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Paris, 6 January 2006

Ms. Nicole Bollen
Chair of the Working Party on Export Credits and Credit Guarantees (ECG) and the
Participants to the Arrangement
c/o OECD Export Credit Secretariat
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Dear Ms. Bollen,

Further to your letter of 24 November 2005, we are pleased to provide our initial comments as a contribution to your collection and analysis of experience in implementing the OECD Recommendation on Common Approaches on Environment and Officially Supported Export Credits.

Based on a careful review of the last several years of ECAs' policies and practices, including a consideration of project impacts as reported to us by affected communities, the ECA Watch network believes that:

- The objective of the Common Approaches to protect the environment has not yet been achieved;
- The policies and practices of the Common Approaches have not sufficiently promoted coherence or a level playing field among OECD member ECAs;
- The Common Approaches have only been partially implemented and have been applied very unevenly, and in some cases not at all;
- The Common Approaches fall well below the best practices now being applied by multilateral financial institutions and by major private corporate and financial actors;
- Some projects supported under the Common Approaches have been very harmful to the environment and to the health and livelihoods of affected communities;
- The fact that the Recommendation on Common Approaches is not legally binding compounds the inadequacy of ECA practices.

Moreover, we believe strongly that the 2006 review of the Common Approaches cannot be grounded solely in the experiences of implementing the Recommendation over the past two years.

Given the fact that many of the provisions of the Common Approaches approved in December 2003 are the same as those approved in 2001, we have and will continue to

provide a constructive critique of experiences extending back beyond the past two years.

In addition, we believe the terms of reference of the Review must include an evaluation of the extent to which the guidelines within the Common Approaches are sufficient to meet the Recommendation's stated objectives. In particular, there is an urgent need to make the Recommendation consistent with current and evolving international best practices and to address many other issues and areas of concern which we have raised since December 2003.

ECA Watch members believe that the 2006 Common Approaches Review must consider the following issues in order to improve ECA environmental standards and to meet the objectives set out in the December 2003 Recommendation:

1. The Common Approaches must be brought up to current and evolving international best practices, both overall and in relation to specific sectors;
2. Transparency must be significantly improved to include, inter alia, public disclosure of project environmental, social, labour, human rights and developmental impacts, as well as enhanced monitoring, and disclosure of investment contracts and revenues associated with ECA supported projects;
3. Improved decision-making processes are required to consult affected communities and to ensure that all stakeholders are equally involved in decision-making with regard to project design, management and distribution of project benefits;
4. Clear exclusions are required for specific sensitive ecological zones, sectors and technologies;
5. The inclusion of human rights criteria should be required as part of standard due diligence in social risk assessment;
6. Improved due diligence through better monitoring and compliance mechanisms is needed to ensure that standards are met on the ground;
7. Significant improvements in common implementation procedures are needed to help reduce the existing uneven, non-level playing field among ECAs.

In the attached memorandum, we outline a number of our concerns regarding the experiences of implementation of the Common Approaches since December 2003, as well as supporting comments on our assertion that they have not met their objective of protecting the environment. We are in the process of conducting our own review of the Common Approaches and will be sharing our findings and recommendations in greater detail with you through the process of OECD consultation which you have outlined in your letter of 24 November 2005.

Yours sincerely,

Bob Thomson

Bob Thomson
for the ECA Watch network

cc: Janet West
Julian Paisey

The following comments are provided as an initial contribution from ECA Watch network members to the 2006 Review of the Common Approaches on the Environment and Officially Supported Export Credits

Based on a careful review of the last several years of ECA policies and practices, including a consideration of impacts as reported to us by project-affected communities, the ECA Watch network believes that the objective of the Common Approaches to protect the environment has not yet been achieved. Furthermore, we outline below, seven areas which we believe the 2006 Common Approaches Review must consider in order to bring ECA environmental standards up to current international best practices and to meet the objectives set out in the December 2003 Recommendation.

The Recommendation's General Objectives have not been met

Reviewing the performance of OECD ECAs against the general objectives of the Common Approaches, we find the following inconsistencies and failures:

A. Policy Coherence

The Objective:

"To promote coherence between policies regarding officially supported export credits and policies for the protection of the environment, including relevant international agreements and conventions, thereby contributing towards sustainable development."

The Record:

- Some OECD ECAs are supporting projects that are contributing to increased Greenhouse Gas emissions - in at least one case on a scale that is a multiple of the ECA's home country GHG reduction commitments - without any consideration of alternatives or GHG mitigation measures. Such practices undermine the overall engagements of OECD countries under the UN Framework Convention on Climate Change to take climate change considerations into account in their economic policies and to reduce global GHG emissions;
- Only one ECA requires compliance with the six core UN Human Rights treaties and eight International Labour Organisation fundamental conventions, while most ECAs have no requirements linked to the international economic, environment, social, human health or human rights agreements or conventions which their countries have signed and ratified;
- The OECD ECAs do not have guidelines to ensure coherence with commitments made at the 2002 Johannesburg World Summit on Sustainable Development or with respect to the Millennium Development Goals, despite the reference to these commitments and goals in recent amendments to the Arrangement with respect to renewable energy and water projects¹;

¹ http://www.eca-watch.org/problems/fora/oecd/documents/OECDroomdoc_OECDdevelops_arrangements_oct05.pdf

B. Reducing Trade Distortion

The Objective:

“To develop common procedures and processes relating to the environmental review of projects benefiting from officially supported export credits, with a view to achieving equivalence among the measures taken by the Members and to reducing the potential for trade distortion.”

