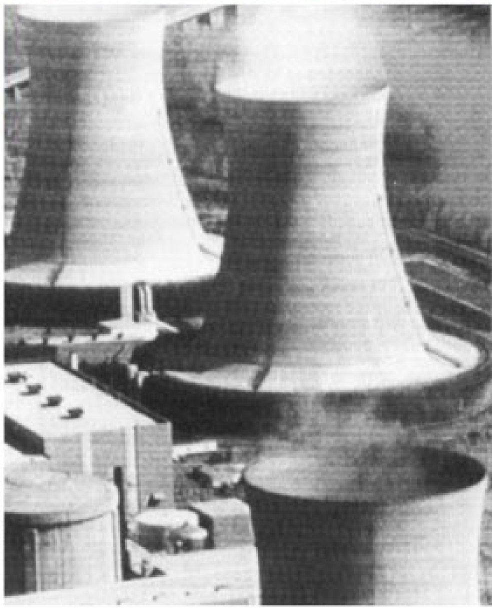
# Putting the ETHIC into E.F.I.C.

A discussion paper on accountability and social and environmental standards within the Export Finance and Insurance Corporation of Australia



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# Putting the ETHIC into E.F.I.C.

## A discussion paper on accountability and social and environmental standards within the Export Finance and Insurance Corporation of Australia

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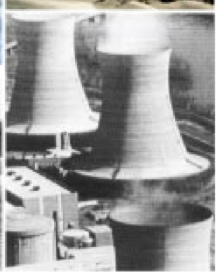
EFIC has made loans to the Indonesian government to buy weapons systems. Photo by New Internationalist.

The Ok Tedi mine in PNG, a recipient of an EFIC loan, is responsible for widespread forest dieback. Photo by Stuart Kirsch.

EFIC may provide political risk insurance to investors in the proposed Nam Theun 2 large-scale hydro project in Laos. Photo from AID/WATCH.



Nuclear power plants in China have been expanded with loans from EFIC. Photo from Friends of the Earth.

# MINERAL POLICY INSTITUTE

*The Mineral Policy Institute (MPI) is a resource centre for research and advocacy work on the mining, oil and gas industry. With the aim of supporting communities affected by mining issues, MPI focuses on the activities of Australian companies and those companies active in the Asia-Pacific region.*

MINERAL POLICY MPI INSTITUTE

## MPI's aims:

- to prevent the development of minerals projects which would adversely affect communities and areas of natural significance;
- to ensure good management of existing minerals projects and mining exploration activities;
- to ensure that new minerals projects, and the operations of the minerals industry in general, are consistent with the achievement of ecological sustainability, economic justice and the protection of human rights; and
- to reduce the demand for minerals through advocating more efficient use of minerals resources.

## In recent years, MPI has:

- forced significant improvements in community consultation programmes and the environmental management of minerals companies;
- highlighted the unacceptable practices of companies such as Freeport McMoRan, Rio Tinto, Placer Dome, WMC, BHP, North Ltd and others;
- provided affected communities at Ok Tedi, PNG with support & independant information;
- forced the Directors of North Limited to address the social, environmental and financial aspects of the Jabiluka Uranium mine at an Extraordinary General Meeting;
- organised, in cooperation with partner non-governmental organisations, the first Asia Pacific "skill share" for advocacy groups in the region concerned with the minerals industry.

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# AID/WATCH

*AID/WATCH is a community-based activist group that campaigns on Australian involvement in overseas aid and development projects, programs and policies. As an independent organisation, AIDWATCH monitors the development dollar to ensure that aid money reaches the right people, communities and their environments.*

AID/WATCH works in conjunction with and supports partner groups and communities in low income countries, predominantly in the Asia-Pacific, where communities are impacted by Australian development activities. This may occur through the bilateral aid program, the multilateral development banks to which the Australia contributes, such as the World Bank, International Monetary Fund and the Asian Development Bank, and via Australian corporations including the government-owned Export Finance and Insurance Corporation.

## Recent AID/WATCH campaigns have targeted:

- Continued non humanitarian aid and military assistance to Indonesia during post referendum violence in East Timor.
- The environmental and social impact of large large-scale hydropower development in the Mekong region of South East Asia.
- Australian aid money being used to subsidise and promote the Australian fossil fuel (coal) industry.
- The threat to people in both low income and industrialised countries of the Multilateral Agreement on Investment (MAI).
- Australian aid and military assistance being used to subsidise PNG's war in Bougainville.
- The massive social repercussions of World Bank-sponsored Structural Adjustment Programs (SAPS).

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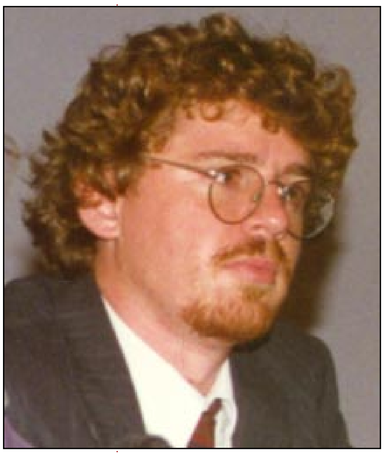
# FOREWORD

Geoff Evans, Director MPI

Export credit and investment insurance agencies now play a crucial role in international trade and investment, through extending loans and grants and underwriting credit and political risk. Australia's export credit and investment insurance agency, the Export Finance and Insurance Corporation (EFIC) is smaller than those of the USA, Japan, and several of the countries in the European Union. It is, nonetheless, a significant player in the Asia-Pacific region.

The principle of "triple bottom-line" investing, which integrates and balances environmental, social and financial factors, has not been apparent within the decision-making processes of export credit and investment insurance agencies. Rather, there exists a serious lack of standards. Poor screening regarding the social, economic and environmental impacts of projects has meant that many Export Credit Agency (ECA)-funded activities have left disaster in their wake.



Liam Phelan, Director AID/WATCH

Transparency and systems of accountability are also absent from ECAs. ECA operations are often shrouded in secrecy; mechanisms for intervention are denied to both the public who fund ECAs and local people whose environments, economies and societies are irrevocably impacted upon by large-scale projects financed and insured by ECAs.

The urgency for improved screening, greater transparency and accountability of ECAs increases as their role in the global arena expands.

The agencies are largely a law unto themselves, minimally scrutinised, and unfortunately involved in a "race to the bottom", whereby each ECA undercuts the next with low standards. Australia's EFIC is no exception. Its involvement in damaging mining, dam building, and weapons systems purchasing, leaves a legacy of devastating impacts. The rights and aspirations of local landowners and citizens are trampled in the interests of corporate financial gain.

Due to the nature of the loans given, ECAs are responsible for increasing the burdens of debt borne by the poor in low-income countries. This is because, if the export guarantee is activated, the debt is transferred from the private sector to the public sector, and becomes part of the total bilateral debt of the importer country[1]. Today, debt owed to export credit and investment insurance agencies in low-income countries accounts for 56 percent of the total debt owed to official creditors in 1996.[2]

Greater transparency, accountability, and a framework whereby ECAs strive towards "minimum best practice" rather than a "race to the bottom", will simultaneously direct public funds into projects that are more secure and sustainable, and reduce project impacts.

This report exposes the sorry record of Australia's EFIC, compares it to the record of other ECAs and calls for some timely and substantial reforms.

The Mineral Policy Institute and AID/WATCH hope that decision-makers will consider the issues raised in the report and begin the process of turning EFIC around. It is our sincere hope that EFIC rises to the challenge to operate in a way that is open and accountable, and socially, economically and environmentally sustainable.

Geoff Evans
Director
Mineral Policy Institute

Liam Phelan
Director
AID/WATCH

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# EXECUTIVE SUMMARY

## Introduction

Australia's export credit and investment insurance agency is called the Export Finance and Insurance Corporation (EFIC). EFIC is a statutory body of the federal government that aims to help locally-based companies compete overseas for contracts and trade. It does this by providing low-cost finance, credit insurance and political risk insurance directly to exporters, and by providing loans to overseas buyers of Australian exports, including weapons.

In 1997/98 the exports covered by EFIC totalled approximately $7.5bil. The majority of EFIC's finance was channelled to credit insurance.

Because many Australian corporations' projects cannot proceed without the support of EFIC's services, EFIC plays a crucial role in the type and standard of developments occuring overseas. As yet, EFIC does not have a process for "screening" unethical projects which would cause detrimental social, economic, environmental and political impacts. EFIC is not governed by any meaningful standards or guidelines that safeguard the interests of local communities or the integrity of environments in which projects are situated.

In addition, the activities of EFIC and the companies that it finances and underwrites are shrouded in a veil of secrecy in the guise of commercial in confidence policy. Thus, EFIC is characterised by an alarming lack of transparency and accountability.

This lack of screening has seen a government body:

- lend the Indonesian Government $8mil to buy weapons systems from Australia
- lend $16mil to expand a Chinese nuclear power project
- lend $US242mil for the Ok Tedi mine in PNG (which was recently declared an environmental disaster. Refer to Section 3 for a discussion of this project)
- guarantee commercial bank finance for the Bougainville Copper mine which precipitated the ten year war in Bougainville

## Section 1: Introduction

Section One introduces the major issues that arise from an analysis of EFIC's organisational structure and record of performance. Some key and timely critique is provided, and the need to address these issues promptly is stressed.This is specifically because EFIC possesses significant power to inflict serious negative impacts on communities overseas and environments globally, to exert significant control over the kind of development that is occuring internationally, particularly in the Asia-Pacific region, and substantial influence over the patterns that characterise international finance and economic development.

These themes are addressed in more detail throughout the report and the key critiques provided are illuminated via three specific case studies in Section Three.

## Section 2: Structure of EFIC

In this section, EFIC's aims, structure, finances, service provision areas, operating guidelines and mechanisms for corporate policy development are described. In brief, EFIC is a government owned corporation established by special Federal legislation. It aims to operate efficiently and economically in its support of Australian trade overseas. EFIC provides credit insurance, political risk insurance, and commercial loans to overseas purchasers of Australian goods and services.

EFIC's operations fall under the Export Finance and Insurance Corporation Act 1991 (referred to in this report as the EFIC Act) and until July 2000, is covered by the Environmental Protection (Impact of Proposals) Act 1974 (referred to in this report as the EP(IP) Act). This legislation will be replaced by the Environment Protection and Biodiversity Conservation Act 1999, under which EFIC is exempt from the list of 'actions', notably, projects and developments. However, it is apparent that EFIC is responsible for the development of its own operational guidelines and organisational policies, including the provision (or lack thereof) for social and economic standards.

## Section 3: Case Studies

Because EFIC effectively lacks systems of transparency, accountability, and screens for the assessment of potential social and environmental impacts, some of the projects it has chosen to support have resulted in devastating, widespread, and in some cases irreversible, negative impacts for many local and regional people and their environments. The Ok Tedi gold and copper mine in Papua New Guinea is a striking and alarming example of the consequences of the unwise, unaccountable and inappropriate decision-making processes that characterise EFIC. Similarly, decisions to support fossil fuel industries such as coal-fired electricity generation, will result in substantial negative impacts not only for local people and their environments, but globally, as the effects of global warming are increasingly realised around the world. Yet EFIC continues to consider supporting projects that many (including other export credit and investment insurance agencies), deem to be too financially risky and socially and environmentally destructive. The proposed Nam Theun 2 hydropower project on the Mekong River in Lao PDR is an example of a project which EFIC may fund that has attracted wide-ranging opposition from local people, social and environmental justice campaigners, and politicians.

These three case studies: the Ok Tedi gold and copper mine in PNG, the fossil fuel industries throughout North Asia and South East Asia, and the controversial proposed Nam Theun 2 Dam in Laos PDR, are presented to show in some depth the significant impacts that arise from EFIC's activities, and that are the direct consequence of its lack of social and environmental standards and systems of transparency and accountability.

## Section 4: The Issues

This section highlights and explores the two key issues at the heart of EFIC's involvement in destructive economic development overseas. Firstly, mechanisms that ensure transparency and accountablity are vital for financial decision-making processes that could potentially involve billions of Australian taxpayers' dollars being paid out and implications for the lives and environments of many people overseas. Whilst decision-making processes should be open and accountable, EFIC hides its public decisions and activities via the use of the 'commercial-in-confidence' clause contained within the Freedom of Information Act 1982.

Secondly, EFIC's organisational structure and policy framework do not include any meaningful provisions for safeguarding communities and their environments from potentially negative project impacts.

## Section 5: International Practice

Internationally, export credit and investment insurance agencies, such as EFIC, are becoming increasingly influential in the financing of large-scale projects. EFIC's record raises serious concerns about the adequacy of the social and environmental standards it operates under. This report describes standards which some foreign export credit and investment insurance agencies have implemented in an attempt to avoid the financing of projects detrimental to people and their environments.

Comparison is made with two other export credit and investment insurance agencies, the bilateral Overseas Private Investment Corporation (OPIC) of the USA, and the Multilateral Investment Guarantee Agency (MIGA) of the World Bank Group. OPIC's and MIGA's environmental policies provide benchmarks for what EFIC should be aiming towards, as an absolute minimum. Critiques of these policies provide an indication of what still needs to be done in order to achieve ‘best practice’ in social and environmental standards.

## Section 6: Conclusions and Recommendations

This section reinforces the pressing need, and growing international calls, for export credit and investment insurance agencies to adopt more rigorous, comprehensive social and environmental impact procedures, and to operate within a culture of transparency and accountability. For EFIC, a failure to adopt these changes will not only be to the detriment of millions of people and their environments, but will serve to jeopardise Australia’s international finance policies, its commitments under international treaties and conventions (such as Climate and Biodiversity Conventions arising from the Rio Summit) and the integrity of its own legislative procedures (such as the EP(IP) Act).

This section also provides a brief description of further areas for research and action in relation to export credit and investment insurance agencies, specifically the development of social and environmental policies that are accountable to local people and which adequately accommodate indigenous understandings of the relationships between people, their environments, and their cultures.

# SECTION ONE: INTRODUCTION

*Introduces the major issues that arise from an analysis of EFIC's organisational structure and record of performance. Some key and timely critique is provided, and the need to address these issues promptly is stressed. EFIC possesses significant power to inflict serious negative impacts on communities overseas and environments globally, to exert significant control over the kind of development that is occuring internationally, particularly in the Asia-Pacific region, and substantial influence over the patterns that characterise international finance and economic development.*

## What are Export Credit and Investment Insurance Agencies?

Export credit and investment insurance agencies (ECAs - export credit agencies) are government agencies that provide low cost loans and insurance for political and credit risk to help locally based companies compete overseas for contracts and trade.[3] Essentially, export credit and investment insurance agencies are set up by governments to guarantee the financial security of banks and corporations. This is, in effect, a system of "corporate welfare"on a global scale.

