

PLATFORM - TEXT

DUCROIRE _ NATIONALE DELCREDEREDIENST

The members of the OECD signed the 'Common Approaches' in 2003, an agreement for their export credit agencies to follow in relation to the environmental impact of their transactions: the "OECD Common Approaches on Environment and Officially Supported Export Credits"¹. This agreement was intended allow a harmonized approach for the evaluation of the environmental impact of export projects. However: (1) the agreement is vague and open to interpretation, (2) the agreement provides in article 12§1 for the possibility of different approaches among export credit agencies and (3) it is, de facto, an agreement concerning only environmental impacts, and is not related to human rights issues. Numerous credit insurers actually apply different standards which are stricter.

Nine months after the sign on to the 'OECD Common Approaches' in December 2003, Ducroire published its minimum standards (Ducroire didn't have any standards on environment, health and safety issues and human rights before that time), which again weakened the 'Common Approaches' of the OECD:

- ❖ Ducroire doesn't publish all transactions, ex-ante and post-ante, as stipulated in articles 16§2 and 16§3 of the OECD Common Approaches. In particular, they do not publish accepted transactions within subcontracts.
- ❖ Ducroire doesn't have the capacity to screen all Category A and B projects against the standards of the host country and the World Bank Safeguard Policies (IFC)²
- ❖ The OECD Common Approaches identifies projects situated in 1) areas with an archeological or cultural value and 2) important areas for indigenous people and other vulnerable groups as 'sensitive sectors'. However Ducroire didn't recognize those two groups as 'sensitive sectors'³.

The civil society organisations signing below demand from Ducroire – Nationale Delcrededienst, that they apply a clear set of standards in relation to the environment, health and safety issues and human rights. These recommendations apply to all transactions⁴ guaranteed by the State⁵, but also to partnerships with other credit insurance agencies⁶, independent of their size and repayment periods.

¹ The OECD Recommendation on Common Approaches on Environment and Officially Supported Export Credits is available at <http://www.oecd.org/dataoecd/26/33/21684464.pdf>.

² Including the norms on human rights:

- ❖ Involuntary resettlement (OP 4.12 and OD 4.30)
- ❖ Compulsory land acquisition
- ❖ Impact of imported workforces
- ❖ Job losses among local people
- ❖ Damage to sites of cultural, historic or scientific interest (OP 4.11)
- ❖ Impact on minority or vulnerable groups (OD 4.20)
- ❖ Child or bonded labour (IFC policy statement)
- ❖ Occupational health and safety (IFC Guidelines)
- ❖ Use of armed security guards (Voluntary Principles on Security and Human Rights)

³ After an administrative complaint filed by Proyecto Gato, Ducroire adapted its policy to those of the 'Common Approaches' in December 2003.

⁴ Independent of whether the client works for his own account or under subcontract

⁵ As stated in Article 5 of the OECD Arrangement on Officially Supported Export Credits. This includes the transactions "insurance", "interest rate support", loans and investments

⁶ Ducroire has a participation of 42% in Mundialis NV. In June 1997, Ducroire signed a 'Memorandum of Understanding' with the Japanese export credit agency JBIC. Ducroire holds several co financing agreements with the Japanese export credit agency NEXI and the European Bank for Reconstruction and Development (see: <http://www.ebrd.com/pubs/ar/99/otherops.pdf>). Ducroire has a 25% stake in the new credit agency Trade Credit Re.

Human Rights

- ❖ Ducroire – Nationale Delcrederedienst can only approve a transaction with a company when the project meets the international standards and commitments accepted by Belgium. These are the six core UN Human Rights Treaties, the eight ILO fundamental conventions⁷ and the European Convention for the Human Rights⁸.
- ❖ Ducroire – Nationale Delcrederedienst cannot approve a transaction with a company that does not meet the Guidelines and Principles of the World Commission on Dams when the hydropower project has a capacity of more than 10 MW
- ❖ Ducroire – Nationale Delcrederedienst can only cover a transaction with a company when the company, in the earliest stages of the project, has consulted and taken advice from affected vulnerable communities and groups (women, children, elderly, the poor, indigenous people and ethnic minorities). The ILO Convention 169 with respect to Tribal and Indigenous Peoples should, as a minimum, be respected when the activities may have a negative impact on indigenous people and ethnic minorities.

