
Export Development Canada:

A CIVIL SOCIETY REPORT CARD ON TRANSPARENCY, THE ENVIRONMENT AND ACCOUNTABILITY

Export Development Canada (EDC) was established in 1944 to develop Canada's export trade abroad. In recent years, it has come under increasing public scrutiny over its support for a number of projects involving Canadian companies that have had negative repercussions on the environment, communities and human rights.ⁱ

This Report Card is a civil society evaluation of EDC's performance since May 2002. At that time the Crown Corporation adopted new policies for taking account of the environment, enhancing transparency and promoting greater public accountability (through their *Environmental Review Directive or ERD*). This Report Card is designed to coincide with the release of the Auditor General's report on the implementation of the ERD, to be tabled before Parliament on October 26, 2004. Under the Export Development Act, which provides the terms of reference for EDC, the *Auditor General (AG)* must review the design and implementation of the ERD at least every five years. Her last report on EDC's ERD was tabled in May 2001.

Our evaluation of the progress made since 2002 is based on information received in formal and informal communications from EDC, information available on EDC's web site, EDC's obligations under the *Organization for Economic Cooperation and Development's (OECD)* "Common Approaches" (a recommendation to harmonize *Export Credit Agency (ECA)* policies on the environment), the last AG's review of (and recommendations for) EDC's environmental and disclosure policies, the United States General Accounting Office (GAO) Report to Congress on ECAs, and best practices among other public *international financial institutions (IFIs)*.

As a report card, it provides a series of grades to reflect EDC's progress on the environment, transparency, and accountability. We have given the Crown Corporation credit where it has addressed an issue that most other ECAs have yet to (even where the outcome is less than what we would have liked to have seen), but awarded higher grades for more comprehensive policy and practice. When EDC failed to address an issue in any way, or responded with a policy that would be potentially detrimental to the environment or communities, we gave them a failing grade. There was one "F".

- A** – *Outstanding*: Meets or exceeds best practices in the field.
- B** – *Substantial Progress*: Has gone beyond minimum international requirementsⁱⁱ.
- C** – *Some Progress*: More improvement necessaryⁱⁱⁱ.
- D** – *Little Progress*: No obvious improvements.^{iv}
- F** – *Failure*: No progress made since 2002. Potentially detrimental to the environment.

In general, the report card indicates that EDC has made some good progress in a few areas, but still falls seriously short on transparency (vague, inadequate and poor disclosure prior to, and after, decisions being made) and accountability (only periodic reviews by the AG really inform the public about how EDC is doing). This is not what the Canadian public expects from a public financial institution.

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The report card has been developed by the NGO Working Group on EDC (WG), established in 1999 to promote adherence by ECAs, particularly EDC, to internationally accepted standards regarding human rights, the environment and disclosure. The WG is part of the Halifax Initiative, a Canadian coalition of development, environment, faith-based, human rights, and labour groups.

