



EU Export Credit Agency Support for Responsible Critical Raw Materials Extraction: Standards Fit for Purpose?



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A Business and Human Rights Advisory

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Table of Contents

Abbreviations and Acronyms.....	5
Executive Summary	6
<i>Involvement of EU export credit agencies in critical raw materials extraction.....</i>	<i>6</i>
<i>Applicable standards on human rights and environment</i>	<i>7</i>
<i>Pathways for responsible involvement of EU ECAs in CRM extraction</i>	<i>7</i>
Introduction and Methodology	9
<i>Background</i>	<i>9</i>
<i>Objectives and content of the study</i>	<i>9</i>
<i>Methodology and terminology</i>	<i>10</i>
Section 1. Exploring the role of EU ECAs in critical raw materials extraction.....	11
1.1. <i>Export Credit Agencies' roles, functions and importance.....</i>	<i>11</i>
1.1.1. <i>Key roles of an export credit agency.....</i>	<i>11</i>
1.1.2. <i>Financial weight of ECAs</i>	<i>11</i>
1.1.3. <i>ECAs hold importance beyond their financial weight.....</i>	<i>12</i>
1.2. <i>Competition for OECD and EU ECAs in global contexts</i>	<i>12</i>
1.2.1. <i>The OECD Arrangement on Officially Supported Export Credits.....</i>	<i>12</i>
1.2.2. <i>Competition dynamics amongst OECD ECAs and with non-OECD ECAs</i>	<i>13</i>
1.2.3. <i>The rise of untied facilities.....</i>	<i>15</i>
1.2.4. <i>ECAs as an EU policy tool?</i>	<i>17</i>
1.2.5. <i>Will there be a significant role for EU-based ECAs in supporting CRM extraction?</i>	<i>17</i>
1.3. <i>Review of involvement in allegations linked to energy extraction 2012-2024.....</i>	<i>19</i>
1.3.1. <i>Information was often difficult to find or not available</i>	<i>20</i>
1.3.2. <i>Scope of allegations identified</i>	<i>20</i>
1.3.3. <i>Additional interesting findings from the data</i>	<i>21</i>
1.3.4. <i>Caveats on drawing conclusions from the data</i>	<i>22</i>
Section 2 Normative and Legislative Frameworks and Gaps	22
2.1. <i>Aims of Section and Typology of ECAs</i>	<i>22</i>
2.2. <i>Specialised frameworks: OECD Arrangement and Common Approaches</i>	<i>23</i>
2.2.1. <i>Application of OECD Arrangement and CA by EU ECAs</i>	<i>24</i>
2.2.2. <i>What does the Recommendation on Common Approaches ask?</i>	<i>24</i>
2.2.3. <i>Gaps in Common Approaches' due diligence requirements</i>	<i>27</i>
2.3. <i>International normative frameworks on responsible business conduct.....</i>	<i>28</i>
2.3.1. <i>Do international standards on responsible business conduct apply to ECAs?</i>	<i>28</i>
2.3.2. <i>Complementary State obligations</i>	<i>29</i>
2.3.3. <i>ECAs' additional commitments on HRE standards</i>	<i>29</i>
2.4. <i>Implications for EU ECAs' conduct on CRM support – the need for policy coherence</i>	<i>31</i>
2.5. <i>Key messages.....</i>	<i>33</i>



Section 3. A closer look at Disclosure, Accountability and Remedy	34
3.1. <i>The role of disclosure and transparency</i>	34
3.1.1 Common Approaches Requirements	34
3.1.2 EU Requirements	35
3.1.3 State of play: disclosure amongst EU ECAs	36
3.2. <i>ECAs' remediation responsibilities and accountability</i>	37
3.2.1 State of accountability and remedy	37
3.2.2 Various responsibilities and avenues for grievance handling and accountability	38
3.2.3 ECAs' practice and commitments in relation to remediation	39
3.2.4 Use of OECD National Contact Points for remedy and accountability	40
Section 4. Pathways to improve ECAs' human rights and environmental performance	41
4.1 <i>Foundations for pathways</i>	41
4.2. <i>Possible Pathways</i>	42
Pathway 1: Bolster coordination and competitiveness by aligning EU ECA policies and practice to a common set of state-of-the-art standards	42
Pathway 2: Improve disclosure standards and practices by EU ECAs	43
Pathway 3: Strengthen ECA accountability and role in remediation for human rights and environmental impacts	46
Annex 1. List of EU Export Credit Agencies	48
Annex 2. International frameworks' application to Export Credit Agencies	50

Figures

Figure 1. Official OECD Arrangement support vs non-Arrangement	13
Figure 2. Scale of Sinasure activities compared to other finance institutions	14
Figure 3. Total of official and non-official support from major ECAs	15
Figure 4. Legal status of EU ECAs + UK	23
Box 1. Case Example Untied Support for CRM	16
Box 2. German ECA deployed for National Strategic Reasons	17
Box 3. ECAs and exercising leverage to improve HRE performance	19
Box 4. Legal standing of the OECD Arrangement and Common Approaches in the EU	24
Box 5. The IFC Performance Standards and human rights	26
Box 6. Good practice at UKEF: Consolidated approach throughout the project cycle	26
Box 7. Emerging good practices on aligning public commitments with	30
Box 8. Equator Principles	31
Box 9. Recommendation of the European Ombudsman in case 212/2016/JN	36
Box 10. Good practices on disclosure	37
Box 11. Complaints against ECAs globally in the NCP system	41



Abbreviations and Acronyms

CA [OECD]	Common Approaches [Recommendation on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence]
CSDDD	EU Corporate Sustainability Due Diligence Directive
CSRD	EU Corporate Sustainability Reporting Directive
CSO	Civil Society Organisation
CRM	Critical Raw Materials
DFI	Development Finance Institution
DIHR	The Danish Institute for Human Rights
EBRD	European Bank for Reconstruction and Development
EC	European Commission
ECA	Export Credit Agency
ESIA	Environmental and Social Impact Assessment
EU	European Union
E&S	Environmental and Social
Friends of the Earth	FOE
HRDD	Human rights due diligence
HRE	Human rights and environmental [risks]
IAM	Independent Accountability Mechanism
IFC	International Finance Corporation
IFC PS	IFC Performance Standards on Environmental and Social Sustainability
ILO	International Labour Organisation
INTA	International Trade Committee of the European Parliament
NCP	National Contact Point
OECD	Organisation for Economic Cooperation and Development
MDB	Multilateral Development Bank
MSP	Minerals Security Partnership
MNE Guidelines	OECD Guidelines for Multinational Enterprises on Responsible Business Conduct
OHCHR	Office of the UN High Commissioner for Human Rights
PWYF	Publish What You Fund
SG	[UN] Secretary-General
SOE	State-Owned Enterprise
SOE Guidelines	OECD Guidelines on Corporate Governance of State-Owned Enterprises
UN	United Nations
UNGPs	United Nations Guiding Principles on Business and Human Rights
WB	World Bank
WB ESS	World Bank Environmental and Social Standards
WG on BHR	UN Working Group on Business and Human Rights



Executive Summary

This report responds to a query from Transport & Environment (T&E) about the role and responsibilities of Export Credit Agencies (ECAs) based in EU Member States in the energy transition, specifically in the support to critical raw materials (CRM) extraction. With new mineral projects being announced around the globe to secure CRM for clean technologies like batteries, financing these projects remains a major task. As a major provider of credit and guarantee for international projects, will ECAs -and specifically EU ECAs - also play a role in the support to CRM projects, and if so, how? And importantly, given the inherent environmental, social and human rights risks in the extraction of CRM, are ECAs' frameworks on risk management for these issues fit for purpose?

Involvement of EU export credit agencies in critical raw materials extraction

The first part of this report aims to identify what level of involvement EU-based ECAs currently have in the extraction of Critical Raw Materials (CRM) and what the future trajectory might be for their involvement. Findings based on public sources indicate some involvement by EU-based ECAs in CRM extraction, as well as calls for involvement of ECAs in CRM projects at EU level. Thus there might indeed be an increase in ECAs involvement in CRM extraction over time, however there is no conclusive evidence that the increase will be dramatic or concern all EU ECAs.

Yet, that is not the end of the story. Indeed, more interesting than the sheer numbers of projects and the relative amount of EU ECA resources supporting CRM extraction, is the *how* EU ECAs may be involved in CRM extraction now and in the future.

This research offers some evidence on an important trend where EU ECAs (as other ECAs) are increasingly creating and using facilities and products that do not fall under the traditional normative and legislative frameworks applying to ECAs - the OECD Arrangement on Officially Supported Export Credits (transposed into EU law) and the OECD Common Approaches on environmental and social due diligence. Given ECAs' increased use of "non-Arrangement" facilities, the OECD frameworks that apply to EU ECAs are losing relevance in sheer terms of volume of projects to which they apply. More specifically, there is evidence that ECAs – and some EU ECAs - are using, or plan to use, these "non-Arrangement" facilities in the specific context of CRM. There is therefore a risk that the application of the OECD Common Approaches in the specific context of EU ECA support for CRM extraction will be irrelevant altogether.

This is a cause for concern because CRM extraction projects tend to be large, long-term, complex projects with severe environmental, human rights and social impacts. In section 1 this report explores some of the human rights and environmental (HRE) impacts that have been alleged in EU ECA-supported extractive projects over the last decade.



Applicable standards on human rights and environment

This context, then, may be cause for concern and may, in the best case, provide momentum to drive normative and regulatory reform. Relevant normative and legislative frameworks and gaps are explored in Section 2 of this report. What is clear is that if EU ECAs do step up their involvement in CRM extraction, the OECD ECA-specific frameworks do not provide adequate normative safeguards for two reasons. First, as stated above, they would likely not apply officially to the types of support that EU ECAs would give to CRM extractive projects. Second, the OECD standards themselves have stalled in recent years and have not kept pace with even the leaders in the private market on safeguards for human rights and environmental impacts.

One trend that is noted in the report is the search by ECAs for alternative frameworks that help push their sustainability and human rights practice forward. ECAs, including some EU ECAs, are finding - or even creating - other initiatives that help them stay abreast of state-of-the-art practice. A number of EU ECAs have joined the Equator Principles for instance, which have higher requirements on human rights and environmental due diligence than the OECD Common Approaches. Additionally, some EU ECAs that are business entities with a public mandate or State-owned enterprises have recognised their responsibilities under the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises. These ECAs remain however a minority. Overall, this report finds that EU ECA commitments and practices on HRE risk management vary widely, as do their respective practices on transparency and disclosure. The bottom line is that the applicability of standards for ECAs are wide-ranging, implementation is uneven at best, and accountability continues to be elusive.

In the specific case of CRM extraction, the divergence in commitments and implementation of HRE frameworks, as well as the existing limitations of the minimum common denominator for EU ECAs - the OECD Common Approaches - leaves the door open to gaps in risk management. Yet there will be little, if any disclosure, about such projects if they fall outside the Common Approaches framework. So the minimal public reporting that now exists, will not apply. This is problematic for the specific impacts that might occur in the context of projects, but it is also problematic because EU ECAs deploy public monies.

Pathways for responsible involvement of EU ECAs in CRM extraction

This unique dynamic, where more EU ECAs could get involved in CRM mining through non-official ECA support, raises the question about how standards can assure that CRM extraction meant to support the EU energy transition will be done in a manner that respects people and planet and promises a resilient supply chain. This is especially relevant given the high HRE impacts of mineral projects and an ECA's role in de-risking projects to making projects more marketable.

So where does it make sense to explore reforms so that EU ECA efforts on CRM extraction help to ensure a resilient and responsible supply of CRM? Section 4 of this report explores several possible pathways for improvement, which include:



Pathway 1: Bolster coordination and competitiveness by aligning EU ECA policies and practice to a common set of state-of-the-art standards

There is a clear policy argument for ECAs to move to harmonize standards across the EU, eliminating the current fragmentation in both commitments and implementation. While time pressures may not allow a bespoke state-of-the-art standard to be created in the EU, a requirement that all EU ECAs join and implement the highest existing overall international benchmark across their facilities would be a useful first step. Aligning EU ECAs could drive coordination, collaboration and competitiveness of EU ECAs collectively.

Pathway 2: Improve disclosure standards and practices by EU ECAs

Given the significant gaps identified in disclosure practices and transparency, enhancing ECAs' disclosure standards is essential. With a view to EU policy coherence, there are opportunities for EU ECAs on the one hand and the EU on the other to work towards increased public disclosure, including on activities and financial support outside the OECD Arrangement. This is particularly important for CRM extractive support where EU Member States should require ECAs to disclose the full level of support for such projects with at least the same level of detail as is required for Category A projects under the Common Approaches and good practices in development finance.

Pathway 3: Strengthen ECA accountability and role in remediation for human rights and environmental impacts

Accountability of ECAs and their role in remediation with respect to adverse human rights and environmental impacts is an underdeveloped area of policy and practice. Two broad avenues of action are immediately clear: (i) strengthen ECAs' remediation role with the long-term view of alignment with international business and human rights standards; and (ii) increase accountability of ECAs through individual complaints – in particular through the OECD National Contact Point system.



Introduction and Methodology

Background

With new mineral projects being announced around the globe to secure raw materials for clean technologies like batteries, financing these projects remains a major task. To this end, Export Credit Agencies (ECAs), as major providers of credit and guarantee for international projects, are considered an important part of the puzzle.

European and global efforts are emerging to bring targeted funding from various financial institutions, including ECAs, to finance mineral projects. For example, this is happening with the [Minerals Security Partnership \(MSP\) Finance Network](#), a joint financing body of the MSP, which aims to diversify mineral supply chains away from China. Similarly, the European Union (EU) has developed several policy initiatives that support a stable, diversified and resilient supply chain of critical raw materials (CRM), envisaging a role for ECAs, however the scale and form of their involvement remain unclear. What is clear is that in recent years, ECAs have been moving away from [fossil fuels](#) and into the financing of the clean energy transition following advocacy from civil society and [government commitments](#).

Considering this, T&E commissioned this study to better understand the role of EU Member State ECAs in the extraction of critical raw materials. **As a major provider of export finance, will ECAs also play a role in the support to CRM extractive projects, and if so, how? And what specifically is or will be the EU Member States ECAs' role?**

At the same time, according to some [CSOs](#), ECAs are among the [least examined](#) international financing institutions. Some large energy and infrastructure projects that have received financing from ECAs have faced criticism for their severe adverse human rights and environmental impacts (HRE), albeit not CRM related.

Thus a related inquiry is the role ECAs will play in ensuring responsible financing of CRM projects. Given that mineral extraction is characterised by high HRE risks, the [concern](#) is that an increased involvement by ECAs in CRM extraction may not be accompanied by adequate due diligence and risk mitigation on the part of ECAs. The question is therefore: **are ECAs' frameworks on HRE risk management fit for purpose for an increased involvement in CRM extraction?**

Objectives and content of the study

This study looks at the current and potential future role of EU ECAs in CRM extraction and the applicable HRE risk management standards guiding ECA support. The study will map relevant HRE standards currently applicable to and implemented by ECAs, highlighting where significant gaps may be relevant to CRM extraction. The study finally aims to identify any meaningful pathways for improvement in ECA's standards.