## The Influence and Impact of Export Credit Agencies

As international development assistance programs become more commercialised, export credit and investment insurance agencies are taking an increasingly prominent role in large-scale infrastructure development projects. Internationally, loans from export credit and investment insurance agencies increased by 400% between 1988 to 1996, from $US26bil to $US105bil. This now amounts to twice the lending of the World Bank and all other multilateral development banks[4] (MDBs) combined . In total, export credit and investment insurance agencies provided support of around $US430bil. Fifty six percent of the official debt of low income countries is owed to export credit and investment insurance agencies, a figure greater than the combined debt owed to the World Bank and the International Monetary Fund.[5]

*56% of the official debt of low-income countries is owed to export credit and investment insurance agencies, a figure greater than the combined debt owed to the World Bank and the International Monetary Fund.*

By helping companies export their goods and services, export credit and investment insurance agencies play a crucial role in facilitating the financing of many major infrastructure projects in overseas countries. These include dams, mines, pulp and paper mills, coal-fired power stations and other large infrastructure projects[6]. The projects frequently serve only the interests of those in political or financial power. In fact, some of the projects financed or underwritten by export credit and investment insurance agencies result in devastating social, economic, environmental and political impacts on millions of people living in low-income countries.

While development banks, such as the World Bank, have adopted social and environmental guidelines in recent years, most export credit and investment insurance agencies continue to lack any guidelines at all[7]. In the past, ECAs have stepped in to fund projects without due consideration to social, local economic, or environmental factors. Projects that have been rejected by the multilateral development banks have been accepted by the ECAs. Destructive projects, such as the Three Gorges Dam in China, which wouldn't otherwise be commercially viable, continue to receive funding through export credit and investment insurance agencies.

## Australia's Export Credit Agency: EFIC

Australia's own export credit and investment insurance agency, the Export Finance and Insurance Corporation (EFIC), has existed in various forms since 1956.

Despite the enormity of the impacts that result from activities associated with export credit and investment insurance agencies, there is very little awareness within Australia of their role. To date EFIC has largely avoided public scrutiny. Yet a serious lack of standards, transparency and accountability are alarmingly apparent within EFIC's operations.

## EFIC: Ethics, Standards and Guidelines

EFIC's social and environmental record is clearly counter to Australia's interests and a serious threat to its international standing. It has financed and insured projects that not only threaten the social, environmental and economic integrity of entire communities and localities overseas, but that have also proven financially disastrous for corporations (refer to the case study of the Ok Tedi mine in Section Three). Such projects include Conzinc Rio Tinto Australia's (CRA)[8] Panguna Copper mine, which played a major role in bringing about a ten-year war in Bougainville. Also in Papua New Guinea, the beleaguered Ok Tedi gold and copper mine has resulted in devastating large-scale social displacement, environmental destruction, and the loss of viability of local landowner economies (refer to Section Three)[9].

*EFIC's social and environmental record is a serious threat to its international standing. It has financed and insured projects including the Panguna Copper mine, which played a major role in bringing about a ten-year war in Bougainville, and the Ok Tedi gold and copper mine in Papua New Guinea, a devastating large-scale social and environmental disaster.*

Alternatively, EFIC could adopt and adhere to a set of standards relating to the social, economic and environmental impacts of proposals, and operate within a culture of transparency and accountability. If proponents were denied support because they failed to meet established ethical guidelines, they would be forced to look more realistically at the very real social, economic and environmental risks involved in their proposed activities. In this way, death and destruction in Bougainville and Ok Tedi could have been prevented.

EFIC is also currently financing nuclear and coal-fired power stations in China, and may provide political risk insurance for the Nam Theun 2 Dam in Lao PDR (refer to Section Three for a discussion of these case studies).

## EFIC: Transparency, Accountability and Standards

EFIC's record raises serious concerns not only about the standards and guidelines that govern its operations, but also about issues of transparency and accountability. It is difficult to know just how EFIC goes about making decisions on project financing, because the bulk of information about EFIC activities is kept secret by 'commercial in confidence' clauses contained within the Freedom of Information Act. EFIC activities are supposed to be governed by Federal legislation under the *Environmental Protection (Impact of Proposals) Act 1974* (hereafter referred to as the EP(IP) Act). However, it is uncertain to what extent this Act pertains to the activities of Australian companies overseas, or to what extent it has been applied to date. EFIC's poor record across the Asia-Pacific region strongly indicates that this legislation has proven to be an inadequate mechanism for safeguarding the interests of local landowners and communities and the integrity of their environments.

Thus, the shortcomings of EFIC's operations are two-fold. Of serious concern is the absence of meaningful standards and guidelines that safeguard the social, economic and environmental integrity of communities overseas. Simultaneously, systems of transparency and accountability that provide a means for intervention by both the Australian people and government, and local communities who will continue to suffer unjust, unsustainable and unwise economic growth, simply do not exist. These are critical issues as export credit and investment insurance agencies internationally take a more prominent role in financing large-scale development projects.

## The Global Context

Globally, export credit and investment insurance agencies are playing an increasingly important role in financing and insuring infrastructure and resource extraction projects internationally. Because of their financial power (refer to The Influence and Impact of Export Credit and Investment Insurance Agencies, above), they are able to provide substantial leverage for the private, or corporate sector, to embark upon these projects overseas. Previously, such activity was seen to be primarily the domain of publicly-funded multilateral development agencies[10].

## The Potential for Positive Change

As agencies of governments elected to serve the people and given the magnitude of the financial resources at their disposal, export credit and investment insurance agencies are in a powerful position to make critical decisions regarding the type of overseas development that is undertaken. They effectively have the ability to determine whether or not, and under what terms, conditions and guidelines, proposed projects proceed. Yet export credit and investment insurance agencies have largely operated within a framework devoid of standards or systems of accountability, the result being the continued realisation of devastating and wide ranging impacts on many people and places.

### GUIDING PRINCIPLES OF ECOLOGICALLY SUSTAINABLE DEVELOPMENT:*

- decision-making processes should effectively integrate both long and short-term economic, environmental, social and equity considerations;
- where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (often called the 'Precautionary Principle');
- the global dimension of environmental impacts of actions and policies should be recognised and considered;
- the need to develop a strong, growing and diversified economy which can enhance the capacity for environment protection should be recognised; the need to maintain and enhance international competitiveness in an environmentally sound manner should be recognised;
- cost effective and flexible policy instruments should be adopted, such as improved valuation, pricing and incentive mechanisms; and
- decisions and actions should provide for broad community involvement on issues that affect them.

* (as defined and outlined by the Australian National Strategy for Ecologically Sustainable Development)

This is cause for serious concern. However, change within export credit and investment insurance agencies would have major implications for sustainable and responsible development on a global scale. It would provide an important catalyst for reform in the way decisions about investment are made across the whole finance sector.

## Barriers to Change

Worldwide, there is currently no legal obligation for private sector banks, insurers or publicly owned loan guarantee agencies to incorporate environmental or social considerations into any projects they finance or insure. Furthermore, most details of these operations are confidential and there is very little public information about these agencies' decision-making policies.

Currently, the need for timely reform is being jeopardised by practices whereby export credit and investment insurance agencies compete with each other in a "race to the bottom"[11] to finance and insure projects that can only be characterised as fulfilling the lowest common denominator in terms of social and environment standards. The Lihir mine in Papua New Guinea exemplifies this trend[12]. The Lihir project was rejected for environmental reasons by the US export credit and investment insurance agency, OPIC, but then supported by Australia's Export Finance Insurance Corporation (EFIC) and the World Bank's Multilateral Investment Guarantee Agency (MIGA). Similarly, the Three Gorges Dam in China has received backing from Canadian and European export credit and investment insurance agencies, whereas US agencies and the World Bank have refused to be involved.

*The Lihir Gold Mine in PNG represented a 'race to the bottom'. When a US export credit agency rejected the project, Australia's EFIC accepted it.*

This "race to the bottom" of the "lowest common denominator" framework has meant that any export credit and investment insurance agencies who have chosen to adopt a set of standards for screening projects, are unable to compete with less scrupulous agencies who have not chosen to use screening and are willing to finance and insure potentially destructive projects. With commercial disincentives such as these, it is no wonder that the vast majority of export credit and investment insurance agencies have to date appeared unwilling to adopt standards and systems of accountability. Furthermore, corporations whose internal standards regarding the management and mitigation of project impacts are lacking, can rest secure in the knowledge that whilst not all export credit and investment insurance agencies will fund or insure their proposals, there are many who will.

## Action for Change

At the 1997 Denver Global Economic Summit, the G8 group of countries[14] indicated their recognition that overseas economic development sponsored by industrialised nations had the potential to result in serious negative impacts for millions of people and their environments. The G8 declared their concern regarding the nature of global financial flows and indicated their support for the establishment of more rigorous standards. It was stated that:

*"[P]rivate sector financial flows from industrial nations have a significant impact on sustainable development worldwide. Governments should help promote sustainable practices by taking environmental factors into account when providing support for investment in infrastructure and equipment."*[15]

As awareness about the role and activities of export credit and investment insurance agencies grows (despite the culture of secrecy many agencies engender), and as continued evidence of appalling environmental destruction and human suffering speaks volumes about the need for change, an increasing number of non-government organisations (NGOs), community groups and concerned citizens in both low income and industrialised countries are voicing their protest. As taxpayers, affected citizens and

### ECAS WITH ENVIRONMENTAL STANDARDS

In the USA, the Environmental Defense Fund and the World Wildlife Fund worked with Yale University law school to produce a survey of the environmental standards of 11 ECAs and investment insurance agencies. The report concludes that: *"...export support agencies can, and do, have significant and sometimes harmful effects on the world environment, especially in developing countries... Some of this failure can be attributed to the reluctance of individual countries to adopt standards unilaterally that would result in a competitive disadvantage to their exporters and investors... It is possible for such agencies to incorporate environmental criteria into the decision-making process. There is also ample precedent for the multilateral adoption of standards to solve this problem: there are already international agreements among export credit and investment insurance agencies regarding minimum rates to be charged to exporters. This suggests the possibility of similar agreements to set harmonised standards for environmental screening among export support agencies as a way to achieve necessary environmental protection and ensure no harm to domestic exporters and investors."*[13]

The Mekong River faces extreme changes through the activities of Export Credit Agencies. Photo by Bruce Adam.

landowners, they are asserting their right to participate and intervene within processes that determine how export credit and investment insurance agencies decide what will be financed and what won't, and under what circumstances.[16]

The pressure is now on for export credit and investment insurance agencies to establish standards that ensure proponents who do not submit their proposals to rigorous screening and meet criteria regarding social, economic and environmental impacts, must reassess, delay or abandon their proposals. There is a groundswell of opinion that sustainable and ethical investment practice must consider the triple bottom line of ecological, social and financial factors.

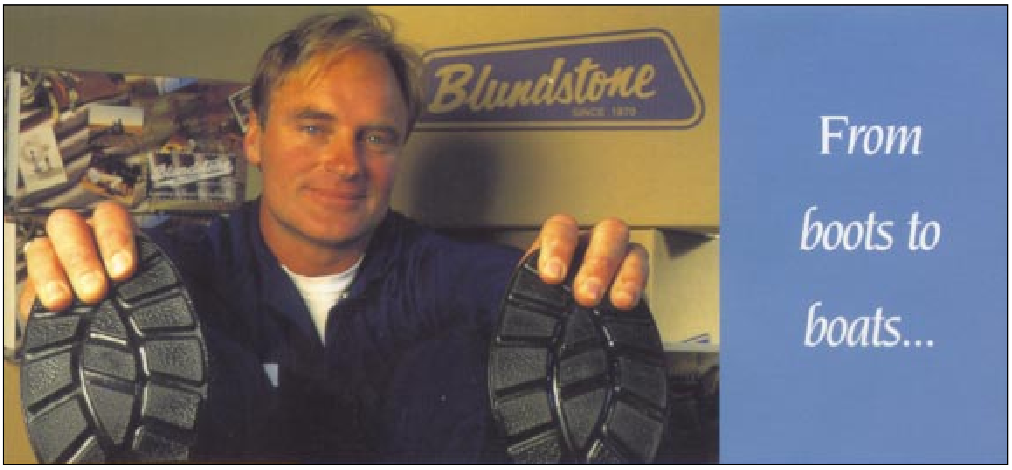
# SECTION 2: AUSTRALIA'S EXPORT CREDIT AGENCY: EFIC

*EFIC's aims, structure, finances, service provision areas, operating guidelines and mechanisms for corporate policy development are described. EFIC is a statutory corporation of the Australian government which aims to operate efficiently and economically in its support of Australian trade overseas. EFIC provides credit insurance, political risk insurance, and commercial loans to overseas purchasers of Australian goods and services. EFIC's operations fall under the Export Finance and Insurance Corporation Act 1991 (referred to in this report as the EFIC Act) and until July 2000, is covered by the Environmental Protection (Impact of Proposals) Act 1974. This legislation will be replaced by the Environment Protection and Biodiversity Conservation Act 1999, under which EFIC is exempt from the list of 'actions', notably, projects and developments. It is apparent that EFIC is responsible for the development of its own operational guidelines and organisational policies, including the provision (or lack thereof) for social and economic standards.*

*Rather than being governed by a set of uniform and rigorous standards, EFIC assesses projects on a 'case-by-case' basis.*

This section provides information about Australia's export credit and investment insurance agency, called the Export Finance and Insurance Corporation (EFIC). EFIC's aims, structure, finances, service provision areas, operating guidelines and mechanisms for corporate policy development are described.

Despite the existence of a number of pieces of legislation and international agreements pertaining to EFIC's operations, it is evident that EFIC's internal framework is characterised by a serious lack of standards for the assessment and screening of potential project impacts. Rather than being governed by a set of uniform and rigorous standards, EFIC assess projects on a 'case-by-case' basis[17]. Further, there are few opportunities for public scrutiny and no avenues for public intervention. These themes will be explored in more detail in Section Four of this report. Thus, given the lack of public information and opportunities for scrutiny, information regarding EFIC's operations is limited.




EFIC exists to facilitate export trade of Australian companies like Blundstone. However, many of the companies involved are of an international nature, including ABB and Siemens. Photo from EFIC.

## What is EFIC?

EFIC is Australia's sole existing export credit and investment insurance agency. EFIC has existed under predecessor statutes since 1956. It is established as a statutory corporation[18], wholly owned by the Commonwealth Government of Australia under the *Export Finance and Insurance Corporation Act 1991* (hereafter referred to as the *EFIC Act*).[19]

## EFIC's Aims

As defined within the *EFIC Act*, EFIC is charged with undertaking four key tasks:

- To encourage and facilitate Australian export trade;
- To encourage banks and other financial institutions in Australia to finance exports;
- To manage the Commonwealth's soft loan program[20] (discontinued 1996); and
- To provide information and advice regarding insurance and financial products available to support Australian exports.

Despite being a wholly government-owned statutory corporation, the primary objective of EFIC is to extend EFIC's services as far as possible, and to 'preserve the financial viability' of Australia's corporate sector.[21]

## EFIC's Organisational Structure

Under the *EFIC Act*, EFIC is not answerable to the Federal Parliament, but is answerable to the Minister for Trade.[22] Under Section 8 of the *EFIC Act*, the EFIC Board meets each month to review its organisational performance and strategy.