Environment	Grade	Comments and Recommendations for Action
1. Human resources working on the environment	A	<p>Excellent work Since 2002, EDC now has seven environmental staff, more than any other ECA and have housed these under a separate Environmental Advisory Services team. The quality of the staff thankfully also matches the quantity.</p> <p>RECOMMENDATION: Keep building the environmental unit.</p>
2. Staff guidance on, and raising public awareness about, EDC and the environment	B	<p>A promising start Beyond the Environmental Advisory Services, EDC seems to have successfully integrated its environmental policy into its internal processes, and have enhanced corporate awareness about the environment through corporate training^v. EDC has also made efforts to educate civil society and business about the new directive, although this has often been kept to generalities more than specifics. Responses to official communications between EDC and the WG have always been relatively timely, and EDC has been good at answering most of our questions. The web site has also become a good source of information. Despite this, there is still a lack of clarity around the specifics of the environmental review procedure and decision-making processes, and the degree of influence the review has on final board consideration.</p> <p>RECOMMENDATION: The <i>International Finance Corporation (IFC)</i> – the World Bank’s private sector arm – provides detailed information on its process from early review to board approval, commitment and disbursement. British and French ECAs have also recently posted details on their environmental review process^{vi}, in keeping with the “Common Approaches” recommendation to publish procedural guidance^{vii}. EDC should provide similar clarity to its process.</p>
3. Environmental review policies and procedure	B	<p>A guarded well done Despite financing the odd unpopular nuclear power plant, and gold and copper mine, EDC seems to have managed to steer clear of some of the most controversial, environmentally and socially dubious projects (such as the OCP pipeline in Ecuador; Baku-Tbilisi-Ceyhan pipeline in the trans-Caucasus; Tambogrande gold and silver mine and Camisea oil and gas project in Peru; and the Chad-Cameroon pipeline). We assume that it is because of EDC’s environmental due diligence. However, EDC does also conduct reputational risk assessments to determine the extent to which supporting a project might damage its own reputation. One of the indicators that EDC uses to conduct such an assessment, is the extent to which civil society and the media are monitoring the project. Reputational risk assessments shouldn’t be confused with proper environmental due diligence.</p> <p>RECOMMENDATION: Stick to environmental, not reputational, reviews</p>
4. Monetary value that triggers a review	B	<p>Environmental risk is finally the trigger for your review – Well done The OECD requires members to categorize and review all projects above CDN\$18.7 million^{viii}, and all projects in sensitive areas, regardless of their monetary value. EDC maintains that it already does this in practice, and in fact has supplemental measures that use environmental risk as the trigger for reviewing projects, not merely the monetary value, repayment term, or proximity to sensitive areas. We have long been calling for this, so well done on finally doing it.</p> <p>RECOMMENDATION: Reflect your new practice in your policy, and make the process and the criteria you use for conducting the supplemental measures transparent to the public.</p>

<p>5. Screening and categorization procedures</p>	<p>F</p>	<p>Improved process? Poor transparency makes it impossible to assess. EDC screens and categorizes projects according to their potential for negative environmental impact, <i>Category A (Cat. A)</i> being the <i>most significant</i> and Cat. C being the least. In theory, projects with the most significant environmental impacts then receive the greatest due diligence.</p> <p>EDC may have enhanced its internal screening and categorization procedures, but since the public is not privy to EDC’s environmental review of projects, our assessment of EDC’s screening and categorization procedures is biased to what EDC reveals publicly. And this is not much. With the exception of only some Cat. A projects,^{ix} EDC does not indicate at the time how it has categorized projects. Furthermore some oil, mining and wastewater projects EDC signed in 2003 do not appear to have been categorized as “A”, even though similar projects received such a classification in previous years.^x Project descriptions also remain vague, especially worrying given the nature of some of these projects^{xi}. Finally, EDC fails to disclose the <i>environmental impact assessments (EIAs)</i> for projects it is considering. This allows interested parties to not only scrutinize the assessments, but identify environmental and social issues that may not have been addressed. Without this information, the public must rely on periodic reviews by the AG to determine whether projects have been screened and categorized appropriately.</p> <p>Of growing concern is EDC’s use of lines of credit and credit facilities to banks and companies involved in oil and gas exploration, mining, and chemical manufacture. Such financing, currently amounting to over CDN\$500 million, seems to escape any sort of environmental due diligence.^{xii}</p> <p>RECOMMENDATION: The IFC identifies all projects (A, B, and C) clearly and provides detailed project descriptions. The US Overseas Private Investment Corporation also notifies interested stakeholders when new Cat. A projects have been posted. EDC should follow suit.</p> <p>For its 100 million “Master Loan” (line of credit) to Petroleos Mexicanos, EDC has indicated that it will independently classify and review projects under its ERD since the loan has the potential to support future oil and gas projects^{xiii}. Such environmental due diligence should not apply to just this “Master Loan”, but to all existing and future lines of credit and credit facilities EDC signs.</p>
<p>6. Choice of environmental standards</p>	<p>C</p>	<p>Don’t be afraid to speak up about the standards you use The previous AG’s report criticized EDC for being silent on the choice of standards it applied. This hasn’t changed. Now it lists numerous international standards, but fails to indicate which of these a project has met.</p> <p>RECOMMENDATION: Add some predictability and accountability to the process by identifying a minimum set of international standards that projects are expected to meet or exceed, and disclose which a project has met.</p>
<p>7. Disclosure of environmental information.</p>	<p>D</p>	<p>See 10. below</p>
<p>8. Decision to support a project, or not</p>	<p>D</p>	<p>Say when you won’t support a bad project, rather than why you can The environmental review was established to help EDC make an informed decision about providing support for a project. While evidence from EDC’s Chief Environmental Advisor’s report suggests that EDC has rejected a number of projects, largely for reasons of inadequate environmental information, there still remains no clear (public) methodology to determine when a project should be rejected on environmental grounds – merely grounds for <i>justifying support</i> for a</p>

