driven periodic reviews and changes to the Equator Principles guidelines in light of implementation experience and learning outcomes are good starting responses to the criticism of the Equator Principles. However, these reviews and changes are inadequate. In the Equator Principles project case highlighted in this thesis and in the Equator Principles literature, some Equator Principles stakeholders, such as project-affected communities, do not adequately understand what the Equator Principles are or what they entail. In view of this, the proof of success of the Equator Principles may not lie in actual audit of stakeholder perceptions following the Equator Principles Association's outreach. Instead, the Equator Principles Association should consider the following:

Firstly, that there is great similarity between the reputational concerns and the logic of commercial orientations of the IFC (Wright, 1999) with those of the Equator Principles association (EPA) members. In addition, IFC co-finances projects alongside commercial banks through the vehicle of loan syndications, and IFC's sustainability policies influence Equator Principles revisions. Most importantly, since the architecture of Equator Principles draws heavily from international finance corporation's (IFC's) Performance Standards on environmental and social sustainability, then it follows that Equator Principles should also be pegged to the IFC's sustainability policies such as disclosure. It therefore means that IFC's own independent accountability mechanism, the Compliance Advisor and Ombudsman (CAO), could be an important force to motivate EPA members to follow through with the new institutional arrangement—that of Equator Principles Compliance Authority (EPCA). This arrangement should explicitly address what constitutes a transparent implementation process, and what a credible reporting and monitoring system is, the basis for comparing a contribution to sustainability of different EPFIs and for rating of an EPFI against other EPFIs, regarding integration of social and environmental issues, and evolving best practise. The EPCA should describe the nature of potential sanctions, and how such sanctions kick-in in case of potential breaches, and which EPCA organ has the power to hear appeals and how, including the necessary escalation processes within the EPCA. The processes, structures and participants required to vet compliance reports will be an important determination of the EPCA.

Second, and related to the preceding point, Equator Principles Association members should facilitate, coordinate resources and organize with host country governments and NGOs for a potential Equator Principles Compliance Authority (EPCA). The governance structure should have input from independent experts unrelated to current stakeholders but who current stakeholders view with respect because of their history (e.g., the World Bank Group). Wright (2009, p.12), for example, argues that initial NGO criticisms of private commercial lending were based in part on the then IFC *Safeguard* or sustainability policies, which though imperfect—enjoyed the legitimacy accorded by NGOs because of their first steps towards responsible project finance.

Thirdly, the Equator Principles Association should explain and initiate procedures and mechanisms, within the framework of a potential EPCA, that address the concerns of project-affected communities about empowerment and equity, and garner fairness and operational legitimacy. For example, without explicitly imputing faults on accused parties or upholding untested environmental violations from affected communities—but learning from some aspects of the World Bank Inspection Panels (IP) and IFC’s Compliance Advisor Ombudsman (CAO) mandates—an EPCA would explicitly indicate in its report to the EPFIs that project sponsors require material improvements in their implementation of the Equator Principles. The EPCA could then work with EPFIs and project sponsors to bring the projects back to compliance.

Fourthly, if the Equator Principles remain largely unknown among communities where Equator Principles projects are located, or if project sponsors respond more to mandatory regulations than to voluntary (Equator) Principles, it suggests that Equator Principles are yet to evolve into salient standards. Accordingly, it means that the mandate, for example, of Equator Principles Association’s Capacity Building & Training Working Group needs review to enable increased EPFIs’ outreach beyond the project sponsor.

Lastly, as a condition precedent to disbursing or drawing funds, the Equator Principles Association should, under a constituted EPCA mandate, mandate that, unqualified and credible EPCA reports resulting from rigorous, open and impartial work are indicative of projects that have been subjected to sustainability-based assessment. The Equator Principles Association members could use such credible EPCA-certified environmental and social reports in capital markets, or mandate that they are the additional instruments against which EPFIs would borrow from the Central Bank regulatory authorities. The EPFIs could mandate, in turn, that disbursement of funds to project sponsors is contingent upon possession of EPCA-certified environmental and social reports, especially for syndicated loans.

Against this background of recommendations, the thesis next presents implications for Equator Principles Association.

## 9.2 Implications for Equator Principles Association

From our understanding of Equator Principles implementation, several implications follow that should become part of on-going consideration in the implementation of the Equator Principles. Firstly, Equator Principles implementation is a collaborative exercise between many stakeholders, including those not specified in any original agreements or Equator Principles Association membership, such as host country governments, which are in turn represented by unique regional, provincial or such governance arrangements that exist in each jurisdiction of the project influence. Other stakeholders include suppliers to the project, and so on. For Equator Principles stakeholders, this means that results of any environmental and social policy necessarily require acknowledging that even though EPFIs are key players, desired Equator Principles implementation outcomes also involve the contribution of actors—with different motivations and approaches—outside original founding members of Equator Principles (i.e. EPFIs).

Secondly, external parties—outside of Equator Principles founding members and stakeholders (i.e., EPFIs and NGOs)—, for example, governments, also require active awareness outreach about the Equator Principles if they are to provide supporting structures and legal frameworks for

Equator Principles implementation. Specifically, the Equator Principles framework may require governments to provide resources for stakeholder facilitation (such as for intervenor financing, avail a legal framework to shadow voluntary regimes such as Equator Principles, and strengthen mechanisms for upholding and strengthening democratic deliberations, encouraging free speech, and having the right to information-rich and information-access environment).

Lastly, effective implementation of the Equator Principles does not occur in a vacuum. It requires an entrenched sub-policy that insists on and emphasizes implementation disclosure, transparency, and accountability—the absence of which should support or provide a legitimate basis for project-affected communities to commence lawsuits against EPFIs and project sponsors for environmental and social protection violations. The Equator Principles Association’s social and environmental policies should explore, and be open to, the possibility that undisclosed gaps could potentially exist among Equator Principles stakeholders—particularly project sponsors—that could impede the achievement of desired environmental and social policy objectives. Given these undisclosed gaps of opportunity, the Equator Principles Association could direct policy reviews towards the need for increased transparency. This means transparency—for covenants embedded in project-financing documents, and in project-finance advisory services—at the signatories of Equator Principles, and transparency at the project sponsor level concerning disclosures about Equator Principles implementation.