The study has three main sections as follows:

- **Section 1** discusses the core functions of ECAs, their influence and weight both financial and politically, how EU ECAs' roles have evolved to take on new functions,



leading to a discussion on what is and could be the role of EU ECAs in CRM extraction. The section also offers an overview of the types of adverse impacts ECAs were reported to have been involved in in the past, and what they may tell about a future conduct by ECAs in CRM extraction.

- **Section 2** gives an analysis of both the specialised frameworks regulating the conduct of ECAs globally and in the EU, as well as the international frameworks on business and human rights that could and should shape the work of ECAs in a stronger manner, identifying gaps in coverage and implementation.
- **Section 3** takes a closer look at ECA standards and practices on disclosure, accountability and remedy.
- **Section 4** discusses three main potential pathways for improvement of the human rights and environmental performance of ECAs, with pointers on CRM-specific avenues whenever possible.

Methodology and terminology

This report draws from research and 17 interviews carried out between June and September 2025 with EU and non-EU export credit agency representatives, representatives of civil society, policy institutes, academics and the Responsible Business Conduct Centre at the Organisation for Economic Cooperation and Development (OECD). The authors gratefully acknowledge the insights shared by interviewees. The research carried out also included secondary research through academic writings, media sources, CSO and industry reports and articles to compile a list of extractive and extractive-linked projects that have been the subject of allegations of adverse impacts on human rights and the environment (see Section 1.3).

The study identified 31 EU export credit agencies (see Annex 1) and focused especially on the larger ones and those engaged or potentially interested to engage in CRM extraction. The UK ECA was also included in this assessment, as previous member of the EU. It was not within the scope of the study to present a comprehensive assessment of all ECAs and their human rights, climate, environmental, and social policies and practices.

Thus, while this report refers to various policies and practices - including good practices - of ECAs, it is not a comprehensive review. The choice of examples depended on several factors: availability of public information, user-friendliness of the information published by ECAs, languages,¹ and additional information gathered through interviews.

The purpose of this report is to identify standards and practices that ensure ECAs' financing and support respect human rights, the environment and climate. The report uses the umbrella term "**HRE impacts**" (human rights and environment) to describe all human rights, environmental and social impacts of a project. When ECAs' standards and frameworks make an explicit distinction between environmental and social (E&S) impacts and human rights,

¹ Many ECAs have information available in English as well as national language however, not all do so, and when some information is English, some key information to assess E&S policies and performance is not. The authors also speak French, German and Italian and so accessed ECAs' websites in these languages.



we note it and use the standard's language. Finally, when this study refers to CRM it follows the EU list of 30 **critical raw materials** in its [communication on critical raw materials](#) in 2020.

Section 1. Exploring the role of EU ECAs in critical raw materials extraction

1.1. Export Credit Agencies' roles, functions and importance

1.1.1. Key roles of an export credit agency

An Export Credit Agency is a government-backed entity or quasi-governmental institution that provides credit guarantees, insurance coverage for commercial and political risks, or other financial support to domestic companies involved in international trade. ECAs are designed to deploy support to reduce the risks - including political risks - of cross-border transactions. By doing so, they enable exporters to more easily access financing and foreign markets. ECAs are designed to enhance national economic interests by improving international sales of domestic companies, therefore also supporting employment domestically. ECA support is particularly important in emerging or higher-risk markets where private lenders may be reluctant to finance without government-backed support.

An individual ECA's activities are generally a reflection of the respective national export context. ECA representatives interviewed for this research confirmed that **their work is largely “demand driven”**, meaning that they serve the needs of exporters that come to them. ECAs therefore align their services to actual financing needs of exporters and the customers of exporters, rather than initiating export business. For instance, in Italy, SACE is heavily involved in supporting the building of cruise ships by an Italian exporter. The Danish ECA, EIFO, heavily supports the export of windmills, supporting more than [190 windfarm developments](#) over the last two decades. However, sometimes, ECAs also have a “push” strategy, where they promote sectors or technologies deemed in the national strategic interest. SACE's “[PUSH strategy](#)” for instance works to match business activities in Italy with foreign buyers to develop new business opportunities.

1.1.2. Financial weight of ECAs

To give an idea of the financial weight of credits provided by EU-based ECAs, the OECD [reports](#) that for 2023 Germany provided USD 11.27 billion in credits, whereas Italy provided USD 11.68 billion, Denmark USD 3.12 billion and the UK ECA USD 3.96 billion. This is a very partial picture because it does not include insurance, loans or any other support that is not reported to the OECD under the OECD Arrangement – which only covers mid - to long - term export support (i.e. with a repayment term above two years), excluding agricultural and military commodities. For an overall datapoint, Italy's SACE [reports](#) that in 2023 it facilitated EUR 55 billion of exports, investments and projects in Italy and worldwide.

The EU Commission annual reports aggregate information provided by EU-based ECAs. From the [latest report](#) we can see that EU ECAs have an “aggregate nominal risk exposure” (gross amount of all forms of risk in the ECAs' portfolio) of over EUR 372 billion, with



Germany and Italy leading the pack with about EUR 99.6 billion and EUR 81.2 billion in nominal risk exposure respectively. In official financing support, the total portfolio value in the EU is just over EUR 101 billion, with Germany and Italy having the largest exposures on the financing side at around EUR 40.8 and EUR 16.9 billion respectively. In short, ECAs are a significant financial tool for trade.

1.1.3 ECAs hold importance beyond their financial weight

While highly relevant, the level of financial cover provided by ECAs does not offer a full picture of the importance of ECAs in making trade happen. [ECAs can step in when there are market failures](#) such as when the private sector will not cover all the risks associated with an export or a project. **ECAs thus play an important role in what is called “de-risking”, meaning providing guarantees and insurance that makes a project more commercially marketable to private finance.** For example, ECA political risk insurance can open the door to funding for projects. This role means that in addition to looking at volumes of cover and loans, the importance of ECAs is wrapped up in their decision to back a project. Importantly, ECAs, in taking on the de-risking role, often work together – or even with development finance institutions – to support a risky project and make it more marketable. The de-risking role of ECAs is key when considering their potential future role in mining of CRM, which can require projects to operate in situations of high geographic, technical, political, social and environmental risks.

1.2. Competition for OECD and EU ECAs in global contexts

1.2.1 The OECD Arrangement on Officially Supported Export Credits

Given that ECAs could potentially distort trade by helping their own exporters to compete on financing terms, rather than quality of product or service, ECAs located in Member States of the Organisation for Economic Cooperation and Development (OECD), including all EU countries² and the UK, are participants in what is called the [Arrangement on Officially Supported Export Credits](#) under the auspices of the OECD. The OECD is the key multilateral negotiating forum where international disciplines and agreements for officially supported export credits are agreed, implemented and monitored. The current “Participants” to the Arrangement include Australia, Canada, the European Union, Japan, Korea, New Zealand, Norway, Switzerland, Türkiye, the United Kingdom and the United States.

The Arrangement supports a level playing field among Participants by setting pricing of export credits and guarantees that are tied to national content or companies.³ The Arrangement, which is non-binding at the OECD level, has been enacted into EU law requiring adherence by EU ECAs. In addition, since 2012, ECAs in the OECD Export Credit Group have also agreed a non-binding Recommendation which sets out what are called Common Approaches for environmental and social due diligence, including requirements on

² But for Bulgaria.

³ The Arrangement also includes specific sector understandings, including on Ships; Nuclear Power Plants; Civil Aircraft; Renewable Energy, Climate Change Mitigation and Adaptation, and Water Projects; Rail Infrastructure; and Coal-Fired Electricity Generation Projects.



disclosure of projects supported. These sets of standards are described in more detail in section 2 of this report.

An important consideration to bear in mind at this stage is that the Arrangement and the Common Approaches do not apply to everything an EU ECA does. There is a distinction between official support that ECAs provide that falls inside the Arrangement and the Common Approaches and that which falls *outside* the Arrangement and the Common Approaches. Therefore, it is useful to distinguish clearly at the outset what falls within and outside of the Arrangement (and therefore the Common Approaches) for considering how to improve the environmental and social performance of EU ECAs in CRM extraction.

Figure 1. Official OECD Arrangement support vs non-Arrangement

Official Support – Covered by Arrangement and Common Approaches	ECA Support Not Covered by the Arrangement or Common Approaches
Support provided by or on behalf of a government for export of goods and/or services , including financial leases, which have a repayment term of two years or more (excepting out military and agricultural products)	- Equity, mezzanine financing, term loans, and working capital guarantees - support for domestic exporters
	- Market window activity - financing for foreign buyers, same terms as private market
	- Untied support – ECA support not tied to a specific export: this could include investment loans or ECA equity investments abroad
	- Investment support - support for domestic investors for foreign direct investment

According to the Arrangement language, it applies “...to all official support provided by or on behalf of a government for export of goods and/or services, including financial leases, which have a repayment term of two years or more, excluding military or agricultural exports”. The [Recommendation](#) also “...applies to all types of officially supported export credits for exports of capital goods and/or services, except exports of military equipment or agricultural commodities, with a repayment term of two years or more.”

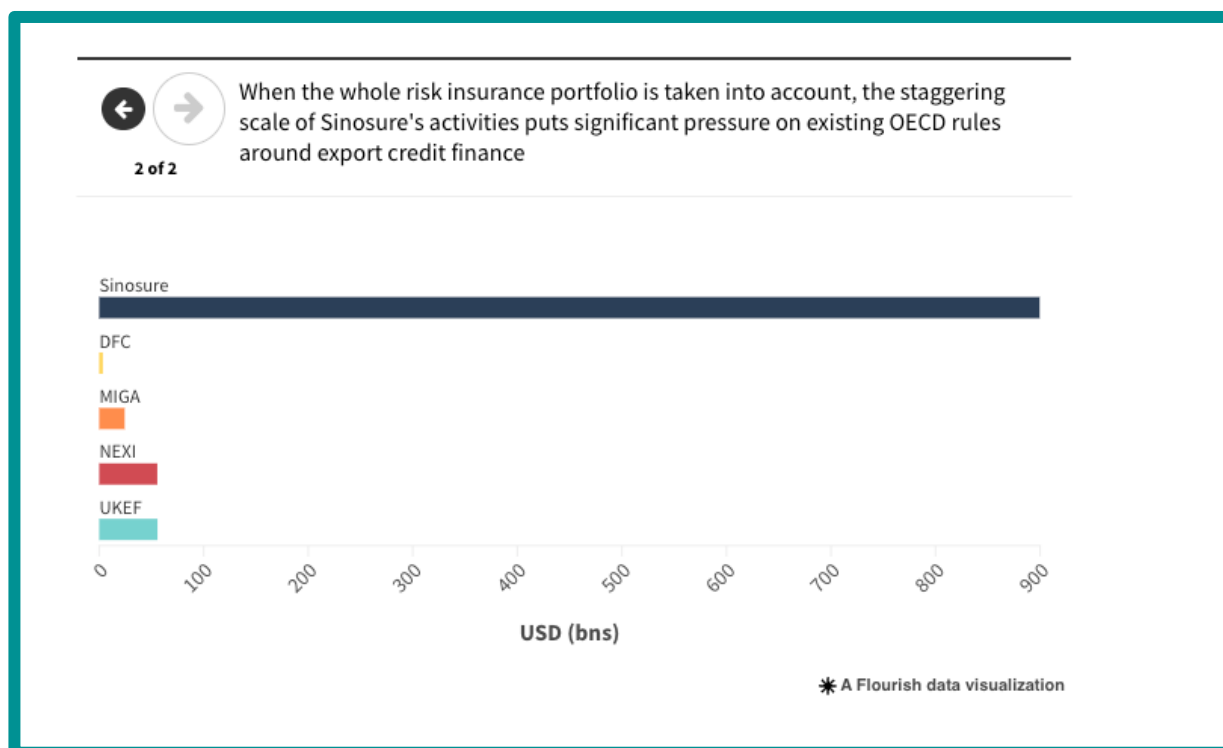
Having said this, practices differ and some ECAs do, or claim to, apply the Common Approaches to all or additional operations beyond the CA scope. These diverging practices and limits of the OECD Arrangement set up will be examined in detail in Section 2.

1.2.2 Competition dynamics amongst OECD ECAs and with non-OECD ECAs

Historically, [out of 15 of the OECD ECAs top providers](#), ten are either EU or UK-based. Those ECAs include (in order of credit provision) Germany, Italy, Sweden, Denmark, UK, Finland, France, Spain, Netherlands and Austria. Within the OECD grouping then, EU ECAs are relatively large. Globally, however, the picture looks different. If one considers total assets, according to the [Sovereign Wealth Fund Institute](#), no EU-based ECA is in the top six (6) globally. Finland’s Finnvera comes in at 7 with about USD 13.8 billion in assets compared to the largest ECA, China’s, that reports over USD 860 billion in assets. According to a 2024 [ODI report](#), China’s insurance ECA Sinosure’s total portfolio exposure was almost USD 900 billion in 2022. Japan was next with USD 55.6 billion.



Figure 2. Scale of Sinosure activities compared to other finance institutions



Source: [ODI](#)

One key weakness of the OECD Arrangement described above is that it does not cover several significant ECAs such as those from Brazil, China and India. For example, the [ODI report](#) provides the example of a Chinese ECA Sinosure highlighting financing and repayment terms that EU-based ECAs would not be able to provide given the Arrangement. The advantageous terms that Chinese ECAs are able to provide are even more important when one considers the [relative size](#) of Sinosure's insurance and guarantees portfolio exposure, which seems to dwarf other ECAs.

Thus, where the OECD Participants may have reduced competition amongst themselves, they still compete with non-Participant ECAs. These competitive dynamics between EU-based ECAs and non-Participant ECAs is one factor prompting efforts by EU ECAs to find pathways to pursue activities outside the Arrangement. As a consequence, the influence of the OECD Arrangement, and the related environmental and social safeguard frameworks, are [trending lower](#) both in geographical and volume terms.

Another competitive factor highlighted by some [experts](#) is that various non-EU States, including the US, China, Japan, Korea have adopted a whole of government approach ensuring better coordination amongst bilateral aid agencies, export entities and commercial institutions for export financing (p.27). There are some calls amongst [experts](#) for EU States to adopt a whole of government approach between development aid, development finance, and export credit agencies to better compete. These calls are reinforced by others including [Unctad](#) and the [outcome document](#) of the Fourth International Conference on Financing for Development (FFD4) pointing to the [shifting role](#) of ECAs to help achieve development



goals, amongst other policy objectives. Against this backdrop, interviews with civil society and think tanks for this research revealed deep concerns about the risks of a trade approach overpowering development objectives. It is too early to tell how the shifting role of ECAs will evolve. However, from a HRE standards perspective, increased collaboration between development finance and ECAs could be an opportunity to catalyse better alignment around international good practice standards. (See discussion in Sections 2 and 4).