EFIC has three operating groups:

- The Credit Policy and Risk Management Group, responsible for the development of credit policy, the management of portfolio risk, and EFIC's treasury direction.
- The Business Development Group, responsible for the underwriting of export credit insurance and product development.
- The Corporate Group, responsible for the human resources, information technology and legal issues.[23]

## EFIC's Finances

EFIC is self-funding but all monies payable by EFIC are guaranteed by the Commonwealth government.[24] This guarantee has never been called upon and EFIC has accumulated $102mil in reserves.

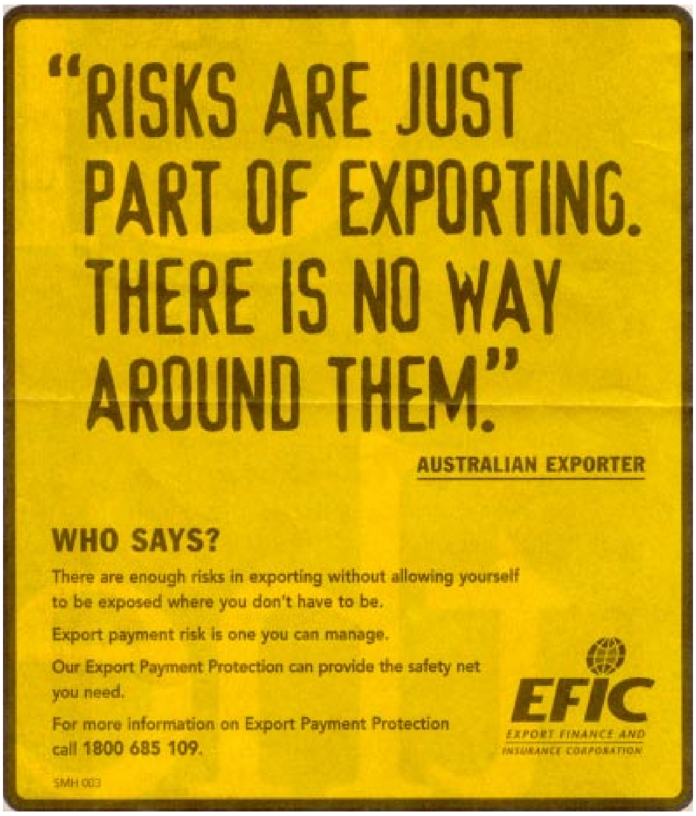
EFIC generally makes a profit, although in

### BOUGAINVILLE MINE: AN UNHEALTHY INVESTMENT

The Panguna Copper and Gold mine on the island of Bougainville was developed by the Australian mining giant, CRA and the PNG government with political risk insurance for banks investing in the project provided by EFIC. This development occurred despite opposition from local landowners under the Bougainville Copper Agreement, 1967[29].

By 1983 the local people started to voice their concerns over the vast amount of environmental destruction caused by the mine site and the large tailings disposal area, cultural breakdown, and the Bougainville-financed increase in PNG political power over the Bougainvilleans[30]. A claim for compensation was considered to be 'unrealistic'. This led to the formation of the Bougainville Revolutionary Army, which declared, 'better that we die fighting than slowly be poisoned'[31].

Violence escalated as the PNG government chose the 'military solution' to manage the conflict. In May 1989, the mine was sabotaged by landowners, and finally closed in 1990[32].




EFIC's Political Risk Insurance enables high risk projects like the Bougainville copper mine to proceed. SMH advert.

1998 the corporation recorded a $9.5mil loss[25]. Part of the profit (or loss) is put into reserves, and the remaining part given to the Government. The profit is made up of fees for export finance work undertaken, and insurance premiums. Information on the level of fees or premiums is not publicly disclosed. The total value of exports covered by EFIC in 1997-98 was $7.5bil.

## EFIC's Services

EFIC provides three services to benefit Australian corporations: credit insurance directly to exporters; political risk insurance directly to exporters; and commercial loans to buyers of Australian exports. The Commonwealth guarantees all monies payable by EFIC.

Until 1996, EFIC also managed Australia's aid-supported, soft loan program, known as Development Import Finance Facility[26].

### *Credit Risk Insurance*

The majority of EFIC's activities involve credit insurance. Australian companies involved in exports can obtain insurance from EFIC so that if the importer fails to pay, they will be paid by EFIC, and, indirectly, by the Australian taxpayer.

*Australian companies involved in exports can obtain insurance from EFIC so that if the importer fails to pay, they will be paid by EFIC, and, indirectly, by the Australian taxpayer.*

During 1997/1998, there were very few claims ($7mil in total), on a very large exposure ($6.9bil). This is by far the largest category of export coverage. Sixty-two percent of the insurance is for commodities. The largest proportion of this trade, more than fifty percent, is with North America and Europe. Publicly available information on the provision of credit insurance is limited to broad categories and includes no specific details with respect to the projects, locations or companies involved.

### *Political Risk Insurance*

EFIC also provides political risk insurance for banks and other investors who finance projects overseas. Political risk insurance is provided against the risk of nationalisation, war or other major political disturbances that may impact upon a project. If a project is impacted upon in this way and the operating company is forced to default on loan payments, EFIC will reimburse the banks and other investors for their losses.

In 1971, EFIC's predecessor provided insurance cover against the risk of non-payment for $26mil of equipment supplied to the Bougainville Copper mine[27]. This exposed the Australian government to liability for multi-million dollar insurance risks. However this insurance contract expired in 1981, before the mine was forced to close[28].

*EFIC's predecessor provided insurance cover against the risk of non-payment for $26mil of equipment supplied to the Bougainville Copper mine. This exposed the Australian government to liability for multi-million dollar insurance risks.*

## Commercial Loans

EFIC provides loans on preferential terms to overseas purchasers to enable them to pay Australian companies for their goods. For example, EFIC may make a loan to a shipping company in Papua New Guinea to allow that company to purchase a ship from an Australian company.

Until 1997, these transactions were detailed in EFIC's Annual Reports. The names and details of projects that received funding *were not* provided in EFIC's 1998 Annual Report.

EFIC's 1998 Annual Report did list the amount of money lent to its recipient countries. Many of the goods purchased were for power generation projects.

In addition, of the $250mil commercial loans provided by EFIC in 1998, $189mil was provided to overseas companies to buy Australian ferries, and $8mil to Indonesia to buy minesweeping and defense software systems.[33]

## Policy Development and Operational Guidelines

The policies and operational guidelines under which EFIC operates *are not* dictated by the *EFIC Act*. The criteria for assessment of proposals *are not* outlined in the Act and this information *is not* available within EFIC's own publicity.

Policy development appears to be primarily administered through EFIC's Financial Services Department, which is also charged with assessing applications for support from business.

In most cases the EFIC Board is empowered to develop its own corporate policies and guidelines, including criteria for the assessment of proposals. However, where a proposed project is considered to be in "the national interest", the Minister with portfolio responsibility for trade seems to have absolute discretion in approving finance and insurance for a proposed project. More generally, this Minister can direct EFIC on administrative matters and regarding the work that EFIC undertakes.

The administrative procedures attached to the *Environment Protection (Impact of Proposals) Act 1974* apply to EFIC's policies and guidelines. Details of criteria regarding the assessment of potential project impacts, however, are not clear (refer to Section Four for a discussion of social and environmental standards). Additionally, EFIC does not employ any staff with environmental qualifications[35] .

Under Section Eight of the *EFIC Act*, the Board must have regard to Australia's obligations under International treaties. Given the level of secrecy that surrounds EFIC's activities, it is difficult to assess the extent to which EFIC's policies reflect this. This legislation stipulates that EFIC must have "regard to", but not necessarily to "comply with", Australia's obligations[36] (refer to Section Four for an analysis of issues regarding transparency, accountability and standards).

### EFIC FUNDS NUCLEAR ENERGY GENERATION PROJECTS IN CHINA

One of the recipients of a commercial loan to China, Alstom, does not publicly list the names of the projects that received funding from EFIC. However, Alstom's website *does* list five power projects in China. Details of these operations include the provision of security on the site of a nuclear power project, turbines for the Three Gorges Dam project, and operations at a coal-fired power plant[34] . It is likely that EFIC had provided finance to some or all of these projects.

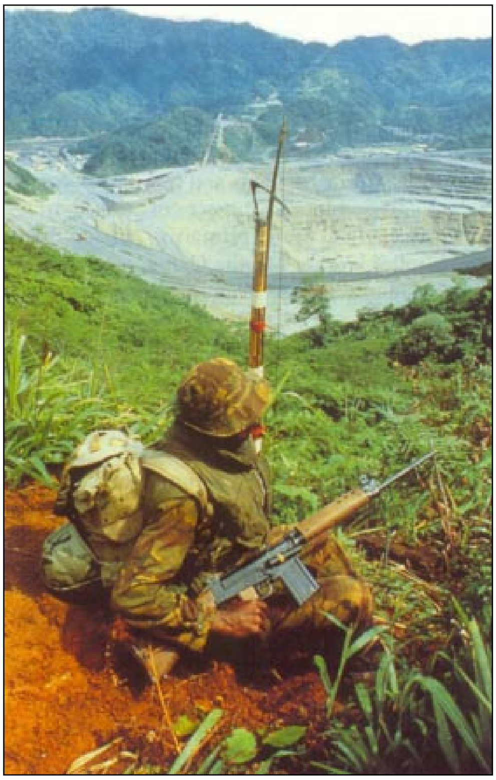
*(Refer to Section Three for a discussion of destructive energy generation activities, including large-scale hydropower schemes, and nuclear and coal-fired power generation).*

# SECTION 3: CASE STUDIES

*Because EFIC effectively lacks systems of transparency, accountability, and screens for the assessment of potential social and environmental impacts, some of the projects it has chosen to support have resulted in devastating, widespread, and in some cases irreversible, negative impacts for many local and regional people and their environments. The Ok Tedi gold and copper mine in Papua New Guinea is a striking and alarming example of the consequences of the unwise, unaccountable and inappropriate decision-making processes that characterise EFIC. Similarly, decisions to support fossil fuel industries such as coal-fired electricity generation, will result in substantial negative impacts not only for local people and their environments, but globally, as the effects of global warming are increasingly realised around the world. Yet EFIC continues to consider supporting projects that many (including other export credit and investment insurance agencies), deem to be too financially risky and socially and environmentally destructive. The proposed Nam Theun 2 Hydropower Dam on the Mekong River in Lao PDR is an example of a project that EFIC may fund and which has attracted wide-ranging opposition from local people, community groups, social and environmental justice campaigners, and politicians.*

*Many of the large-scale resource extraction and exploitation projects that EFIC has chosen to support have resulted in serious negative impacts on local people and their environments*

## Introduction: The Role of EFIC in Destructive Projects Overseas



EFIC guaranteed commercial bank finance for the disastrous Bougainville Copper Mine. Photo from New Internationalist.

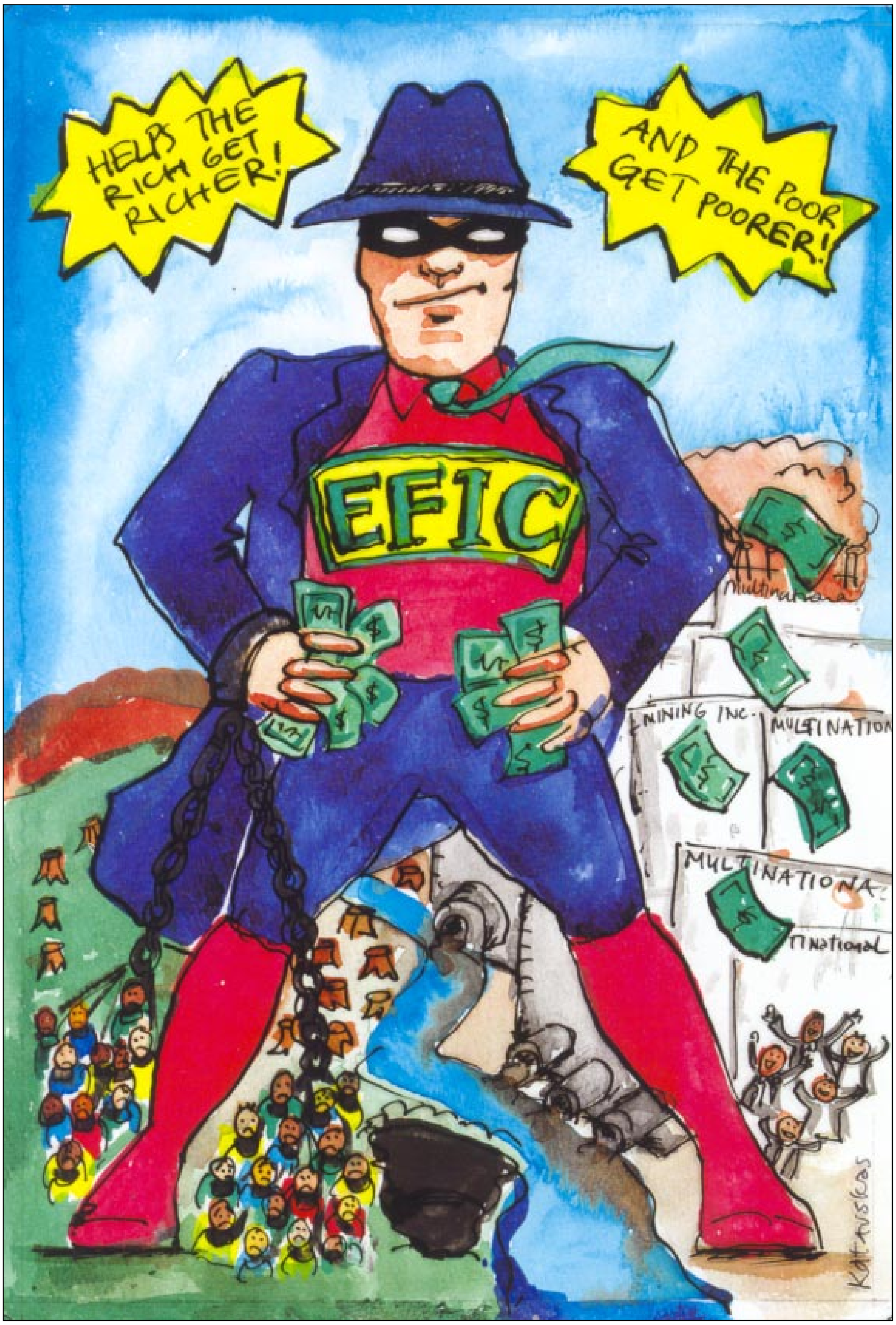
Many of the projects that EFIC has chosen to support have resulted in serious negative impacts on local people and their environments. In some instances, these effects are, or threaten to be, wide-ranging and highly destructive.

This situation arises because many of the projects that EFIC supports involve the large-scale extraction and exploitation of natural resources. These projects are inherently 'unsustainable'. In addition, EFIC effectively operates without any meaningful guidelines designed to assess and mitigate negative social and environmental impacts.