Below, in the closing section of this thesis, I present suggestions for future research for improving the Equator Principles framework.

### 9.3 Further Research Needs

The Equator Principles stakeholders, especially the EPFIs and project sponsors, should address the limitations and challenges indicated thus far through more research that examines particular issues arising out of the thesis’ research, namely, for stakeholders in Equator Principles implementation, particularly the EPFI and project sponsors, and project-affected communities.

First, and generally, the thesis explored Equator Principles implementation from the perspective of EPFIs, project sponsors and project-affected communities. In so doing, the thesis contributed to our understanding of the co-influence of institutional and stakeholder theory in Equator Principles implementation, and how Equator Principles parties contribute to the Equator Principles legitimization process. Therefore, a knowledge gap that a further study could fill involves understanding the underlying conditions or mechanisms required to move the Equator Principles framework from organizational legitimacy [EPFI or project sponsor legitimacy] to meaningful Equator Principles implementation.

In addition, a study that examines the Equator Principles framework along the lines of Gibson et al.’s (2005) decision-criteria, particularly sustainability assessment, including sustainability-based analysis, for example, as applied to mining undertakings, and requirements for effective post-approval monitoring of effects and enforcement of commitments and obligations could also represent initial steps for improving Equator Principles implementation.

Second, the findings of this thesis suggest that various actors within the contexts of actual Equator Principles implementation face asymmetric power relations, with some (such as project-affected

communities) disproportionately disadvantaged due to multiple factors. Future research should investigate how to address this power imbalance in the interest of the sustainability of the Equator Principles framework and of sustainable development more broadly. An interesting line of inquiry worth pursuing and gaining interest, for example, is the need—and the potential—among affected communities to seek legal redress against multinational corporations (MNCs) in their (developed) home country or in jurisdictions with rigorous legal frameworks, for MNC's environmental and social breaches in poor countries. The caseload is emerging. The Chevron-Ecuador lawsuit for environmental breaches appealed in Canada (Hasselback, 2016); a British Court's ruling that the lawsuit lodged by Zambian villagers against Vedanta Resources may proceed (Vidal, 2016); and other prior cases and contexts worldwide (Bridgeman & Hunter, 2008) are, arguably, precedent setting as they represent increased attempts at internationalizing host country legal struggles and testing corporate behavior in developing countries.

Third, regarding EPFI and Project Sponsor Equator Principles Implementation, the issue of inadequate transparency in Equator Principles implementation has remained unresolved in this thesis and—to the best of the author's knowledge—in most of the Equator Principles research over more than a decade of Equator Principles implementation. Further research determining how Equator Principles stakeholders or EPFIs and project sponsors could address the chronic problem of lacking transparency in Equator Principles implementation—including the ways in which to reconcile or harmonize multiple stakeholder interests for transparency without unduly constraining EPFIs and project sponsor operations or further marginalizing affected communities would be helpful.

In addition, the founding members instituted the Equator Principles as a risk management framework, using mostly mitigation to address environmental and social risks. Risk mitigation is an insufficient approach for contributing towards sustainability. What Equator Principles stakeholders now need is research on how to motivate and incentivize EPFIs and project sponsors to move beyond risk mitigation and profit considerations towards an Equator Principles framework that leads to positive overall contributions to socio-ecological sustainability.

Lastly, the Equator Principles as a credit framework for addressing social and environmental risks and impacts involves drivers, processes, interactions, and outcomes. Further research might explore these framework elements as parts of complex social-ecological systems, thereby enriching our understanding of the influences of Equator Principles as an inter-linked system.

Even under these recommendations, and other imperatives suggested in this thesis, the direction of change of self-regulation initiatives such as the Equator Principles, or the nature and the extent of needed reforms for halting or reversing deepening unsustainability (Westley et al., 2011), is material for vigorous debate and a challenging prediction. What is true, however, is that in many other initiatives and fora for sustainable development, stakeholder collaboration, strong institutions (Nykvisst & Nilsson, 2009, p.15) and oversight mechanisms (Wotruba, 1997; Marco, 2011) are necessary. Moreover, as Sinclair (1997) observes, self-regulation (such as in the Equator Principles), as opposed to command and control regulation, is a false dichotomy. Instead, a blend of these two regulations represents an optimal approach, not just for compensating for their individual weaknesses, but also for enhancing the benefits of sustainable development initiatives such as those of the Equator Principles.

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## Appendix 1

### Interview Guideline-Project Sponsors

#### **Equator Principles: How do Equator Principles influence the contribution to sustainability among project sponsors?**

##### **Questions**

1. What are the strengths and weaknesses of the Equator Principles from your point of view?
2. Does the project team members' participation in environmental and social aspects have any influence on the project approval and sustainability outcomes?
3. Do project team members' decisions regarding Equator Principles project sustainability have legal, institutional and cultural bases?
4. What are the gaps in overseeing and managing the project's sustainability effects, its environmental and social risk assessment processes, and in implementing its action or mitigation plans?
5. What influence do Equator Principles Financial Institutions (your financiers) have on the organization regarding project social and environmental sustainability outcomes?
6. What is internal management process from project development (feasibility, construction, execution, and operationalization of the project) in regard to external stakeholder management as per Equator Principles?
7. How does the organization achieve the desired effects of effective sustainability reporting?
8. How does the project ensure that the independent consultant or external environmental and social impact assessors deliver consistent evaluation on the one hand yet flexible enough to adapt to new corporate sustainability themes?
9. What are practices for achieving better effects of holistic stakeholder engagement— participation in decision-making, implementation, monitoring, and evaluation—in Equator Principles project sustainability assessment?
10. On the issue of legacy, how does the organization plan for, and implement, if at all, community development programs?

Thank you for participating in the interview!

I hope that the results of the research will be of benefit to Equator Principles organizations, Project-Affected Communities, and other Stakeholders as well as to the broader research community.