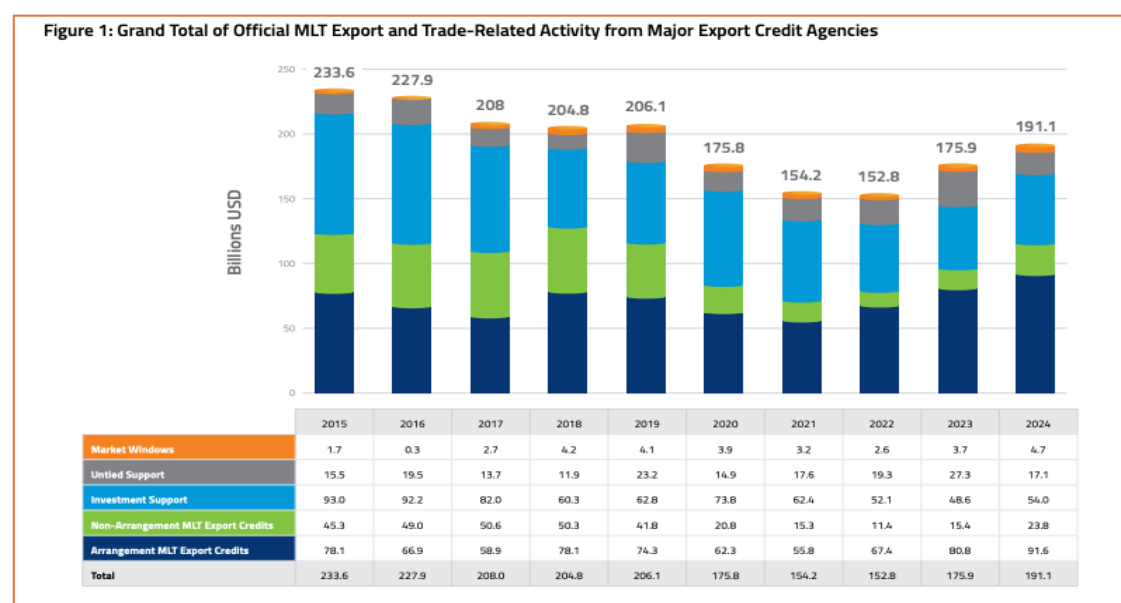
1.2.3 The rise of untied facilities

According to the latest [EXIM competitiveness report](#), at least since 2013, OECD Participants in the Arrangement have been shifting significantly towards non-Arrangement activity. ECA activities not covered by the Arrangement have exceeded Arrangement covered activity since at least 2015.

One type of support that falls outside the Arrangement is “untied support,” that is, any type of ECA support that is not tied to an export. This type of support is being leveraged for [“economic and national interests, decarbonization, and access to raw materials.”](#)

The Berne Union, an industry association representing the global export credit and investment insurance industry over the last 90-plus years, [observed](#) that in 2023 untied facilities of ECAs amounted to 42 bn USD. That is almost double compared with just four years earlier. Globally, untied facilities by ECAs are growing fast with an estimate being that perhaps [30 percent](#) of all ECA activity is now via untied facilities. Even in a smaller set of major ECAs presented in the chart below, untied activities account for a significant proportion of reported ECA activity.

Figure 3. Total of official and non-official support from major ECAs



Source: [EXIM](#)

Given the rise in ECA activities that fall outside the Arrangement, the Participants approved a [modernized Arrangement](#) that made more competitive financing terms under the Climate Change Sector Understanding (CCSU) including for clean energy minerals and ores. The



modernization also allowed ECAs to “[expand their risk appetite and de-risk capacity in lower-income countries](#)”. However despite these important updates, activities that fall outside the Arrangement are likely to grow in the future.

This is particularly relevant for the current discussion as **EU ECAs have started using untied facilities to support CRM extraction** and are likely to continue in the future. For example [France, Germany, Sweden and Finland](#) are leveraging untied products to gain access to raw materials – [Germany](#) having had such facility since 1961. The Swedish [ECA website](#) explains quite clearly how the facility should work in practice. [UKEF is explicit](#) about using these facilities for CRM to feed domestic manufacturing. The [Minerals Security Partnership](#) also foresees joint financing of ECAs and development finance for securing CRM. At the same time, [a 2023 study by EU DG Trade](#) found that these untied tools and their potential to use them for CRM extractive projects were still relatively unknown in the EU. This may mean that in the EU context the potential of untied facilities is still untapped.

Box 1. Case Example Untied Support for CRM

In November 2024, Euler Hermes of Germany [announced](#) a \$500 million untied loan facility and an offtake agreement with a German copper smelter. In the same month Finnvera, the official export credit agency of Finland, confirmed “eligibility for an untied loan guarantee of up to US\$300 million to support the Project’s financing package.” Finnvera’s support is contingent on an offtake agreement for a domestic smelter operating in Finland and Sweden and an agreement for supply from a Finnish equipment provider. In parallel, EKN, the Swedish Export Credit Agency is supporting a portion of the offtake agreement with cover. Both [press releases](#) also state that “[s]uch support is also subject to customary due diligence including but not limited to economic, technical, environmental and social. Press releases claim that project is subject to “customary environmental and social due diligence.”

According to the EXIM report “[borrowers consider untied support to be competitive because of its simplicity and flexibility, which allows transactions to be processed faster. Because the transaction is not tied to an export or project, the ECA due diligence process \(e.g., ESG\) and documentation requirements \(e.g., proof of export\) are streamlined.](#)” At least in the eyes of EXIM, untied facilities are designed to avoid requirements on HRE due diligence. When we interviewed two EU-based ECAs about untied facilities, we were told that the Common Approaches would still apply in those cases, which is consistent with the press releases cited in the case example above. Additionally the Swedish ECA website states that “[\[t\]he same sustainability requirements as our export credit guarantees will be applied.](#)”

Because of the lack of disclosure in the context of untied projects that fall outside the OECD Arrangement, it begs the question as to what types of frameworks are applied in practice, and whether the untied context impacts the ability of ECAs to employ their leverage to ensure the safeguard frameworks are applied by their clients.



1.2.4 ECAs as an EU policy tool?

ECAs were traditionally, and still largely are, seen as entities that support domestic exporters, focusing on the national economy and helping to secure jobs domestically. Yet, as described above, increasingly, ECAs, including EU ECAs, have begun to reduce national content requirements⁴ and are able to support projects that are not directly linked to exporters (untied). Some are also explicit about supporting domestic policy and strategic interests beyond trade. What is less clear is whether EU ECAs are also pursuing *EU policy* and strategic interests.

Box 2. German ECA deployed for National Strategic Reasons

Support under Germany's ECA can also be deployed even without an offtake agreement to support German strategic interests. The [ECA website](#) states that because "...competitors from third countries are competing with "political support and comprehensive financing offers, particularly in tenders for large-volume foreign projects", the ECA can support "projects in the strategic interest of the Federal Republic of Germany in a more targeted manner," including by supplementing "existing foreign trade promotion instruments" and supplementing the "financing instruments for strategically relevant projects in individual cases with large-volume, low-interest loans."

Germany is not the only ECA that explicitly deploys its ECA to support strategic interests. Another ECA interviewed for this study indicated that they also consider supporting EU companies in projects for purely strategic reasons. Another example driven by the EU is the [EU Ukraine Facility](#), to which ECAs have committed to contribute to.

A 2024 [study](#) on European Export Credit Agencies finds that publicly available information impedes a clear understanding of whether EU ECAs align to EU policy goals. So whereas ECAs certainly have potential to be a policy tool, it is not possible to say whether they are currently serving that purpose regarding EU policy.

1.2.5 Will there be a significant role for EU-based ECAs in supporting CRM extraction?

It is not clear that EU-based ECAs play, or will play, a substantial role in EU efforts to extract CRM both for the green transition and for defence manufacturing. Traditionally, several non-EU ECAs have been active in mining given their domestic commercial contexts and needs. Globally, Canada, Australia, the US, China, the UK and Japan are some of the [important geographies](#) where ECAs have been involved in extraction generally, including extraction of CRM. Within Europe, Germany (Euler Hermes) and Italy (SACE) lead the pack in terms of supporting the extractives industry – mainly oil and gas, including the storage and transport of these in pipelines and offshore vessels. Considering that only a handful of EU ECAs have in the past engaged in extractive projects (and mainly fossil fuels), it is not clear that CRM extraction would be a large part of their portfolio going forward. The insights gathered from several interviews conducted for this research with think tanks, civil society organisations, and ECA representatives from the EU and beyond consistently offered the

⁴ Such requirement mandates a certain proportion of goods and services within an export contract must be sourced from the ECA's home country to qualify for ECA financing support.



view that EU-based ECAs will not likely play a large role in the extraction of CRM given the export context and industries present within the EU.

In the last few years, the EU has developed several policy initiatives that relate to a stable and diversified, resilient supply chain of CRM. The policy initiatives include the EU Strategic Partnerships, the EU Strategic Projects, and the EU [Global Gateway](#). So far, there is limited information on how Strategic Projects will be funded, [but agreements for off-takers](#) is mentioned, which might indicate export credit untied facilities could be used. Related to ECAs specifically, there has been interest in creating an [EU-wide ECA facility](#) to augment what national ECAs are doing. In addition, there is interest in harnessing “...[the potential of Europe’s export credit agencies and development financiers in EU sustainable investment endeavours](#)” to better realise the ambitions of the Global Gateway. Certainly some of the Global Gateway projects will relate to CRM. But according to one expert interview on the subject, the participation of EU ECAs’ with development finance in the Global Gateway initiative would still amount to a very small percentage (approximately 5 percent maximum) of their activities. And of this small percentage, there is no indication yet that the financing would necessarily relate to CRM specifically.

The research conducted for this report therefore found no convincing evidence that there will be a significant scaling up of an EU-wide ECA involvement in CRM extraction. We can expect, however, that a handful of EU ECAs will increase their pursuit of CRM to feed their domestic manufacturing needs, as described in the case example above involving the Swedish, Finnish and German ECAs.

Having said this, **irrespective of volumes, the key aspect of any involvement in CRM extraction for EU ECAs is that such support would very likely fall outside existing bespoke standards on HRE safeguards.**



Box 3. ECAs and exercising leverage to improve HRE performance

For the purposes of this report, and for considering how ECAs can influence better standards for environmental and human rights performance, it is worth noting that the way ECAs generally work has three implications for their ability to exercise leverage on a project.

First, the ECA's **decision whether to support** a project is generally one of the key moments at which it has its highest leverage to demand better practices on social and environmental issues. The ECA, perhaps in concert with other ECAs, will open the door for the project to the private financial market. ECAs can therefore demand high environmental and social standards for projects as they make their decision whether to support the project.

Second, **the form of support, the size of support, disbursement schedules and the length of the support** (whether it ends part way through the project), and the scope of support will also influence the ECA's ability to demand higher social and environmental standards from a project. For example, if an ECA is supporting machinery to supply to a mine, that may provide little opportunity for the ECA to request different environmental and social standards over time as compared to others who are supporting the development of the mine itself and have disbursements over many years.

Third, **the number and types of other financiers present** in the EU ECA-supported extractive project will influence its ability to exercise commercial leverage to demand high social and environmental standards. For this research, we reviewed every extractive project supported by EU ECAs since 2012 that was tied to allegations of serious adverse environmental and social impacts. We found 18 projects. In only two of those projects was an ECA acting alone (line of credit and providing machinery to a mine). For 15 of the 18 projects ECAs would be supporting a project as part of a group of financial institutions and private banks. Most of the projects had more than 15 financial institutions and private banks. Some even had upwards of 21 or more institutions and private banks involved.

So given the nature of what ECAs do, it appears quite clear that in the context of large extractive projects anyway, they would work with several other public and private financial institutions. This has important implications for how much an ECA can do in practical terms to ensure high environmental and social standards are implemented in the project. Where several ECAs that have the same standards to work towards are involved in an extractives project, they might be able to reinforce for each other the imposition of those standards. Similarly, if the International Finance Corporation is involved, it can help impose the IFC Performance Standards on the project. The situation may be quite different, however, if an EU ECA finds itself with financial partners – and perhaps project operators – that are not themselves from Member States of the OECD. This is one reason that using global standards that apply to all States and all companies, like the UNGPs – as opposed to OECD standards – can help ECAs approach building and exercising leverage in any given project.

1.3 Review of involvement in allegations linked to energy extraction 2012-2024

The information reported in the following Section is based on an extensive review of publicly available data regarding allegations of adverse social and environmental impacts of a subset of ECA-supported projects since 2012. The date of 2012 was chosen because it marks a moment in time when several standards applicable to ECAs on HRE impacts were first developing. 2012 is one year after the UN Guiding Principles on Business and Human Rights (UNGPs) were unanimously endorsed in the UN Human Rights Council, elaborating the duties for States to protect human rights and the responsibility of companies to respect human rights in the context of commercial activities. The OECD Guidelines for



Multinational Enterprises on Responsible Business Conduct (MNE Guidelines) were also updated in 2011 to incorporate the UNGPs into a new Human Rights Chapter. And finally, 2012 marks the year that the Common Approaches for [ECAs were updated](#) to include due diligence assessments of social impacts as well as environmental impacts.

The subset of projects explored went well beyond CRM, to include extractive projects as well as transport or storage for energy projects. The research covered all EU-based ECAs and UKEF, including for the years after the UK left the European Union.

The research necessarily relied heavily on reports from civil society organisations and media accounts, because extensive and consistent information was not found on ECA websites themselves. The allegations reported were not independently verified. The purpose of the research was to try to gain somewhat of an understanding of the types of allegations made in projects supported by EU ECAs that might bear similarities to future projects for CRM extraction.

1.3.1 Information was often difficult to find or not available

The first finding of this research is that finding information on allegations and on projects was a very difficult task. Sources used often included a compilation of media articles, short statements by ECAs themselves, and reports by civil society. The lack of publicly available information, even on total portfolio numbers for each of the ECAs included in the study, means that it is not possible to estimate how significant the projects tied to allegations are with respect to the involved ECA's total portfolio. With those caveats, the research did allow several substantive findings, which can be helpful when thinking about how to improve social and environmental performance of ECAs in extractive-related projects for CRM.

1.3.2. Scope of allegations identified

Perhaps the most valuable learning from research on project allegations is an understanding of the scope and severity of allegations tied to the extractive-linked projects. Since 2012, 18 projects supported by EU ECAs were identified as connected to alleged serious adverse environmental and social impacts. These projects tend to be large, long-term projects, with heavy HRE footprints.

Over the 18 projects identified, the reported allegations that were in some related to the EU ECA – supported project included these themes (non-exhaustive list):

- Labor abuses and poor living conditions for migrant workers amounting to forced labour, restrictions on freedom of movement and dangerous working conditions.
- Loss of land and access to land; forcible relocation without adequate resettlement approaches; and loss of livelihoods
- Conflict-related sexual violence, abduction and murder of civilians.
- Bribery, corruption, money laundering and the aggressive use of tax havens to avoid paying tax.
- Persecution of human rights defenders; silencing of whistleblowers
- Support for States that have carried out the international law violation of the crime of aggression on another State.



