

Issue update

Selected Issues on International Financial Institutions

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New bill on CSR puts government house in order

This month Liberal MP John McKay introduced a private members' bill (see *Just the Facts*) that imposes tighter controls on the provision of government support to Canadian extractive companies. Numerous studies have highlighted the significant environmental and human rights impacts of oil, gas and mining operations overseas. In 2005, a report by the Parliamentary Standing Committee on Foreign Affairs and International Trade (SCFAIT) drew attention to the fact that some Canadian extractive companies, which are responsible for adverse impacts, receive financial and political support from the Canadian government.

Mr. McKay's bill, *An Act respecting Corporate Accountability for the Activities of Mining, Oil or Gas in Developing Countries*, limits eligibility for government support to those extractive companies that comply with environmental, social and human rights standards. C-300, which received first reading on February 9, covers services provided by Export Development Canada and the Department of Foreign Affairs and International Trade. The Bill also covers investments made by the Canada Pension Plan in extractive companies.

Bill C-300 incorporates recommendations made in 2005 by SCFAIT and in 2007 by the Advisory Group to the National Roundtables on Corporate Social Responsibility and the Canadian Extractive Industry in Developing Countries (see *IU March 2007*). The government has yet to respond to the latter report. The Liberal initiative is also consistent with a private members' bill tabled in the House last year by NDP MP Alexa McDonough.

Bill C-300, *An Act respecting Corporate Accountability for the Activities of Mining, Oil or Gas in Developing Countries*, <http://www2.parl.gc.ca/HousePublications/Publication.aspx?Docid=3658424&file=4>

Dirty Business, Dirty Practice - How the Federal Government Supports Mining, Oil and Gas Abroad (May 2007), http://www.halifaxinitiative.org/index.php/Projects_Reports/Dirty_Business

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Credibility of report on EDC questioned by CSO

A report tabled in the House of Commons this month to inform parliamentary review of the *Export Development Act* is incomplete and draws questionable conclusions.

In a written submission to the review process (see IU June 2008), the Halifax Initiative recommended that the Act, which governs Export Development Canada, be amended to include a requirement that the Crown Corporation operate in compliance with Canada's international human rights obligations. The review report, which was prepared for the Minister of International Trade by consulting firm International Financial Consulting Ltd. (IFC), warns against the adoption of "unilateral requirements" and encourages Canada to work through a multilateral forum such as the OECD.

Canada's human rights obligations derive from public international law. This includes customary law, which is applicable to all states. It also includes widely-ratified human rights treaties. Many states with export credit agencies, particularly OECD members, share Canada's international human rights obligations. Export credit agencies, as part of the state apparatus, are subject to these international provisions. For these reasons, it is inaccurate to characterize the adoption of domestic legislative provisions, which formalize EDC's human rights obligations, as "unilateral." The international consensus that IFC identifies as a prerequisite for action has long existed.

IFC also dismisses a recommendation to amend the *Export Development Act* to permit fuller application of access to information legislation to EDC. IFC posits that such action would second-guess the judgment of legislators. This is a perplexing argument in a process whose purpose is to review the provisions and operations of the *Export Development Act*.

The report's credibility is further impugned by its failure to include any information or analysis regarding parliamentary activity concerning EDC. In 2005, an all-party report from the Standing Committee on Foreign Affairs and International Trade called on the government to make export and project financing conditional on companies meeting clearly defined CSR and human rights standards. Private members bills tabled by the NDP in 2008, and again this month by the Liberals, provide the legal apparatus to put this recommendation into effect.

International Financial Consulting report
www.international.gc.ca/commerce/edc.aspx

Halifax Initiative submission to the 2008 review of the Export Development Act,
http://www.halifaxinitiative.org/index.php/Reports_Analysis/1096

Notice Board - This month...