		<p>project that will have a high environmental impact, despite mitigation measures.</p> <p>Furthermore, despite the efforts EDC has made to promote environmental due diligence throughout its review of projects, EDC staff receive bonuses based on the volume of transactions they approve. This has the potential to distort outcomes as it creates an internal incentive among EDC staff to push through larger projects which by their very nature are likely to have potentially more significant adverse environmental effects.</p> <p>RECOMMENDATION: Develop a clear public process for rejecting environmentally harmful projects, and eliminate the bonus system.</p>
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Disclosure	Grade	Comments and Recommendations for Action
9. Current corporate disclosure practices and procedures	B	<p>Despite some good steps forward, disclose more of the stuff that counts</p> <p>We don't deny that EDC has made some strides forward on disclosure – a new disclosure policy, a new Chief Environmental Advisor's and Compliance Officer's Annual Reports, and minutes to its Advisory Council meetings are a step in that direction (although only on par with standard practice). But EDC still falls short of what other ECAs (in the US, UK, Japan and Australia) are doing in terms of greater transparency of process, procedures and projects.</p> <p>RECOMMENDATION: See 2. and 5. above, and 10. below.</p>
10. Ex-ante disclosure (reporting before you decide to fund a project)	D	<p>Stories about disclosure of environmental information affecting commercial competitiveness are increasingly falling flat – early transparency is key.</p> <p>Since 2002, EDC has posted details <i>ex-ante</i> (before board approval) for Cat. A (high risk) projects. However, because it requires the consent of companies to do so, because it does not notify interested parties when new Cat. A projects are posted (as the US Overseas Private Investment Corporation does), and because there were previously no time lines on when such information had to be posted^{xiv}, there can be no guarantee that EDC posted all Cat. A project information <i>ex-ante</i>. In two years, it has not posted a single project EIA. And even now, EDC does not “seek to make environmental information publicly available”, as per the OECD agreement. Rather it “encourages project sponsors to consent to advance disclosure of Cat. A projects”, citing concerns over customer confidentiality.</p> <p>Company concerns about disclosure of project information resulting in business being lost to competitors are valid, and commercial confidentiality does present a significant stumbling block to greater transparency. But in investigating these concerns in relation to Ex-Im – EDC's US equivalent - the US General Accounting Office (GAO) was unable to find any specific instances where project information disclosure had negative competitive impacts.^{xv} Furthermore, the environmental impact assessments (EIAs) the GAO's office reviewed did not contain any proprietary information nor information on specific companies involved. Ex-Im officials indicated that were such information included in an EIA, it would be removed prior to disclosure. It is not surprising, therefore, that ECAs in Australia, Britain, Finland, the US and Japan, all regional development banks, and the International Finance Corporation – presumably also concerned with commercial confidentiality – now require full project and environmental disclosure prior to board consideration.</p> <p>The AG in 2001 and the Government itself in May 2000^{xvi} stated that environmental assessments should be made public early in the project financing</p>