- Lack of Free Prior Informed Consent for Indigenous peoples and threats to Indigenous livelihoods.
- Environmental destruction and degradation and biodiversity loss, inadequate or non-existent impact assessments on HRE risks; and failure to consider cumulative impacts, insufficient habitat restoration.
- Harassment of whistle blowers and journalists.

1.3.3 Additional interesting findings from the data

- All the projects identified, except for 1, were for fossil fuel projects or related to fossil fuels. The one exception was a CRM Bauxite mine (CRM as of 2020).
- Allegations in the projects identified were linked to projects all over the world from Russia, to Indonesia, Ghana, Brazil, Guinea and Mozambique.
- Only six EU ECAs (SACE, Euler Hermes, Atradius, BpiFrance, CESCE, EKN), plus UKEF, were involved in the cases. Meaning that many EU ECAs had no links to allegations involving extraction. This perhaps points to the fact that just a handful of EU ECAs have typically been involved in extractive-related projects. While this may not be indicative of the trajectory of EU ECAs for CRM, it is also true that those six EU ECAs and UKEF have all signalled that they will support CRM extraction going forward.⁵
- The 18 projects where allegations were identified all (except for two) involve non-EU financial institutions partnering with EU ECAs. It is difficult to draw any conclusions from this data except what is described above in *Box 3* about the difficulty of exercising commercial leverage once an ECA joins a large group of financial institutions, many of which may be from outside the EU or even the OECD. 15 of 17 of the projects had some non-EU financial actor. This dynamic is interesting when considering where powerful levers may be created to ensure CRM projects respect people and planet.
- The levels of support offered by the EU ECAs in the 18 projects identified ranged from EUR 45 million to EUR 1.5 tn. The EUR 1.5 tn number is a total of 3 lines of credit extended over an 8-year period. The diversity of support does not make the numbers easily comparable; however, it is still clear that the exposures reported in these projects are quite large. The average level of support offered by EU or UK ECAs in either guarantees, insurance, loans, or some combination of these, was around EUR 550 million. This large level of risk exposure or financing per project helps to make the case that it is within the public interest that ECAs support responsible projects and refrain from supporting projects that fail to appropriately manage risks to people and planet.
- The timeline for financing was generally long-term, up to 25 years. The ECA's long-term commitment also provides an opportunity for leverage (see *Box 3* above).

⁵ For example, see: <https://www.ekn.se/en/ekn-magazine/ekns-magazine/sweden-secures-supply-of-strategic-raw-materials/>.



- EU ECAs did not always align on whether to support a project, confirming what was learned in interviews that amongst EU ECAs there are diverse risk appetites. For example, regarding one of the projects in the study, [the Arctic LNG project](#), [SACE](#) and [BpiFrance](#) ultimately decided not to support the project, Euler Hermes went ahead.
- EU ECAs did not always agree how to categorise the same project according to the Common Approaches A, B, C categories. In addition, the disclosure on the projects and categorisation was disparate. This means that even with the same applicable standards (the CA), alignment in implementation cannot be taken for granted.

1.3.4 Caveats on drawing conclusions from the data

- Allegations that come to light on ECA projects are the result of a combination of civil society resources and the ability of the local population to mobilise support. It is therefore not appropriate to assume that the cases identified are the full set of projects posing serious adverse impacts to people.
- It is also not possible to gain a full picture of how common it is for EU ECAs to be involved in alleged harmful impacts from projects. While the 18 projects give us a flavour of the types of harms that have been alleged, it is not possible to judge what percentage of ECA support is offered to projects that result in such allegations.

Section 2 Normative and Legislative Frameworks and Gaps

2.1. Aims of Section and Typology of ECAs

The regulation of ECAs in the EU and UK is layered and shaped by domestic law, European standards, and international commitments and standards. This Section discusses:

- the specialised frameworks regulating the work of EU ECAs, specifically on the ECAs' environmental and social (E&S), including human rights, risk management system
- the overarching international frameworks on business and human rights, which offer a complementary lens on responsibilities for ECAs and States
- gaps in existing regulations and implementation.

Out of 27 Member States in the EU, plus the UK, there is a total of **33 ECAs**⁶ among which:

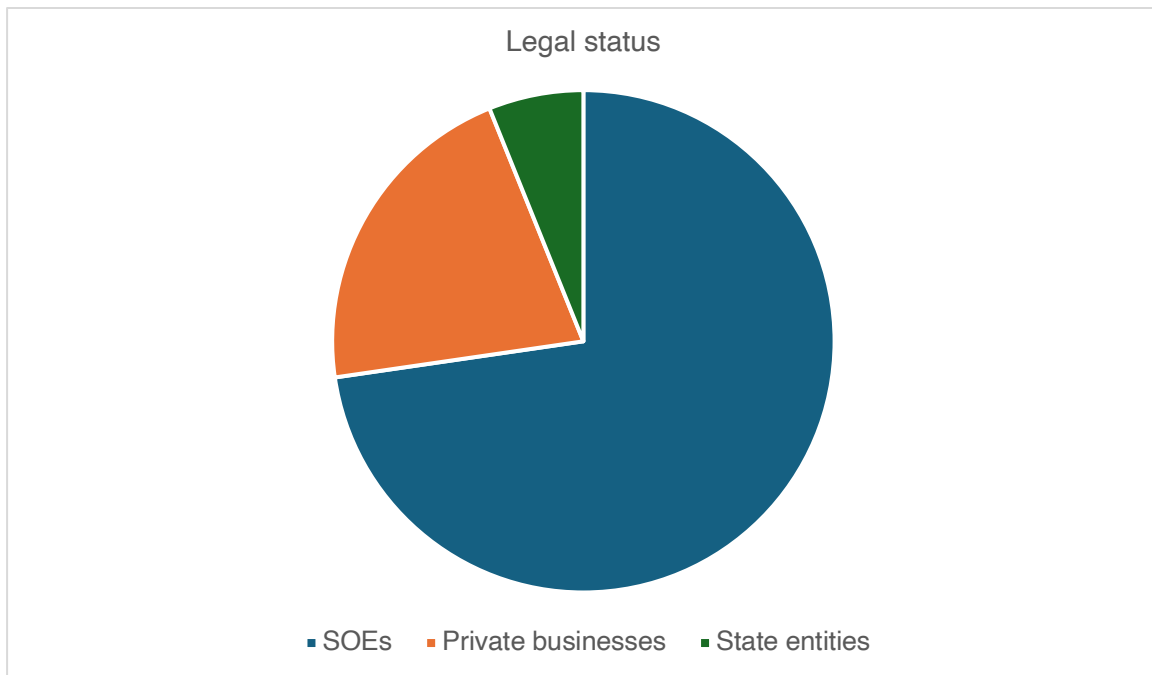
- 24 are State-owned or -controlled enterprises (SOEs), i.e. **72.7% of all ECAs**
- two (2) are State agencies – the UK and one (of two) Swedish ECA – **6.1% of all ECAs**

⁶ Some States have two agencies offering credit support. Cyprus was not counted as it does not appear to offer export credit support. See **Annex 1** for list of countries and ECAs, and their latest reporting under the OECD Arrangement. In the 2024 European Commission's [Annual Review to the EU Parliament](#) (for 2023 data), only 20 Member States reported having offered official credit as per the Arrangement.



- seven (7) are fully private businesses with public mandates –**21.2% of all ECAs**

Figure 4. Legal status of EU ECAs + UK



Assessing the legal status is important from the viewpoint of assessing the responsibilities of an ECA under some, but not all, international frameworks.

2.2. Specialised frameworks: OECD Arrangement and Common Approaches

As described above, the core guidance on HRE standards for ECAs is the OECD [Recommendation of the Council on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence](#) (“the Common Approaches”). It was adopted by the OECD Council in 2012 on the proposal of the Working Party on Export Credits and Credit Guarantees (ECG) and is addressed to “Adherents”, which are OECD members as of today (though it is also open to non-members).⁷

While an OECD Recommendation – in this case, the Recommendation on Common Approaches, ‘Common Approaches’ or ‘CA’ for short - is **not legally binding**, it expresses the common position or will of the whole OECD membership, and therefore [represents an important political commitment](#) for Member governments. The Common Approaches applies to all ‘Adhering’ ECAs irrespective of their legal personality.

⁷ The OECD clarifies the status: “All OECD Members are Adherents to the Recommendation. No non-Members have yet adhered. However, .. since the three OECD Members that do not participate as members of the ECG do not have official support programmes in place for medium- and long-term transactions, ECG efforts to review the implementation of the Recommendation are focused on ECG members. Adherents to the Recommendation ... should be understood in this light.” [Report on the Implementation of the Recommendation on Common Approaches](#), para.7.



2.2.1 Application of OECD Arrangement and CA by EU ECAs

The CA are the only bespoke standards created for the management of HRE risks applying to ECAs from OECD Member States. Unlike the OECD Arrangement, which became legally binding for EU ECAs in Regulation 1233/2011, the CA remains a non-binding framework. Box 4 below explains the legal standing of the Arrangement and of the Common Approaches Recommendation.

Box 4. Legal standing of the OECD Arrangement and Common Approaches in the EU

For EU Member States, the OECD Arrangement became legally binding through *Regulation (EU) No 1233/2011 of the European Parliament and of the Council of 16 November 2011 applying certain guidelines in the field of officially supported export credits*, which notes that “the guidelines contained in the Arrangement and the specific rules for project finance apply in the Union.” (Preamble (2) and Article 1).

By contrast, the CA are not part of EU law. The only exception is when the Arrangement specifically refers to the CA as a requirement in relation to a particular issue – for example under the Sector Understanding on Export Credits for Climate Change, requiring ECAs to address impacts in accordance with the CA for relevant projects. Nonetheless, in the *EU Commission’s latest report* to the EU Parliament states that the “Arrangement and the three OECD Recommendations on good governance disciplines [including the CA] ensure harmonisation of practices throughout the OECD membership and within the EU. Within this framework, however, governments design their own policies (para. 3) This supports the idea that Member States are expected to implement the CA irrespective of the legal status of the CA.

2.2.2 What does the Recommendation on Common Approaches ask?

The Recommendation calls on Adherents, before taking decisions on providing officially supported export credits, **to apply a series of measures (the “Common Approaches”) for addressing environmental and social issues** relating to the exports of capital goods and/or services and the locations to which these are destined. The 2012 Recommendation established that social due diligence should be conducted along with environmental due diligence. The 2016 revision included for the first time substantive recommendations on human rights, particularly that ECAs should screen all applications for severe human rights risks (para 6), and that where screening identifies a high likelihood of such risks, ECAs should further assess them, including potentially by complementing their existing environmental and social due diligence with human rights due diligence (paras 8 and 14). The 2024 revision to the CA was more minor, harmonising the international frameworks used for E&S due diligence. Discussions are ongoing for more substantive revisions.

Adherents shall conduct due diligence. This is defined as “the process through which Adherents identify, consider, and address the potential environmental and social impacts and risks relating to applications for officially supported export credits as an integral part of their decision-making and risk management systems.”⁸ This applies to **two sets of operations**:

⁸ Section 1, Recommendation on Common Approaches.



1. all existing operations for which their share is equal to or above SDR (Special Drawing Rights) 10 million (around EUR 12.26 M);⁹ or
2. all existing operations and projects, irrespective of their share, where the screening has identified that there is a high likelihood of severe project-related human rights impacts occurring.

Due diligence steps include:

- *Screening*, with the aim of identifying which applications for officially supported export credits should be classified and, where appropriate, subsequently reviewed;
- *Classification* to identify the potential E&S impacts, using three categories (Category A – high-risk, B-medium risk and C – low-risk- projects).
- *Environmental and Social Review* which includes (a) benchmarking the project’s E&S performance against relevant international standards – harmonised in the 2024 revision to be the IFC Performance Standards (see *Box 5* below) or in the case of a sovereign obligor the [World Bank E&S Standards](#), (b) considering measures that can be taken to prevent, minimise, mitigate or remedy adverse impacts and/or to improve environmental and social performance, and (c) where there is a high likelihood of severe project-related human rights impacts occurring, considering complementing the E&S review by specific human rights due diligence (paras. 13 & 14).
- *Evaluation, Decision and Monitoring*.

In practice, ECAs require their clients to apply the IFC Performance Standards (or as needed WBG standards) to their operations, and will screen and conduct due diligence - within the limits set by the Recommendation on Common Approaches as above – to assure themselves that their clients do apply the PS.

⁹ Exchange rate of 7 September 2025.



Box 5. The IFC Performance Standards and human rights

The [Performance Standards](#) (PS) are the core E&S requirements IFC asks of its clients. They provide guidance on how to identify risks and impacts across a range of issues (such as environmental pollution, involuntary resettlement or Indigenous People), and are designed to help avoid, mitigate, and manage risks and impacts in relation to project-level activities. IFC Performance Standards have been the reference standard for private-sector project finance and are used by various bilateral development finance institutions (DFIs) and members of the Equator Principles.

IFC has recently embarked on an [update of its Sustainability Framework](#), which includes the Performance Standards, as the current version dates from 2011. Other MDBs and DFIs have more recent standards which clarify both their own responsibilities and those of their clients in more detail and address more issues. For instance, the 2024 [EBRD Sustainability Policy and associated safeguards](#) include two additional safeguards - on financial intermediaries and stakeholder engagement, while other safeguards address requirements on gender-based violence and harassment, and child sexual abuse and exploitation. These issues are not addressed in any detail or at all in IFC's PS.

Finally, while IFC PS and other DFIs' safeguards overlap with international human rights standards they do **not** reflect them comprehensively. The UN Human Rights Office has published a [Benchmarking Study](#) (2023) which highlights gaps in IFC Performance Standards and other safeguards used by DFIs, as well as distinctions in approach between HRDD as per the UNGPs vs the due diligence conducted by DFIs.

With exceptions (UKEF, Finnvera, EIFO¹⁰), little public information is available as to the ECAs' role in monitoring their official support post-commitment – i.e. to continue conducting due diligence throughout the entire life cycle of the transaction. For instance, Euler Hermes notes that 'in some cases' monitoring may take place, while SACE notes in its 2023 *Non-Financial Information Report* that monitoring will take place for most of the projects of potentially significant adverse impacts (Cat A projects under CA), and that for others the decision is taken on a case by case basis (section 4.2.1.). This is a departure from what a comprehensive human rights and environmental due diligence requires and is also below MDBs' and DFIs' practices which systematically include monitoring as part of their E&S management system.

Box 6. Good practice at UKEF: Consolidated approach throughout the project cycle

The [UKEF](#) states that it **uses the Common Approaches and the Equator Principles in a consolidated manner**. It also commits to carry out due diligence and monitoring of 'ESHR' (environmental, social and human rights) risks, thus not restricting the assessment of human rights risks only to the highest risks and expanding the assessment against relevant human rights standards too (as opposed to just the IFC PS).

¹⁰ "Once an agreement is signed for category A and B activities, EIFO monitors the implementation of the agreed ESAP [E&S Action Plan] and ensures the project's ongoing compliance with international standards". [2024 Annual Report](#).