The Record:

It should be clear from the examples provided below that procedures and processes vary widely among ECAs and that there is a long way to go to achieve equivalence and thus a level, non trade distorting, playing field.

- Wide variations exist in ECA monitoring and compliance mechanisms, and therefore in the due diligence procedures applied by different ECAs
- Differing interpretations and categorization of what a “sensitive” Category A project is have been demonstrated by ECAs
- A number of OECD ECAs do not provide adequate, or in some cases any, ex-ante information on Category A projects as required by the Common Approaches
- Wide variations amongst ECAs exist in the degree of consultation of affected communities during the preparation of environmental impact assessments (EIAs)
- ECG’s annual aggregate reporting on Category A and B projects is inadequate to permit an evaluation of whether ECAs have met their Common Approaches commitments and provides no evidence of justifications for non-reporting or the use of lower standards, as required by Articles 12.3, 16 and 19

C. Promoting Good Environmental Practice

The Objective:

“To promote good environmental practice and consistent processes for projects benefiting from officially supported export credits, with a view to achieving a high level of environmental protection.”

The Record:

Weak standards and weak, uneven implementation of them, as broadly outlined below, cannot achieve a high level of environmental protection:

- Some ECAs require, albeit with caveats, compliance with all 10 instead of only 3 of the World Bank's safeguard policies
- While compliance with all 10 World Bank safeguard policies would be a minimum standard, it should be noted that even industry acknowledges them to be outdated in many respects and insufficient on their own to address the known impacts of large projects
- Some 35 large commercial banks representing 90% of global project finance have made commitments to the Equator Principles which represent a higher standard in significant respects over the Common Approaches
- Some Multilateral Development Banks and private banks have monitoring and compliance mechanisms as well as sectoral policies which are less ambiguous and more comprehensive than the Common Approaches

D. Enhancing Efficiency

The Objective:

“To enhance efficiency of official support procedures by ensuring that the administrative burden for applicants and export credit agencies is commensurate with the environment protection objectives of this Recommendation.”

The Record:

- The rarely tallied long-term and externalized economic and social costs of environmental damages which have been permitted in projects supported under the Common Approaches typically far exceed the costs of any administrative burden for applicants. The latter cannot be credibly used as an excuse for a lack of application of adequate standards which will forestall the now well-documented and enormously costly deterioration of ecosystems and community health and development.

E. Promoting A Level Playing Field

The Objective:

“To promote a level playing field for officially supported export credits.”

The Record:

A level playing field clearly does not yet exist, and, while some progress has been made in the past two years, it is definitely inadequate. The unwillingness of some ECAs to adequately implement the Common Approaches may serve as a counter-incentive for others to strive for a high level playing field, thus contributing to the race to the bottom that led to the call for environmental reform of ECAs in the first place. As well, differences in scope, instruments and sectoral emphasis among ECAs can hamper implementation of the Common Approaches, and the Review should look at this aspect of their experience.

Discussion

In support of the above broad comments, in recent presentations to the ECG, as well as over the past several years, ECA Watch members have expressed concern about the following points, which we would like to see addressed in the Review:

- The experiences of the past two years do not include the new environmental information requirements demanded by EU Directive 2003/4/EC which applies to Category A, B *and* C projects, and which, as hard law since February 14, 2005, must be addressed by EC ECAs. Unless included in the Review, these new requirements will create an even more unlevel playing field between OECD ECAs with respect to transparency and the quality of publicly available environmental information;
- Transparency must be significantly improved to include, inter alia, public disclosure of project environmental, social, labour, human rights and developmental impacts as well as enhanced monitoring and disclosure of investment contracts and revenues associated with extractive sector projects.

For example, the public ECG Category A & B information report TD/ECG(2005)11 provides only cursory information compared with the more comprehensive internal Review of Category A & B projects TD/ECG(2005)7.