## Case Study One: The Ok Tedi Gold and Copper Mine, Papua New Guinea

### The Minerals Industry

Industrialising countries of the world are experiencing a rapid and widespread increase in mineral exploration and development. Until about ten years ago, many countries in the Asia-Pacific region had limited experience of exploration activities or mineral production on a large scale. Most projects were smaller and locally controlled. In the Philippines, as recently as 3 years ago, only four non-Filipino companies were operating. Almost no exploration had occurred in the Pacific Island nations such as Vanuatu. Even in larger countries, such as PNG and Indonesia, the scene was characterised by a few large-scale projects such as Panguna, on Bougainville, Ok Tedi and Grasberg, more commonly known as Freeport, in West Papua[37] .




A satirical interpretation of EFIC's activities. Courtesy of Fiona Katauskas

Today, however, facilitated by the activities of export credit and investment insurance agencies, such as Australia's EFIC, Asia-Pacific mineral exploration and development is increasing at a rapid rate. The Philippines *Mining Act* of 1995 was introduced into the Philippines in order to allow one hundred percent foreign ownership of mines. Since then, over 300 local and foreign investors have applied for mineral licenses. Papua New Guinea has also seen an increase in mineral extraction activity, and is currently the world's ninth largest gold producer, and the world's seventh largest copper producer[38]. The industry now represents one of the most significant threats to biodiversity and landowner communities in the region. Many mines dispose of their wastes into marine and estuarine environments. Social effects and associated human rights abuses are of increasing concern. Throughout Papua New Guinea and Indonesia the industry has been associated with allegations of torture, dispossession, deaths of civilians, poverty and social dislocation.[39]

*Facilitated by the activities of export credit and investment insurance agencies, such as Australia's EFIC, Asia-Pacific mineral exploration and development is increasing at a rapid rate. The industry now represents one of the most significant threats to biodiversity and landowner communities in the region.*

As a highly financially risky industry that is dependent on volatile markets, and one that requires a massive injection of capital prior to realising any returns, the mining industry is highly dependent on backing from the finance sector. As such, it is a major recipient of export credit and investment insurance agency support. Mining companies are often looking to exploit reserves in remote and politically unstable areas and so are unlikely to proceed without political risk insurance. Consequently, the mining industry is particularly vulnerable to any conditions, be they relating to social, environmental or economic issues that may be demanded by export credit and investment insurance agencies.

The importance of export credit and investment insurance agencies in subsidising the activities of the mineral sector is highlighted by the role of EFIC in Papua New Guinea. Support for Papua New Guinea by EFIC in 1992 was almost solely allocated to the mining and oil sector. Of a total of $930mil dollars of support, $900mil or 97% was spent on this sector[40].

## EFIC'S RECORD - MINING PROJECTS IN PNG

| *Year* | *Mine* | *Type of assistance* | *EFIC loan total* |
|---|---|---|---|
| 1969-71 | Bougainville Copper* | Guarantor of bank finance | $80mil |
| 1982-84 | Ok Tedi Gold* | Direct lender | $224mil |
| 1988 | Misima Gold* | Political risk insurance | US$43mil |
| 1990-93 | Porgera Gold* | Direct lender | US$160mil |
| 1991-92 | Kutubu Oil* | Political risk insurance | US$160mil |
| 1996-ongoing | Lihir Gold | Guarantor of bank finance | US$250mil |

*Based on a Presentation by Graeme Lawless, Managing Director of EFIC, PNG Mining and Petroleum Conference, 31 Aug – 1 Sept, 1992 Sydney.

## Ok Tedi: The Role of Export Credit Agencies and Australia's EFIC

BHP itself has stated clearly that it "should never have become involved" in the Ok Tedi mine[41] . Ok Tedi has rendered an entire river system "biologically dead", effectively destroyed the resources upon which entire communities in the region rely for their health, well-being and livelihood, and has denied landowners the ability to control their natural resources or determine their own development futures.[42] Internationally, the Ok Tedi mine is now almost unanimously regarded as a disaster of unfathomable proportions.

Despite initial concerns and evidence to suggest that undertaking the Ok Tedi project would result in serious widespread social and environmental impacts[43] , when finance was being sought to fund mineral exploration activity at Mt Fubilan, there appeared to be nothing to cloud the confidence or conscience of potential financiers.

*BHP itself has stated clearly that it "should never have become involved" in the Ok Tedi mine*

$US850m was raised to fund the initial exploration stage in 1982. Over half this sum was sourced from export credit and investment insurance agencies. Australia's EFIC was the main contributor, effectively doubling its lending portfolio at the time to provide US$242mil. The UK Exports Guarantee Department, Canada's Export Development Corporation, Austria's Osterreichische Kontroll-bank, a West German export credit and investment insurance agency and the US' OPIC were also responsible for providing finance and insurance for Ok Tedi. Additional credit came from shareholders' funds, of which BHP held the majority, and from the private financial institution, Citicorp International[44] .

The conditions upon which finance and insurance were provided by these export credit and investment insurance agencies were described at the time as being "broadly identical"[45] . Thus, the export credit and investment insurance agencies backing the Ok Tedi project, including those from the US, uniformly disregarded the need to apply standards that could serve to screen potentially damaging projects. In the early 1980s, it would appear that the operational framework of export credit and investment insurance agencies was the pursuit of the lowest common denominator in social and environmental standards.

In retrospect, if export credit and investment insurance agencies had operated within

An area of forest along the Ok Tedi river suffering from dieback caused by waste from the Ok Tedi mine. Photo courtesy of Stuart Kirsch.

stringently applied national legislation and international treaties, as well as a framework that allowed for public scrutiny and intervention and that recognised the need to be accountable to local landowners, the devastation of Ok Tedi might not exist today.

Three years after investing in Ok Tedi, US export credit and investment insurance agency, OPIC implemented its own set of environmental standards. Since 1985, it has been required by US Government legislation to assess the potential environmental impacts of projects under consideration for financing and insuring. (Refer to Section Five for an analysis of US export credit and investment insurance agencies which have moved to establish mechanisms for screening projects). EFIC has yet to implement such standards.

## Background to the Ok Tedi Mine

Located at Mt Fubilan in the Star Mountain Range of Papua New Guinea's Western Province, is the Ok Tedi Mine. Ok Tedi is an open cut gold and copper mine. The company that manages the mine, Ok Tedi Mining Limited (OTML), is jointly owned by BHP (52%), the PNG government (30%) and Metal Mining Corporation (18%)[46].

The earnings from Ok Tedi account for up to10% of Papua New Guinea's Gross Domestic Product (GDP), and twenty percent of its export earnings. [47] Interestingly, OTML did not pay any taxes to the government for the initial 11 years of the mine's operation.

In 1995, Ok Tedi generated US$120mil in earnings[48]. In 1995/96, the profits from Ok Tedi also formed a significant 10-13% of BHP's total profits.

*Since Ok Tedi's tailings dam collapsed, tailings containing copper, zinc, cadmium, cyanide and lead, have been directly discharged into the Ok Tedi river at a rate of 80,000 tonnes per day.*

The Ok Tedi mine is exempt from PNG environmental legislation under the *Mining (Ok Tedi Agreement) Act 1975*. In fact, until 1992 environmental regulations concerning Ok Tedi were managed by the Department of Mining and Petroleum[49]. Currently, Ok Tedi is subject to supplemental agreements with the Western Province government.

There is unmistakable evidence that the environmental record of OTML is deplorable. The PNG government was initially successful in pressuring OTML to construct a tailings dam[50] in which to store mine waste. However, poor design and poor management resulted in its collapse in a 50mil tonne, 1 kilometre long landslide during the construction phase of the mine in January 1984. Several lives and countless machinery and equipment have also been lost during the construction and operation of the Ok Tedi mine as a result of landslides[51]. OTML and the PNG government then agreed that the landscape of Mt Fubilan was not capable of sustaining an "economic or safe" tailings dam[52]. Since the collapse of the dam, a system known as "total discharge" has resulted in tailings containing copper, zinc, cadmium, cyanide and lead, being directly discharged into the Ok Tedi river at a rate of 80,000 tonnes per day, or 100 tonnes per minute[53].

By 1993, these large, toxic sediment loads had rendered the first 70 kilometres of the Ok Tedi River biologically dead, and drastically reduced the species diversity of the next 130 km. The sediment loads have raised the riverbed level by five metres, causing the destruction of riverside subsistence gardens, plantations and forest[54].

In June 1984, OTML was responsible for the world's largest spill of the world's most dangerous poison,[55] when 2,700 60-litre drums of cyanide entered the Fly River. Only 152 drums were recovered and the aquatic biota for 150km downstream was destroyed. In the same month, 1,000 cubic metres of concentrated cyanide waste was discharged directly into the Ok Tedi River via an open bypass valve. The PNG government was not informed until two weeks later when dead marine life, including crocodiles, was found floating downstream.[56]

Impacts on the social, cultural and economic life of local landowners as a result of the Ok

Tedi mine have been widespread and devastating[57] . The environmental damage to the Ok Tedi and Fly Rivers has removed the income source from fish and agriculture for 30,000 local inhabitants downstream of the mine[58] .

In addition, the mine has introduced cash into a previously subsistence economy, bringing with it consumer goods and alcohol which have dramatically changed the lifestyle, diet, values and expectations of the local landowners. The benefits which OTML claims to have brought, including schools, medical care and employment, are unequally distributed both within and between local and regional communities, resulting in new tensions and violence in the area[59] .

In 1994, 30,000 local landowners lodged a claim with BHP, as the largest shareholder of OTML, seeking compensation for the pollution of their estuarine environment, impacts on local economic systems, and the consequent loss of their ability to derive their existence. The resulting compensation package of US$82mil amounts to $12 per person per year until the expected mine closure date of 2010[60] .

*30,000 Ok Tedi landowners lodged a compensation claim with BHP for the pollution of their estuarine environment, impacts on local economic systems, and the loss of ability to derive their existence. The resulting compensation package amounted to $12 per person per year until 2010.*

BHP responded to this by drafting legislation that stipulated fines for anyone who attempted to, or assisted others to sue BHP, and furthermore, anyone who attempted to legally challenge the constitutional validity of the legislation. It then proceeded to strongly lobby the PNG government to ensure that it introduced this legislation. Despite outcry from judges and human rights activists against this blatant attempt by a multinational private sector corporation to control civil society, the PNG parliament did pass an Act making it illegal for PNG landowners to take legal action against a resource project[61] .

## Recent Events

In August 1999, OTML released a series of scientific reports which assessed the relative risks involved in continuing or closing the Ok Tedi mine. In the reports, OTML produced four options: to close the mine; to continue mining until 2010 via the use of a dredge[62] and with tailings storage; to continue mining until 2010 via the use of a dredge but *without* tailings storage; and no dredging (but presumably continued mining above the level of the water table).

The stated options have been regarded with caution by social justice, environmental and community groups. They have expressed outrage that OTML would even consider a 'no action' scenario, whereby no effort would be made to reduce the level and extent of further impacts, as a serious option. A fifth option has been called for whereby Ok Tedi mine would close at the end of 1999, however, OTML would continue to be involved in the work to clean up the river system and assist landowners (many of whom are now dependent upon a cash based economy and employment at Ok Tedi mine), in the transition towards a sustainable livelihood[63] .

The reports conclusively confirmed that the area of land affected would be "significantly greater than indicated previously"[64] . Having conceded that the social and environmental destruction is getting worse, BHP has now requested that the PNG government decide the future of the mine[65] .

When called on in 1988 to decide the future of the mine via growing social unrest and (sometimes militant) landowner protests, the PNG government responded with suppressive police force. Prime Minister Wingti stated that such action was necessary because otherwise "investor confidence and the country's credibility would be affected deeply but at least the investors know that the government is firm"[66] . Economic imperatives and investor security were prioritised at the expense of the health, welfare, and environments of landowners in the region. It remains to be seen whether, in the face of overwhelming evidence of death and destruction, the PNG Government will now consider social, economic and environmental justice for landowners as matters of priority.

OTML is calling on the PNG government to make a decision about the future of the mine on the basis of evidence presented in reports commissioned solely by OTML, and to which no external critique or review has been applied[67] . Furthermore, by placing this decision in the hands of the PNG Government and on the shoulders of local and regional landowners, OTML is effectively abdicating a large degree of responsibility. Alarmingly, if the PNG government decide to maintain operations at Ok Tedi until 2010, it is possible that they will be required to absolve OTML and BHP of the costs of the enormous environmental remediation and rehabilitation that will be desperately required. Effectively, it will be the landowners who will continue to suffer the devastating effects of large scale social and environmental destruction for many years to come, who will also be asked to 'foot the bill' for cleaning it up.

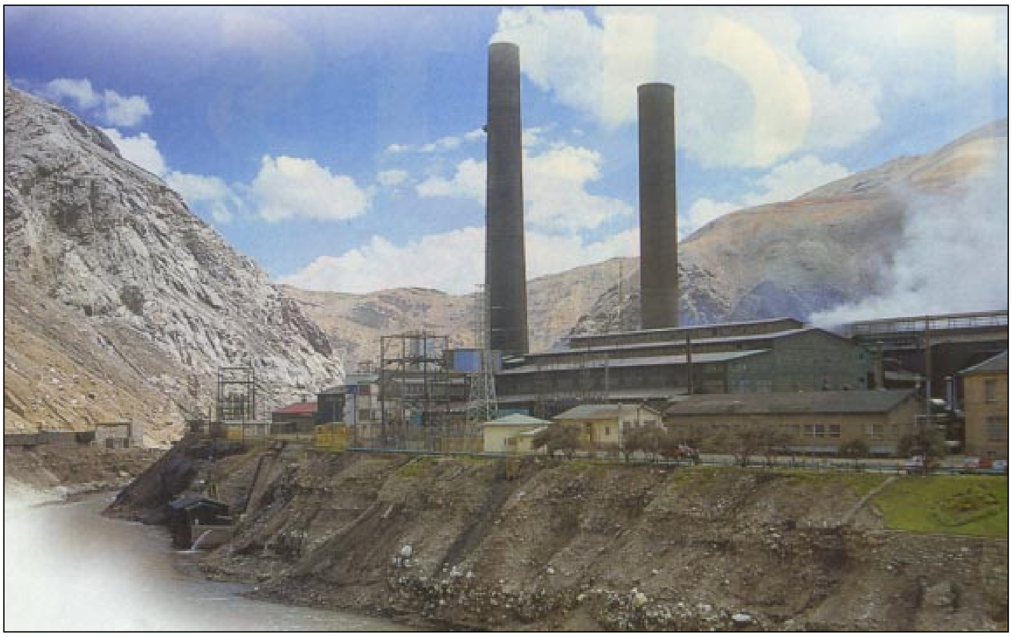
## Case Study 2:EFIC - Pushing the Fossil Fuel Economy

### Competing Priorities: The Coal Industry Versus Greenhouse Issues

*Australia has a long history of supporting coal-based energy projects, despite the fact that these countries have abundantly available clean and renewable energy options.*

Many countries in the Asia-Pacific region are currently making concerted efforts to move away from the use of fossil fuels (such as coal-fired energy generation), and towards renewable energy sources and natural gas. For example, the Chinese government has introduced a tax on high-sulfur coal, and in five major cities, including Beijing and Shanghai, 'coal free zones' have been created. The ultimate aim is to phase out coal and introduce cleaner and more renewable alternatives[68] . These regional concerns reflect an increasing global recognition of the long-term social and environmental effects of greenhouse gas emissions, and the subsequent need to withdraw from the coal industry. In August 1998, Shell Oil sold its $2bil portfolio of coal mines and power assets in response to the steady fall in coal prices[69] .