This guideline is a part of the research that seeks to analyze the Equator Principles Projects regarding Equator Principles Implementation, Equator Principles Assessment and Equator Principles Stakeholder Participation Enhancement. It will culminate in a set of recommendations on how to increase the effectiveness of reporting for both reporters and stakeholders.

The purpose of this interview is to assess the views of different stakeholder groups regarding Equator Principles implementation and Equator Principles stakeholders' role in increasing its effectiveness.

Participation in this research is voluntary. Participating in the interview will require approximately 60 minutes. There is no right or wrong answer. As you are an expert in the field, your input will be greatly appreciated.

Date: \_\_\_\_\_

Interview partner: \_\_\_\_\_

Organization: \_\_\_\_\_

***Recruitment Letter - Email***

***Dear (Participant's Name),***

My name is Emmanuel Acheta and I am a Doctoral Candidate in the Faculty of Environment, Department of Environment, and Resource Studies at the University of Waterloo, Ontario, Canada. I am currently conducting research under the supervision of Dr. Olaf Weber on examining the Equator Principles Projects: Equator Principles Implementation, Equator Principles Assessment, and Equator Principles Stakeholder Participation Enhancement in Project Affected Communities. As part of my thesis research, I am conducting interviews with individuals and professionals involved and affected by Equator Principles implementation. These persons may be associated with mining projects, projected-affected communities, or may be public officials.

I believe you play a key role in implementing the Equator Principles at (*organization's/community name*). As such, I would like to speak with you regarding the Equator Principles, specifically, their implementation in mining projects. I will be undertaking interviews starting in June 2015. The interview, in either English or/and Bemba/Nyanja, will last about sixty minutes at a location and time convenient to you. Involvement in this interview is voluntary and there are no known or anticipated risks to participation in this research. I will ask you a series of semi-structured questions pertaining to the Equator Principles implementation. You may decline to answer any of the interview questions you do not wish to answer and may terminate the interview at any time. With your permission, I will tape-record the interview to facilitate the collection of information, and for later transcription and analysis. I will consider all the information you provide as confidential. The data collected will be in a secure location and will be stored for a minimum of seven years.

If you have any questions regarding this study or require additional information to assist you in reaching a decision about participation, please feel free to contact my supervisor, Dr. Olaf Weber. His contact details are: oweber@uwaterloo.ca or phone 1-519-888-4567 Ext 38065 (collect calls accepted). Note that Ontario, Canada is -6 or -7 hours, when calling from Zambia; and please dial as 00 + 1 + Area Code + Local Number. I would like to assure you that the University of Waterloo Research Ethics Committee has reviewed this study, giving it an ethics clearance. However, the final decision whether to participate (or not) is yours. After all of the data has been analyzed, you will receive an executive summary of the research results, and/or a final copy of the study if you so wish.

With your permission, I would like to email, fax or post to you an information letter, which has these details along with contact names and numbers in it to help assist you in making a decision about your participation in this research. Please feel free to forward this correspondence to others who might be interested in participating in this research. Thank you very much for taking the time to read about my research. I may contact you within the week to see if you are interested in taking part in the interview. Once again, if you have any questions or concerns, please do not hesitate to contact me by email at eocheta@uwaterloo.ca

I would like to thank you in advance for your assistance in this project.

Yours Sincerely,  
Emmanuel Acheta



Box 2: An Excerpt from Detailed Questions and Sub-Elements of the Seven Questions Assessment Framework (Adapted and Modified from Hodge, 2004; Gibson et al., 2005, p. 227)

Question	Sub-Elements	Responses
1. Engagement: Are processes of engagement in place and working effectively?	1.1 Engagement processes	
	1.2 Dispute resolution mechanism	
	1.3 Reporting and verification	
	1.4 Adequate resources	
	1.5 Informed and voluntary consent	

Thank you for participating in the interview!

I hope that the results of the research will be of benefit to Equator Principles organizations, Project-Affected Communities, and other Stakeholders as well as to the broader research community.

This guideline is a part of the research that seeks to analyze the Equator Principles Projects regarding Equator Principles Implementation, Equator Principles Assessment, and Equator Principles Stakeholder Participation Enhancement and will culminate in a set of recommendations on how to increase the effectiveness of reporting for both reporters and stakeholders.

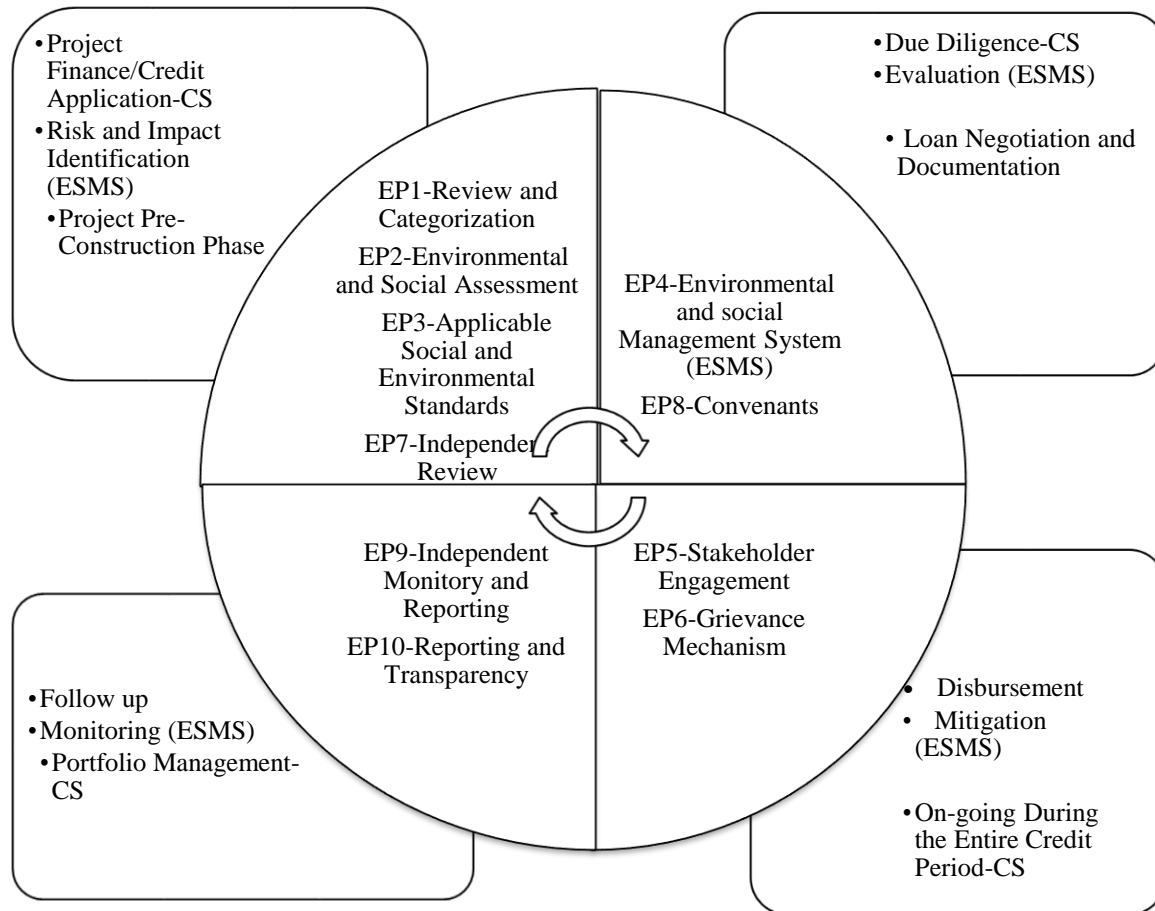
The purpose of this interview is to assess the views of different stakeholder groups regarding equator principles implementation and Equator Principles stakeholders' potential to increase its effectiveness.