Transparency

- ❖ Ducroire – Nationale Delcrederedienst should publish all environmental, social and human rights impact studies (if applicable), analyses of the impact on the debt, and off-take agreements⁹ for all credit applications. This information, including the name of the company, description of the project, guarantors and financiers, must be published 120 days ex – ante. This includes publication in the spoken languages of Belgium (Dutch and French) and of the host countries or communities
- ❖ The conditions for approval of a transaction (if applicable) need to be published a maximum of 30 days after approval of the transaction(s)
- ❖ Ducroire – Nationale Delcrederedienst needs to provide, on a monthly basis, to the public and Parliament, the following information on supported projects: the name of the company, a description of the project, the names of guarantors and financiers, all environmental, social and human rights impact studies, analysis of the impact on debt, and off-take agreements
- ❖ Ducroire – Nationale Delcrederedienst needs to publish the exclusion criteria they apply (and why) under EU Directive 2003/4/EC and the Belgian law on access to public information of 11 April 1994.

General (environmental) standards

- ❖ Ducroire – Nationale Delcrederedienst needs to respect the standards of the host country, the World Bank and the ERDB

Monitoring

- ❖ Ducroire – Nationale Delcrederedienst needs to monitor and ensure that its clients respect the minimum standards on environment, health and safety issues and human rights. Ducroire – Nationale Delcrederedienst has to frequently monitor the projects and to publish reports. Often host country laws require monitoring of the

⁷ International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, The Convention on the Elimination of all Forms of Racial Discrimination, The Convention on All Forms of Discrimination Against Women, the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child; ILO conventions on Forced Labour (29, 105), Freedom of Association and the Right to Organize (87), Right to Organize and Collective Bargaining (98), Equal Remuneration (100), Discrimination in Employment and Occupation (138), Worst Forms of Child Labour (182)

⁸ As seen in the ECGD's Statement of Business Principles

⁹ Power purchase agreements, production sharing agreements, host country agreements, cutting licenses and concession maps

impact on the environment, and Ducroire – Nationale Delcrederedienst can easily screen and publish these reports

- ❖ The monitoring reports need to be published in the language of the local communities and need to be accessible to affected peoples
- ❖ The monitoring needs to be done monthly
- ❖ Following the publication of these reports, Ducroire – Nationale Delcrederedienst needs to take into consideration in their decision making the recommendations of the public and civil society groups. Ducroire – Nationale Delcrederedienst needs to publish these recommendations and their monthly analyses
- ❖ Ducroire – Nationale Delcrederedienst needs to contact their clients and require an accounting when the client fails to meet the minimum standards on environment, health and safety issues and human rights. Within 30 days, the clients must respond to the recommendations of Ducroire – Nationale Delcrederedienst. Ducroire – Nationale Delcrederedienst must withdraw the credit when the client fails to meet the minimum standards for a second time

No-go zones

- ❖ Ducroire – Nationale Delcrederedienst cannot finalize a transaction with a company for projects in areas that are legally protected. This includes areas protected for their high biodiversity and the protection of indigenous people
- ❖ Ducroire – Nationale Delcrederedienst can not close a transaction with a company when the project causes damage to threatened natural habitats¹⁰
- ❖ Ducroire – Nationale Delcrederedienst can not close a transaction with a company when the project is located in land that indigenous people use for their living, (housing, hunting, fishing...) or when the area has a specific value for the people (spiritual, religious value), without consent of the specific people

Compliance commission

- ❖ The Belgian Government should set up an independent compliance commission to study compliance by Ducroire's clients with the minimum standards on environment, health and safety issues and human rights
- ❖ This commission has to play an active role in the achievement of compliance with minimum standards, both during the screening process of the project by Ducroire – Nationale Delcrederedienst and after approval of the transaction with the company
- ❖ Local populations and civil society groups (independent of their status and location of registration) should have the right to introduce and defend complaints about non-compliance with the minimum standards on the environment, health and safety issues and the human rights. If complaints are upheld, Ducroire – Nationale Delcrederedienst must reimburse all costs incurred by the party introducing the complaint.
- ❖ The commission must have all the necessary power to force the client to meet the minimum standards on the environment, health and safety issues and human rights. This includes, if necessary, the suspension or withdrawal of the awarded credit.