- ☰ **Friends of the Earth US, Greenpeace US, and four US cities have won a precedent setting lawsuit against two U.S. agencies** - the US Overseas Private Investment Corporation and the Export-Import Bank - for **financing fossil fuel projects overseas** without considering their impacts on global warming. As a result of the lawsuit, OPIC and Ex-Im agreed to provide **\$500 million in financing for renewable energy** projects, take into account greenhouse gas emissions associated with projects they support, **develop a greenhouse gas policy**, and advocate for climate change policies at the Organisation for Economic Co-operation and Development (OECD). The OECD deals with issues related to export credit agencies, such as Export Development Canada.
- ☰ Bangladesh, Bolivia, Cambodia, Mozambique, Nepal, Niger, Tajikistan and Zambia have been selected to participate in a **Pilot Programme for Climate Resilience** under the Strategic Climate Fund of the World Bank's new Climate Investment Funds (see **Issue Brief**). Under the programme, the **eight countries** will receive **\$500 million to integrate climate resilience into national development planning**. ActionAid, Friends of the Earth and Jubilee USA have all **criticized the scheme for financing the initiative through loans, rather than grants**, which they feel violates the "polluter pays" principle.
- ☰ The World Bank's Board of Governors has approved an additional seat for Africa on the Board of Directors at the Bank. Africa now has three seats on a 25 seat Board.
- ☰ **Norway's Government Pension Fund has dropped its shares in Canada's Barrick Gold** as a result of Barrick's operations at the Porgera Mine in Papua New Guinea.
- ☰ A new report by the Bank Information Center finds that the **World Bank Group's lending to the energy sector fails to support developing countries' transition towards a low-carbon economy**. During its 2008 fiscal year, the World Bank and International Finance Corporation (IFC) **increased funding for fossil fuels** by 102% compared with only 11% for new renewable energy (solar, wind, biomass, geothermal energy, small hydropower). Fossil fuel financing is still twice as much as new renewable energy and energy efficiency projects combined. "*World Bank Energy Sector Lending: Encouraging the World's Addiction to Fossil Fuels*", on-line at <http://www.bicusa.org/en/Article.11033.aspx>

New Publications this month

- "*Breaking Ground: Engaging Communities in Extractive and Infrastructure Projects*", World Resources Institute, February 2009. Based on existing community engagement standards and guidance and the experiences in several high profile projects, WRI developed seven principles for effective community engagement for extractive and infrastructure projects. <http://www.wri.org/publication/breaking-ground-engaging-communities>

Upcoming Events

- Rethinking the Extractive Industry, York University, Toronto, March 5-7. <http://www.yorku.ca/ce/lac/ei-agenda.html>
- G-20 Finance Minister's meeting, London, March 14.
- UN dialogue on the Economic Crisis and Its Impacts on Development, New York, March 25-27.
- G-20 mass mobilization march for jobs, justice and climate, London, March 28. <http://www.putpeoplefirst.org.uk/>

JUST THE FACTS

Bill C-300 - Corporate accountability and extractives

Bill C-300, *An Act respecting Corporate Accountability for the Activities of Mining, Oil or Gas in Developing Countries*, seeks to “ensure that corporations engaged in mining, oil or gas activities and receiving support from the Government of Canada act in a manner consistent with international environmental best practices and with Canada’s commitments to international human rights standards.”

The bill has the following provisions:

- The government is mandated to issue guidelines for mining, oil or gas activities. The guidelines must include the World Bank’s Performance Standards; the Voluntary Principles on Security and Human Rights; and provisions that ensure corporations operate in a manner that is consistent with international human rights standards.
- Export Development Canada may only enter into, continue or renew a transaction related to mining, oil or gas activities if the activities are consistent with the guidelines. Continued compliance with the guidelines is a requirement for EDC clients.
- The Department of Foreign Affairs and International Trade may not promote or support mining, oil or gas activities that are inconsistent with the guidelines.
- Investment managers who invest the assets of the Canada Pension Plan must take the guidelines into account. Investment managers may not invest the assets of the Canada Pension Plan in companies that fail to comply with the guidelines, as determined through the process described below.
- The Ministers of Foreign Affairs and International Trade will accept complaints regarding Canadian mining, oil and gas companies. The Ministers will assess those companies for which complaints are lodged to determine whether they are in compliance with the guidelines. The Ministers will publish the results of such assessments.

Bill C-300

<http://www2.parl.gc.ca/HousePublications/Publication.aspx?Docid=3658424&file=4>