



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

07 March 2019

Dear Committee Members,

Re: Oxfam Australia Submission to Inquiry on the Export Finance and Insurance Corporation Amendment (Support for Infrastructure Financing) Bill 2019

Oxfam Australia is a leading non-profit global development and humanitarian organisation with more than 75 years of experience. Oxfam Australia:

- undertakes long-term development programs;
- provides emergency response during disaster and conflict;
- undertakes research, advocacy and campaigns to advance the rights of poor and marginalised people, including women and works with them to achieve equality; and
- promotes fair trade, supporting local artisans and producers throughout shops and Fairtrade food brand.

In 2017–2018, the global Oxfam confederation worked with 3,663 local partners to deliver life-changing development and advocacy programs for more than 22.3 million people in 79 countries around the world. Of that number, Oxfam Australia directly reached more than 1.7 million people in 29 countries. In partnership with our Oxfam affiliates, we reached 13.1 million people affected by disaster or conflict worldwide. Oxfam Australia is a member of Oxfam International, a confederation of 20 organisations that works with partners and local communities to mobilise the power of people against poverty. More than half a million Australians annually support Oxfam Australia by contributing skills, time and financial support to advance our work.

Oxfam's submission to this inquiry draws on decades of experience working with communities impacted by infrastructure, mining and other large-scale development projects – sectors where much of the Export Finance and Insurance Corporation's (EFIC's) financing is focused. We have previously engaged with EFIC as part of their multi-stakeholder forum, and in that capacity emphasised the key role and responsibility of the Australian Government in fostering sustainable development and responsible business conduct in its support for Australian companies' overseas operations.

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We are a long term development actor, a partner of the Department of Foreign Affairs and Trade (DFAT) in aid delivery and a member of the Australian Council for International Development (ACFID), as well as a signatory to its Code of Conduct. **Oxfam endorses in full the submission to this inquiry made by ACFID.**

In addition, we make the following comments and recommendations in relation to both the proposed increase of \$1 billion in callable capital to EFIC and the proposed relationship between EFIC and the development-focused Australian Infrastructure Financing Facility for the Pacific (AIFFP).

The Prime Minister in his joint statement announcing a strengthening of Australia's commitment to the Pacific emphasised Australia's commitment to the Boe Declaration adopted by Pacific Leaders at the 2018 Pacific Islands Forum.¹ In line with the Boe Declaration, and with best practice globally in providing development loans as well as Australia's obligations under both the Paris Declaration and global human rights standards, any loan facility increasing Australian funding for infrastructure to developing countries must:

- have Pacific Island nations' views, needs and interests at its heart;
- operate with a high level of transparency and accountability;
- apply best practice standards, due diligence and safeguards, including in relation to gender, human rights, climate change and community consultation and consent;
- be sustainable, both from an environmental and social perspective, especially with regard to climate change being "the single greatest threat to the livelihoods, security and wellbeing of the peoples of the Pacific" as outlined in the Boe Declaration²; and
- be actively inclusive of small and medium scale infrastructure, particularly in the areas of agricultural and water infrastructure, which are proven to be pro-poor.³

At present, EFIC does not have the mandate, operational framework or expertise that would enable it to accommodate these core elements. The draft legislation does not include provisions that would change EFIC's governance, structures or processes to ensure that any of these core elements are taken into account in the future. **Oxfam recommends that either the bill in its current form be rejected, or that it**

¹ The Hon. Scott Morrison MP, Prime Minister, The Hon Marise Payne, Minister for Foreign Affairs, The Hon. Christopher Pyne MP, Minister for Defence, 8 November 2018, Statement available at:

https://foreignminister.gov.au/releases/Pages/2018/mp_mr_181108.aspx?w=E6pq%2FUhzOs%2BE7V9FFYi1xQ%3D%3D

² Boe Declaration on Regional Security, November 2018, Pacific Islands Forum Leaders' Meeting, available at: <https://www.forumsec.org/boe-declaration-on-regional-security/>

³ A good and still relevant guide, which also includes key elements needed such as transparency and community consultation for pro-poor infrastructure investments in general for donors like Australia, can be found in the OECD DAC Guideline for Promoting Pro-Poor Growth, Policy Guidance for Donors, 2007, available at: <https://www.oecd-ilibrary.org/docserver/9789264024786-en.pdf?expires=1551834269&id=id&accname=guest&checksum=F5B4861C4CAC458D249E679ECDECBED2#page=233&zoom=100,0,370>

undergo a significant redrafting with appropriate periods of stakeholder consultation to ensure these core elements can be taken into account.