Yet many export credit and investment insurance agencies persist in swimming against this tide, continuing to support global fossil fuel economies based upon the exploitation of resources and legislative frameworks in developing countries. Between 1992 and 1998,



EFIC's assistance in coal sales to Asia is increasing greenhouse gas emissions.
Photo from New Internationalist.

the US export credit and investment insurance agencies, OPIC and Ex-Im, were responsible for underwriting US$23.2bil in financing for oil, gas and coal projects internationally. The investments are made to countries where clean and renewable energy options are abundantly available. Indonesia, for example, hosts massive natural gas reserves, but OPIC and Ex-Im jointly financed the US$1.47bil Paiton coal-fired power complex in Indonesia[70].

## Australia's Coal Connection[71]

Coal exports are a major feature of the Australian economy. Australia is the world's largest exporter of coals, and in 1997 was the largest export earner, with sales worth $8.6bil. In 1998, Australia exported 168mil tonnes of coal. In addition, Australia is a major supporter of the development of coal-based projects overseas, for example in 1993/94, 5.6% of Australia's total aid budget went to supporting energy projects, the majority of which were coal-related projects in China, Indonesia, Thailand, Vietnam, India and Pakistan.

*EFIC financing of coal-based energy projects directly contradicts both the USA's and Australia's stated foreign policy objectives, and their commitments as signatories of the 1997 Kyoto Protocol*

Despite moves in these countries to develop and source alternatives, currently the primary fuel source for this region is coal[72]. Furthermore, the Asia-Pacific region is a market hungry for energy. Between 1980 and 1997, Asia's primary energy consumption doubled. The region has the highest predicted energy and electricity growth rates in the world - demand is expected to increase by 41% to 2010.

During the last ten years, the Australian government and energy industry have collaborated to effectively increase trade and involvement in Asia-Pacific regional policy processes, such as the Asia-Pacific Economic Cooperation (APEC). Australia hosts the APEC Energy Working Group which pushes for an open and efficient regional energy market. The working group is able to determine policies that support increased coal sales by opening up new markets. In addition, the Australian government spends $1mil per annum promoting the use of 'clean coal' in the Asia-Pacific region (see the 'Clean Coal Myth' information box).

## EFIC: Coal Industry Cohorts

Financing and insuring coal and energy projects appears to be of specific interest to EFIC. In 1998, $17.5mil was invested into coal-fired power stations and supporting infrastructure. In 1997, this amount was $27mil (twelve percent of EFIC's investments for that year), and totalled $15.5mil in 1996. The majority of these projects were in the Anhui, Sichuan and Yunnan Provinces of China and included the Hefei, Liuan and Huangshan coal-fired power substations[73].

The financing of coal-based energy projects directly contradicts Australia's stated foreign policy objectives, and their commitments as signatories of the 1997 Kyoto Protocol. This international protocol provides a framework for the reduction of greenhouse gas emissions. Under this protocol, countries defined as high greenhouse gas emitters (based on per capita ratios) are required to reduce their reliance on fossil fuels. In developing countries, this may be achieved through the provision of technology transfers and increased investment in sustainable energy sources. Many Asia-Pacific nations are defined as being 'key developing countries' and are the specific focus of US State Department policies aimed at encouraging their meaningful participation in the 1997 Kyoto Protocol[74]. Yet these same countries are the focus of major spending by both US and Australian export credit and investment insurance agencies. It is alarming that whilst Australia is presently grappling with measures to reduce greenhouse gas emissions (in keeping with a much-diluted Kyoto Protocol), the export of Australian coal is simultaneously increasing through aid-supported loans to Asia-Pacific countries.

The energy use choices made by countries in the Asia-Pacific region within the next few years will have a critical impact on the amount of greenhouse gas emissions produced in the near future. It is crucial that this rapidly developing region makes dramatically different choices than have been made in the past. Yet if EFIC continues its strong support of the Australian coal industry, and the Australian government continues to push irresponsible regional policy decisions via mechanisms such as APEC, this region will find itself committed to a dangerous path. Continued and increased use of fossil fuels in the Asia-Pacific will accelerate climate change, thus threatening people and their environments globally.

## How Fossil Fuels Affect the Environment[75]

Fossil fuel combustion, which involves the burning of materials such as coal and petroleum, contributes to global warming through the production of dangerous emissions, known as "greenhouse gases". Greenhouse gases act to trap heat in the atmosphere, in increasingly alarming levels directly related to the extent of fossil fuel combustion activity. An increasing number of scientists, politicians, and activists assert that global warming, or 'The Greenhouse Effect', will have serious implications for life on earth as we know it[76] .

The impacts of global warming on people and the environment will be wide-ranging in nature and global in their spread. Human health and well-being will be severely affected. Injury and death will result from increased and intensified fire, flood, storm and drought activity. Health problems that are already common in tropical countries, such as diarrhea, malnutrition and hunger, asthma, and other allergic disorders, will be exacerbated. Warmer temperatures, reduced water supplies and proliferating microorganisms will increase food and water related diseases such as cholera and salmonellosis. Warmer temperatures will enable insects such as malarial mosquitoes to expand their range to wider latitudes and higher altitudes. This could result in as many as 50 to 80mil additional cases of malaria per year, primarily in tropical and subtropical zones such as Southeast Asia. Dengue fever and yellow fever could also increase in the same manner.

In the Australian and Asian-Pacific region, the predicted environmental impacts include increases in drought and flood conditions. Drought will reduce food production, increase prices and cause new uncertainties

## THE CLEAN COAL MYTH

'Clean Coal' is a general term used to refer to certain types of coal and technologies which can reduce greenhouse gas emissions. The main aspects of 'Clean Coal' involve cleaning coal in order to remove ash and sulfur, increasing efficiency in combustion technology, and removing emissions from flue gases.

Australian coal is characterised as being 'cleaner' than coal sourced in Asia because it contains a lower ash content, thereby exhibiting higher thermal efficiencies, and a lower sulfur content, thus producing less sulfur oxides and sulfate aerosols, and consequently less acid rain.

In 1993/94, 5.6% of Australia's total aid budget was targeted at energy projects, the majority of which were coal-related. These projects were sited in Indonesia, China, Thailand, India, Vietnam and Pakistan.

This focus was influenced by the projection that the Asia-Pacific region would have the highest energy and electricity growth rate in the world up to the year 2010. This region relies on coal as the primary fuel source, and tends to use older, less efficient, and more polluting technology. Many aid agencies predict that the implementation of 'Clean Coal' technologies could have a great impact in reducing greenhouse gas emissions. The push for 'Clean Coal' has been strongly supported through funding from EFIC, the World Bank and the Asian Development Bank.

However, 'Clean Coal' is a contentious issue. Many scientists, politicians and activists have increasingly been questioning the ability of 'Clean Coal' to reduce greenhouse gas emissions. Firstly, sulfur content is irrelevant to the amount of greenhouse gas emissions (which are instead based on the carbon content of coal), and sulfate aerosols actually act to briefly *suppress* global warming and reduce projected temperature increases by one degree Celsius. Furthermore, in China, Thailand and India, strict government controls effectively limit the importation of foreign coal anyway. In China, improvements to existing plants have been found to have lower emission-reducing potential than expected. In Indonesia, more modern plants have little potential for any reductions at all.

Therefore, the ability of 'Clean Coal' technology to bring about a reduction in greenhouse gas emissions in the Asia-Pacific region is negligible in the face of the total emissions associated with coal fired energy generation. There will be no meaningful change. 'Clean Coal' is in effect a 'business as usual' scenario. The greatest scope for reductions in greenhouse gas emissions will not occur in the coal industry. Rather, the key to 'clean energy' lies in the use of renewable energy sources, such as biomass, wind, solar thermal and photovoltaic cells.

Source: Ellis, M (1997), *Can Coal be Clean?: 'Clean Coal' technologies and their potential impact on global warming*, AID/WATCH and Greenpeace Australia about food supplies. 60-350mil more people worldwide could face the threat of hunger due to a decrease in global crop production. As the ocean warms, it will expand, raising the sea level. As much as 20,000 km$^2$ of land in Malaysia, Thailand and Indonesia could be threatened with flooding. This includes some of the most economically productive land in these countries. This could damage infrastructure, displace populations, and increase the salinity of sub-surface groundwater.

Studies have also shown that less rain and more drought brought on by climate change will bring an increased risk of bush and forest fires. Extreme dry conditions induced the worst fires in Indonesia's history, which blanketed Singapore, the Malay Peninsula and the South China Sea with smoke in 1997-98. Many rare plants and animals were destroyed. The impacts on people's health and well-being, economies and environments, are unfathomable.

There is a possibility that the behavior of El Niño may be changing under the influence of human-induced climate change. Climatic fluctuations caused by the El Niño alter the tracks of cyclones to cause droughts and floods.

The implications of global warming for the Great Barrier Reef are significant. When exposed to temperatures just 2°C to 3°C higher - even for two or three days - the algae which live in the coral are expelled. This algae is a vital source of food for coral. In its absence, the coral will die and become 'bleached'. Studies at the Florida Institute of Oceanography indicate that reefs in Australia, China, Japan, Thailand, Malaysia, the Philippines, India, and Indonesia have already been negatively affected.

Such disturbing predictions make apparent the need for drastic and immediate reductions in greenhouse gas emissions. As a signatory of the 1997 Kyoto Protocol, Australia is committed to this principle and process. Yet EFIC is working against this through the provision of millions of dollars every year to finance and insure fossil fuel industries in the Asia-Pacific. Clearly, EFIC needs to promptly develop comprehensive and rigorous standards regarding environmental and social impacts in order to assist in the prevention of disastrous climate changes in the near future.

## Case Study Three: The Nam Theun 2 Hydropower Project in Lao PDR

### Large Scale Hydropower Projects: A Risky Business

Research conducted by the World Bank documents the significant shortcomings inherent within large hydropower projects and the planning and assessment surrounding them. There is a clear tendency amongst planners, proponents, and governments to underestimate the enormous financial risks posed by hydroelectric projects and the costs imposed on people and the environment. Of particular concern is the failure to take into consideration the huge financial expense involved in dam construction, and the propensity to focus on relatively low operational costs as an overriding factor in decision-making. Furthermore, the construction phase often runs well beyond the projected schedule, resulting in increased financial strain and delay in the ability to meet loan repayments until operations commence and revenue can be raised from electricity sales. This often creates a heavy burden of debt on governments, further increasing the pressure on local people (refer to Section Four for a discussion of the impacts of debt on local people and the ability of debt creation to serve the interests of wealthy nations and corporations).[78]

Because some hydropower projects have become conspicuous in their drastic failure to meet economic projections, there is a widely held perception amongst finance and insurance corporations that these are 'high-risk' projects.

### Hydropower Development in the Mekong Region

In addition to the risks imposed as a result of financial pressures, large-scale hydropower projects are notoriously socially and environmentally destructive. Inherent within many projects is the forced removal and relocation of thousands of people, the resultant loss of traditional economies and cultures, and the large scale destruction of environments that are not only significant for local land owners but also internationally in terms of their ecological value. Of growing international concern are the impacts of hydropower project development within the Mekong region of Southeast Asia.

*Many large-scale hydropower projects require the forced relocation of thousands of people, and result in the loss of traditional economies and cultures, and large scale destruction of environments.*

The Mekong River and its tributaries are a vast and complex system that traverses China, Burma, Laos PDR, Thailand and Cambodia. It is the source of cultural and political identity, and economic livelihood, for thousands of people throughout the region. In recent years this river system has been progressively altered, exploited and polluted against the wishes and concerns of local people and in the face of growing international outcry. In particular, the development of hydropower in the Mekong has occurred at great cost to the people and environments in the region. Despite promises of significant financial benefits, dams have served to create substantial problems and burdens for people and communities impacted by their construction and operation, effectively resulting in monumental pressures on human, economic, and natural resources. The forced removal of people from their homelands and relocation within areas that often possess limited resources, threatens the social and cultural identity of groups and their economic viability. Clearfelling of forests, loss of species, and resultant impacts on climate, have devastating implications not only for indigenous people in the region, but globally.

## The Nam Theun 2 Hydropower Project

The Nam Theun 2 Hydropower project is the largest and most controversial project proposed within the Mekong region. The Nam Theun 2 Electricity Consortium (NTEC)[79] propose to construct a $US1.2bil 'Build, Operate and Transfer' (to government ownership) hydropower project in central Lao PDR[80]. The vast majority of power generated will be exported to Thailand.

Many observers have speculated that the chief interest of most of the companies comprising NTEC is in the lucrative revenues to be gained from the construction contract. Without subjecting the contract to international competitive bidding (ICB), it is easier for the consortium to deliberately exaggerate estimated construction costs of US$740mil so as to maximise profits.[81]

The project consists of a 50-metre high dam wall on the Theun River, the fourth largest tributary of the Mekong, in central Lao PDR. It is proposed that approximately 450 square kilometres of the Nakai Plateau, an area recognised as having rich biological diversity, will be flooded. Water from the Nam Theun reservoir will drop more than 350 metres to a powerhouse with an installed capacity of 900 MW. The water discharged from the dam will be diverted to the Xe Bangfai River through a purpose-built downstream waterway. The Xe Bangfai flows into the Mekong about 150km south of the Nam Theun.[82]

Landowners dispossessed by dams in Lao PDR must clear their own land in the resettlement area. Photo courtesy of International Rivers Network.

Because of the physical and economic scale of the project, the Nam Theun 2 dam threatens to cause major social, environmental and economic hardship for the people of Lao PDR. Particularly at risk are the estimated 4,500 people who will be forcibly removed, whose homelands will be decimated, and whose sources of livelihood will be effectively destroyed.

