

MAKE THE EDC RESPECT HUMAN RIGHTS AND THE ENVIRONMENT

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As official government assistance to developing countries has declined, export credit agencies such as Canada's Export Development Corporation (EDC) have become increasingly important. At the moment, the EDC is exempt from the sorts of environmental and human rights standards that apply both to other Canadian agencies and to agencies in other countries, including the United States. As the government reviews the act governing the EDC, it should raise the standards the Corporation must meet in making its loans.

Au fur et à mesure que le gouvernement réduisait son aide officielle aux pays en voie de développement, on a vu croître en importance les organismes canadiens de crédit à l'exportation, comme la Société pour l'expansion des exportations (SEE). Or, la SEE échappe pour l'instant aux normes auxquelles sont soumis, en matière d'environnement et de droits de la personne, les autres organismes étatiques canadiens ou étrangers, y compris ceux des États-Unis. Le Parlement, appelé à réexaminer la loi qui régit la SEE, devrait rehausser les normes imposées à cet organisme dans l'octroi de ses prêts.

This spring, the Canadian government has been considering changes to the *Export Development Act*, the governing statute of the Export Development Corporation (EDC). EDC is the main source of publicly supported export financing in Canada. A federal Crown corporation, it provides Canadian exporters with financing products to help their customers, and with commercial and political risk insurance. In 1998, EDC worked with 4,183 customers in 200 countries, helping Canadian companies to generate nearly \$35 billion in sales and foreign investments.

EDC financing has risen sharply in recent years. From 1993 to 1998, its business tripled from \$8.7 billion to \$25.8 billion. Its customer base has also grown. In 1999, EDC had 4,297 customers in the first half of the year, a 21 per cent increase over the same period a year before. World wide, as official development assistance continues to decline, export credit financing has risen sharply, from approximately \$26 billion in 1988 to \$105 billion in 1996. Export credit agencies such as EDC are now the single largest public financiers of large-scale infrastructure projects in the developing world.

With the enormous amount of capital flowing through EDC comes the potential to ensure that this financing ben-

efits the people and the environment of host countries. There is currently little to distinguish EDC financing from private financing in this regard. Other export financing agencies, such as the US Export-Import Bank, the US Overseas Private Investment Corporation, and the World Bank Group, have effective standards in place to ensure that the support they give to the private sector meets certain ethical standards. When their standards are viewed alongside EDC's, it is clear that Canada lags far behind.

As a Crown corporation, EDC pays no taxes, and it raises funds on international capital markets with the full faith and credit of the Canadian government, which allows it to receive preferential terms from lenders. Other financial-sector actors do not have such advantages. Yet, while government agencies such as CIDA (which manages projects in less developed countries) and CIDA INC. (which supports private-sector activities in less developed countries) are subject to the *Canadian Environmental Assessment Act (CEAA)*, and the *Access to Information Act*, EDC has been exempted from these requirements. In fact, EDC faces virtually no legal obligation to ensure that its lending meets basic social or environmental standards. And because of its refusal to

publish a list of the projects it finances, many of these projects come to light only after they have become well-publicized disasters.

EDC is a major financier of hydro mega-projects. It financed the 1994 sale of \$12.5 million worth of computers by Monenco-AGRA, and the 1997 sale of \$153 million worth of turbines and generators by Canadian General Electric for China's Three Gorges dam. The dam, now under construction, may be the world's single most environmentally damaging project. It will lead to the forced resettlement of between 1.3 and 2 million people, imperil endangered species along the Yangtze River, turn the river into a cesspool of human and industrial wastes, and submerge archeological sites dating back to 10,000 BC. It has been plagued by instability in the rock bed under the dam, and faces intense resistance by the people who are slated to be moved.

Another EDC-financed hydro project, the Urra project in Colombia, has devastated the traditional food source of the indigenous Embera Katio people. Amnesty International reports that six Embera Katio people protesting the project have been killed, and ten additional members of the community have been disappeared. In late November 1999, the Urra construction consortium began filling the reservoir, in violation of a court order obtained by the Embera Katio. As the Embera Katio struggle to have the court order respected, further violence against them is expected.

EDC has also financed several major mining projects. In 1992, it issued \$163 million in political risk insurance to Montreal-based Cambior for its Omai gold mine in Guyana. A burst tailings dam at the mine released 3.2 billion litres of cyanide- and heavy metal-laced effluent into the country's main waterway. Guyana's fishing, agriculture and tourism industries were decimated by the spill.

Another major sector that EDC assists is the nuclear industry. It has financed CANDU nuclear reactor sales to China, South Korea, Romania, Argentina, and Turkey, as well as food irradiation sales to Algeria. Like most EDC projects, no transparent environmental assessment was done for these projects.