For instance, for the due diligence phase pre-commitment it states: “*In line with the OECD Common Approaches and Equator Principles, we identify ESHR risks and carry out due diligence to be satisfied that projects should comply with applicable local and relevant international laws, and align with international ESHR standards before support is provided.*”

Finally the UKEF systematically conducts monitoring post approval of projects.

2.2.3 Gaps in Common Approaches’ due diligence requirements

While it is not within the scope of this report to describe in an exhaustive way the differences between the CA and international frameworks on business and human rights (discussed in Section 2.3), there are several key points of divergence. Some of these have been highlighted by the [Working Party on ECG](#) (paras. 179-185), such as:

- “the extent of [an ECA’s] role and, indeed, leverage, to prevent or mitigate any adverse impacts that occur and the role that they might subsequently play in grievance mechanisms and remediation efforts; ...
- the application of human rights due diligence beyond the scope of the CA to all ECA activities.”

Other gaps include:

- the limited recommended use of human rights due diligence (only for high-risk projects and as complement to E&S due diligence)
- the benchmarking being limited to the IFC PS and WB standards (notwithstanding their own discrepancies with human rights standards) rather than including human rights
- the lack of a comprehensive risk-based management approach, with a focus on Categorisation¹¹ and little attention to post-commitment risks. This is relevant to both environmental and human rights risks and impacts, which may be missed as a result.

The above gaps may impact ECAs’ potentially increased support of CRM-related projects and their ability to prevent and address risks. Several factors are important to consider:

- As described above, the support related to the CRM supply chain may either be all non-Arrangement ([untied facilities](#)) or for shorter terms (e.g. transport or machinery to a mine). Therefore the CA may not officially apply. (see Section 1).
- The Common Approaches lacks specificity to sectoral risks. As mining projects are generally characterised by high risks of adverse E&S and human rights impacts, ECAs should identify such risks at screening for any CRM project they support. In such cases a human rights due diligence (HRDD) process should be conducted as a

¹¹ In the development finance context, it has been [commented](#) that an overreliance on categorization may result in overlooking risks post-commitment. As shown in Section 1.3 one project with reported severe HRE impacts was found to be categorised as either A or B by different ECAs, showing that categorisation is subject to institutional or individual interpretation.



matter of requirement - rather than a potential suggestion as per current para. 14 of the CA.

- In addition, for CRM-specific support, EU ECAs should be encouraged to hire specialised expertise to advise on risk assessments, review the client's risk management system, and identify contextual risks and other specific risks inherent to CRM and mining. Given that CRMs may be located in geographies experiencing conflict, ECAs may be called to conduct [heightened human rights due diligence](#) and consider how the EU Regulation on Conflict Minerals,¹² which lays down due diligence obligations for EU importers of gold, tin and the CRM tantalum and tungsten, applies to a transaction or client (see 2.4 for more).

2.3. International normative frameworks on responsible business conduct

2.3.1 Do international standards on responsible business conduct apply to ECAs?

The international normative frameworks on responsible business conduct -primarily the [UN Guiding Principles on Business and Human Rights](#) (UNGPs) and the [OECD Guidelines for Multinational Enterprises on Responsible Business Conduct](#) (MNE Guidelines)¹³ - are complementary to and offer a broader perspective than the Arrangement and the CA.

In accepting a complaint from Both ENDS et al. against Atradius (private entity with public mandate), the Dutch NCP [noted](#), against the State's argument, that the "special regulation" (the Common Approaches) on ECAs did not preclude other standards such as the MNE Guidelines from applying to ECAs. As mentioned above, the current version of the Common Approaches does not reflect international standards fully. The OECD Working Party on ECG has nonetheless highlighted areas for improvement including better alignment with the UNGPs for a future revision of the CA.

Thus, **EU ECAs should be submitted to the full suite of international, regional and national standards and frameworks regulating responsible business conduct and the respect for human rights – no matter their status as business enterprises or State entities.**

As Annex 2 explains further, **the MNE Guidelines indeed may apply to ECAs, albeit not to all of them.** The determination of such application must be done on a case-by-case basis, considering several criteria set out by the OECD Investment Committee – primarily

¹² [Regulation \(EU\) 2017/821](#) of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas.

¹³ Since their unanimous endorsement by Member States of the UN Human Rights Council in 2011, the UNGPs have become the authoritative global reference for preventing and addressing adverse human rights impacts arising from business-related activity. The MNE Guidelines have since 2011 included a Human Rights Chapter and offer other sectoral recommendations such as on environment, and disclosure.



around the commercial legal status and nature of activities of the ECA in question and as expressed by NCPs in specific instances.

The UNGPs apply to ECAs as either State entities or business enterprises. In addition, under the UNGPs States have additional obligations in relation to these enterprises that are closest to them – be they SOEs, ECAs, or businesses that deliver public services.

2.3.2 Complementary State obligations

Where ECAs are State entities, they remain bound by the UNGP State duty to protect human rights, and should pursue those obligations as elaborated in the UNGPs, including by, for example, requiring companies it supports to carry out human rights due diligence (see also clarification by the [OECD Investment Committee](#) in 2024).

The UNGPs foresee additional obligations for States to “*take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the State, or that receive substantial support and services from State agencies such as export credit agencies and official investment insurance or guarantee agencies, including, where appropriate, by requiring human rights due diligence.*” (principle 4).

When the ECA is State-owned, another set of frameworks also becomes relevant to regulating ECAs’ business conduct – primarily the OECD [Guidelines on Corporate Governance of State-owned Enterprises](#) (‘SOE Guidelines’, revised in 2024) and guidance by [the UN Working Group on Business and Human Rights](#). The SOE Guidelines (VII.D) for instance stress that “*the State as an owner should set high expectations for SOEs’ observance of responsible business conduct standards together with effective mechanisms for their implementation.*”

Finally, in the scenario whereby the **State enters into contracts with a privately owned ECA** to provide export credit services on its behalf, principle 5 of the [UNGPs](#) provides that States should exercise adequate oversight in order to meet their international human rights obligations when they contract with, or legislate for, business enterprises to provide services that may impact upon the enjoyment of human rights. Annex 2 explains all the above scenarios and standards in more detail.

2.3.3 ECAs’ additional commitments on HRE standards

Given that the OECD Common Approaches has not undergone major updates over the last several years, a number of ECAs have individually committed to respect the UNGPs and/or the OECD MNE Guidelines in their operations and conduct due diligence of their clients according to these standards. Some ECAs have also either created their own initiatives to raise standards in [smaller groupings](#), for example, to accelerate their climate commitments. ECAs have also joined existing initiatives, such as the Equator Principles (see below text).

Box 7 below shows some of the strongest public commitments amongst EU ECAs. Even amongst those ECAs referring to international business and human rights standards there is divergence in practices and interpretation of responsibilities.



Box 7. Emerging good practices on aligning public commitments with international business and human rights standards

Finnvera, SEK, EIFO, explicitly refer to **respecting human rights and specifically the UNGPs**. EIFO states in numerous places on its website that *“it is committed to respecting internationally recognized human rights and adhering to the UN Guiding Principles on Business and Human Rights. Additionally, EIFO is dedicated to implementing a management system that follows these guidelines.”* (2024 Annual Report).

Finnvera commits to complying with the UN Guiding Principles on Business and Human Rights (UNGP) in its operations and respects OECD Guidelines for Multinational Enterprises. BpiFrance considers “environmental and social impacts, as well as human rights” as part of its guarantee application process.

By contrast to other ECAs, BpiFrance does not refer to the UNGPs, although its updated 2025 E&S Policy commits to respecting and promoting the Universal Declaration on Human Rights, ILO Standards and the OECD MNE Guidelines. The **OeKB bank** group has a **human rights policy** and states that it uses international standards and frameworks to implement it - including the OECD CA, the IFC PS, the UNGPs, the ILO Fundamental Principles and Rights at Work.

E&S Due diligence beyond scope of OECD CA: Members of the Equator Principles, including EIFO, UKEF, BpiFrance, state that they implement the EP standards throughout their operations, going beyond the Common Approaches requirements and scope of application.

Finnvera -not an EP member - similarly states that the foundation for its environmental and social risk management is the UNGPs and the Common Approaches. It clarifies that: *“Rather than by the scale and repayment period of the project, the risk assessment and management of projects we finance are guided by the areas in which the most serious impacts and risks are likely to occur, which exceeds the requirements of the OECD recommendation.”* **OeKB** – also not an EP member – refers to reviewing projects that, due to their size or duration, do not fall under the Common Approaches but nevertheless suggest a risk to the environment and society according to the ‘watchful eye principle’, thus ensuring *“that the largest possible number of submitted projects are screened for potential negative impacts”*. In a much more limited manner, **SACE** states it promotes responsible and sustainable practices throughout the value chain, *“drawing inspiration from the UNGPs”* – however its due diligence is limited to the CA requirements except for some additional products not specified.

Signatories to the Equator Principles (EP) agree to apply a common set of global standards for assessing and managing environmental and social risks in large projects, such as infrastructure, mining, and energy development. According to interviews and the websites of EP member ECAs, they join the EP because they are looking for state-of-the-art standards and because aligned standards amongst EP members helps them help their clients in marketability terms, it can foster efficiency when several funders are involved in a project, and it allows the ECA to learn from the experience of other members. The General Manager of Bpi France said as much, when Bpi France joined the Equator Principles initiative this year:

Joining EP is a major step for Bpifrance Assurance Export. This alliance will help to strengthen environmental and social risk management on projects. EP



will also allow [us] to share knowledge with leading international financial institutions and export credit agencies, committed to reinforce their environmental and social framework.

The EP are therefore an interesting vehicle for forward-looking ECAs to pursue better HRE standards in line with both public and private financial institutions. This initiative might offer opportunities for more immediate improvements in practice as well as a pathway to building a broad consensus around the need for ECAs to apply global standards that could help foster reforms resulting in better alignment in EU law.

Box 8. Equator Principles

The EP began in 2003 with ten financial institutions. Today there are 130 signatory institutions, including several ECAs, and a few EU ECAs including France (BpiFrance), Denmark (EIFO), Sweden (SEK) and the UKEF. The ECAs interviewed for this research who are also members of the EP talked to their interest in better environmental and social standards, engagement with practitioners who are engaging in good and innovative practices, and the ability to work more effectively and efficiently as all signatories use aligned international standards. According to the last EP report, in 2023 EP represented 76.9 percent of project finance globally.

2.4. Implications for EU ECAs' conduct on CRM support – the need for policy coherence

Through EU Regulation 1233/2011 EU ECAs have adopted the OECD Arrangement and Common Approaches as their main framework for export credit support, including on E&S issues and disclosure. No other specific EU framework exists to regulate their activities.

As shown above, international frameworks on responsible business conduct are nonetheless applicable to EU ECAs and EU Member States. This is in line with the call for policy coherence that the EU itself and international standards require. Indeed, the [EU Regulation 1233/2011](#) (Preamble (4)) calls for Member States to comply “*with the Union's general provisions on external action, such as consolidating democracy, respect for human rights and policy coherence for development, and the fight against climate change, when establishing, developing and implementing their national export credit systems and when carrying out their supervision of officially supported export credit activities.*” In the same vein, the UNGPs (principle 8) call for horizontal policy coherence within a State, which means equipping agencies that shape business practices – including those responsible for export credit and insurance – “*to be informed of and act in a manner compatible with the Governments' human rights obligations.*”

Accordingly, at EU level, ECAs and the States related to them should consider how other regulations and directives apply to existing and potential support of CRM projects - including the Battery Regulation, the Conflict Minerals Regulation, the Critical Raw Materials Act



(CRMA),¹⁴ and the EU [Corporate Sustainability Due Diligence Directive](#) (CSDDD).¹⁵ These will primarily apply to ECA clients (within the limits on scale and threshold provided by each piece of regulation) and thus their respect by clients should be considered during the ECAs' due diligence process.

While these norms all contain elements of due diligence, they are not fully consistent amongst themselves or with international normative frameworks on business and human rights. While the CSDDD is the most expansive norm at EU level and the most closely aligned with the UNGPs, the Battery Regulation¹⁶ contains core elements of a human rights due diligence process: companies must identify, prevent and address social and environmental risks linked to the sourcing, processing and trading of raw materials such as lithium, cobalt, nickel (considered strategic though not CRM in the EU) and natural graphite contained in their batteries; the assessment of risks is benchmarked against human and labour rights instruments including the UNGPs. As for the CRMA civil society has expressed [concerns](#) over the limits of its human rights elements, such as lack of full recognition of the rights of Indigenous Peoples.

The [Conflict Minerals Regulation](#) may be relevant to the CRM tantalum and tungsten extractive projects. The Regulation is consistent with the [OECD's Due Diligence Guidance for Responsible Sourcing of Minerals from Conflict-Affected and High-Risk Areas](#). As stated in a recent EU [tender](#), *"While the requirements of the Regulation apply irrespective of the origin of the metal or mineral, enhanced due diligence is required if a metal or mineral originates from or otherwise is associated with a [conflict-affected and high-risk area](#)."*

Finally, at international level there are increasingly strong calls for embedding human rights, the rights of communities and Indigenous Peoples, in the CRM supply chain. As shown in Section 1, the reported HRE impacts from projects where ECAs were involved are serious and relate to other key EU regulations and policy commitments, including [forced labour](#), [protecting human rights defenders](#), and [protection of the environment](#). Therefore, an EU commitment to improving ECA standards – at least in the case of CRM extractive projects - can also help achieve other EU policy objectives by preventing a wide range of HRE harms in the context of CRM extractive projects that feed the EU market.

There is also a [wealth of good industry practices](#) and guidance on responsible mining and responsible supply of CRM. While not binding, EU Member States and ECAs should consider this guidance as they work towards responsible CRM supply chains. A final, recent development was the 2024 report by the UN Secretary-General's Panel on Critical Energy Transition Minerals, [Resourcing the Energy Transition](#), which proposes a set of voluntary

¹⁴ The CRMA aims to strengthen EU's critical raw materials capacities along all stages of the value chain and sets 2030 benchmarks for strategic raw materials.

¹⁵ While its implementation is subject to significant changes and potential delays due to existing 'Omnibus' proposals and negotiations, the CSDDD has been formally adopted and any outcome of the process is likely to still be relevant to ECAs, at a minimum as part of the due diligence on their clients, and clients' obligations under national law.

¹⁶ The Regulation (EU) 2023/1542 has applied since 18 February 2024.



Guiding Principles, including on human rights and responsible finance, to be applicable to the entire value chain and life cycle of critical energy transition minerals.

2.5. Key messages

In recent years, EU ECAs have relied largely on one specialised set of standards and guidelines for their E&S standards – the Common Approaches. While the CA is a bespoke standard for ECAs, and it is referenced in EU law, Section 2.2.3 above makes it clear that there are several gaps in the CA as compared to international standards in areas such as risk assessment, human rights and environmental due diligence, disclosure and remediation. Additionally, there are few indications that the CA will align closely to more advanced international standards in the next foreseeable future. Moreover, their formal scope of application to CRM extraction may be limited – especially if it is true that CRM extraction will be supported by EU ECAs mainly through untied facilities outside the Arrangement.