- Some ECAs require, albeit with caveats, compliance with all 10 instead of only 3 of the World Bank's safeguard policies. While compliance with all 10 would be a minimum standard, it should be noted that in some respects these safeguards are acknowledged even by industry to be outdated and insufficient for addressing the known impacts of large projects.² Adopting the 10 World Bank safeguard policies on their own will not be an adequate response if ECAs are to meet the objectives of the Common Approaches of protecting the environment and contributing towards sustainable development;
- Some 35 large commercial banks whose portfolios represent 90% of global project finance have made commitments to implement the Equator Principles, which reference all ten World Bank / IFC environmental and social Safeguard policies and the World Bank Pollution Prevention and Abatement Handbook as their minimum standards for large project finance. For large project finance this is already a higher standard in some respects than the 2003 OECD Recommendation. As noted above, while compliance with all 10 World Bank safeguard policies would be a minimum standard, even industry acknowledges them to be outdated in many respects and insufficient on their own to address the known impacts of large projects. The ongoing development of specific and more comprehensive sectoral policies, which go beyond World Bank and Equator Principles standards, by private sector actors indicates that this is an important and rapidly evolving domain.
- ECAs should reference standards which will flow from and lead to the achievement of specific policy and practical commitments agreed to in ratified international agreements, treaties and conventions, rather than the present wording of the Recommendation, which permits considerable ambiguity and/or "flexibility" through benchmarking against a range of widely varying standards;
- Some Multilateral Development Banks have adopted policies that far exceed those of ECAs. For example, the Asian Development Bank now requires public disclosure of project environmental and developmental monitoring;
- Wide variations exist in the degree of consultation of affected communities during the preparation of environmental impact assessments (EIAs), despite clear guidelines under the World Bank's Operational Policy 4.01 (Article 14), on which Annex II of the Common Approaches is based³. Individual ECAs should be required to provide electronic notice boards for stakeholders as a guarantee that interested parties are informed as fully and as early as possible about the mandatory prior ex ante consultation period. We believe that 60 days is the

² See Footnote 20 of Cornerhouse paper "The Case for Strengthened Standards" http://www.eca-watch.org/problems/dams/Cornerhouse_Dam_Stds_Comparison_23aug05.pdf

³ <http://wbln0018.worldbank.org/Institutional/Manuals/OpManual.nsf/toc2/9367A2A9D9DAEED38525672C007D0972?OpenDocument>

minimum acceptable international practice for ex ante consultation before Category A projects are approved, and that 90 days are more realistic in order to be able to include informed comments from affected people on the ground;

- Wide variations exist in ECA monitoring and compliance mechanisms, and therefore in the due diligence procedures applied by different ECAs;
- A number of OECD ECAs do not provide adequate ex-ante information on Category A projects as required by the Common Approaches. The time periods for advance notice vary from 30 to 60 days between ECAs and their definitions of “before final approval” vary, as well as the provisions by which comments from stakeholders during the public comment period are taken into account. Even with global electronic communications, thirty days is a scarcely adequate time in which to receive informed feedback from affected communities;
- Differing interpretations and categorization of what a “sensitive” Category A project is have been demonstrated by ECAs. In our detailed comments on project experiences during the Common Approaches Review in 2006 we will be providing examples of projects clearly qualifying as Category A which were categorized as Category B or even C;
- The ECG, in its annual public aggregation of information on Category A and B projects, does not report on whether lower standards or non-reporting existed or was justified (adequately or otherwise) by ECAs, as required under Articles 12.3 and 16 respectively of the Common Approaches;
- Less than 10% of the value of ECA portfolios was screened under the Common Approaches in 2002 and 2003. The ECG statistical summary does not provide information on the relative value of ECA support for shares in projects greater than 10 million SDRs as a percentage of total portfolios;
- At least one ECA (Ducroire/ Delcredere from Belgium) has been shown to finance a high multiple of greenhouse gas emissions over those its government owner has committed to eliminating under the Kyoto Protocol⁴. Thus, while ECAs may not be legally bound under the Common Approaches to contribute to greenhouse gas (GHG) reductions in developing countries, this fact raises serious questions of coherence between the standards of the Common Approaches and OECD member commitments to other international environmental agreements and conventions. This incoherence merits consideration of some form of GHG auditing procedures for ECAs under the Review.

⁴ http://www.eca-watch.org/documents/Greenpeace_BE_ECA_Report_EN.PDF

Recommendations:

ECA Watch members believe that the 2006 Common Approaches Review must consider the following issues in order to improve ECA environmental standards and to meet the objectives set out in the December 2003

Recommendation:

1. Standards must be brought up to current international best practices, both overall and in relation to specific sectors
2. Transparency must be significantly improved to include, *inter alia*, public disclosure of project environmental, social, labour, human rights and developmental impacts as well as enhanced monitoring, and disclosure of investment contracts and revenues associated with extractive sector projects;
3. Improved decision making processes and a longer consultation period (60 days) are required to consult affected communities and ensure that all stakeholders are equally involved in decision-making with regard to project design, management and distribution of project benefits;
4. The inclusion of clear exclusions for specific sensitive ecological zones, sectors and technologies is required;
5. The inclusion of human rights criteria as part of standard due diligence in social risk assessment is required to enable Members to consider the positive and negative impacts of projects;
6. Improved due diligence through better monitoring and compliance mechanisms is needed to ensure that standards are met in practice as well as in design and approval documents;
7. Significant improvements in common implementation procedures are needed to help reduce the existing uneven, non-level playing field among ECAs.

As a part of our own review of the Common Approaches, ECA Watch members are currently drafting more detailed briefing papers on the issues covered by these recommendations, as well as project case studies which highlight difficulties with the Common Approaches. We will share these with ECAs via the ECG Secretariat as they become available and look forward to a constructive face-to-face consultation on these matters in the first half of this year.