Participation in this research is voluntary. Participating in the interview will require approximately 60 minutes. There is no right or wrong answer. As you are an expert in the field, your input will be greatly appreciated.

Date: \_\_\_\_\_

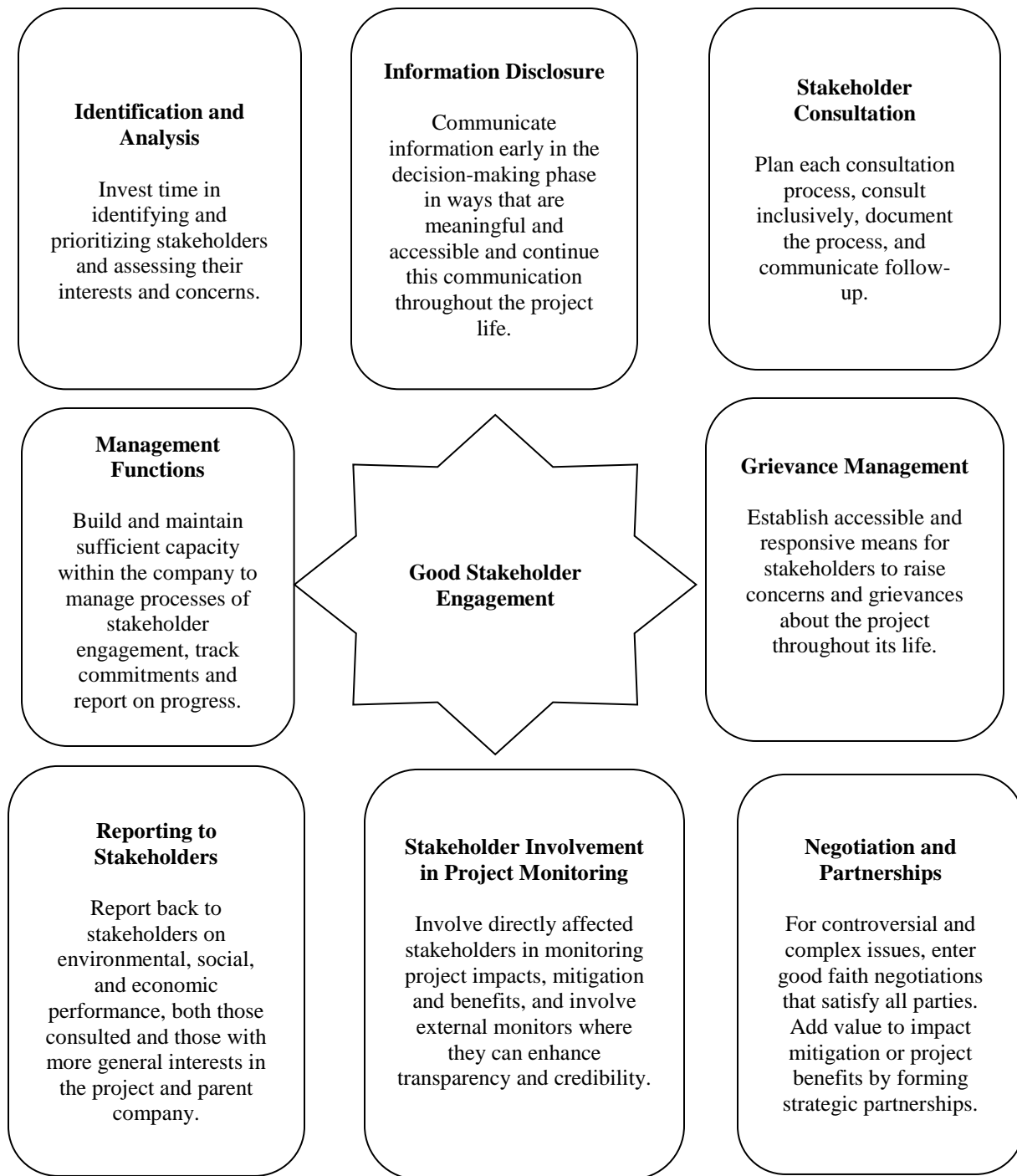
Interview partner: \_\_\_\_\_

Organization: \_\_\_\_\_

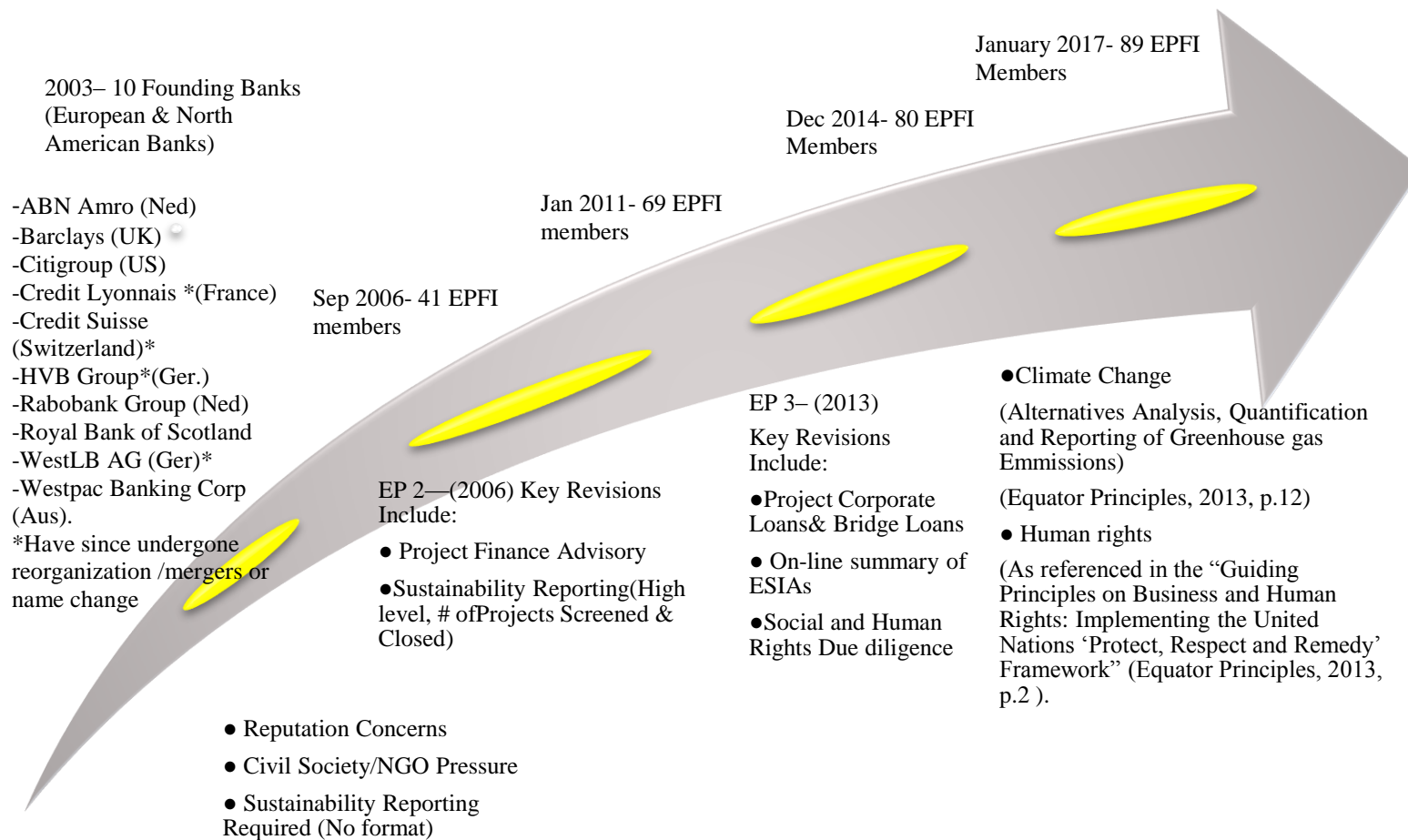


CS-Credit System ESMS-Environmental & Social Management System

**Figure 11:** Equator Principles Implementation, Credit System and Environmental & Social Management System (Source: Author Compilation: Meyerstein, 2012, p.16; Ong, 2011, p.89-96)



**Figure 12:** “Key Components of Stakeholder Engagement 2007”. (Source: IFC Stakeholder Engagement Handbook, 2007, p.22)



**Figure 13:** Evolution of the Equator Principles 2003-2017. (Source: Equator Principles, n.d.; Weber & Acheta, 2014; O’Sullivan & O’Dwyer, 2009; Wright & Rwabizambuga, 2006; Watchman, Delfino, & Addison, 2007)

### Box 3: Inclusion/Exclusion Criteria for EPFIs

<b>R-Required Criteria</b>
R1-Does the EPFI Report Annually?
R2-Are the number of screened transactions shown?
R3-Are projects categorized depending on the stage of assessment/status shown in reports as e.g. concluded, rejected, or under consideration?
R4-Are projects categorized using risk profiles such as Category A, Category B, and Category C?
R5-Are projects categorized by sector, e.g. mining, agriculture, etc.?
R6-Are projects categorized by region?
R7-Does the annual EP reporting provide information regarding the Equator Principles implementation experience (challenges and opportunities)?
R8-Does the report show that the project review is done at the marketing or appraisal stage?
<b>S-Suggested Reporting</b>
S1-In the EPFI's credit and risk management policies and procedures, as required by the EPs, is there any description showing that EPs have been integrated?