Recently, EDC and the Canadian government have taken some steps indicating their growing recognition that it is in EDC's interest to act responsibly and in a manner consistent with

public policies. In March 1999, the government announced its intention to cancel the debt owed to the EDC by the world's poorest countries. In April 1999, EDC adopted an environmental review framework and published a code of ethics. In May 1999, it signed on to the *United Nations Environment Program Statement by Financial Institutions on the Environment and Sustainable Development*.

While these steps are positive, they are inadequate. The promised write-down of sovereign debt of the poorest countries has taken place without discussion of how to put mechanisms in place to ensure either responsible lending or future write-downs. As a result, Canadian taxpayers will continue to carry the losses for bad loans EDC makes to developing countries, and there is no economic incentive for EDC to make future loans more responsibly.

As noted by a December 1999 report from the Standing Committee on Foreign Affairs and International Trade, the code of ethics and the environmental framework are unenforceable, and without sufficient transparency it is impossible to determine whether its guidelines are being followed. In addition, the language used is ambiguous, and falls far short of existing industry standards employed by the World Bank or US export credit agencies. The code of ethics, for example, focuses primarily on the human rights of EDC employees and makes no specific mention of the human rights of locally affected communities.

Both the framework and the code lack public engagement, follow-up and evaluation mechanisms that would give external confidence that EDC will not have deleterious and avoidable impacts on communities abroad or on the environment. The use of voluntary, non-binding measures and standards limits EDC's ability to influence companies that are taking advantage of a dormant or non-existent regulatory framework.

If EDC is serious about helping prevent Canadian companies' operations from threatening people and the environment in instances where national regulations do not secure basic protections and when international agreements and treaties are not upheld, it should adopt binding, high standards developed through wide consultation. Where human rights or social and environmental standards are not being met, requests for financing should be declined.

The Standing Committee recommends EDC establish an independent ombudsman as an

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appeal mechanism for human rights and environmental abuses brought on by EDC-financed projects. While this is a good first step, there must also be meaningful mechanisms to screen out and mitigate the harmful effects of these sorts of projects before they get off the ground. In this regard, the Department of Foreign Affairs and International Trade should actively assist EDC in supporting and respecting the protection of international human rights within its sphere of influence and making sure that Canadian companies are not complicit in human rights abuses. Country guidelines, developed in consultation with stakeholders, would provide an important base for this analysis.

Disclosure is a major problem with EDC, and is not likely to be remedied until the corporation is brought under the purview of the *Access to Information Act*. While EDC claims this would harm the commercial interests of its clients, the commercial confidences exemptions in the *Act* would surely provide adequate protection. (Indeed, there is considerable evidence that several government agencies already employ this exemption in an overzealous manner.) US export credit agencies fall under the US *Freedom of Information Act*, which has far less restrictive provisions for commercial confidences, and this has not had a negative effect on these agencies.

Both the World Bank and US export credit agencies have higher environment, human rights, disclosure and social standards than the EDC so far has. EDC argues that it should not be held to the higher standards of these agencies because the support it gives to its clients is of a different nature. It argues that while the US agencies are lenders of last resort, it supports more usual commercial activity. In fact, there is considerable overlap between the mandates of EDC and these other agencies. EDC sometimes acts as a lender of last resort, while the US agencies also engage in commercial lending. But beyond that, all public agencies must operate in ways that are consistent with public policies and values that serve to protect the environment, human rights and social needs of local communities.

Finally, the government should ensure that EDC's mandate be made consistent with other Canadian public policies, interests and values. The Standing Committee report recommends that Canada's international commitments be reflected in the purpose clause of the *Export Development Act*. The report would add an obli-

gation on EDC to "give due regard ... to the commitments and obligations undertaken by Canada under international agreements." These should include our commitments to sustainable development and international labour, human rights and environment conventions. EDC should be required to minimize environmental impacts, respect human rights and take into account the social needs of communities, such as health, the pursuit of livelihoods and the right to voluntary resettlement.

EDC cannot rely on the regulatory framework of host countries to ensure that projects it supports are not in contravention of internationally accepted norms and conventions. In part as a result of services provided by EDC, Canadian companies have business interests in countries which — whether because of limited economic or institutional capacity or simply a lack of political will — are not prepared to pay attention to crucial human rights and environmental considerations.

As a public institution, EDC should ensure the highest standards in its business operations. As a financial institution, it should recognize that Canadian companies are increasingly significant actors locally, nationally and globally and can have immeasurable, and in some cases, irreversible, social, economic and environmental impacts. Canadian companies have a responsibility to adopt policies and practices to eliminate possible social and environmental side effects of international business and to avoid undermining global commitments to the elimination of poverty and the protection of human rights and the environment.

As the government considers amendments to the *Export Development Act*, it should bear in mind that Canadians expect agencies that enjoy public benefits to adhere to well-accepted principles relating to human rights, environmental protection, sustainable development, transparency and accountability. Thus far, these principles have been absent from the policies of the Export Development Corporation.

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