		<p>approval process – subject to commercial considerations. These ‘considerations’ have been used as a blanket term to exempt broader transparency in general, and disclosure of environmental information in particular.</p> <p>RECOMMENDATION: As a first step, require EIAs to be disclosed at least 60 days prior to final commitment for Cat. A projects and projects funded through the Canada Account, and disclose related project details at least 120 days prior.</p>
11. Ex-post disclosure (reporting after you have funded a project)	D	<p>Commercial confidentiality should not hinder greater transparency after the fact.</p> <p>Sensitive commercial information includes prices, margins, technology, conditions of contracts, client lists, and marketing strategy. Less sensitive information includes the name of the company, the country, general description of project, amount and type of financing, environmental and social information.^{xvii} Some of this information may also be time sensitive – that is, more sensitive prior to a deal being signed, than after. Yet there is little to distinguish EDC’s <i>ex-post</i> (after board approval) from its <i>ex-ante</i> (before), disclosure, There is still no social and environmental information for any projects. Projects are not identified in terms of categories (A, B or C). Transactions are in approximate amounts (e.g. <5 million or 100+ million). Project descriptions are vague (‘various goods and services’). This is inexcusable, given that EDC funded companies like Nexen Inc., Celulosa Arauco y Constitución SA, Inversiones CMPC, and SA, Petrobras SA. – all of whom are involved in projects with potentially high environmental impacts.</p> <p>RECOMMENDATION: Bring some clarity and detail to your disclosure of ex-post project details.</p>
12. Public consultation	C	<p>Getting better, but lack of transparency makes meaningful public consultation challenging</p> <p>The last AG’s report notes that public consultation is essential to credible environmental review as it allows issues to be addressed that may have been overlooked. EDC only expects companies to consult affected communities during the EIA process, rather than requiring them to do so, and has no provisions for consulting groups at a later stage when Cat. A projects are under consideration. Australia and Japan, and to some extent the US and UK, have such a provision.</p> <p>In terms of consultation on its policies, EDC’s experience is still mixed. The initial consultation period on EDC’s environmental policy was contentious as the policy was released over Christmas 2002, providing for a reduced consultation period. It did solicit input on its annual Chief Environmental Advisor’s Report and Compliance Officer Report. The 2004-2005 review of its disclosure policy requires a consultation. How this is done will be an indication of how far things have come, or how far EDC still has to go.</p> <p>RECOMMENDATION: Disclosure of the project EIA 60 days prior to board consideration should be accompanied by appropriate measures to consult with and receive comments from interested parties.</p> <p>Interested parties should be consulted on new substantive policies.</p>
13. Canada Account disclosure	D	<p>Make it more transparent</p> <p>In its response to the May 2000 Standing Committee on Foreign Affairs Report on <i>Reviewing the Export Development Act</i> (Recommendation 20), the government made a distinction between disclosure of information for projects through the Canada account vs EDC’s corporate account. Since the corporate account includes a higher percentage of “market window” (or commercial interest</p>

		<p>rate) transactions, the “need to protect confidentiality would be greater”. The implication of this, therefore, is that there would be greater transparency for Canada Account transactions. However, apart from a Canada Account Annual Report produced every two years, which provides no further details on projects it has been used to fund, there is no distinction between the level of transparency for corporate account projects vs. Canada accounts.</p> <p>RECOMMENDATION: As per Recommendation 10 above, require the EIAs for Canada Account projects to be disclosed at least 60 days prior to final commitment for Cat. A projects, and all project details at least 120 days prior.</p>
<p>14. Compliance Officer</p>	<p>B</p>	<p>Well done EDC</p> <p>EDC has responded well to the government’s recommendation to develop an ombudsman. It and the Japanese ECA are the only two to have such a mechanism in place. However, we believe that because EDC’s policies still remain flexible, the Compliance Officer is left to interpret the ‘spirit’, rather than the ‘letter’, of the law. This is something EDC could work on improving. Response time to complaints (three months for the one submitted on Cernavoda2) is on par with what Japan’s ECA say is reasonable. But the internal audits that were conducted subsequently on EDC’s disclosure and environmental policies took a further seven and eight months respectively. This was all the more disappointing since the disclosure audit, unlike the environmental audit, contained no evidence to substantiate its findings.</p> <p>RECOMMENDATION: Work on enhancing the reporting-out procedures, and the content of some of the audits, and start including recommendations for enhancing the process.</p>

Endnotes

ⁱ See for example, Reckless Lending I (March 2000) and II (May 2001), NGO Working Group on EDC. On-line: http://www.halifaxinitiative.org/index.php/Pub_ECAs_Reports

ⁱⁱ That is the OECD’s recommendation on “Common Approaches on Environment and Officially Supported Export Credits”.