S2-In the report, does the EPFI show a designated person(s) whose responsibility is EP implementation?
S3-In the report, does the EPFI discuss internal adoption processes, implementation efforts and timetables, and staff training to ensure that staff are fully informed about the EP standards?
S4-Does the EPFI report include an EP responsibility chart as used or for use within the EPFI?
S5-Does the EPFI report include a "discussion relating to escalation of EP decision making to higher authority levels within [the] EPFI's organisation?"
<b>Suggested Good Practice Approaches (Not EPs Requirements)</b>
GP1-Does the EPFI offer any indication that it integrates EPs into Annual Financial Reports/Statements or Sustainability Reports?
GP2-Does the EPFI report show or include a flow chart or diagram to demonstrate the various stages and actions required for EP review, approval and monitoring of a typical project finance project?
GP3-Does the EPFI discuss how EPs are contractually embedded into project financing loan documentation?
GP4-Does the EPFI discuss how it conducts monitoring of the EPs once operationalized into the documentation?
GP5-Does the EPFI include case studies or "un-attributed" clients/stakeholders with EP implementation challenges?
GP6-Does the EPFI include a report on dialogue with stakeholders?
GP7-Does the EPFI offer any indication that it integrates EPs into Annual Financial Reports/Statements or Sustainability Reports?
<b>Location of Equator Principles Discussion / Reporting</b>
<b>AR-In Annual Financial Reports or Statements?</b>
SR-In Annual Sustainability Reports?
CSR-In Corporate Social Responsibility (CSR) / Corporate Citizenship Reports?
EW-In External Corporate website?
EPW-On dedicated EP Implementation Webpage?
SW-On Dedicated Sustainability Webpage?
EPR-In dedicated EP Reports?
LEP-Has the EPFI provided access to reporting information on the EP website (Is there an active link to the EP web page)?