Many of these people are already suffering the impacts of environmental degradation, destructive resource exploitation, and associated activity as the result of the activities of a military-operated logging enterprise called the Bolisat Phattana Khet Phoudoi (the BPKP: Mountainous Areas Development Company). Since the early 1990s, this enterprise has been progressively clearing forests to make way for the proposed reservoir. More than one million cubic metres of old-growth tropical pine wood has been destroyed within the Nakai plateau. In 1996, the BPKP moved 51 families out of the reservoir area. The ethnic groups of Lao Theung (Animist) and Lao Loum (Buddhist) have already been previously displaced and it is likely they will be forced to move again. In 1995, the Wildlife Conservation Society noted that as a result of logging activity many new roads and new settlements have been built in Laos PDR, negatively impacting upon environments and imposing a burden on local landowners. [83] All this has occurred *despite the fact that all parties involved continue to insist that no decision has been made regarding the future of the Nam Theun 2 dam.* [84]

## EFIC'S GREATEST HITS

The following projects funded by Australia's Export Finance and Insurance Corporation have resulted in threats to and the destruction of thousands of people and their environments:

- $242mil loan to the Ok Tedi mine in PNG, which resulted in the destruction of livelihood for 30,000 local and regional landowners.
- US$250mil guarantee of commercial bank finance for PNG's Lihir Gold Mine that continues to dump millions of tonnes of cyanide onto the coastal coral reefs every year.
- $80mil guarantee of commercial bank finance for the Bougainville copper mine, whose negative impacts on local environments and people precipitated the war in Bougainville.
- $60mil in loans to coal fired power stations in China between 1996 and 1998, despite China's attempts to reduce its reliance on ozone depleting fossil fuels such as coal.
- $8mil loan to the Indonesian government to buy Australian weapons systems.
- $19.9mil loan to expand a Chinese nuclear power plant.
- Loans to the company responsible for constructing the Three Gorges Dam in China, which threatens to displace and render homeless 1.9mil people, and for the construction of a nuclear power project.*

*In this instance, the receiver company, Alstom, is listed as a recipient of EFIC loans in 1998, however, the relevant specific projects are not listed. Alstom's website (www.alstom.com) however, lists these particular projects and it is highly likely that EFIC funds them.

The Nakai Plateau, 450 square kilometres of which will be flooded, hosts an abundance of diverse plant and animal species, including 17 globally threatened species, 14 globally near-threatened species and an additional 23 species regionally at risk or that show a national historical decline. The Nakai Plateau supports the most important populations currently known in the Lao PDR of 5 bird species, the elephant and the tiger.[85] More than one million people in central Lao PDR depend on fish from the Nam Theun, Nam Kading, Nam Hinbourn, Xe Bangfai and Mekong rivers and their tributaries for more than 60% of their protein intake.

## Financing and Insuring the Nam Theun 2 Hydropower Project

The proposed dam is currently stalled, awaiting decisions by the World Bank regarding finance and insurance provisions, and an agreement between the Electricity Generating Authority of Thailand (EGAT) and the Lao government. Despite continued uncertainty, the World Bank has been effectively promoting the Nam Theun 2 dam since the mid 1980s, conducting a series of feasibility studies, one of which was carried out by Australia's Snowy Mountains Engineering Corporation. The current predicted start-up date is 2005.[86]

The estimated cost of the Nam Theun 2 project has skyrocketed from $US800mil in 1989 to $US1.2bil dollars in 1998. At the same time, the projected financial returns of the project are decreasing. The first feasibility study conducted in 1991 estimated that the project would generate US$176mil in annual revenue from electricity sales. However, the most recent independent economic impact study, by US-based consultants Louis Berger International, says it will only generate US$33mil. A reduction in anticipated revenue of this magnitude will have serious negative impacts on the Lao PDR government, who under contractual arrangements will only receive 50% of profits earned. Furthermore, the estimated financial return for the Government of Lao PDR has not taken into consideration the inevitability of having to make debt-service payments, let alone the numerous social, economic and environmental costs inherent within such a project.

*If EFIC had a set of rigorous standards, it would be in a position to independently assess the project and to make decisions accordingly.*

In May 1997 the World Bank approved a new guarantee mechanism designed to protect commercial lenders and developers from the risks involved in undertaking joint venture projects with governments in some of the world's poorest countries.[87] The only project so far identified as a candidate for the new guarantee mechanism is the Nam Theun 2 project. Because of the social, economic and political context, many investors perceive a risk in supporting project development in Lao PDR. However, if the World Bank provides a "partial risk" guarantee, three leading banks, ANZ Bank (Australia), Barclays (UK), and Societe Generale (France) are expected to finance the Nam Theun 2 project[88]. The main function of the World Bank guarantee will be to ensure compliance by the Lao PDR government with all aspects of the contract over a period of 25 years, even if the project does not deliver the promised benefits to the government and people of Lao PDR[89]. A partial risk guarantee would ensure that repayments could be made to financiers even in the event of a default in contractual obligations.

The private banks are not the only ones waiting on a partial guarantee from the World Bank. EFIC has indicated that it currently has no proposal before it in relation to this project. However EFIC does concede that the project was raised with them by an Australian company in preliminary terms. There is speculation that EFIC will simply take its lead from the World Bank's Multilateral Investment Guarantee Agency (MIGA) and provide political risk guarantees - but only if MIGA does so.

It is alarming that EFIC appears willing to rely so heavily on guidance from MIGA. If EFIC did have a set of rigorous standards and a system of public and stakeholder accountability, it would be in a position to independently assess the project and to make decisions accordingly.

Uncontrolled logging within proposed Laotian dam reservoirs.
Photo courtesy of the International Rivers Network.

# SECTION 4: THE ISSUES

*Highlights and explores the two key issues at the heart of EFIC's involvement in destructive economic development overseas. Mechanisms that ensure transparency and accountablity are vital for financial decision-making process that could potentially involve billions of Australian taxpayers' dollars being paid out and implications for the lives and environments of many people overseas. Whilst decision–making processes should be open and accountable, EFIC protects its public decisions and activities via the use of the 'commercial-in-confidence' clause contained within the Freedom of Information Act 1982. EFIC's organisational structure and policy framework do not include any meaningful provisions for safeguarding communities and their environments from potentially negative project impacts.*

## Transparency and Accountability

EFIC is an organisation with significant power to influence large-scale development in overseas countries, and a statutory corporation that provides finance and insurance which are guaranteed by the Australian government, and thus by Australian taxpayer dollars. Therefore, an organisational structure that is open and accountable would appear to be a legal and a moral necessity. Yet on the contrary, EFIC is a highly secretive, closed, and self-referential organisation (refer to Section 2 for a discussion of EFIC's structure).

The *EFIC Act* does not contain any provision that specifically excludes EFIC from Freedom of Information applications. However, the Commonwealth *Freedom of Information Act 1982* itself does contain a general exemption for obtaining information regarding commercial documents and decisions. This is known as the 'commercial in confidence clause'. Because EFIC's focus is commercial, EFIC can attempt to use this clause to protect the vast array of their activities from public disclosure.

### Extracting Information

Unfortunately, the commercial in confidence clause is frequently used by EFIC to 'blanket' all information, including specific information on social and environmental issues that could, and should, be readily separated from confidential client information.

*The 'commercial-in-confidence' clause is frequently used by EFIC to 'blanket' all information, including specific information on social and environmental issues that could, and should, be readily separated from confidential client information.*

In connection to the Lihir mine in PNG, EFIC refused the Mineral Policy Institute access to all environment reports, claiming that they are exempt from the *Freedom of Information Act 1982* due to their commercial nature. This was despite a decision by EFIC to assess the potential environmental impacts of the Lihir project under the *Environmental Protection (Impact of Proposals) Act 1974,* as all projects funded by EFIC are examined under this Act. This Act should have required clearly defined and transparent assessment procedures.

After an internal review, a complaint lodged with the Commonwealth Ombudsman, and the threat of legal action, MPI was able to obtain *some* documents through the *Freedom of Information Act 1982.* These documents outlined a series of requirements established by Australia's Federal Environment Department, Environment Australia, to be fulfilled by EFIC before they were to support the Lihir mine. They included: the provision of "reasonable" compensation for affected local people for the loss of property and traditional access rights to resources; a practicable and adequate rehabilitation plan; and the monitoring of marine communities both before and during operations (refer to section below concerning the need for improved standards and mechanisms for social and environmental impact assessment).

However, Environment Australia itself has been unable to obtain the Environmental Management Review Report for the Lihir project, based on the assertion that "EFIC officers are subject to strict confidentiality obligations concerning client information."[90] In this instance, it is arguable that the consequences of inappropriate levels of secrecy (that also appear to contravene applicable federal legislation) are not only ludicrous, but dangerous. The government Department responsible for the ongoing environmental monitoring of the Lihir Mine has been denied access to crucial information that in essence provides the framework for this monitoring.

*The thing that concerns me is that, if we are going down this path, how are we… going to be able to scrutinise these things if every time… a commercial-in-confidence stamp is placed upon them?*

***Senator John Hogg, expressing frustration and concern at bureaucrats not providing adequate responses to questioning in a Senate Estimates Committee hearing.***

Further to the use (and misuse) of the commercial in confidence clause, the secrecy surrounding EFIC is preserved via inadequate responses received in Federal Parliament to questions about EFIC's operations. Straightforward parliamentary questions are frequently answered in vague and sometimes evasive terms. For example, attempts by the Australian Greens to ascertain whether EFIC has supported the woodchipping of native forests met with a response asserting that EFIC did not collect data containing such specific information. Instead, clearfelling and woodchipping activity is simply subsumed within the category for 'wood products'.[91]

The inappropriate way in which the commercial in confidence clause is being applied to EFIC's operations makes it impossible to assess the impacts that the overseas projects which EFIC supports are having. Given the resistance in the face of concerted efforts to extract information that should be readily available to the public, and judging by the responses by government in parliament, one can only question what it is about this non-commercial information that makes EFIC reluctant to release it.

## Social and Environmental Standards

Despite the magnitude of EFIC's sphere of influence and its potential to contribute to the suffering of millions of people and the destruction of their environments, there is no guarantee that EFIC's proposed activities are subject to any meaningful impact assessment processes. (Refer to Section 3 for a discussion of EFIC-supported projects that have resulted in serious negative impacts). Given the level of secrecy surrounding EFIC's activities and organisational policies, it is difficult to gain an understanding of how, or indeed if, EFIC works to ensure that the rights and interests of overseas communities are safeguarded. One known mechanism for impact assessment is the *Environmental Protection (Impact of Proposals) Act* 1974. This legislation and the way in which it is administered, is severely limited in its capacity to effectively screen out potentially damaging projects. Of even more concern is the replacement of the *EP(IP) Act* in July 2000 by the *Environment Protection and Biodiversity Conservation Act* 1999, which exempts the activities of EFIC.

### Environmental Protection (Impact of Proposals) Act 1974

The *Environmental Protection (Impact of Proposals) Act* 1974 (The *EP(IP) Act*) provides a legislative framework for the assessment of potential social and environmental impacts of EFIC-supported projects. The *EP(IP) Act* actually primarily relates to Australian domestic developments, and requires the fulfillment by project proponents of certain requirements regarding impact assessment.[94]

There are two major areas of concern that cloud the ability of the *EP(IP) Act* to provide an effective framework for the adequate assessment of possible project impacts. Firstly, the way that the *EP(IP) Act* is applied (or not applied, as is frequently the case) is cause for alarm. There is a distinct lack of clarity concerning the *EP(IP) Act's* actual jurisdiction: whether or not the *EP(IP) Act* applies extra-territorially has never been challenged legally and so has not been conclusively established[95] . It remains unclear precisely what situations or conditions may "trigger" the *EP(IP) Act* in relation to EFIC supported projects overseas. The decision over which proposals are to be assessed under the EP(IP) Act seems to be made on an ad-hoc basis by EFIC itself rather than according to any specific legislative framework or organisational policy guidelines.

Secondly, the nature of the *EP(IP) Act* itself is a major cause for concern. When a project relating to EFIC' s operations is "called in" and assessed under Australia's *EP(IP) Act*, the level of assessment required is determined not according to legislative requirements or even by Environment Australia (the federal department responsible for administering the *EP(IP) Act*), but by ministerial discretion. Furthermore, EFIC continues to operate under almost impenetrable levels of secrecy even when a proposal is required to undergo processes outlined by the *EP(IP) Act*. The relevant reports prepared as part of this impact assessment process are not publicly available, and even Environment Australia is not necessarily given access to reports. It is apparent that the use of ministerial discretion often seems to favour the economic imperative and commercial interests at the expense of social and environmental integrity.

The possible consequences arising from the shortcomings in the nature and application of the *EP(IP) Act* are alarming. Currently, the Canadian Government is subject to a multi-million dollar lawsuit concerning a loan made to the Chinese Nuclear Industry Corporation to expand nuclear facilities at Qinshan in Zhejiang Province in China. The Canadian Government is accused of failing to carry out its responsibilities under the *Canadian Environmental Assessment Act*. It appears that the Canadian government modified this Act to allow international loans to go ahead in the absence of any meaningful environmental assessment.

Australia's own EFIC provided a $16.18mil loan to this same nuclear power facility for the same proposed expansion. It is currently impossible to ascertain whether or not the proposal underwent impact assessment according to the *EP(IP) Act* prior to EFIC's decision to fund it. Either way, in light of the Canadian scenario, the implications for EFIC and the *EP(IP) Act* are not good.

In the interests of accountability and the mitigation of negative impacts, it is necessary for EFIC supported projects, at the proposal stage, to undergo assessment within a federal legislative framework. Whilst this may be desirable, the existing *EP(IP) Act* (and the way in which it is applied), is an inadequate and ineffective mechanism for

## NO CONFIDENCE VOTE IN 'COMMERCIAL IN CONFIDENCE'

'Commercial in confidence' is a confidentiality provision that enables companies to put details concerning research and development, tenders, or other deals 'off limits' to both the public and parliament. This information 'blackout' effectively covers everything from financial arrangements, social or environmental requirements, to details of day-to-day administration, including security arrangements. There is no formal process whereby information is declared commercial in confidence, but once it is applied, any flow of information abruptly ceases and appeals often result in long, drawn-out legal battles.

As Australian governments tend towards the commercialisation of statutory organisations and political interests, there is wide concern that the increased use of commercial in confidence is "diminishing the accountability of government". [92]

Australia has no legislation requiring Australian companies to operate by minimum standards while overseas and, as such, commercial in confidence is a further blow to efforts to make them accountable for their actions.

In an interview for Background Briefing's 'Shrinking Democracy', a consultant to the South Australian Auditor-General, Suzanne Corcoran, stated that:

*"The issue of confidentiality and the issue of the extent to which matters of public interest are disclosed lies at the heart of our democratic system of government, and it's not just the substance of a contract that might in fact involve a core government type of activity which is being kept confidential.*

*"The decision-making processes we have in place to ensure that government is accountable to the people and that the executive branch of the government is accountable to parliament cannot function properly if too much information is kept confidential[93] ".*

safeguarding people and environments, or for controlling the type of overseas development that Australia is promoting. Indeed, the Jabiluka Uranium Mine, situated inside World Heritage-listed Kakadu National Park, has undergone impact assessment according to the *EP(IP) Act* and has been allowed to continue. Clearly, the need for open, accountable, and rigorous assessment processes pertaining to EFIC's operations is long overdue.

