

Submission to the Productivity Commission's Inquiry into Australia's Export Credit Arrangements

exportcredit@pc.gov.au

18 November 2011

Greenpeace appreciates the opportunity to provide this submission to the Productivity Commission's Inquiry into Australia's Export Credit Arrangements.

A. Introduction

EFIC's status and objectives

EFIC is a publicly backed, statutory corporation. Its primary objective is to assist Australian exporters by filling the 'market gap', defined by the Minister for Trade Craig Emerson as "circumstances where the credit and insurance sectors are not able or are unwilling to provide credit and insurance services to financially viable Australian export transactions or overseas projects" (Minister for Trade 2011, p.1).

Nature of its role

Given that EFIC supports projects or parts of projects that the market has determined not to support, EFIC gives a competitive advantage to Australian exporters. As an explicit, publicly backed intervention into the market, this constitutes, by definition, a subsidy to those who benefit.¹ It also transfers risk of failure from the market to the taxpayer.

Were it not for the government/public backing of EFIC, the low-interest loans and loan guarantees it provides to Australian exporters through the two accounts which it operates would simply not be available. This is because both the National Interest Account (NIA) and the Commercial Account (CA) are, to a greater or lesser extent, dependent upon the backing of the Commonwealth and, by extension, the Australian public.

Arrangement of NIA and CA

EFIC's National Interest Account is an unambiguous instrument of the Australian Government. All transactions must be written off by the Minister for Trade, net income is received by the Commonwealth, and the government must reimburse EFIC for any losses made on the account.

While EFIC's Commercial Account does not share the same degree of proximity to the Australian government as the NIA, it cannot accurately be said to operate as a separate entity. EFIC exercises complete autonomy over its day to day function and even bears directly the associated risk with its own capital and reserves. It is, however, ultimately underpinned by the support of the Australian Government. Not only does the Commonwealth make available to the CA \$200 million of callable capital, it guarantees payment for all EFIC's creditors, free of charge. This is essentially a promise that creditors will be bailed out in much the same way as banks throughout the global north recently have been.

Thus, EFIC is an organ of the Australian government, which provides subsidised credit to domestic exporters. In light of this status, there is a strong basis for the expectation that it operate in a fashion which upholds the public interest. To determine whether it does so, consideration must be taken of the specific projects to which EFIC provides its financial services. First, though, some important context is needed.

B. The EFIC Act

TOR 3: assess EFIC's status, its objectives, and the appropriateness of current arrangements in fulfilling those objectives. This will include examining its operations against the functions in the EFIC Act and making recommendations where appropriate concerning EFIC's governance, powers, functions and priorities (including possible changes to the EFIC Act)

Ecological decline, climate change

The past decade has witnessed at least two alarming accelerations. First, in the rate at which a variety of ecological indicators are declining globally. The second is in the increase in global temperatures, which is pushing us ever closer to catastrophic climate change.

Each of these changes point to a single unavoidable truth; the large-scale extraction and burning and use of natural resources which underpinned the economies of the past cannot continue. A recent report from the International Energy Agency demonstrated that a window of just 5 years remains to begin fundamentally transforming electricity generation and infrastructure before the worst effects of climate change become unavoidable.ⁱⁱ The prognosis is clear: our futures and those of generations to come depend on the realisation of a dematerialised and decarbonised system of economic production.

Government responsibility to respond to ecological crisis

Responding to these issues is perhaps the most profound and important responsibility of governments across the world. It is therefore incumbent upon the Australian Government to not only pro-actively work to reduce emissions but to also ensure that the policies and actions of its agencies and departments do not actively undermine policies intended to address climate change and ecological decline. This includes EFIC.

Serious concerns must therefore be raised about the appropriateness of EFIC's supply of cheap financial services to Australian exporters involved in extractive industries both here and overseas.

Throughout 2001-09, the oil, gas and mining sectors accounted for over a quarter of EFIC financingⁱⁱⁱ. Indeed, a \$350 million loan – the largest in EFIC's history – was recently made to a variety of Australian companies involved in a multi-billion dollar fossil fuel project. Importantly, 80% of this came from the NIA.

Given the urgency of global ecological concerns such as biodiversity loss, ecosystem decline and climate change, the question must be asked; why is the Australian government allowing EFIC to provide publicly backed and, in the case of the NIA, directly subsidised financial services to the industries that are most responsible for climate change and global ecological decline?

Domestic fossil fuel subsidies

The true scale of this irresponsibility can only be understood when this use of taxpayer resources to aid Australian companies in the extractive sector abroad seen within the Government's broader subsidy regime. An astounding quantity of public funds go toward subsidising extractive and fossil fuel industries in Australia. Unpublished treasury documents obtained under Freedom of Information in 2010 identify over \$8 billion in Federal annual fossil fuel subsidies from tax concessions alone.^{iv} Research conducted by Greenpeace, the Australia Institute and the ACF put this National figure closer to \$12-13 billion a year.

Such a degree of government support for environmentally destructive businesses at home casts serious doubt on the basis for EFIC assistance to Australian export industries in the extractive sector abroad. Nevertheless, recent years have seen the provision of hundreds of millions of dollars for coal, gas and mineral extraction by Australian companies.

Examples include a \$350 million loan to companies involved in the construction of the PNG LNG pipeline and \$81 million for capital goods to subsidiary of Leighton Holdings for a coal mine in Mongolia.

These are not nascent industries, they do not need assistance in establishing themselves. Furthermore, presuming that EFIC's funding of these projects constituted a genuine filling of 'the market gap', taxpayers are assuming the risk for the construction of energy infrastructure deemed unworthy of support by the private sector.