Source: Equator Principles Implementation Guide, 2013; Sustainability/Corporate Reports-EPFIs, 2013-2014

Box 4: This Thesis' Sampling of Documents and Data Analysed

Documents selected	Data Analysed
International Finance Corporation Performance Standards (PS) on E & S Sustainability; Equator Principles Implementation Guide, 2013 <a href="http://www.ifc.org/performancestandards">www.ifc.org/performancestandards</a> ; <a href="http://www.equator-principles.com">www.equator-principles.com</a>	PS-To understand IFC's clients' responsibilities for managing E & S Risks; Equator Principles to understand statement of Principles
Draft Agreement between Traditional Chief and FQML (Parent company) of Kalumbila Minerals Ltd ( <a href="http://www.miningwatch.ca">www.miningwatch.ca</a> , July 27, 2013)	Understanding the influence of MNCs on local and national governance systems in project-related land acquisition, resettlement issues and citizen participation in decision-making processes. (EP Assessment documentation elements r, and n)
Zambia Environmental Management Agency Press Release, May 2013)	ZEMA Protection Order's impact on stakeholder engagement process between PACs and Kalumbila Minerals Ltd.
Civil Society Organization's Press Release ( <a href="http://www.miningwatch.ca">www.miningwatch.ca</a> , July 27, 2013)	Civil Society Organizations' Response on the Zambian Government Position Regarding the Protection Order of the Chisola Dam Project in Kalumbila.
Baseline Study Report on the Level of Social Service Provision and Community Awareness and Involvements in CSR Projects in Solwezi (Jesuit Centre for Theological Reflection, Zambia)	The state of accountability and transparency in the public and corporate sectors.
'JCTR, Kalumbila differ over water quality' (The Zambia Daily Mail, 10 April 2015) <a href="http://www.daily-mail.co.zm">www.daily-mail.co.zm</a>	Alleged environmental and social breaches in communities adjacent to Kalumbila Minerals Limited.
First Quantum Sustainability Report—2014/2015 ( <a href="http://www.fqml.com">www.fqml.com</a> ), and Environmental Policy	FQML Ltd.'s Sustainability practises at Kalumbila Minerals Limited.
The Environmental Management Act, 2011 (Zambia) <a href="http://www.zema.org.zm">www.zema.org.zm</a>	To understand environmental management in Zambia
Zambia Copperbelt Environment Project (The World Bank, 2011)	Environmental liabilities associated with the mining sector, and compliance of the mining sector with environmental and social regulations.
Zambia Environmental Management Agency Zambia Environmental Outlook Report 3 ( <a href="http://www.zema.org.zm">http://www.zema.org.zm</a> )	Policy-relevant information on Zambia's environmental trends and conditions: Causes and Effects of Degradation and Required mitigation.
Sustainability/Corporate Reports EPFI-A, EPFI-D1, EPFI-D2, EPFI-E, EPFI-S, EPFI-Q, EPFI-N1, EPFI-N2, EPFI-Y	Equator Principles Implementation

**Box 5: Chronology of Kalumbila Minerals Ltd-KML (C/o First Quantum Minerals Ltd-FQML) Conflict with Local Communities regarding Chisola Dam Project**

<p>April 2011. KML receives four large-scale mining licenses for the Trident Project located within the Chiefdom of the Senior Chief in Solwezi District, in the Northwestern Province of Zambia</p>
<p>July 2011: His Royal Highness Senior Chief Musele enters into an agreement with FQM for the acquisition of Surface Rights for the Trident Project. The surface rights are on customary lands. KML’s initial request was for an area of 750 square kilometers within the Chiefdom of the Senior Chief. The Senior Chief objects and downsizes KML’s request to 518 square kilometers (for \$259,000 United States Dollars) subject to approval of the grant of land by the government of Zambia and “upon subsequent receipt by KML of a 99-year leasehold title from the GRZ.”<sup>27</sup>          Mineral rights vested in the president (Ndulo, 1986; Mines and Minerals Development Act, 2015)</p>
<p>Date Unknown: KML applies to ZEMA to approve additional components to the Trident Project, which include the Chisola dam. Civil society and local communities raise concerns regarding authorization of such a “huge amount of land”, compensation, and resettlement of people. Circumstantial evidence suggests that KML applied to ZEMA for additional components (including Chisola dam) on the mistaken or hasty assumption that the Senior Chief would part with 750 square kilometers—a transaction that seemed incomplete or unresolved within the governance structures with the Chiefdom and for which KML was acting hastily.</p>
<p>November 2012: In the “Final Sentinel Environmental Impact Statement”-(EIS) for KML by South African-based Environmental Consultants—Coastal and Environmental Services (Pty) Ltd (now EOH Coastal and Environmental Services), see <a href="http://www.cesnet.co.za">www. http://www.cesnet.co.za</a>—the proposed Chisola Dam is one of the two dams that KML’s consultants assessed - (Coastal and Environmental Services, 2012, p.47) that are part of the Trident Project—composed of Sentinel, Intrepid, and Enterprise mine sites. The other proposed dam mentioned in the EIS is Musangezhi Dam.</p>
<p>November 2012-February 2013: Concerns from Civil society and local communities within Senior Chief Musele’s Chiefdom heighten about potential Chisola dam impacts. In the community participation phase of ESIA about the dam, His Royal Highness Senior Chief Musele objects to the development of the dam, citing impacts on livestock farmers adjacent to the Chisola river. He requests KML to seek alternatives to damming the Chisola river. KML considers alternatives uneconomical (Coastal and Environmental Services, 2012, p.39), and offers compensation in cash or other assets as an alternative.</p>
<p>February 2013: To address the tension and conflict surrounding KML’s application, the (late) President of Zambia, Mr. Michael Chilufya Sata, sets up an inter-ministerial task force to investigate the allegations. The task force comprises Ministers of Chiefs and Traditional Affairs, Ministers of Lands, Natural Resources and Environmental Protection, and Local Government and Housing. The committee, with the assistance of technical officials in their respective ministerial departments carries out preliminary investigations and finds that KML had obtained or sought to obtain 50,000 acres of land irregularly. The inter-ministerial task force declares the agreement that Senior Chief Musele entered with FQML null and void.</p>
<p>May 2013: Zambia Environmental Management Agency (ZEMA) issues an environmental protection order to FQML—KML proponents, to stop its construction of the controversial Chisola Dam because it lacked necessary approvals from ZEMA as required by law. (<a href="http://business-humanrights.org">http://business-humanrights.org</a>).</p>
<p>May 2013: ZEMA’s environmental protection order does not prompt KML to immediately engage, negotiate, or at the very least, consider review of an earlier agreement entered into with the Senior Chief and its subjects. Nor does</p>