At the very least, what is required is a set of rigorous and clearly defined social and environmental guidelines, including a viable provision for excluding proposals that do not fulfill the minimum stipulated criteria. Importantly, frameworks for assessment need to be publicly accessible and processes accountable to taxpayers and relevant communities overseas. Key elements of a thorough social and environmental policy would include:

- an extensive list of categorical prohibitions;
- specific listing and categorisation of different kinds of projects with pre-defined requirements for levels of assessment in each category;
- transparency and public consultation requirements;
- the elimination of discretionary clauses and ambiguous language;
- World Bank and IFC policies applied in full and without exceptions, *as a minimum*;
- screening and social and environmental impact assessment processes to apply to the full extent of any project, even if the nature and extent of EFIC's involvement is relatively minor;
- incorporation of strong social standards to apply across the board;
- requirements for independent and publicly accessible reporting to assess the ongoing compliance of EFIC sponsored projects; and
- adequate resourcing of environmental and social departments to assess and monitor projects.

## DEBT

Debt owed to export credit and investment insurance agencies in low-income countries accounts for 56 percent of the total debt owed to official creditors in 1996[96] . This is due to the nature of the export credit and investment insurance agencies, whereby if the export guarantee is activated, the debt is transferred from the private sector to the public sector, and becomes part of the total bilateral debt of the importer country[97] .

In this way, ill-fated or ill-advised commercial investments by companies in high-income countries are borne by the poor in low-income countries: "…northern governments are using Third World money to subsidise their exports, the chief beneficiaries being the shareholders of some of the richest companies in the world"[98] .

EFIC encourages the borrowing of export credit and investment insurance agencies as a means to the end of economic problems. During the recent Asian economic crisis, memoranda to EFIC from the Hon. John Moore recommended the advance of credit in order to maintain a country's stability[99].

Export credit and investment insurance agencies have grown by 11% annually between 1990 and 1995. The operations of most national ECAs are managed in secrecy, under such protection as the 'Commercial in Confidence' clause provided to EFIC. This aspect prevents the public being fully aware of the financial consequences on the side of either the creditor or debtor[100] . In effect, as in the case of EFIC, Australians are excluded from their democratic right to transparency and accountability of the organs of their state[101] .

# SECTION 5: INTERNATIONAL PRACTICE

*Comparison is made with two other export credit and investment insurance agencies, the bilateral Overseas Private Investment Corporation (OPIC) of the USA, and the Multilateral Investment Guarantee Agency (MIGA) of the World Bank Group. OPIC's and MIGA's environmental policies provide direction for what EFIC should be aiming towards, as an absolute minimum. Critiques of these policies provide an indication of what still needs to be done in order to achieve 'best practice' in social and environmental standards.*

*Since 1985, OPIC has been required by statute to assess the potential environmental impacts of projects under consideration for political risk insurance and financing.*

Some export credit and investment insurance agencies have attempted to incorporate social and environmental standards into their operations. In particular, the Overseas Private Investment Corporation (OPIC), a US bilateral organisation, and the Multilateral Investment Guarantee Agency (MIGA), part of the World Bank Group, have recognised the need to act with greater integrity because their activities effectively put people's health, well-being and environments at risk. Whilst both OPIC's and MIGA's social and environmental policies contain significant shortcomings, they do illustrate the possibilities for change that are available to export credit and investment insurance agencies, and some minimum directions for reform. Specifically, they provide a point of contrast for the deficiencies in EFIC's operations.

## The Overseas Private Investment Corporation (OPIC)

The Overseas Private Investment Corporation (OPIC) is a US Government Agency that provides over $US24bil in financial and insurance services to business ventures in developing countries. Since 1985, OPIC has been required by statute to assess the potential environmental impacts of projects under consideration for political risk insurance and financing. This is consistent with the stated aim that "great care be paid to assuring the environmental soundness of US Government supported foreign assistance projects"[102]. Yet OPIC has a history of supporting socially and environmentally destructive projects. It has financed and/or insured projects that have imposed significant impacts on primary forests, pristine watersheds, endangered wildlife, fisheries, marine biodiversity, and indigenous people. Social and environmental justice activists have been campaigning for several years to reform OPIC's policies.

OPIC has come under considerable criticism in the 1990s due to its provision of $US100mil in political risk insurance to the Freeport McMoRan gold mine in Irian Jaya. The construction and operation of this mine resulted in the levelling of primary tropical rainforest, the pollution of nearby rivers, and the forceful relocation of the Amungme indigenous people. Opposition to the mine by local people was met with violence and human rights abuses on the part of Indonesian soldiers. In 1996, amidst pressure from groups such as Friends of the Earth USA, the International Rivers Network and Project Underground, OPIC conducted an 'environmental audit' of the Freeport mine. OPIC subsequently cancelled its provision of political risk insurance on the basis of non-

*OPIC conducted an 'environmental audit' of the Freeport mine, and subsequently cancelled its provision of political risk insurance on the basis of non-compliance with environmental management standards* compliance with environmental management standards[103]. This effectively constituted the first instance whereby a US bilateral finance agency cancelled a contract on the basis of unacceptable negative environmental impacts.

## OPIC Policy Reform

At the United Nations Earth Summit II meeting in 1997, President Clinton announced proposals for the environmental reform of OPIC. OPIC policy reform includes:

- Transparency requirements and public participation to ensure that OPIC makes informed decisions;
- Strong environmental standards based on US federal or World Bank Standards;
- Annual independent environmental and social monitoring of some OPIC projects;
- New restrictions and bars on financing environmentally risky projects such as large dams, projects in primary rainforests and projects that lead to large-scale resettlement;
- Annual tracking of the amount of greenhouse gases emitted by the projects financed by OPIC; and
- Annual progress reports to Congress concerning OPIC's progress and any difficulties in complying with environmental treaties, laws and policies.[104]

Under these new policies, OPIC is precluded by law from assisting any project it determines will pose an unreasonable or major environmental health or safety hazard[105]. Differing levels of environmental assessment are required for different projects. Mining projects are defined as "high impact", or "Category A" projects and require a full scale Environmental Impact Assessment. OPIC endeavours, but is not obliged, to monitor all Category A projects on site at least once in the first three years of project life. Monitoring may also take the form of self-reporting. (Refer to Appendix One of this report for a list of Category A projects).

Failure on the part of project developers to fulfill environmental requirements may constitute a default under the terms of OPIC insurance contracts and loan agreements. As such, environmental non-compliance is treated as either a "curable" or "incurable" default. In the case of a curable default, OPIC develops a feasible timetable for the undertaking of environmental remediation work. If the default is deemed "incurable", OPIC may require contract termination (for insurance) or acceleration of repayment or other available lenders' remedies, in the case of a loan.

There is also the provision for the "categorical prohibition" of certain kinds of projects which, by their nature, are considered to result in unacceptable negative impacts. Such projects include:

- infrastructure and extractive projects located in primary tropical forests;
- projects involving the construction of many large dams;
- projects involving the commercial manufacturing of ozone-depleting substances (ODS), or the production or use of persistent organic pollutants (POPs) that are banned or scheduled to be phased out of production and use by international agreement during the life of the project; and
- projects in or impacting upon World Heritage Sites, the UN List of National Parks, and Protected Areas. (Refer to Appendix B for a full list of projects that come under categorical prohibitions).

OPIC's policy framework engenders some degree of openness and accountability in relation to its activities. When it receives an application for insurance or financing of a Category A project, such as mining, it lists the project and its location on the OPIC web site. OPIC also maintains a listserver that sends notice via email to interested parties about the new availability of project-specific Environmental Impact Assessment Studies.[106]

OPIC's policies represent some of the strongest guidelines of any international public finance institution. However, significant numbers of people and groups working for positive social and environmental change stress that these policies do not go far enough in preventing negative project impacts. One area of concern is the focus on the impact of extractive industrial projects (mining, oil and gas, timber) on primary tropical forests, but the exclusion of primary temperate or boreal forests.

Activists are urging the implementation of more rigorous and effective policy guidelines. However, it is expected that the finance and insurance industries will bring to bear their considerable financial and political weight and attempt to undermine OPIC's environmental policy.

## The Multilateral Investment Guarantee Agency (MIGA)

MIGA
A Member of the World Bank Group

The Multilateral Investment Guarantee Agency (MIGA) was established on April 12, 1988 as the newest member organisation of the World Bank Group. It aims to encourage the flow of foreign direct investment to its developing member countries for the purposes of economic development. Its primary means of facilitating investment is through the provision of investment guarantees against the risks of currency transfer, expropriation, and war and civil disturbance. In other words, it is effectively an insurer against political risk.

Membership of MIGA is open to all World Bank members. It has a capital stock of $US1bil[107]. The President of the World Bank is also the President of MIGA and the Chairman of the MIGA Board of Directors. MIGA's Executive Vice President is its chief operating officer.

*Years of pressure from government and non-government organisations forced MIGA to adopt a policy for the assessment of environmental impacts. It simultaneously adopted a "disclosure policy" relating to the public release of information.*

### Environmental Assessment Policy

In the face of years of pressure from government and non-government organisations, MIGA decided to adopt a policy for the assessment of environmental impacts. It simultaneously adopted a "disclosure policy" relating to the public release of information, and a series of review procedures for social and environmental impact assessment. A set of draft policies was designed and opened for public comment during a 50-day period (officially ending on February 5, 1999). The final policies were released in May 1999 with all new policies and procedures effective beginning July 1, 1999 for a two-year pilot program after which they will be revisited.

The Environmental Assessment Policy states that "MIGA will require environmental assessment of proposed projects to help ensure that MIGA will provide guarantees only to those projects that are environmentally sound and sustainable, and thus to improve decision-making". Environmental assessment is now an integral part of MIGA's operations. In accordance with MIGA's Convention, MIGA's Environmental Assessment Policy is Annex B to MIGA's Operational Regulations.

MIGA defines environmental impact assessment as the evaluation of a project's potential environmental risks and impacts within its area of influence. MIGA also states that its environmental impact assessment procedures consider physical and social environments in an integrated way.[108] The Environmental Assessment Policy identifies ways of improving project planning, design, and implementation through the prevention, management and mitigation of adverse environmental impacts and the enhancement of positive impacts. There is even provision for the consideration of compensation payments for communities who experience negative project impacts. MIGA's policy states that whenever feasible, it will favour preventive measures over mitigatory or compensatory measures.

## Environmental Assessment Policy: "High Impact" Projects

For high impact, or Category A projects, the project sponsor is required to retain independent environmental assessment experts who are not affiliated with the project to carry out the environmental assessment. The aim of this is to avoid a potential conflict of interest, an important requirement often missing in many environmental policies (for example those relating to OPIC). MIGA considers the issuance of a guarantee for a Category A project if an in-house environmental impact assessment has been completed by the proponent (who must own at least 50% of the project). Independent expertise must then be engaged to review the environmental impact assessment for potentially significant problems in the analysis due to the potential conflict of interest.

MIGA's policy also states that:

*"For Category A projects that are highly risky, or contentious, or that involve serious and multi-dimensional environmental concerns, the project sponsor should normally also engage an advisory panel of independent, internationally recognized environmental specialists to advise on all aspects of the project relevant to the environmental assessment. The role of the advisory panel depends on the degree to which project implementation has progressed, and on the extent and quality of the environmental assessment already completed at the time MIGA begins to consider the issuance of a guarantee for the project."*

This statement highlights a shortcoming in MIGA's policy. Despite the agency's stated objective of only supporting projects that are environmentally sound and sustainable, MIGA continues to consider "highly risky" projects and ones that involve "serious and multi-dimensional environmental concerns".

During the environmental impact assessment process for all Category A projects, MIGA requires the project sponsor to consult with what it considers to be affected groups and non-government organizations within the proposed project's locality. Whilst the concerns of these groups are taken into consideration it is unclear to what extent they effectively influence decision-making outcomes.

## Environmental Assessment Policy: Transparency

MIGA has acknowledged the importance of need for transparency and provisions for disclosure by stating that:

*"MIGA recognizes and endorses the fundamental importance of information disclosure that will enhance transparency in furthering the development process. Accordingly, it is the Agency's policy to maintain transparency about its activities, and to welcome and seek out opportunities to explain its work to the widest possible audience, including external stakeholders, MIGA shareholders, and staff."*

MIGA publishes quarterly reports providing a brief summary of the projects insured, including name and nationality of the investor, the locality of the proposed development, the amount of the investment, and the amount of insurance provided. MIGA also makes publicly available its standard contracts of guarantee. Also, MIGA's basic premium rates are published in order to assist potential applicants to estimate the cost of a proposed investment. Unlike EFIC, which only releases information concerning loans, MIGA releases information relating to all insurance and guarantees provided by the institution.

MIGA also makes Environmental Impact Assessment reports available through the World

Bank's InfoShop at a minimum of 60 days prior to consideration by its board. It will not provide support to proponents who do not agree to the release of this information.

## Environmental Assessment Policy: Exclusion List

MIGA will not provide guarantees for certain types of business activities. This policy is consistent with practices among the other World Bank Group members. Activities that are excluded from consideration include:

- products or activities deemed illegal by the host country or international law;
- drift net fishing using nets in excess of 2.5 km in length;
- activities prohibited by MIGA's environmental and social safeguard policies, including Natural Habitats, Forestry, and Pest Management;
- manufacture and trade in weapons and munitions, distilled spirits, tobacco, wildlife and wildlife products that are regulated under the Convention on International Trade in Endangered Species (CITES);
- radioactive materials for non-medical uses, unbonded asbestos fibers, products containing PCBs, pharmaceuticals subject to international phase out or ban, pesticides subject to international phase out or ban, and ozone-depleting substances subject to international phase out;
- projects that involve significant conversion or degradation of critical natural habitats;
- commercial logging operations or the purchase of logging equipment for use in primary tropical moist forests; and
- enterprises whose primary sources of income are gambling, prostitution, or involving slave labour or child labour inconsistent with internationally recognised norms.

## Public Concerns About MIGA's Policy

Following the publication of MIGA's draft Environmental Assessment Policy at the end of 1998, there was a 50-day period for public comment. There was strong support for MIGA's attempts to address the need to establish guidelines concerning social and environmental impact assessment. However, concern was also expressed regarding a number of perceived shortcomings in the policy. These problems included the use of discretionary and unspecific terms, the need for more environmental and social issues specialists on staff, the need for greater clarity regarding what defines category A, B and C projects, and the need for a 120-day period for public comment on proposals (in line with the World Bank guidelines).

*Despite their shortcomings, attempts by MIGA and OPIC to establish greater systems of transparency, accountability, and social and environmental impact assessment, are a reminder to other export credit and investment insurance agencies, such as Australia's EFIC, of their legal and moral responsibilities.*

Both MIGA's and OPIC's policies still have a long way to go in effectively safeguarding the rights and interests of communities and the integrity of environments internationally. Yet attempts by these organisations to establish greater systems of transparency, accountability, and social and environmental impact assessment, are a reminder to other export credit and investment insurance agencies (such as Australia's EFIC) of their legal and moral responsibilities, and an example of what positive change can be achieved in the immediate future.

