



Australian Government



Export Finance and Insurance Corporation
Export House
Level 10, 22 Pitt Street
Sydney NSW 2000

11 June 2013

Committee Chair
Foreign Affairs, Defence and Trade Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Senator Stephens,

Re: Senate Foreign Affairs, Defence and Trade Committee (“Committee”) Inquiry into the Export Finance and Insurance Corporation (“EFIC”) Amendment (New Mandate and Other Measures) Bill 2013

We refer to Jubilee Australia’s response to the Committee’s written Questions on Notice following the public hearing in Canberra on 17 May 2013.

It is EFIC’s view that Jubilee Australia’s response to its third Question on Notice, concerning the Oyu Tolgoi project, misrepresents EFIC’s testimony to the public hearing on 17 May 2013 in relation to:

- EFIC’s commitment to apply the International Finance Corporation (IFC) Performance Standards in its environmental and social review of transactions (where applicable); and
- EFIC’s commitment to conduct an independent audit of the application of the Policy and Procedure for environmental and social review of transactions every two years.

In order that the Committee remains properly informed, we suggest that in relation to the matters referred to above the Committee consider EFIC’s testimony as it is recorded in the official Hansard transcript. The relevant extracts are attached for your information.

EFIC’s submission to this inquiry addresses in detail our Policy and Procedure for environmental and social review of transactions, the international standards and benchmarks that these incorporate and the disclosure and transparency activities undertaken by EFIC.

Yours sincerely,

Angus Armour

Managing Director & CEO
Export Finance and Insurance Corporation

IFC Performance Standards

Extract - Jubilee Australia, Response to written Questions on Notice (Public Hearing, 17 May 2013, Canberra, page 4¹.

“...In summary, the Oyu Tolgoi funding proposal was approved in violation of many of the IFC Performance Standards, which EFIC claims to uphold. This was also the case with other projects, notably PNG LNG. This combination of lack of disclosure and absence of remedy means that EFIC operates with impunity.

On this point we would like to note a couple of interesting comments from the testimony to the committee of EFIC official Jan Parsons. Firstly, when asked about the application of the IFC Performance Standards, Mr Parsons conceded that although EFIC uses them as a benchmark for the assessment of environmental and social risk, they are not compelled to apply them or comply with them. As the Oyu Tolgoi approval demonstrates, EFIC doesn't really apply the Performance Standards unless they have to and they can ignore them when they need to...”

Extract – Hansard, Foreign Affairs Defence and Trade Committee Hearing 17 May 2013, Canberra, page 15².

... Senator EGGLESTON: That is a very important point, because it can only apply in Australia one would have thought—or is it applied to projects you might be financing somewhere in Asia or somewhere else?

Mr Parsons: Obviously the EPBC Act only applies in Australia. We cannot apply it to foreign jurisdictions, but for our international work again one of the IFC performance standards covers biodiversity. So we look at it but not using the Australian act but using an international standard.

Senator EGGLESTON: Which is?

Mr Parsons: The IFC performance standards. The International Finance Corporation is part of the World Bank. There is a set of international standards—

Senator EGGLESTON: So they have a set of standards for various things, do they?

Mr Parsons: Yes, performance standards basically for international projects and they cover off a whole range of environmental and social issues. They are regarded as the best practice for international projects.

Senator EGGLESTON: Could you give us on notice a copy of those standards and what they cover?

Mr Parsons: Sure.

Senator EGGLESTON: You obviously comply with them, do you?

Mr Parsons: We use them as a benchmark for international projects.

Senator EGGLESTON: You use them as a guide in effect but you are not compelled to—

¹ : <https://senate.aph.gov.au/submissions/comitees/viewdocument.aspx?id=059531a5-18f3-4ba9-bd13-b8ac7b1558c8>

² See: <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22committees/commsen/5d05f4bb-7c16-462c-9cb7-a3de9f747b7b/0000%22>

Mr Parsons: No. We have committed to using them as a usual benchmark. If there are higher standards, such as in some of the EU countries, we will use those standards but we have committed to use them as our benchmark and, if the projects which we are looking at do not meet those benchmarks, we have said we will decline support to those transactions.

Senator EGGLESTON: They are the rules that apply in the country where the project is going to be established?

Mr Parsons: There are two separate things. Firstly, there are the host country standards. We look at two aspects: we look at the host country standards, which is generally whether it has an approval within the country, and then we apply the IFC performance standards, which may be more stringent or less stringent than the host country's. In either case we will take the more stringent of those two standards.

Senator EGGLESTON: You are not operating in a vacuum, you are actually applying the standards which is important for us to know.

Mr Parsons: Yes, and as I said the IFC performance standards are regarded as the best practice for international financiers to use when benchmarking projects....

Independent audit of the application of EFIC's Policy and Procedure

Extract: Jubilee Australia, Response to written Questions on Notice, Public Hearing 17 May 2013, Canberra, page 4

“...Further, Mr Parsons made the claim that EFIC does its own auditing against the IFC Performance Standards for Category A Projects, thus implying that no change to EFIC's reporting regime is necessary to ensure accountability.

However, as must be clear by now, if EFIC consistently approves projects that are in breach of its own standards, as is the case with PNG LNG and Oyu Tolgoi, to claim that the current system is operating effectively is not tenable...”

Extract: Hansard, Foreign Affairs Defence and Trade Committee, Public Hearing 17 May 2013, Canberra, pages 15-16.

...CHAIR: Going to EFIC's policies and procedures for environmental and social review of transactions, how long have the policy and procedure been in operation?

Mr Parsons: We have had a policy since about 2000. It has gone through various iterations over time. The current one, which the board adopted in 2011, is about our fourth or fifth iteration—do not quote me on those numbers, but it has gone through several iterations.

CHAIR: Is there a mechanism to review the workings policy or is there an opportunity for an external independent review?

Mr Parsons: There is, yes. Part of our policy is a commitment to engage an independent expert every two years to audit how we have applied and used that policy. We had our first audit last year. It was

made public in December, and it found that we had applied the policy and procedure appropriately. In undertaking the audit, they had access to all our projects and all our files. They selected which ones they wanted to look at, mostly concentrating on the ones with potentially higher impacts. They went through the information we had used, the benchmarks we had used and the conclusions we reached as a result of the benchmarking. Their audit report was that we had complied with our policy in all the projects they examined. That report has been made public. That is part of our transparency, because a lot of the comments have been that EFIC is not a transparent organisation. Amongst the OECD export credit agencies, which are our peers, we are probably the most transparent. In undertaking our policy and procedure we have benchmarked ourselves against that. We provide more information, we provide more certainty through our published policy and procedure, which had external input from CSOs, particularly through the external independent audit. Because there are certain limitations on the information we can provide publicly, we decided to get somebody external to come in and look at that to give external people, such as you, certainty that we are doing it appropriately. People were saying there is no certainty, so our policy commitment to undertake the audit was an attempt to respond to that query about certain...”