<sup>27</sup> See copy of draft agreement between Senior Chief Musele at [www.miningwatch.ca](http://www.miningwatch.ca), July 27, 2013

<p>the Senior Chief review the case. It is difficult to understand the calculations on both parties' sides. However, there are calculations.</p>
<p>As "retaliation", KML issues redundancy notices to the workers and informs senior chief Musele that KML will be laying off workers. Five hundred workers on the dam site face the possibility of retrenchment.</p>
<p>July 2013, KML's "Government Affairs Officer" breaks the ice and writes to the Senior Chief. The KML's officer points to ZEMA's environmental protection order about the dam. He concludes his letter with a veiled pressure and threat, thus:</p>
<p><i>I believe that were you to independently request that Government expedite the formal notification of these outcomes [allegedly "positive outcomes of the meeting of government's task force], this would be a positive and helpful development. We are very optimistic that these outcomes might include the lifting of the Protection Order on the Chisola Dam; clearly, were this to be the case, we would rescind the redundancy notices including those for the members of the Royal Household (see MningWatch, 2013; "First Quantum letter to Musele", July 15, 2013").</i></p>
<p>The Task force directs government departments or agencies not to issue further approvals related to Kalumbila projects pending resolution of surface rights issues. Consequently, ZEMA reserves approvals on any of KML's additional projects including the Chisola dam due to unresolved issues about surface rights and associated issues. The task force further directs both parties (KML and Chiefdom) to submit:</p>
<ul style="list-style-type: none"> <li>• their proposals on the way forward to the Ministerial Committee within forty-five days from the 14th February 2013. Promptly, the community submitted their legitimate demands to the ministerial committee premising these on certain conditions. (I discuss these aspects later in the paper).</li> </ul> <p>The Ministerial Committee, on behalf of Government, would act as mediator between the two parties.</p>
<p>News reports emerge indicating that the government, through the Land, Environment and Natural Resources Minister, Hon. Wilbur Simuusa, had given KML conditional permission to continue construction of the dam, covering 200 hectares of woodland. The minister also gives permission to KML to continue working on the project in contravention of ZEMA's Protection Order.</p>
<p>Civil society organizations express outrage for government's "arbitrary disregard for a professional institution [ZEMA] that is mandated to ensure the protection of our environment and our people [. . .] an act of betrayal of the interests of citizens of a sovereign nation by those entrusted with responsibility to maintain law and order and ensure fairness and justice" (Mining Watch, July 2013).</p>
<p>Chisola Dam Construction proceeds a pace following the minister's authorization. KML and the minister disregard or ignore the potential that ZEMA may find the dam unsustainable and may be subject to demolition.</p>
<p>Along with local communities at the Musele Chiefdom, civil society begins consultations with local community with view towards seeking legal redress from the Zambian courts and if from International fora (Mining Watch, July 2013).</p>
<p>To date, KML seems to have addressed certain issues such as resettlement, even then though inconclusively and not as part of the Chisola dam dispute. Many issues remain unresolved as the government has not mediated between the two parties (KML and the Chiefdom). Instead there is an on-going government "discussion and negotiation" with only one party—KML, to the exclusion of the aggrieved communities.</p>
<p>At Kalumbila, it is business as usual. On August 28, 2015, Sentinel mine commenced operations.</p>

Source: Field Interviews with HRH Senior Chief Musele, 2015; Mining Watch, 2013; Jesuit Centre for Theological Reflection Documents; Zambia Environmental Management Agency Press release, May 2013; Zimba, 2014



## Box 6: Definitions

<i>Environmental assessment (EA)</i> is a systematic process of evaluating and documenting information on the potentials, capacities, and functions of natural systems and resources in order to facilitate sustainable development planning and decision making in general, and to anticipate and manage the adverse effects and consequences of proposed undertakings in particular.
<i>Environmental impact assessment (EIA)</i> is a process of identifying, predicting, evaluating, and mitigating the biophysical, social, and other relevant effects of proposed projects and physical activities prior to major decisions and commitments being made.
<i>Strategic environmental assessment (SEA)</i> is a process of prior examination and appraisal of policies, plans, and programs, and other higher level or pre-project initiatives.
<i>Social impact assessment (SIA)</i> is a process of estimating the social consequences that are likely to follow from specific policy and government proposals, particularly in the context of national EA requirements (Inter-organizational Committee on Guidelines and Principles, 1994, 108).