ⁱⁱⁱ Meets minimum OECD recommendations and the provisions of EDC’s Environmental Review Directive.

^{iv} Policies or practice fails to meet prior government recommendations on the issue, or falls below OECD requirements for ECAs.

^v As reported in the EDC Chief Environmental Advisors Report (2002).

^{vi} See <http://ifcn1.ifc.org/ifcext/enviro.nsf/Content/ESRP>, http://www.ecgd.gov.uk/ecgd_case_impact_analysis_process_-_may_2004.doc and http://www.coface.com/rub01_gr/gr05_eng01_envmeth.htm for details

^{vii} OECD Common Approaches on Environment and Officially Supported Export Credit, V. Exchange and Disclosure of Information, paragraph15.

^{viii} This is an approximate conversion of 10 million Special Drawing Rights (SDR), an exchange rate used by the International Monetary Fund, and based on a basket of currencies (Japanese Yen, British Pound, Euro and US dollar)

^{ix} For example, in its 2002 Environmental Advisor’s Report, EDC indicates six Cat. A projects were signed. However, in the individual transaction reporting section of EDC’s web site, only three were identified as such. The US Eastchester Gas Expansion project, the Venezuelan Vatra Cintec waste disposal facility, and the Bolivian Don Mario mine were not indicated as a Category A.. None of the seven Cat. B projects signed in 2002 were identified.

^x For example, \$50-100 million to Dessau-Soprin, possibly for a waste- water plant in Dominican, 100+ million to Petroleos Mexicanos presumably for oil exploration, 50-100 million for Corporacion nacional del cobre, a mining company, for ‘existing and future procurement’. None appeared on EDC’s environmental reporting section, and are not indicated as Cat, “A” anywhere else, except in the 2003 Chief Environmental Advisor’s Report released in September 2004.

^{xi} For example, “various goods and services” is listed for Celulosa Arauco y Constitution SA, and Petrobras SA.. Yet Arauco was involved in clashes with the Mapuche in Chile over deforestation on their ancestral lands; and Petrobras developed a 550 km gas pipeline in Brazil, the environmental assessment for which was criticized for underplaying impacts on indigenous communities and the rainforest.

^{xii} EDC has the following lines of credit listed on its web site: over US\$100 million credit facility to Nexen Inc. (formerly Occidental Petroleum Canada) a Canadian company involved in offshore oil exploration in Mexico, Nigeria and Equatorial Guinea and Colombia; US\$100 million line of credit to Petroleos Mexicanos, potentially for future oil and gas exploration; US\$50 million with Sonatrach, involved in renewable energy projects, but also oil and gas; US\$15 million with a Chemical Producing Facility in Senegal; US\$15 million with the Industrial Development Corporation of South Africa, involved in mining and oil and gas exploration projects across Africa; US\$90 million combined to Austral, YPF and Petrobras, all involved in oil exploration in the Amazon; US\$50 million to Bariven, involved in oil exploration in Venezuela. See www.edc.ca/prodserv/financing/index_e.htm for details.

^{xiii} See the Chief Environmental Advisors Report 2003, page 9, footnote 8.

^{xiv} The new OECD Common Approaches on Environment and Officially Support Export Credits now says that for Cat. A projects, Members should “seek to make environmental impact information publicly available (e.g. EIAs, summary thereof) at least 30 calendar days before a final commitment”.

^{xv} United States General Accounting Office, (September 2003) *Export Credit Agencies – Movement Toward Common Environmental Guidelines, but National Differences Remain*, Report to Congressional Requesters, p. 28.

^{xvi} Government Response to the Standing Committee on Foreign Affairs and International Trade (SCFAIT) (May 2000), *Reviewing the Export Development Act*.

^{xvii} See “II. Defining Commercially Sensitive Information” in *The Export Development Corporation and Disclosure: Letting the Sun Shine In*, July 2000, NGO Working Group on EDC.