Appropriateness of the projects it supports

In the context of global climate change and ecological decline, this is simply unacceptable. If we are going to have an EFIC, it should not be used to support the efforts of extractive industries to turn an even bigger and quicker profit.

Recommendation

- ESD principles should be fully integrated into the EFIC Act, regulations and guidelines
- A carbon audit of all project proposals to be a key component and determinant of the decision to provide financial services. These audits should be conducted in the context of Australia's policy commitment to reduce emissions 80% by 2050.
- EFIC's Annual report to Parliament should directly address steps taken to contribute to that policy goal.
- An independent audit of previous environmental assessments to determine their rigour, effectiveness and utility
- Review of the adequacy of EFIC's Social and Environment Policy and Procedure documents by an independent corporate social responsibility expert

C. EFIC and other government programs

TOR 7 of the Inquiry's terms of reference outlines the need for an assessment of the interactions between EFIC's operations and other government program.

Two sets of interactions are relevant in this respect.

1. FOI Act

The first pertains to EFIC's status under the FOI act. Under Schedule 2 of the act, all activities undertaken with regard to the operation of the Commercial Account and the National Interest Account are exempt. Together, these accounts comprise the entirety of EFIC's financial service provisions. Given its status as an organ of the Australian government, the lack of transparency with which it operates is unacceptable. The only rationale put forward to legitimise EFIC's status under the FOI act is that much of the information it has control over is 'commercially sensitive'. This is exactly the type of relationship that demands greater accountability not less. The FOI Act is intended to ensure more open Government and more accountability for decisions made. The more closely Government bodies are engaged in commercial activities, the greater the risk that the public interest will be compromised and the greater the need for transparency.

Information on the levels of public risk, the environmental considerations and deliberations made in financing decisions, the nature of the ecological information relied up in making decisions are all examples of information that is of legitimate public interest.

The FOI Act provides a number of different protections for commercial materials (part iv, divisions 2, 3), but not blanket exemptions. It is entirely appropriate that claimed exemptions are filtered through the various tests and criteria in the FOI Act. Special exemptions are an unnecessary obstacle to democratic accountability

The general lack of accountability is reflected in EFIC's Environmental Policy, which is inadequate in a number of ways. Its primary deficiencies consist of an absence of sound ESD principles, a lack of compulsion/weak language.

Recommendation:

- EFIC's FOI exemption should be eliminated and EFIC made subject to the general exemption provisions of the Act.
- All information pertaining to the social and environmental procedures and impacts of EFIC should be fully subject to the Freedom of Information Act (and pre-disclosure).

2. Environment Protection and Biodiversity Conservation (EPBC) Act

Currently EFIC is exempt from the provisions of the EPBC Act relating to actions, controlled actions and impact assessment.

Recommendation

- The exemption of EFIC from the EPBC Act should be removed

- EFIC should report to Parliament on its integration of Ecologically Sustainable Development principles into its environmental assessments and decision-making processes.

D. Market gaps and market failures

TOR#2: Review the presence or otherwise of market gaps for EFIC's products and services, and whether or not these constitute market failures, taking into account developments in the private sector's willingness and capacity to provide the insurance, reinsurance and financial services required by Australian exporters.

It is difficult to argue that a circumstance in which the market is unwilling to invest in high-risk ventures constitutes a market gap. The setting of boundaries such as those based on degree of risk is inherent in the market system. That some businesses don't like the boundaries does not constitute a gap. The underlying premise is that a market gap exists whenever the market doesn't do something.

The continuing use of public finance and institutions to support some of the biggest and richest corporations on the planet in their contribution to climate change and global ecological decline is unsustainable. It is unclear what possible market failure is at play in these circumstances.

On the other hand, if Nicholas Stern was correct in stating that climate change is the greatest market failure in history, it logically follows that the market failure is government intervention providing support to emissions intensive production processes and the devastation of ecosystems.

It is the task of governments to correct this failure, yet EFIC currently does the opposite. Using taxpayer dollars and Commonwealth guarantees, it simply extends the provision of the existing financial services consistent with the existing model.

In response to questions on notice from MP Scott Ludlam, Senator Conroy on behalf of the Minister for Trade asserted in October 2011 that "under its mandate EFIC cannot bias its support towards or against any specific sectors."

Markets are blind to ecology, and it is the responsibility of governments to make decisions and provide guidance for the public good. Perpetuating the absence of adequate ecological safeguards within the structure of EFIC inherently biases the financing system towards established and dirty industries.

For these reasons, it is imperative that EFIC become sensitive to the ecological implications of its activities.

Recommendation

- If the Act prohibits the integration of principles of ESD, current government climate policy and its own environmental guidelines, then the EFIC Act should be amended.
- Amend section 8(1) of the EFIC Act so that EFIC must perform its functions in the public interest.

ⁱ While definitions of subsidy vary considerably, there is increasing international agreement, following the G20 commitment to eliminate fossil fuel subsidies, that subsidies are direct and indirect government actions that reduce the cost of production or consumption or in other ways distort the market. See, e.g., Article 87 of the EC Treaty.

ⁱⁱ International Energy Agency, CO2 Emissions from Fuel Combustion – 2011 Edition.
<http://www.iea.org/co2highlights/>

ⁱⁱⁱ Jubilee Australia, RiskyBusiness: shining a light on Australia's export credit agency, 2009, p15

^{iv} Unpublished document secured by Greenpeace relating to analysis of subsidies and the commitment made by Australia to eliminate or phase out inefficient fossil fuel subsidies. Greenpeace is happy to provide these documents upon request.