Section 2.3 has shown that **the application of international frameworks to the conduct of ECAs** can depend on the ECAs' legal status. Indeed, the OECD MNE Guidelines would generally apply to ECAs, albeit not to all of them and not for all the types of activities in which ECAs engage. As for the UNGPs, they apply directly to ECAs irrespective of their status as business enterprise or State entity. Where ECAs are enterprises, the UNGPs asks States to take additional steps, like requiring human rights due diligence of the enterprise, given that the State has a close nexus to the enterprise. Indeed, the UNGPs [explicitly mention ECAs](#) and the implications of their State nexus. Where ECAs are State agencies, on the other hand, they have a duty to protect human rights, which would at a minimum require due diligence by the ECA to ensure it is not contributing to adverse human rights and environmental impacts.

While a few EU-based ECAs recognise these international frameworks - at least as reference points for how they conduct HRE risk management, public disclosure of these commitments, demonstrating implementation, is not common practice. The lack of adequate disclosure amongst ECAs generally means that accountability for their public commitments remains elusive (see Section 3 for more).

Thus, in **practice, the application of international norms to ECAs' export credit support is unclear, incomplete and variable.** There are gaps in the conduct of ECAs themselves and the standards they use to assess and manage risks in their own operations and their transactions. There are also gaps in the way States managing the ownership of SOEs or their contracts with private businesses regulate and supervise the use of public funds through the ECAs.

Finally, **developments at EU level on human rights and environmental due diligence on the one hand, and clean energy/CRM regulations on the other, do not seem to have influenced the standards that EU ECAs have committed to.** Despite recent setbacks and delays in relation to the implementation of key pieces of legislation such as the CSDDD, there remains an urgent need for policy coherence at the EU level, so that as ECAs



carry out their activities they do not work at cross-purposes to EU Policy commitments and priorities. The above findings guide the suggested pathways in Section 4 below.

Section 3. A closer look at Disclosure, Accountability and Remedy

T&E asked specifically about ECAs' disclosure responsibilities and practices, as well as ECAs' accountability. While it was not in the scope of the study to conduct an exhaustive discussion of these two topics, this section offers some findings and observations sufficient to identify potential avenues for improvement in Section 4.

3.1. The role of disclosure and transparency

Transparency and disclosure are essential for public trust and accountability. They are parts of human rights due diligence, contributing to a business accounting for the risks and impacts it may be involved in – in other words, to show that it respects human rights in practice (principle 21, UNGPs). The OECD MNE Guidelines includes a Chapter on disclosure (III), calling on business enterprises to disclose “*regular, timely, reliable, clear, complete, accurate and comparable information in sufficient detail on all material matters.*” The OECD SOE Guidelines also call for SOEs to be subject to sustainability reporting and disclosure requirements “*aligned with high-quality internationally recognised standards*” [including the MNE Guidelines and the UNGPs].

For ECAs and Participants to the OECD Arrangement, the rationale for increased disclosure lies in the importance of minimising market distortion and establishing a level playing field. Operating in a transparent way and reporting accordingly to the OECD is thus a means to achieve this goal, as acknowledged in the EU Regulation 1233/2011 (Preamble 5).

3.1.1 Common Approaches Requirements

The Common Approaches mandate the following to ECAs¹⁷ (paras 38-40):

- For **Category A** projects, to publicly disclose project information, including project name, location, description of project and details of where additional information (e.g. ESIA report) may be obtained, as early as possible in the review process and at least 30 calendar days before a final commitment to grant official support; and to require that E&S impact information (e.g. ESIA report, summary thereof) be made publicly available as early as possible in the review process and at least 30 calendar days before a final commitment (*‘ex-ante’ disclosure*).
- Subject to the legal provisions on public disclosure in Adherent countries, make available to the public at least annually E&S information on projects classified in **Category A and Category B** for which an Adherent has made a final commitment.

¹⁷ Section 3 only discusses ECAs' commitments and practices, not those of their clients.



The ex-ante disclosure requirement allows stakeholders including potentially affected communities to raise concerns over E&S/human rights risks and the decision-maker can review these concerns.

Gaps:

- Disclosure is only for Cat A and B projects – there is **no disclosure requirement for official support to projects not categorised as A or B** (either Cat. C or ‘no categorisation’). According to the [OECD](#), between 2017 and 2021, 24 Members provided 546 Category A and Category B project reports relating to supported transactions with a total volume of SDR 75.84 billion. This equates to 67% (by volume) of official export credits support provided between 2017 and 2021. Thus, there is no public visibility for 33% of projects supported under the Arrangement unless an ECA voluntarily decides to publish the information (see below).
- The requirement to publish covered projects **once a year** may not qualify for the ‘regular and timely disclosure’ requirement that the MNE Guidelines ask for. More rapid and regular disclosure seems possible, as BpiFrance for instance discloses covered projects every trimester (see good practices *Box 10* below).
- The disclosure recommendation remains **subject to legal provisions on public disclosure** in Adherent countries. The OECD confirms that many Adherents [are not able to disclose](#) ex post monitoring reports and related information for commercial reasons - however other States such as the US require public disclosure of monitoring reports, showing that practices can differ and that the commercial reason argument may not always hold (see *Box 10 below*).

3.1.2 EU Requirements

Under EU [Regulation 1233/2011](#) (p.45) EU Member States must submit annual reports on their export credit programmes to the European Commission. In the Annual Activity Report, “Member States shall describe how environmental risks, which can carry other relevant risks, are taken into account in the officially supported export credit activities of their ECAs.” (Annex I). Based on these reports, the Commission submits an annual review of the activities of ECAs to the European Parliament. This review includes an evaluation of export credit agencies’ compliance with the EU’s objectives and obligations including respect for human rights and the protection of the environment.

Gaps:

The 1233/2011 regulation brought improvements in disclosure among EU ECAs. However, critiques have rightly highlighted:

- the limitations of the aggregate nature of the reporting, the lack of access to the reports by individual ECAs,
- the lack of evidence and analysis provided by the EU Commission in its assessment of compliance with the OECD Common Approaches.

Civil society brought complaints to the EU Ombudsman on the lack of adequate disclosure in these Annual Reviews (See following *Box 9*).



**Box 9. Recommendation of the European Ombudsman in case 212/2016/JN
on the European Commission's annual reviewing of
Member States' export credit agencies**

"The Ombudsman ... found that the Commission's methodology and procedures could be improved. In particular, she suggested that the Commission should engage in a dialogue with Member States and other stakeholders with a view to **improving the template used by Member States in compiling the reports on export credit agencies** which they are required to submit to the Commission each year. The Ombudsman also proposed that the Commission, for its part, should **enhance the analysis and evaluation content** of the annual reviews of export credit agencies which it submits to the European Parliament.

The Commission rejected the Ombudsman's proposals mainly because it considered that their implementation would require an amendment to the existing legislation. The Ombudsman disagreed with the Commission's position.... The Ombudsman believes that **the Commission's annual review, which it sends to Parliament, should amount to more than a compilation of the content of the annual reports received from the Member States and that it should contain an informed and detailed evaluation of the performance of the export credit agencies, particularly, as regards respect for human rights and the environment.**"

Another relevant EU instrument is the **Corporate Sustainability Reporting Directive** (CSRD), which several EU ECAs such as EIFO¹⁸ and SACE¹⁹ will be required to apply from [2027 onwards](#). This mandatory public reporting may provide a more fruitful source of information on HRE risks and impacts in the portfolio of ECAs given the current lack of accessibility of Member States' reports to the EC as per Regulation 1233/2011.

3.1.3 State of play: disclosure amongst EU ECAs

Information disclosed varies across EU ECAs. While the OECD notes that overall Adherents [follow the CA requirements on disclosure](#), an examination of selected webpages and annual reports of EU ECAs shows a range of practices. For instance, the template for disclosure and the actual content vary greatly, and while some ECAs have user-friendly websites, for other ECAs it is difficult to find where the information is disclosed. Issues were found on the disclosure of Category B projects post-final commitment, and ECAs seem to use different thresholds of disclosure post-commitment (with lower application value or contract value projects not disclosed).²⁰ Finally, at times updated information is not available – for instance Euler Hermes' [disclosure 'archive'](#) has not been updated since December 2023.

The disclosure requirement under the CA being only for official support, it follows that ECAs have no obligation under the OECD ECA frameworks and related EU regulation to disclose any support falling outside the Arrangement – including untied facilities. This non-disclosure offers no opportunity for stakeholders to bring concerns to the ECA, thus exposing the ECA to increased risks. Euler Hermes, with the most established CRM untied facility amongst EU

¹⁸ See EIFO [Annual Report 2024](#).

¹⁹ Legislative Decree of September 6, 2024 transposed the provisions of the CSRD into Italian law.

²⁰ See e.g. OeKM – threshold of disclosure being EUR ten (10) M and over, and Euler Hermes – contract value of [EUR 15 M](#) and over.



ECAs presents in a [2-page annual report](#) the types of CRM projects supported (whether extractive or ‘transformation’ type) and their location, as well as total volume of support. However, the report does not mention the clients or actual projects, or the type of E&S risks that may or may not have been assessed, and there is no evidence of disclosure prior to commitment.

Some ECAs have gone beyond the minimum requirements of the CA, as shown in *Box 10* below. The OECD [Report on the Implementation of the OECD Recommendation on Common Approaches](#) (March 2024) is another source of information for good practices and possible improvements.

Box 10. Good practices on disclosure

- [Bpifrance Assurance Export](#) (France) discloses the full ESIs attached to projects ex-ante; discloses summaries of approved projects on a trimestral basis, including those not categorised as A or B.
- [EKN](#) (Swedish State agency): discloses projects Cat A under consideration for a 30-day comments period, with adequate information given (links to project developers and the full ESI); it also publishes information about approved Cat A and B projects valued in excess of SEK 100 million (roughly EUR 9.1 M) both in its annual reports and as a separate table available on its website – this also includes brief information on E&S risks.
- The UK Export Finance (UKEF) maintains an updated webpage for Cat A projects prior to approval, as well as an annual list for all Cat A projects and Cat B projects approved; the description of each project is a full page and thus more comprehensive than other ECAs (see e.g. [Cat B project](#)); UKEF also publishes [annual reports](#) which clearly presents the E&S due diligence and monitoring conducted by UKEF and the type of risk management it conducts for Cat C and non-Arrangement products.
- Outside of the EU, US-EXIM publishes detailed information on funded projects. (See [2024 Annual report](#)).

3.2. ECAs’ remediation responsibilities and accountability

3.2.1 State of accountability and remedy

Under international human rights law, when an individual or community suffers from an adverse human rights impact or harm, they have the right to an effective remedy and the actor causing or contributing to the harm must be accountable for it. The right to remedy and accountability are two inter-linked concepts.²¹ This section discusses them separately as needed.

There is little visibility on accountability and grievance handling mechanisms for and by ECAs. While this project did not allow for exhaustive research on remediation and accountability, based on the research and interviews conducted, it is an underdeveloped and under-explored area. This leaves individual and communities affected by a project in which an ECA is involved with unclear or only partial recourse to seek remedy and accountability.

²¹ See UN OHCHR, [Access to Remedy in Cases of Business-Related Human Rights Abuse: An Interpretation Guide](#).



In those cases where CSOs and complainants have attempted to seek some accountability (whether judicial or other), or mitigation/remediation of risks and impacts there has not been obvious positive outcomes.²²

An **underlying obstacle for increased accountability of ECAs and seeking remedy is the difficulty to identify ECA involvement in a local level project** and thus to be able to bring a complaint forward. CSOs like [Inclusive Development International](#) and [SOMO](#) offer dedicated support to obtain information on companies' involvement in a project. They have implemented this methodology to MDBs and DFIs' involvement in extractive and other projects at local level, resulting in the bringing of complaints to DFIs' independent accountability mechanisms. However, this process is time consuming, and due to the types of solutions ECAs offer to clients, unless there is clear information about projects supported from the ECA itself and at project level, it is a difficult task for CSOs - let alone communities – to identify ECA involvement at the first place. Improved transparency and disclosure on the part of the ECA and its clients would facilitate increased understanding on the part of affected communities of avenues for grievance redress – and potentially the early resolution of disputes.

3.2.2 Various responsibilities and avenues for grievance handling and accountability

[CSOs](#) have expressed concerns that ECAs' "diverse and hybrid" legal status and attempts to "*disclaim classification either as State entity or multinational enterprise*" have allowed ECAs to avoid accountability, thus denying remedy to impacted people. The legal status of an ECA indeed determines to a degree which standards apply to them, and relatedly which oversight and accountability/grievance mechanisms are available to stakeholders wishing to bring a complaint. This does not necessarily mean ECAs escape accountability, but it does mean that, **to some extent, different ECAs have distinct responsibilities for which they are accountable in distinct ways.**

When ECAs are [State entities](#) (UK, Sweden, US) the full range of oversight by legislative bodies, judicial reviews and remedies against a government agency should be available internally and to stakeholders wishing to raise concerns over an ECA action and seek remedy. While not successful, the [application by Friends of the Earth UK for judicial review](#)²³ of UKEF decision to provide over \$1 bio for a LNG project in Mozambique shows that such reviews against a government investment decision through its ECA are possible. There have also been [Parliamentary inquiries](#) into UKEF' financing. Outside of the EU, US EXIM is

²² For instance, Friends of the Earth (FOE) USA documented in a 2023 [complaint to the US NCP](#) all the efforts made on engagement and accountability with respect to US EXIM, listing actions to Congress, engagement with wider US government, Freedom of Information Act requests, comments on EXIM's policies and projects, etc. FOE concluded that "*none of this engagement has changed EXIM's behaviour in a significant way*".

²³ The Court of Appeal rejected FOE's application for judicial review. It found that the Government's view that its decision to invest in the Mozambique LNG project was in alignment with the UK's obligations under the Paris Agreement was tenable, and that was sufficient.



subject to bi-annually reporting to Congress and regular monitoring by the Office of the Inspector General, which can review US EXIM's E&S due diligence and monitoring.²⁴

When ECAs are SOEs or private businesses, they have an important role to play in remediation. As per international business and human rights standards, a business enterprise can cause or contribute to harm and can also be directly linked to adverse E&S risks and impacts through its business relationships, which include businesses numerous tiers away in a value chain. ECAs are usually only linked to potential impacts at project level due to the services they provide. In rare cases they may be contributing to the adverse impacts – and if so, should contribute to remediation, for instance through a grievance mechanism. The UNGPs (Principle 31) include a useful set of effectiveness criteria, which provide a benchmark for designing, assessing, and revising non-judicial mechanisms to make sure they are effective in practice.