# SECTION 6: CONCLUSION AND RECOMMENDATIONS

*Reinforces the pressing need, and growing international calls, for export credit and investment insurance agencies to adopt more rigorous, comprehensive social and environmental impact procedures, and to operate within a culture of transparency and accountability. For EFIC, a failure to adopt these changes will not only be to the detriment of millions of people and their environments, but will serve to jeopardise Australia's international finance policies, its commitments under international treaties and conventions (such as Climate and Biodiversity Conventions arising from the Rio Summit) and the integrity of its own legislative procedures (such as the EP(IP) Act). Provides a brief description of further areas for research and action in relation to export credit and investment insurance agencies, specifically the development of social and environmental policies that are accountable to local people and which adequately accommodate indigenous understandings of the relationships between people, their environments, and their cultures.*

Whilst concern about the role of export credit and investment insurance agencies is increasing, it is not new. In 1957, a recommendation was made in the Treaty of Rome[109] by European countries calling for the progressive harmonisation of export credit and investment insurance agencies criteria[110]. There has been a concerted international effort towards drastically improving the standards of the organs of the state known as export credit and investment insurance agencies to ensure the minimisation of social and environmental impacts arising from their finance and insurance activities. Efforts to promote timely reform of bilateral export credit and investment insurance agencies are now ongoing in Japan, Germany, Switzerland, Norway, Sweden, Austria, Italy, France, Finland, Canada, the United Kingdom, and the United States. To date, agencies such as the US OPIC and Ex-Im Bank[111] have chosen to grasp the opportunity to incorporate social and environmental standards in their operations, and recognised the need to include provisions for transparency and public participation in their policy frameworks.

*This Discussion Paper calls for EFIC to ensure the minimisation of social and environmental impacts arising from their finance and insurance activities by:*

- *including provisions for transparency and public participation in their policy frameworks;*
- *establishing common international environmental standards and criteria for the assessment of impacts; and*
- *being accountable for its actions.*

Many commentators are calling for the need to establish common international environmental standards and criteria for the assessment of impacts. On June 27, 1997, US President Clinton at the United Nations General Assembly Special Session on the fifth anniversary of the Rio Earth Summit (UNGASS) called for common, rigorous environmental standards for export credit and investment insurance agencies:

*"We will do more to encourage private investment to meet environmental standards. The Overseas Private Investment Corporation (OPIC) will now require that its projects adhere to new and strengthened environmental guidelines, just as our Export Import Bank (Ex-Im) already does, and I hope our allies and friends soon will. Common guidelines for responsible investment clearly would lead to more sustainable growth in developing nations."*[112]

In April 1998, prior to the OECD Council Meeting, the Mesum Declaration, a 'Call of

National and International Non-Governmental Organisations for the Reform of Export Credit and Investment Insurance Agencies', endorsed by 163 non-government organisations from 46 different countries, was sent to OECD ministers. The groups called for worldwide agreement on common environmental standards relating to the activities of export credit and investment insurance agencies.

There is evidently a pressing need for more rigorous, comprehensive social and environmental impact assessment procedures based upon internationally shared guidelines and standards that strive towards best practice rather than lowest common denominator values. There have been numerous examples of what such standards might consist of. The World Bank Group, OPIC and the OECD Development Assistance Committee (DAC) all have environmental standards which include a list of certain types of projects excluded from receiving support, and processes outlining transparency requirements.

However, on the basis of examples sited earlier it is evident that Australia's EFIC falls alarmingly short of international best practice in its public accountability practices and its social and environmental policy guidelines. EFIC is currently characterised by very poor levels of transparency and accountability. Virtually all its activities are inappropriately exempt from *the Freedom of Information Act 1982* and shrouded in secrecy under the guise of the 'commercial in confidence' clause. Through its lack of accountability, not only to local landowners and other indigenous groups, community organisations and the public, but even to other government departments, ministers, and the federal parliament, EFIC's integrity is severely compromised.

EFIC effectively lacks any clear organisational standards or guidelines relating to social and environmental impact assessment, as exemplified by the instances of the Ok Tedi mine in Papua New Guinea, potentially the proposed Nam Theun 2 Hydropower project in Lao PDR, and various ozone depleting fossil fuel industry projects. Because people's lives, well-being and environments continue to be at stake, it is vital that EFIC improves its record. The shameful tragedy and destruction of Bougainville and Ok Tedi should never be repeated. EFIC needs to recognise the need to be accountable for its actions and to develop policy guidelines accordingly.

Because EFIC operates away from public scrutiny and in the absence of any meaningful standards regarding social and environmental impact assessment, there are several major implications of its activities:

- **Australian government loans working at cross-purposes:** Australia is currently supporting both the public and private sector activities of the World Bank (IFC, MIGA etc) as well as contributing to international development through the bilateral aid agency AusAID. This is in addition to EFIC's export support services. In some cases these same agencies offer similar financial services and support with different environmental criteria. What would be unacceptable for the IFC or MIGA or IBRD, can be approved by EFIC. These government loans are working at cross-purposes. Of what use is it for the IFC, AusAID or MIGA to improve their capacity for implementing environmental policies, when projects for which they would require environmental mitigation measures will be financed by a government-supported bilateral ECA, such as EFIC, without such mitigation measures?
- **Undermining international commitments made at Rio:** The lack of strong environmental assessment criteria of EFIC may be undermining Australia's commitment to sustainable development under the Climate and Biodiversity Conventions and Agenda 21. For example, EFIC is supporting large-scale expansion of fossil fuel power production without any public weighing of the global climate impacts of increased greenhouse emissions. The President of the World Bank Group has committed the World Bank to develop a system of greenhouse gas accounting for its project starting with power projects. There is no reason why EFIC cannot do the same.

- **Uncertainty, ambiguity and lack of consistency** can complicate and sometimes discourage investment and export decisions. Lack of written environmental assessment procedures and standards compound this problem.

> *EFIC must not become a leader in an international 'race to the bottom' in poor operational policies and absent guidelines.*

EFIC is increasingly faced with the choice of whether to continue to prioritise narrow, and potentially dangerous, financially-driven interests, or respond to growing international pressure and seize the initiative in becoming an international leader in efforts to address social and environmental concerns in its operations. Increasing public pressure and attempts at greater scrutiny mean that EFIC should be getting the message that it is not acceptable for it to be a leader in an international 'race to the bottom' in operational policies and guidelines. Unfortunately, to date, appeals appear to have fallen on deaf ears and EFIC continues to fail to take up the challenge. Yet as a powerful international finance and insurance organisation, if EFIC were to strive towards an environmentally sustainable and a socially and economically just future, it could be assured of a playing a key strategic role.

## Areas for Further Research and Action

Whilst some export credit and investment insurance agencies have chosen to adopt improved standards and policy guidelines, and whilst many are looking to environmental impact assessment procedures as a means of creating positive change, it must be stated that these existing and proposed changes are in themselves severely limited. They are particularly limited in their ability to safeguard the rights and interests of local landowners and the integrity of their environments. Two basic critiques and broad areas for further research and action can be offered.

Firstly, where there is change within these organisations, the understandings that inform this continue to be based upon western values and assumptions about resources and environments. Neither OPIC's and MIGA's environmental policies, nor the dominant practice of environmental impact assessment (EIA) internationally, adequately accommodate the understandings of many local landowners and indigenous people about relationships between people, their environments and their cultures. The framework of Ecologically Sustainable Development (ESD) also has a number of shortcomings in this regard.

To cite just a few examples, EIA and ESD are often characterised by:

- A narrow focus on physical environments and the exclusion of social and cultural environments;
- The measurement of impacts that are *quantifiable* in western scientific terms (such as species loss and effects on water quality) rather than impacts that are more qualitative and cannot be measured with numbers; and
- By a concern for flora and fauna that are considered to be rare, endangered, or vulnerable, and the exclusion of those that are not.

To many indigenous people, these understandings are in conflict with more intimate and sophisticated knowledge about the inseparability of all aspects of physical, social and cultural environments, and the reality that when one aspect of an environment is affected, there are inevitably implications for the whole.

Secondly, export credit and investment insurance agencies continue to be driven solely by economic imperatives and financial priorities. But local landowners and other indigenous people need to be recognised as the key stakeholders in the economic development supported by these agencies. In order to provide effective recognition and safeguards, there needs to be direct and overriding systems of accountability in place. Relevant Federal legislation, international treaties and internal policy guidelines need to address this. It is not enough to rely on overseas governments to safeguard the interests of their constituents (refer to Section Three for a discussion of the PNG government's complicity in the devastation of Ok Tedi). There needs to be open and accessible mechanisms in place that allow for intervention by local landowners in decision-making processes. People need to be adequately resourced and supported to participate in such mechanisms and there needs to be recognition of the significant strain that will be placed on them in doing so.

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112 *Op Cit.*, Rich, B, (1998)

# GLOSSARY:

## Currency

All currency amounts are quoted in Australian dollars unless otherwise stated.

## Acronyms and Abbreviations

| | |
|---|---|
| bil | billion |
| BPKP | a military-run logging company in Lao PDR |
| DAC | Development Assistance Committee of the OECD |
| EA | Environmental Assessment |
| ECA | Export credit and investment insurance agency, of which EFIC is an Australian example |
| EIA | Environmental Impact Assessment |
| EFIC | Export Finance and Insurance Corporation, Australia's export credit and investment insurance agency |
| EFIC Act | Export Finance and Insurance Corporation Act 1991 |
| EP(IP) Act | Environmental Protection (Impact of Proposals) Act 1974 |
| ESD | Ecologically Sustainable Development |
| FOI Act | Freedom of Information Act 1982 |
| G7 | Group of Seven, a political summit of the world's 7 largest state economies |
| IBRD | International Bank for Reconstruction and Development |
| IFC | International Finance Corporation |
| IMF | International Monetary Fund |
| IUCN | International Union for Conservation of Nature |
| Lao PDR | Lao People's Democratic Republic |
| mil | million |
| MIGA | Multilateral Investment Guarantee Agency, The World Bank's export credit and investment insurance agency |
| MPI | Mineral Policy Institute, an Australian NGO campaigning for human rights and environmental justice in mining projects |
| MW | Mega Watts |
| NGO | Non Government Organisation |
| NTEC | Nam Theun 2 Electricity Consortium |
| ODS | Ozone-Depleting Substances |
| OECD | Organisation for Economic Cooperation and Development, the group of the 29 wealthiest nations globally, of which Australia is a member |
| OPIC | Overseas Private Investment Corporation |
| PNG | Papua New Guinea |
| POPs | Persistent Organic Pollutants |
| STD | Submarine Tailings Disposal |
| UNGASS | United Nations General Assembly Special Session |

# APPENDIX A: OPIC CATEGORICAL PROHIBITIONS

I. Infrastructure and extractive projects located in primary tropical forests. Extractive projects include oil, gas, mineral resources, steam/geothermal and surface resources such as timber. Infrastructure refers to roads, pipelines, and, in some cases, transmission lines, to the extent that these provide human access to otherwise inaccessible areas.

II. Projects involving the construction of large dams that significantly and irreversibly:

(A) disrupt natural ecosystems upstream or downstream of the dam, or

(B) alter natural hydrology, or

(C) inundate large land areas, or

(D) impact biodiversity, or

(E) displace large numbers of inhabitants (5,000 persons or more) or

(F) impact local inhabitant's ability to earn a livelihood.

III. Projects involving the commercial manufacturing of ozone-depleting substances (ODS) or the production or use of persistent organic pollutants (POPs) that are banned or scheduled to be phased out of production and use by international agreement during the life of the project.

A list of these substances and chemicals can be obtained from OPIC on request. The ODS list is defined by the Montreal Protocol as amended and US implementing regulations. The POPs prohibition refers to twelve products whose ban and phase out are currently subject to negotiation leading to an internationally legally binding agreement by the year 2000. OPIC's prohibition is consistent with the position of the U.S. government in these negotiations with respect to the various categories of POPs, which include pesticides, industrial chemicals and unintentional by-products.

IV. Projects that require resettlement of 5,000 or more persons.

V. Projects in or impacting natural World Heritage Sites (ie areas of significant ecological value that have been internationally recognised as necessary for strict protection by members of the World Heritage Convention).

VI. Projects in or impacting areas on the United Nations List of National Parks and Protected Areas.

VII. Extraction or infrastructure projects in or impacting: protected area Categories I, II, III, and IV (Strict Nature Reserve/Wilderness Areas and National Parks; Natural Monuments and Habitat/ Species Management Areas), as defined by the International Union for the Conservation of Nature. Projects in IUCN Categories V (Protected Landscape/Seascape) and VI (Managed Resource Protected Area) must be consistent with IUCN management objectives.

Areas protected by the Ramsar Convention are considered within the appropriate IUCN Category to which they are assigned.

# APPENDIX B: OPIC CATEGORY A PROJECTS

Any projects supported by OPIC in this Category that subsequently change in nature from the description provided in application materials, and will thereby cause material impacts to the environment, shall be required to submit additional EA documents to OPIC that must be acceptable to OPIC in its sole discretion.

I. Industrial categories

- A. Large-scale industrial plants
- B. Industrial estates
- C. Crude oil refineries
- D. Large thermal power projects (200 megawatts or more)
- E. Major installations for initial smelting of cast iron and steel and production of non-ferrous metals
- F. Chemicals
  - 1. manufacture and transportation of pesticides
  - 2. manufacture and transportation of hazardous or toxic chemicals or other materials
- G. All projects which pose potential serious occupational or health risks
- H. Transportation infrastructure
  - 1. roadways
  - 2. railroads
  - 3. airports (runway length of 2,100 meters or more)
  - 4. large port and harbor developments
  - 5. inland waterways and ports that permit passage of vessels of over 1,350 tons
- I. Major oil and gas developments
- J. Oil and gas pipelines
- K. Disposal of toxic or dangerous wastes
  - 1. incineration
  - 2. chemical treatment
- L. Landfill
- M. Construction or significant expansion of dams and reservoirs not otherwise prohibited
- N. Pulp and paper manufacturing
- O. Mining
- P. Offshore hydrocarbon production
- Q. Major storage of petroleum, petrochemical and chemical products
- R. Forestry/large scale logging
- S. Large scale wastewater treatment
- T. Domestic solid waste processing facilities
- U. Large-scale tourism development
- V. Large-scale power transmission
- W. Large-scale reclamation
- X. Large-scale agriculture involving the intensification or development of previously undisturbed land
- Y. All projects with potentially major impacts on people or serious socioeconomic concerns
- Z. Projects, not categorically prohibited, but located in or sufficiently near sensitive locations of national or regional importance to have perceptible environmental impacts on:
  - 1. wetlands
  - 2. areas of archeological significance
  - 4. areas prone to erosion and/or desertification
  - 5. temperate/boreal forests
  - 6. coral reefs
  - 7. mangrove swamps
  - 8. nationally-designated seashore areas
  - 9. managed resource protected areas, protected landscape/seascape (IUCN categories V and VI) as defined by IUCN's Guidelines for Protected Area Management Categories; additionally, these projects must meet IUCN's management objectives and follow the spirit of IUCN definitions.