

# A proposal to include ECAs in DG Trade's Civil Society Consultations

## I. The relevance of ECAs at the EU level

### 1. *The relevance of ECAs.*

Export Credit Agencies and Investment Insurance Agencies, commonly known as ECAs, are public or parastatal agencies that provide government-backed loans, guarantees and insurance to corporations from their home countries that seek to do business overseas in developing countries and emerging markets. Most industrialized nations have at least one ECA. Export Credit Agencies (ECAs) are now the single largest source of taxpayer support for infrastructure projects in the south and in Eastern Europe, underwriting projects whose value is several times the combined annual funding of all the Multilateral Development Banks. Unfortunately, ECAs are involved in many destructive projects, from pulp and paper mills to nuclear power plants and large dams.

With the exception of Australia's EFIC and the US EX-IM Bank, ECAs are not subject to any binding environmental, human rights or development guidelines aimed at ensuring that ECA lending does not use taxpayers' money to contribute to ecologically and socially harmful projects. ECAs are now the world's biggest class of public International Financial Institutions, collectively exceeding the World Bank Group in size. Yet, like the World Bank Group 20 years ago, most ECAs have no social and environmental standards.

### 2. *The OECD Agreement on environmental standards for ECAs*

After nearly five years of discussions in response to OECD and G8 mandates for environmental reform of ECAs, the draft environmental agreement negotiated in the OECD Export Credit Group is insufficient and is unlikely to significantly affect the environmental performance of ECA projects. Social performance is not addressed at all. The agreement lacks even the most minimal criteria of international good practice in environmental assessment and falls short on two main principles:

- **Transparency.** It fails to include specific commitments to consult with affected communities and other stakeholders and to publicly release environmental information *prior to final decisions on financial or guaranteeing support.*
- **Common, binding, independently verified standards and procedures.** The proposed agreement asks Members to review a project's environmental information against the benchmarks of any of a number of international standards. This means that an ECA can choose to apply—or not apply—virtually any standards it wants to any given project, as it sees fit.

Meanwhile, in the WTO, there is a "carve-out" that exempts ECAs abiding by the terms of the OECD financial "Arrangement" from the WTO's export subsidy prohibition.

### *3. The relevance of the EU and the debate on standards*

Some EU member states have undermined the adoption of binding environmental standards for ECAs within the OECD working group on Export Credit Guarantees. Other member states are considering making the OECD guidelines for multinational companies mandatory for all companies applying for ECA support. Public or parastatal agencies in the EU, such as ECAs, should promote upward harmonization, respecting internal EU standards<sup>1</sup>.

The text of the sixth Environmental Action Plan states: "*promoting sustainable environmental practices in foreign investment and export credits*"<sup>2</sup>. The European Parliament suggested even stronger language: "*instituting an EU code of conduct of environmental practices in foreign direct investment and export credit by the time of the mid-term review*".

The European Commission's green paper *Promoting a European framework for Corporate Social Responsibility*<sup>3</sup> states that: "*The European Union itself has an obligation in the framework of its Co-operation policy to ensure the respect of labour standards, environmental protection and human rights and is confronted with the challenge of ensuring a full coherence between its development policy, its trade policy and its strategy for the development of the private sector in the developing countries notably through the promotion of European investments*".

On the 27 January 2002, a draft text<sup>4</sup> was agreed in preparation for the International Conference on Financing for Development to be held in Mexico, 8-22 March 2002. Based on the Council conclusions of 21 January 2002<sup>5</sup>, the EU proposed to include in paragraph 20: "*Export credits should be made sustainable in accordance with the work done at OECD, should be for productive purposes and consistent with maintaining countries debt sustainability.*"

### *4. The relevance of DG Trade in relation to ECAs*

On 27 October 1960, the Council took a decision to set up a policy coordination group on Credit Insurance, Credit Guarantees and Financial Credits<sup>6</sup>. DG Trade is part of this

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<sup>1</sup> Article 132 of Amsterdam/Nice Treaty: harmonization

<sup>2</sup> Article 9 paragraph 2 (e)

<sup>3</sup> 18.7.2001 COM (2001) 366 final

<sup>4</sup> International Conference on Financing for Development Monterrey Consensus: I. Confronting the Challenges of Financing for Development: a Global Response

<sup>5</sup> January 21st, 2002 "The Final Version of the EU Amendments to the FfD Co-Chairs Draft Text' from the Spanish Presidency of the European Union, General Secretariat of the Council, circulated by Arias/Fernandez-Trigo

<sup>6</sup> Official Journal 066: pp1339-1340

group and helps coordinate EU positions on ECAs. The coordination role of the Commission is also mentioned in Article 4 of the Council Directive 98/29 on harmonization of the main provisions concerning export credit insurance for transactions with medium and long-term cover. This Directive also states “*The Commission shall submit a report to the Council by 31 December 2001 on the experience gained and the convergence achieved in applying the provisions laid down in this Directive*”<sup>7</sup>. In the context of this reporting exercise it would be useful to foster a dialogue between civil society and the Commission on issues that lie outside the present scope of the Directive.

## II. Specific requests

Given the importance of ECAs as a trade and environment issue, ECAs should be incorporated as a top-priority element for discussion in the civil society consultation groups. This should include, at a minimum:

- (a) Analytical and research work to develop appropriate policies and strategies for upwardly harmonizing ECA’s environmental and social policies. These policies must include both environmental/social performance standards and operational/procedural policies designed to ensure compliance, accountability, and transparency. Within the EU context this would include ECAs complying with the Directives being developed to enable EU ratification of the Espoo and Aarhus Conventions.
- (b) Policy coherence between the EU’s various areas of responsibility: trade, competition, development cooperation, human rights, social affairs and the environment.
- (c) Two options that must be considered are:
  - i. elimination of the "carve-out" and mutual disarmament of ECAs as part of the multilateral trade regime, given their trade-distorting and environmentally harmful effects;
  - ii. incorporation of upwardly harmonized common environmental and social standards for ECAs into the multilateral trade regime, as a prime “win-win” candidate to begin to incorporate environmental and social considerations into trade policy.
- (d) Other issues that should be discussed are
  - corporate social responsibility;
  - ECAs role in human rights abuses;
  - EIAs and ECAs;
  - The role of the European Investment Bank in projects supported by ECAs.

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<sup>7</sup> Article 5

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