Source: Adopted from Canadian Environmental Assessment Agency, & Sadler, B. (1996 p.13)

## Box 7: Potential Issues in Equator Principles Assessment Documentation

a) assessment of the baseline environmental and social conditions
b) consideration of feasible environmentally and socially preferable alternatives
c) requirements under host country laws and regulations, applicable international treaties and agreements
d) protection and conservation of biodiversity (including endangered species and sensitive ecosystems in modified, natural and critical habitats) and identification of legally protected areas
e) sustainable management and use of renewable natural resources (including sustainable resource management through appropriate independent certification systems)
f) use and management of dangerous substances
g) major hazards assessment and management
h) efficient production, delivery, and use of energy
i) pollution prevention and waste minimization, pollution controls (liquid effluents and air emissions), and solid and chemical waste management
j) viability of Project operations in view of reasonably foreseeable changing weather patterns/climatic conditions, together with adaptation opportunities
k) cumulative impacts of existing Projects, the proposed Project, and anticipated future Projects
l) respect of human rights by acting with due diligence to prevent, mitigate and manage adverse human rights impacts
m) labor issues (including the four core labor standards), and occupational health and safety
n) consultation and participation of affected parties in the design, review, and implementation of the Project
o) socio-economic impacts
p) impacts on Affected Communities, and disadvantaged or vulnerable groups
q) gender and disproportionate gender impacts
r) land acquisition and involuntary resettlement
s) impacts on indigenous peoples, and their unique cultural systems and values
t) protection of cultural property and heritage
u) protection of community health, safety, and security (including risks, impacts, and management of Project's use of security personnel)
v) fire prevention and life safety

Source: Equator Principles, 2013, p.20

Box 8: Integrated Sustainability Decision Criteria and Trade-off Rules

<p>The requirements for progress towards sustainability can be conceptualized in terms of the following <u>sustainability decision criteria</u> which represent an integrated approach that avoids compartmentalizing sustainability into separate ESE pillars:</p>
<p>1. Socio-ecological integrity—recognition of life support functions on which human and ecological well-being depends;</p>
<p>2. Livelihood sufficiency and opportunity — ensuring a decent life for all people without compromising the same possibilities for future generations;</p>
<p>3. Intra-generational equity — ensuring equity of sufficiency and opportunity for all people;</p>
<p>4. Intergenerational equity —favoring options most likely to preserve or enhance opportunities for future generations to live sustainably;</p>
<p>5. Resource maintenance and efficiency— reducing extractive damage, avoid waste and reduce overall material and energy use per unit of benefit;</p>
<p>6. Socio-ecological and democratic governance— delivering sustainability requirements through open and better informed deliberations, reciprocal awareness, collective responsibility and other decision-making practices;</p>
<p>7. Precaution and adaptation— respect for uncertainty, avoidance of poorly understood adverse risks, planning to learn, designing for surprise and managing for adaptation; and</p>
<p>8. Immediate and long-term integration— applying all principles of sustainability at once, seeking mutually supportive benefits and multiple gains.</p>
<p>Box 8. (Continued)</p>
<p>To guide the decision-making process in sustainability assessment in order to avoid inappropriate trade-offs and to demonstrate that a sustainable outcome will be achieved, the following <i>trade-off rules</i> are advocated:</p>
<ul style="list-style-type: none"> <li>• Maximum net gains — deliver net progress towards meeting sustainability requirements (i.e. seek mutually reinforcing, cumulative and lasting contributions that favor the most positive feasible overall result while avoiding significant adverse effects);</li> </ul>
<ul style="list-style-type: none"> <li>• Burden of argument on trade-off proponent— the burden of justification (especially where adverse effects in sustainability considerations will result) falls on the proponent of the trade-off</li> </ul>
<ul style="list-style-type: none"> <li>• Avoidance of significant adverse effects — no trade-off that involves a significant adverse effect on any sustainability factor can be justified unless the alternative is acceptance of an even more significant adverse effect;</li> </ul>
<ul style="list-style-type: none"> <li>• Protection of the future — no displacement of a significant adverse effect from the present to the future can be justified unless the alternative is displacement of an even more significant negative effect from the present to the future;</li> </ul>
<ul style="list-style-type: none"> <li>• Explicit justification—all trade-offs must be openly identified in an explicit justification in light of the sustainability decision criteria and general trade-off rules; and</li> </ul>
<ul style="list-style-type: none"> <li>• Open process—proposed compromises and trade-offs must be addressed and justified through open processes with effective involvement of all stakeholders</li> </ul>

Source: Gibson et al., 2005, pp 95-141

Box 9: A Typology of Participation in EIA (adapted—and modified—from Adnan et al., 1992)

Type	Example of each type
1. Passive participation	[Project Sponsor or Consultant] or government official appears in the community and tells the community that a project will be constructed, and it will 'improve' livelihoods.
2. Participation in information giving	[Project Sponsor or Consultant] or government official appears in the community and asks for information about their livelihoods, and about particular issues of concern. Records their answers and leaves.
3. Participation by consultation	[Project Sponsor or Consultant] or government official explains that livelihoods need to be improved, and that the government will likely approve or intends to green light a sponsor's project. They seek the views and responses of the community (for example, how they feel it might affect patterns of life), and then leave.
4. Functional participation	[Project Sponsor or Consultant] or government officials inform the community that the sponsor intends to construct a project. The consultants then facilitate the development of a community committee to discuss aspects of the project (such as minimizing disruption of water supplies or sources, construction noise, impacts on community patterns of life; or to agree on arrangement for water management).
5. Interactive participation	Local community members identify their own needs, and external facilitators work with them to assist in finding solutions to potential negative impacts - and improving positive effects. In some cases, new institutions will develop at the local level, which might then play a role in the management of their own project and its impacts. Community members then have a real stake in maintaining structures or practices
6. Self-Mobilization	Community members plan and identify their own project-induced structures, perhaps learning from experience in a nearby community or regional in-country projects. They may develop contacts with external institutions for resources and technical advice they need, but retain control over how resources are used.