By contrast to the limited scope of application of the OECD Common Approaches (and related requirements to mitigate and remedy impacts), the UNGPs and the OECD MNE Guidelines apply to all business operations and financing; they do not envisage any categorical carving out of business operations or – in the case of financial institutions – of specific financial instruments or tenor. They are risk-based frameworks based on a *de facto* risk analysis of involvement in potential or actual adverse impacts on people and planet. Due diligence, and the assessment of potential involvement of a financial institution to adverse risks or impacts, are conducted, therefore, on a case-by-case basis. **Where ECAs' support CRM extractive projects, including through untied facilities, the ECA is responsible to assess: (1) whether there are potential or actual adverse impacts; (2) how it can be involved in them; and (3) whether to build and exercise leverage to avoid and mitigate the impacts, and whether to be involved in remediation (see Box 3, Section 1).**

All ECAs should also require their clients to set up operational grievance mechanisms commensurate to risks.

3.2.3 ECAs' practice and commitments in relation to remediation

The OECD Working Party on ECG noted in a recent [report](#) (paras. 181-183) that ECAs' role in remediation needed more exploration. The research conducted for this study could not be exhaustive. Nonetheless, the research conducted, compared to the scale of information it offered on due diligence overall, has not led to much information from ECAs themselves on the grievance handling services or mechanisms they may offer.

Amongst EU ECAs found to disclose more information than others EIFO and UKEF do state they have a grievance mechanism in place, which was used in 2024, however with little information about the type of complaints received and how they were addressed. For instance, EIFO requires its clients to set up an operational grievance mechanism and also commits to support the resolution of grievances. Besides a detailed whistleblower procedure in 2024 it implemented “an additional complaint procedure .. set up in line with the UNGPs and the OECD MNE Guidelines... accessible to various internal and external stakeholders

²⁴ See e.g. [Inspections of EXIM's financing of two projects in India](#).



including local communities, customers, employees and others who may be affected by our business activities.” Four complaints were submitted in 2024 through this complaint system. As State agency, UKEF also has a [complaint policy](#) and pledges to “*investigate and provides a full explanation within 20 working days of receiving a complaint*”. It is however unclear whether it accepts complaints on E&S impacts linked to UKEF support. In 2024/25, UKEF stated that it logged 7 complaints.

Other ECAs require their clients to have a grievance mechanism though they are silent on their own responsibilities or engagement in remediation. For instance, in its [2024 sectorial guidelines](#) on renewable energy BpiFrance states that it monitors and discloses the number of grievances and complaints filed against the client regarding its E&S, or human rights, impacts and regularly discusses associated judicial risks at management and Board level – it is however difficult to find information of these on the website. Interestingly BpiFrance also notes the limits of the French law on Duty of Vigilance, which does not apply to “*SMEs, which make up most of Bpifrance’s customer base*”. This example shows gaps in both requirements on clients and remediation responsibilities on the part of BpiFrance itself.

Compared to other State-owned institutions (see e.g. accountability and grievance handlings mechanisms by Multilateral Development Banks – discussed in Section 4) information on ECAs and their clients’ remediation responsibilities is lacking – particularly on what type of complaints are received, how E&S and human rights complaints are handled and what avenues exist for resolution (whether at ECA level or at the client’s level), pointing to an **important remedy gap** for individuals and communities affected by a project with ECA involvement.

3.2.4 Use of OECD National Contact Points for remedy and accountability

One avenue to bring complaints against an ECA is the National Contact Points (NCP) system under the OECD MNE Guidelines. Section 2 clarified that the MNE Guidelines could apply to ECAs and thus that complaints could be brought to an NCP, however not categorically. Indeed, the determination of whether an ECA could qualify as MNE as per the Guidelines is left to individual NCPs to which complaints are brought. Lessons from the small number of cases examined by NCPs show that complaints were accepted due to commercial guarantee activities and rejected due to lack of commercial status or activities. (See **Annex 2** for more details on eligibility of complaints involving ECAs).

In 2024, the OECD Investment Committee [formally responded](#) to a request from CSOs about the applicability of the MNE Guidelines to ECAs. It reaffirmed the role of NCPs in interpreting the applicability of the MNE Guidelines to an ECA and eligibility of a complaint on a [case-by-case basis](#). The Committee offered some (non-exclusive) criteria to help NCPs determine such qualification, as follows:

Whether there is a sufficient commercial dimension:

- a. Does the entity have a legal form that is commercial in nature?
- b. Does the entity have a commercial purpose?
- c. Are the activities in question commercial in nature? In this respect, can or do other market actors engage in the same type of activity?



In practice, there have been very few complaints against ECAs to NCPs – two were accepted, two rejected, and one has not been processed. Two were against EU ECAs, one against the UKEF. They have not resulted in significant outcomes for complainants.

Box 11. Complaints against ECAs globally in the NCP system

- The first complaint against an ECA was in 2015 against [Dutch Atradius](#); it was accepted. There was no obvious remedy for communities, but some institutional measures were taken (such as the development of an Information Disclosure Policy by Atradius, in cooperation with the Dutch government).
- A [complaint against the Danish ECA](#) (called EKF at the time) was rejected in 2018 at the eligibility stage for reasons other than the status of the ECA (whose status as MNE was confirmed).
- A [complaint against UKEF](#) was rejected because the UK NCP considered that it did not qualify as MNE.
- A [complaint against KEXIM \(Korea\)](#) (2019-2022) was accepted. Outcomes are difficult to see and the mediation did not result in any agreement.
- A [complaint by FOE USA](#) against US EXIM was submitted in December 2023. It has not been processed.

Section 4. Pathways to improve ECAs' human rights and environmental performance

4.1 Foundations for pathways

According to the findings of this report, the EU ECA context can be described as:

- a diverse set of entities performing export credit support services;
- a prevailing focus on domestic needs without alignment on EU policy priorities;
- no broad alignment about how those entities should apply HRE safeguards in their work beyond the CA;
- minimal standard disclosure that can inform the public about how HRE safeguards are being applied in practice and which projects are supported; and
- few mechanisms that can hold ECAs accountable for their involvement in adverse HRE impacts, and even fewer that address remediation of these impacts.

The fragmentation of standards applicable to EU ECAs is not a new problem. However, increasingly it is seen as a potential drag on EU competitiveness and EU efficiency for achieving EU policy initiatives. Indeed, the current fragmentation of standards applying across EU ECAs has been noted as a challenge, both to EU competitiveness and to better coordination with other financial institutions, such as Development Finance Institutions (DFIs). There are already [calls](#) for aligning EU ECAs and other EU financial institutions and the private sector around common principles that unite them from the point of view of making Europe more competitive and more able to achieve its policy goals.



At the same time, there has been mounting recognition of ECAs as potential drivers of [EU policy](#), as tools to fuel the energy transition, and as key actors in CRM. Given the policy and strategic aims to increase the EU ECA footprint in CRM, as well as calls for increased collaboration between ECAs and DFIs to support broader EU strategic and policy objectives, the time may be ripe to discuss how to harmonise EU ECA standards, aligning them to best international practice.

Against this backdrop, this Section identifies options for improvement of EU ECA's HRE performance, considering policy frameworks and incentives, and the direction of travel on EU ECAs and CRMs. Whenever possible this Section highlights some CRM-specific avenues, noting that many broad recommendations would be applicable to CRM even if they are not bespoke.

4.2. Possible Pathways

Pathway 1: Bolster coordination and competitiveness by aligning EU ECA policies and practice to a common set of state-of-the-art standards

This research found that there is momentum behind efforts to:

- improve the ability of EU ECAs to deploy coordinated support to EU policy priorities, including through collaboration with DFIs; and
- increase the ability of EU ECAs to support securing CRM for companies across Europe.

There is thus a clear policy argument for ECAs to move to harmonize standards across the EU, eliminating the current fragmentation in both commitments and implementation. While time pressures may not allow a bespoke state-of-the-art standard to be created in the EU, a requirement that all EU ECAs join and implement the highest existing overall international benchmark across their facilities would be a useful first step. Aligning EU ECAs could drive coordination, collaboration and competitiveness of EU ECAs collectively.

The Equator Principles provide a good initial benchmark for EU ECAs, and joining the EP initiative carries additional incentives such as aligning standards with other market actors that participate in much of the world's project finance. Additionally, the EP helps its members build capabilities for aligned implementation of the standard. Sweden's head of Sustainability for their ECA, SEK, echoed these ideas when joining the [Equator Principles in 2017](#):

The Equator Principles will add a tool in our environmental and social due diligence for projects and export credits that we finance. This will increase the harmonisation between us and the banks and financial institutions that we cooperate with[.]

At EU level, Bilal and Klasen have identified the next long-term budget (the Multiannual Financial Framework 2028-2034) as one opportunity to reconsider "regulatory and operational modalities" to enhance coordination and complementarity between ECAs and DFIs for example.



Where traction wanes for an EU-wide improvement and alignment of standards for ECAs, there may be interest in a smaller subset of EU ECAs that are most interested in being involved in CRM extraction or purchase to do so. Indeed, those ECAs that have not historically been involved with mining would be wise to join the EP where those ECAs (for example EDC from Canada) can share experiences and cooperation can be fostered.

The Canadian EDC is [actively creating partnerships](#) for mining of critical minerals. As CRM projects will be large, long-term, and pose severe HRE risks, it makes sense that those EU ECAs that will be heavily involved in CRM extraction join the EP as a first step towards alignment. Two EU ECAs (Bpifrance and EIFO) likely to be involved in CRM extraction are already members of the EP.

In addition, as the EU has announced the creation of an EU critical raw material centre to “jointly purchase raw materials on behalf of interested companies”, if any of those joint purchase agreements may be supported by ECAs, this provides another opportunity to foster consensus about the importance of aligning and raising standards to manage the HRE risks and impacts of the energy transition. This approach is consistent with existing EU policy objectives to promote and require responsible supply chains, such as the CSDDD.

Pathway 2: Improve disclosure standards and practices by EU ECAs

Given the significant gaps identified in disclosure practices and transparency, enhancing ECAs’ disclosure standards is essential. Section 3 has discussed the requirements and reasons for disclosure and transparency in international standards, noting that the minimum required disclosure recommended by the OECD Common Approaches entails significant limitations. In particular, the requirement for disclosure is limited to those export credits falling under the OECD Arrangement, thus perhaps excluding most EU ECA-supported CRM extraction projects. There are also limits to disclosing information on Cat B projects, while no information is available for Cat C projects. Section 3 has finally highlighted discrepancies in the level of actual information disclosed across EU ECAs.

EU ECAs should build on individual good practices, align with other EU regulations and with the policies and practices of leading financial institutions and industry standards rather than being limited to the CA requirements. A recent [report](#) commissioned by a European Parliament Committee noted: ... *“as institutions that are either fully public or at least have a public mandate, ECAs may follow more strongly the leadership of bilateral and multilateral development banks and other public finance institutions in adhering to public transparency standards and consistent reporting disciplines towards public stakeholders.”*

With a view to EU policy coherence, there are opportunities for EU ECAs on the one hand and the European Commission on the other to work towards increased public disclosure, including on activities and financial support outside the OECD Arrangement. A long-term avenue will be a revision of Regulation 1233/2011 to reflect improved requirements on disclosure. In parallel and to feed into such legal reforms, there are various avenues to explore further:



- There is scope for improvement of the EC [Annual Review](#) of Member States' ECAs activities following the [EU Ombudsman recommendations](#) in 2018: the review should become more detailed and analytical, so as to allow for comparability amongst ECAs, and should offer evidence and reasoning on the compliance of States' disclosure with the OECD CA. The reporting template or 'checklist' that States follows when reporting to the EC has been updated several times and may present a more immediate pathway than the full review of the Regulation.
- The annual reporting to the EC and the EC annual review should also align with the disclosure requirements under the CSRD (which several EU ECAs will be required to apply from 2027 onwards), which may result in disclosure of information on activities outside the OECD Arrangement.
- Centralising the information on all EU publicly supported investment and guarantees, for instance through a central public database,²⁵ could be helpful. As this is an ambitious task and would require legal reforms this is a long-term goal and its feasibility and desirability need to be further examined.

While avenues for improved disclosure appear more promising at individual States and ECA level or within the EU, some options for improvement are available at the OECD. At a minimum, OECD ECAs should be encouraged to fully implement current CA disclosure requirements and work to harmonise minimum disclosure standards, ensuring more consistency across ECAs. The OECD Working Party on Export Credit Group could also increase the timeliness of disclosure of information asked and received from Participants to allow for stakeholders' understanding and engagement.²⁶ In the long-term, the CA disclosure requirements should be revised to reflect good practices and international standards.

CRM project disclosure

Specific to CRM financing, as an alternative to a central public database for all investments discussed under 2.1, **the EU could consider setting up such repository of minimum information for ECA support to CRM projects.** In parallel to EU-level efforts, as they fund CRM-related projects individual EU States should disclose the full extent of their support to such projects with at least the same level of details as done for Category A projects under the OECD Arrangement. CRM extraction projects will generally be categorised Category A given the well-known E&S and human rights risks in the sector.

Going beyond a mere good practice **EU Member States should require ECAs associated with them implementation of the disclosure requirements of the OECD Common Approaches to CRM projects irrespective as to whether the actual support falls under the OECD Arrangement or not.**

²⁵ A 2024 report commissioned by the International Trade (INTA) committee of the European Parliament ([Aligning European export credit agencies with EU policy goals](#)) suggests such central public database.

²⁶ The last report on States' disclosure dates from 2023 for data 2017-2021. The next report is planned for early 2026. A solution might be to disclose minimum level information annually while keeping the publication of analytical reports of that data every three years.



Thus, for CRM-related projects, particularly linked to extraction, the following minimum information should be disclosed by the ECA²⁷:

- Name, location and short summary of the project and of the client
- Volume and type of financing/support
- Pre-commitment disclosure: Information on E&S risks and impacts related to the project, including links to E&S Impact Assessments (ESIAs), and the project risk classification, disclosed a minimum of 60 days before ECA commitment for Category A investments/support (as per best practices of MDBs such as the EBRD²⁸ and [IFC](#)) and at least 30 days for other projects.²⁹
- Post-disclosure of projects of all categories should be done on a regular basis and be accessible in the national language of the ECA as well as English (e.g. website, annual reports), for instance like BpiFrance on a trimestral basis
- For projects with high risks (category A) a summary of the project's E&S risks and mitigation measures planned, in addition to related action plans (see UKEF practices, *Box 10*, Section 3.1)
- Relevant available complaint mechanisms at ECA, client and project level.

Improved disclosure practices can build on some ECAs' emerging good practices, such as those highlighted in *Box 10* above, industry standards in development finance, [Equator Principles](#)' minimum reporting requirements, as well as CSO guidance and benchmarking initiatives (see next). The ECA-led E3F initiative may also serve as an example with respect to standards of [reporting](#) on activities related to fossil fuels and renewables.

[Encourage increased disclosure and accountability through benchmarking](#)

Benchmarking of ECAs' transparency does not appear to exist with respect to responsible business conduct or human rights. Usefully, there are existing templates on which to build a benchmarking study on ECAs, as well as partners with in-depth technical expertise to liaise with.

MDBs and DFIs have notably been subject to various benchmarking and comparative studies, on several issues such as [human rights](#), [financial intermediaries](#), and transparency and disclosure, the latter benchmarking being led by Publish What You Fund (PWYF). PWYF compiles a [Development Transparency Index](#), the methodology of which offers many elements against which an ECA could be benchmarked. The Index also shows what is possible and being done by leading MDBs and DFIs.