Oxfam's specific concerns relate to the following areas of EFIC's policy and practice:

Mandate: EFIC was established to facilitate and encourage Australian export trade and has a clear mandate to assist and benefit Australian business. EFIC does not have a mandate to ensure projects are in alignment with the national development plans and the priorities of developing countries in which projects are taking place. **Oxfam recommends that the Bill be amended to reflect the need for Australia's infrastructure investment to align with recipient country and community priorities.**

Transparency: EFIC is currently subject to a broad exemption under the Freedom of Information Act (FOI). EFIC's lack of transparency has long been contested by organisations including Oxfam, and the 2011 Productivity Commission inquiry into EFIC recommended improvements in accountability and transparency. **Oxfam recommends that EFIC's blanket exemption from the FOI Act be removed and EFIC be required to release social and environmental impact assessments.**⁴

Safeguards and standards: EFIC falls short in its application of international best practice social, environmental and human rights standards. EFIC applies the International Finance Corporation (IFC) Performance Standards. Oxfam Australia recognises the Performance Standards as an important global standard against which project social and environmental impacts are typically assessed. However, the Performance Standards contain significant gaps and weaknesses and offer no guarantee that project-affected people will not experience harm, or that they will be able to access to effective remedies in cases where they suffer negative impacts.

The IFC Performance Standards' weaknesses exist in relation to human rights, gender, conflict, free, prior and informed consent (FPIC) and climate. EFIC does not currently operate in full compliance with important global standards including the OCED Guidelines on Multinational Enterprises, the UN Guiding Principles on Business and Human Rights, the International Convention on the Elimination of All Forms of Discrimination Against Women and the Paris Agreement.

Notably, some of the projects supported by EFIC historically – including the Ok Tedi and Porgera mines in PNG - have been associated with significant human rights violations, including forced displacement of local populations, suppression of peaceful protests, environmental destruction, loss of livelihood and physical and sexual violence. The more recent PNG LNG Project, noted by the Minister in his second reading speech, has also been connected to poor community consultation, lack of clear identification of landowners and

⁴ Note that if EFIC's blanket exemption was removed, EFIC would still be able to rely on general exemptions that relate to Cabinet and commercial-in-confidence material.

increased violence.⁵ Furthermore, the project has been shown to have fallen far short of the promised delivery of economic benefits and jobs for Papua New Guinea.⁶

Oxfam recommends that the bill be reviewed to ensure that appropriate social, environmental and human rights safeguards are in place. Consideration should be given to aligning requirements for loan financing with best practice due diligence processes, such as those undertaken by the Asian Development Bank.

Sustainability: EFIC has a history of providing significant support for Australian extractive industry projects overseas. Given the emphasis placed on climate change as the single most significant security threat to the Pacific region outlined in the Boe Declaration, and Australia's commitment to the Paris Agreement and targets, it would be out of step and may also threaten the future security and stability of the Pacific region to allow the proposed increase to callable capital to be applied to projects directly related to fossil fuel production or export. **Oxfam recommends that the bill include an amendment that the increase in callable capital will exclude loans to projects directly related to fossil fuel creation and/or export.**

Given the above, it is clear that The Bill in its current form either must be rejected or significantly redrafted. Without addressing any of the core concerns outlined above, The Bill would risk Australia's international reputation, its relationship with the Pacific, as well as posing significant risks for the ongoing effective management of the infrastructure projects that Australia may fund.

The Bill is also unclear on detail as to how the new AIFFP will relate to EFIC, and how EFIC will operate in line with international development standards and best practice if it is to become the 'back of house' facility through which the AIFFP operates. In line with the submission made by ACFID, Oxfam underlines the importance of this being spelled out clearly in The Bill. The core issues outlined above including Pacific interests, transparency, safeguards, sustainability, human rights and gender impact, as well as avoiding the exacerbation of sovereign debt, must be taken into account in any relationship between EFIC and DFAT as part of the AIFFP arrangements.

EFIC is a financial institution with the mandate and expertise to promote Australian exports and Australian business overseas. Even in the absence of any detail as to the structure and operations of the AIFFP it is difficult to see how EFIC would be best placed to administer the AIFFP. **Oxfam recommends that the Bill be amended so that it clearly does not establish or position EFIC as the administrating agency for the AIFFP, and that this question be determined following a proper period of consultation on the establishment of the AIFFP.**

⁵ Jubilee Australia, *Pipe Dreams* (2013), available at: [file:///mel-lei-fs-01/Homes\\$/rachelb/Documents/Downloads/Jubilee+Australia_PIPE+DREAMS+Report_April2013_Web.pdf](file:///mel-lei-fs-01/Homes$/rachelb/Documents/Downloads/Jubilee+Australia_PIPE+DREAMS+Report_April2013_Web.pdf); Jubilee Australia, *Risky Business: Shining a Spotlight on Australia's Export Credit Agency* (December 2009), available at: http://www.jubileeaustralia.org/_literature_60529/Risky_Business_-_Full_Report

⁶ *Double or Nothing and On Shaky Ground*, 2018, Jubilee Australia, available at: <https://www.jubileeaustralia.org/latest-news/second-report-exploring-the-png-lng-project>

The current timeframe for this inquiry, and the related AIFFP consultation, have been rushed. This has not allowed the needed time for stakeholders both in Australia and in the Pacific to be consulted.

Again, we thank the Committee for the opportunity to comment on this Inquiry.

Kind regards,

Joy Kyriacou & Rachel Ball

Oxfam Australia