Exclusion list

- ❖ Ducroire – Nationale Delcrederedienst can not approve a transaction with a company for nuclear projects
- ❖ Ducroire – Nationale Delcrederedienst can not approve a transaction with a company for the import, export, and/or transport of military material, including dual-use materials

¹⁰ As stated in the World Bank's safeguard policy OP 4.04 Annex

- ❖ The Belgian Government should establish legislation to legally implement its commitment not to approve transactions for projects in tropical forests
- ❖ Ducroire – Nationale Delcrederedienst cannot approve a transaction for projects that include illegal exploitation of natural resources

Energy

- ❖ Ducroire – Nationale Delcrederedienst needs to devote -- immediately and in a first phase -- 20% of its budget to renewable energy projects, and to communicate this policy publicly
- ❖ Ducroire – Nationale Delcrederedienst needs to immediately cease granting - directly or indirectly - export credits to energy projects related to coal and oil¹¹
- ❖ The standards and policies of the World Bank Group need to be respected and expanded to play a role in the reduction of the emission of climate change gasses with a level at least equivalent to the engagements that Belgium undertook within the framework of UN Climate Change Convention
- ❖ Ducroire – Nationale Delcrederedienst needs to be transparent in their bookkeeping in relation to the emission of greenhouse gasses and the impact on the climate of all approved energy projects
- ❖ Ducroire – Nationale Delcrederedienst need to establish minimum standards in relation to energy efficiency and carbon intensity
- ❖ Ducroire – Nationale Delcrederedienst needs to contribute to efforts to eliminate political and market barriers and to create a more favourable framework for renewable energy projects and measures of energy efficiency in developing countries. For example, Ducroire – Nationale Delcrederedienst could provide lower interest rates and longer maximum repayment periods, specific budgets and opportunities to stimulate renewable energy projects in developing countries, to develop this sector and open it to their enterprises.
- ❖ Ducroire – Nationale Delcrederedienst needs to set up a “Renewable Energy Advisory Committee”, with representatives of civil society groups, the renewable energy sector, and members of government bodies, to screen applications for new transactions for renewable energy projects

Debt impact

- ❖ Ducroire – Nationale Delcrederedienst needs to write off all outstanding debts of developing countries held by the agency as unpaid debts to export credit agencies are a huge obstacle to the sustainable development of those countries.
- ❖ The write off of debts cannot be funded by the federal budget for development cooperation. Many of the transactions are not related to projects that contribute to the sustainable development of a country, for example the export of military material.
- ❖ Ducroire – Nationale Delcrederedienst needs to guaranty that their premiums **and** interest rates cover the annual costs and losses of the public agency. We make reference to Article 22 of the OECD Arrangement on Officially Supported Export Credits and Article 32 of the ‘European Council Directive 98/29/EC of 7 May 1998 on harmonization of the main provisions concerning export credit insurance for transactions with medium and long-term cover’
- ❖ Ducroire – Nationale Delcrederedienst needs to assure that new projects do not contribute to debt increases in countries in the HIPC-initiative (Heavily Indebted Poor Countries). Ducroire – Nationale Delcrederedienst needs to screen the productivity and viability of each project and have to publish 30 days ex-ante the analysis of the financial feasibility of the project

¹¹ The ‘Extractive Industries Review’ of the World Bank Group recommends an immediate ban on all financial support for coal and for oil in 2008

- ❖ Ducroire – Nationale Delcrederedienst can only approve transactions for projects that contribute to the economical, social and ecological development of the country

Corruption

- ❖ Ducroire – Nationale Delcrederedienst needs to withdraw insurance coverage and loans when a client is officially convicted of corruption
- ❖ Ducroire – Nationale Delcrederedienst needs to set up a “black list” of companies that have been convicted of corruption. The companies cannot have access to any transaction with the agency for a period of 10 years. Ducroire – Nationale Delcrederedienst needs to publish this list

List of signatories:

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Annex:

The table below gives an overview of the recommendations that are already followed by other export credit agencies:

Recommendations:	Included by:
Basic UN Human Rights Treaties, the core ILO Conventions and the European Human Rights Convention	ECGD
World Commission on Dams	Hermes, discussion at ExIm
ILO Convention 169: Tribal and Indigenous Peoples	ECGD, if ratified by the host country
No – go zones: nuclear	Hermes, EDC (before Cabinet for approval now), OeKB, ExIm
No – go zones: military material	ECGD, OeKB
Compliance commission	JBIC, EDC (compliance officer), under discussion at ExIm
Energy: budget for renewable energy technology	ECGD, ExIm