²⁷ See also disclosure elements suggested in the 2024 [report to the European Parliament](#) (p.37).

²⁸ See [Access to Information Policy and Directive on Access to Information](#) (2024)

²⁹ As for IDB Invest it commits to disclose information on *all* projects "when the investment is *in the analysis stage* before approval. Its [Access to Information Policy](#) notes that this pre-approval disclosure includes project description, rationale for IDB Invest's categorisation of a project, description of the main E&S impacts and risks, key measures identified to mitigate the referenced risks and impacts (including action plans), and weblinks to ESIs.



Benchmarking initiatives are also helpful to prompt more disclosure and a race to the top at national level. For instance, in 2023 the Danish Institute for Human Rights (DIHR) published a [Benchmarking of the financial sector in Denmark](#), which included the Danish DFI though not the Danish ECA EIFO (due to changes at time of the benchmarking).

Pathway 3: Strengthen ECA accountability and role in remediation for human rights and environmental impacts

Section 2 has identified accountability and ECAs' role in remediation to be lacking. Two broad avenues to act upon are to: (i) strengthen ECAs' remediation role and alignment with international business and human rights standards; and (ii) increase accountability of ECAs through individual complaints – in particular through the NCP system.

Strengthening ECA's remediation role and processes

The OECD Working Party on ECG has already identified the role of ECAs in remediation as an issue meriting further exploration (see [report](#) paras. 181-183). To this end it may be beneficial to **support or conduct research on ECAs' existing grievance mechanisms** and complaint procedures, areas for improvement, against good practices and international standards. This research can also serve as a basis for peer learning and dialogue within the OECD Working Party on ECG, the EU and other convening spaces such as Equator Principles meetings.

A long-term avenue would be to fully align OECD and EU frameworks, and ECAs' policies on grievance mechanisms, with the UNGPs. This means setting up a grievance mechanism in place for the ECA to receive grievance or complaints from individuals or communities affected by a project with ECA involvement and determining ECA's distinct role in remediation (by contrast to its clients and project operators). Given the nature of the support by ECA, an ECA will have direct linkage to adverse impacts at project-level – though may consider scenario whereby it may contribute to the adverse impacts. In the most common scenario the question is how ECAs, as business enterprises with close ties to the State, can facilitate remedy effectively, i.e. to use their influence and leverage to prevent, mitigate or address adverse impacts related to a project they are involved with. The role of States owning ECAs or in contract with them should also be examined – in ensuring ECAs do take their remediation responsibilities seriously and are accessible to individual, communities and CSOs who may want to raise concerns.

Because of the nature of ECAs, the appropriate mechanism may look different from a standard business grievance mechanism. EU ECAs should look at practices of Equator Principles members, emerging practices in the commercial financial sector, and, in particular, at established practices in development finance.

MDBs and bilateral DFIs have had established independent accountability mechanisms (IAMs) for years. Bilateral DFIs are often State-owned enterprises as well and so of a closer nature to ECAs than other financial institutions. While these mechanisms were first created at MDBs (starting with the creation of the [Inspection Panel](#) of the World Bank in 1993), recent years have seen the creation of various IAMs attached to one or several bilateral



DFIs (such as the joint Dutch, German and French DFIs' [Independent Complaints Mechanism](#)). These IAMs generally include a dispute resolution function - which has led to meaningful agreements between clients and complainants - and an E&S compliance function, both of which aim to facilitate remedy for complainants. They have been successful in leading to accountability and bringing about institutional learning and improved E&S performance by their respective institutions.

ECAs and the member States managing their ownership or contracts should consider whether establishing mechanisms similar to those of MDBs and DFIs may be appropriate for ECAs, as one example of a grievance mechanism. However other mechanisms and approaches should be examined through stakeholder engagement and peer consultations, as there likely will be national preferences, and existing mechanisms and institutions in development finance also require improvements, in particular on their [remedy](#) mandate and outcomes.

Opportunity for accountability and remediation through non-judicial mechanisms

Accountability through individual complaints has been under-used so far and so could be explored further using the full range of judicial and non-judicial mechanisms available, including through the OECD NCP system.

Given the flexibility of the NCP system compared to a judicial process, it is a legitimate and complementary avenue for receiving and managing grievances that cannot be solved at project level. In addition, now that the OECD Investment Committee has clarified the factors that may determine whether an ECA qualifies as MNE under the OECD Guidelines (see Section 2), it may be easier for stakeholders to understand when a case could be brought to and accepted by an NCP.

NCPs are State-appointed bodies. The OECD MNE Guidelines' latest revision includes updated guidance for the NCPs' effectiveness. CSOs such as OECD Watch regularly review the effectiveness of NCPs and provide [recommendations](#) for improvement. In the case of addressing complaints related to an ECA, the NCPs themselves should carefully consider the OECD Investment Committee's recommendations on the qualification of an ECA as MNE, as well as available recommendations for increased effectiveness, including on [remedy](#), for which track-record has been weak so far.

At the same time, States managing the ownership of ECAs or in a contractual relationship with an ECA for public service delivery should encourage an ECA subject to an NCP complaint to participate in good faith in dispute resolution/assessment efforts handled by the NCP and consider any lesson coming from an NCP case for institutional learning and improvement.

Against this backdrop, as for any accountability and remedy initiative involving ECAs, disclosure and transparency remain an issue. While CSOs will need to increase resources to track and identify the involvement of an ECA in a project level, ECAs themselves should improve their overall disclosure and transparency, as discussed under Pathway 2.



Annex 1. List of EU Export Credit Agencies

Table based on the EU [List of EU Export Credit Agencies that reported some activity in 2023 in the sense of Regulation \(EU\) No 1233/2011](#). The UK ECA was added to the list.

Country	Name of ECA(s)	Reported activities in 2023 under the OECD Arrangement, in the sense of Regulation 1233/2011
Austria	Oesterreichische Kontrollbank AG (OeKB)	√
Belgium	Credendo	√
Bulgaria [not an OECD member]	Bulgarian Export Insurance Agency (BAEZ)	none
Croatia	Croatian Bank for Reconstruction and Development (HBOR)	√
Cyprus	No dedicated State-backed ECA	none
Czechia	Export Guarantee and Insurance Corporation (EGAP) & Czech Export Bank (CEB)	√
Denmark	Export and Investment Fund of Denmark (EIFO)	√
Estonia	KredEx Krediidikindlustus	√
Finland	Finnvera	√
France	BpiFrance	√
Germany	Euler Hermes Aktiengesellschaft	√
Greece	Export Credit Greece S.A. (ECG)	none
Hungary	Export-Import Bank Plc (Eximbank) & Hungarian Export Credit Insurance Plc. (MEHIB)	√
Ireland	Does not have a dedicated State-backed ECA but Enterprise Ireland plays some of this role.	none
Italy	SACE & SIMEST	√
Latvia	Altum	none
Lithuania	ILTE	none
Luxembourg	Office du Ducroire (ODL)	√
Malta	Malta Enterprise	none
The Netherlands	Atradius Dutch State Business	√
Poland	KUKE S.A.	√
Portugal	COSEC (Companhia de Seguro de Créditos) & Banco Português de Fomento (BPF)	√
Romania	EximBank S.A.	√



Slovakia	Eximbanka Sr.	√
Slovenia	SID Bank Inc.	√
Spain	Compañía Española de Seguros de Crédito a la Exportación (CESCE) & Instituto de Crédito Oficial (ICO)	√
Sweden	Swedish Export Credits Guarantee Board (EKN) & the Swedish Export Credit Corporation (SEK)	√
UK	UK Export Finance (UKEF)	√



Annex 2. International frameworks' application to Export Credit Agencies

Question 1: Do the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (MNE Guidelines) apply to ECAs?

Yes, the MNE Guidelines may apply to ECAs, but not to all of them, and the determination of such application must be done on a case-by-case basis, considering several criteria set out by the OECD Investment Committee and expressed by NCPs in specific instances.

The MNE Guidelines do not include a definition of a multinational enterprise. As a result, and in the absence of more specific clarification from relevant OECD bodies, the determination of whether an ECA could qualify as MNE as per the Guidelines has been left to individual National Contact Points (NCPs) to which complaints were brought. While the body of cases related to ECAs is small, some findings are that complaints were accepted due to commercial guarantee activities and rejected due to lack of commercial status or activities. NCPs have also examined whether the ECA was directly linked to the alleged adverse impacts of a project and found on a couple of occasions that [this was the case](#).

For instance, the UK NCP rejected a complaint against UKEF in 2020 by underlying that (1) UKEF does not strictly engage in commercial activity, and (2) that “UKEF does not have a separate corporate legal personality but rather exists as a government department having its legal personality as the Secretary of State for International Trade”. (see *Global Witness v. UK EF*). In accepting the complaint against Atradius (private entity with public mandate), the Dutch NCP noted its status as private enterprise and stressed that the specialised framework regulating ECAs – the Common Approaches – does not preclude other standards such as the MNE Guidelines to apply (see box 1).

Box 1. [Both ENDS et al vs Atradius Dutch State Business \(ADSB\)](#)

Commenting on the Dutch State's argument that the MNE Guidelines do not apply to export credit insurers because they are covered by special regulations (the 'Common Approaches'), the NCP stated: “[T]he Common Approaches do not preclude the Guidelines' applicability to the OECD member states or implementing organisations. Furthermore, ADSB states that it attaches great importance to its corporate social responsibility both as a private enterprise and as a manager of the Dutch State's export credit insurance facility. The NCP is of the opinion that the export credit services by the Dutch State and ADSB are part of a business relationship within the meaning of the Guidelines.” (Final Statement)

In 2024, the OECD Investment Committee [formally responded](#) to a request from CSOs about the applicability of the MNE Guidelines to ECAs, specifically to what extent entities not traditionally considered multinational enterprises, such as government agencies or entities carrying out functions on or behalf of a government can be subject to a specific instance proceeding. In its response the Committee reiterates the Guidelines' take that whether ownership is private, State, or mixed and the economic sector it operates do not have relevance for whether an entity may be considered a multinational enterprise and thus



subject to a specific instance proceeding. It also reaffirms the role of NCPs in interpreting the applicability of the MNE Guidelines to an ECA and eligibility of a complaint on a case-by-case basis. It does nonetheless offer some criteria to help NCPs determine such qualification (see Box 2 below).

Box 2. Response by OECD Investment Committee to OECD Watch and TUAC's request for clarification regarding interpretation of the OECD MNE Guidelines with respect to their application to the business activities of export credit agencies

"As ECAs are organised in a variety of different forms and perform a large (and growing) portfolio of functions, the clarifications, guidance and NCP outlined above indicate that it would not be appropriate to categorically conclude that they should or should not be considered to be a "multinational enterprise" for the purpose of the Guidelines and thus subject to specific instance proceedings. Such an assessment should be made on a case by case basis and consider particularly but not exclusively the following factors:

1. Whether there is a sufficient commercial dimension
 - a. Does the entity have a legal form that is commercial in nature?
 - b. Does the entity have a commercial purpose?
 - c. Are the activities in question commercial in nature? In this respect, can or do other market actors engage in the same type of activity?

Many ECAs have a presence in multiple countries and their purpose and core activities are expressly transnational in nature. As such, they likely meet the test of having an international dimension." (paras 49 & 50)

Question 2: Do the UN Guiding Principles on Business and Human Rights apply to ECAs? What are the obligations of States with respect to ECAs?

The answer is yes, irrespective of their status as either State entities or business enterprises. In addition, under the UNGPs States have additional obligations in relation to these enterprises that are closest to them – be they SOEs, ECAs, or businesses that deliver public services.

Where ECAs are State entities, they remain bound by the UNGP State duty to protect, and should pursue those obligations as elaborated, including by, for example, requiring companies it supports to carry out human rights due diligence in line with the UNGPs (see clarification by the [OECD Investment Committee](#) in 2024).

In addition to the State's general duty to protect, the UNGPs foresee specific obligations for States to *"take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the State, or that receive substantial support and services from State agencies such as export credit agencies and official investment insurance or guarantee agencies, including, where appropriate, by requiring human rights due diligence."* (principle 4)

Principle 4 makes a distinction between SOEs and ECAs. In practice a majority of EU ECAs are State-owned. And while the typical SOE operates in a very different manner to a State-owned ECA the risk exposure of both SOEs and ECAs may be significant. Given the type of



commercial activities they conduct or are involved in, they expose themselves to financial, reputation or legal risks— and thus risks to the State that owns them or with which they are closely associated. Thus the UNGPs recommend that “[g]iven these risks, States should encourage and, where appropriate, require human rights due diligence by the agencies themselves and by those business enterprises or projects receiving their support.” (Commentary, principle 4).

When the ECA is State-owned, another set of frameworks becomes relevant to regulating ECAs’ business conduct – primarily the OECD [Guidelines on Corporate Governance of State-owned Enterprises](#) (‘SOE Guidelines’, revised in 2024) and guidance by [the UN Working Group on Business and Human Rights](#) (WG on BHR). At national level States have also adopted specific Policies on SOEs. The SOE Guidelines state that “*SOEs should ...entail risk-based due diligence to identify, prevent and mitigate actual and potential adverse impacts of the business and account for how these impacts are addressed in accordance with the OECD MNE Guidelines which are applicable to SOEs.*” This recommendation is consistent with the corporate responsibility to respect human rights.

The added value is that **the State managing the ownership of an SOE has the obligation to require the conduct of HRDD and monitor its implementation**. It cannot treat the SOE as any other company but must demonstrate it has taken additional steps to ensure the enterprise it owns or controls leads by example. The SOE Guidelines (VII.D) stress that “*the State as an owner should set high expectations for SOEs’ observance of responsible business conduct standards together with effective mechanisms for their implementation.*”

Box 3. Good practice on management of State-owned ECA

In its [report on SOEs](#), the WG on BHR identified some good practices, including from Sweden. The management of the State-owned ECA (SEK) reflects the State Ownership Policy and principles for State-owned Enterprises. SEK’s [Sustainable Finance Policy](#) sets clear requirements for SEK to apply international frameworks when conducting risk assessment and mitigation, including the UNGPs, the OECD MNE Guidelines, the Equator Principles or the Common Approaches. As for the Finnish ECA Finnvera it states that it not only respects the UNGPs and the OECD MNE Guidelines in its operations but also complies with the State owners’ corporate responsibility programme and its objectives.” (Code of Conduct)

Finally, in the scenario whereby the **State enters into contracts with a privately owned ECA** to provided export credit services on its behalf, principle 5 of the [UNGPs](#) provides that States should exercise **adequate oversight** in order to meet their international human rights obligations when they contract with, or legislate for, business enterprises to provide services that may impact upon the enjoyment of human rights. Amongst steps to take, the relevant service contracts or enabling legislation should clarify the State’s expectations that these enterprises respect human rights. States should ensure that they can effectively oversee the enterprises’ activities, including through the provision of adequate independent monitoring and accountability mechanisms (Commentary, principle 5).

