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PRACTICAL INFORMATION

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Assessment of environmental, social, and human rights (ESHR) issues in export transactions: the OECD Common Approaches

EXPORT CREDIT GUARANTEES OF THE FEDERAL REPUBLIC OF GERMANY

Hermes Cover

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Assessment of environmental, social, and human rights (ESHR) issues in export transactions: the OECD Common Approaches

Officially supported export transactions are subject to numerous framework conditions. Consequently, Export Credit Guarantees provided by the Federal Republic of Germany are regulated by both national and international guidelines. The shared prerequisites for officially supported exports among OECD countries are outlined in the OECD Consensus, aiming to establish a level playing field for export companies from member states. Since 2004, the Common Approaches have been in place, setting forth the procedural and assessment requirements for OECD export credit agencies regarding environmental, social, and human rights (ESHR) risks and impacts. ESHR considerations are a crucial criterion in determining the eligibility for support of export credit transactions offered for coverage.

The Common Approaches consider both the roles, responsibilities, and potential influence of exporters, banks, and export credit agencies, as well as the public expectations within OECD countries. These approaches are regularly updated to reflect new insights and requirements.

In early 2024, the OECD Council adopted a revised version titled “Recommendation on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence”.[1]

[1] Internet link, cf. page 11

WHO IS RESPONSIBLE FOR ASSESSING ENVIRONMENTAL, SOCIAL, AND HUMAN RIGHTS RISKS AND IMPACTS IN CONNECTION WITH EXPORT CREDIT GUARANTEES?

Experts from the Department of Sustainability conduct the review of applications for coverage concerning ESHR aspects[2] of projects, utilizing both their technical expertise and their knowledge of countries and sectors. They are ready to explain the individual aspects of the assessment to applicants and project participants, and assist them in gathering information or undertaking any other relevant measures.

WHICH BUSINESS TRANSACTIONS FALL UNDER THE COMMON APPROACHES?

Generally, goods and services with a repayment term exceeding two years and an order value of at least 10 million special drawing rights (currently equivalent to EUR 15 million) fall within the scope of the Common Approaches. This threshold is based on the premise that it provides applicants (exporters and/or banks) with sufficient opportunity to gather project information and exert influence. The Common Approaches mandate a site-specific assessment of the ESHR risks and impacts of projects. Consequently, movable goods without a fixed location, such as airplanes and ships, are not included within their scope. Additionally, agricultural products and military equipment are explicitly excluded.

If multiple applications, including those from different exporters, are submitted for the same project, the cumulative order value is crucial for determining the classification and depth of the review. Consequently, smaller partial deliveries with an order value of less than EUR 15 million may still be subject to the ESHR impact assessment if the total value of all individual transactions surpasses this threshold.

[2] Internet link, cf. page 11

WHAT DOES THE TERM "PROJECT" MEAN WITHIN THE CONTEXT OF THE COMMON APPROACHES?

In the context of the Common Approaches, the concept of a "project" is particularly important as it defines the scope of the review. The assessment of ESHR risks and impacts in the buyer's country encompasses not only the German goods and services for which cover is applied but also the entire project. During this process, consideration is given to the exporter's ability to influence the project, for which the buyer is responsible.

The term **project** refers to all capital goods and services to be exported to a specific location. This can involve either a new undertaking or any substantial modification of an existing undertaking concerning output or function, potentially leading to changes in ESHR impacts.

A project includes all components that the buyer, operator, or project sponsor owns, operates, or manages directly, and that are physically and technically integrated with the undertaking. Therefore, the Common Approaches are based on the criterion of responsibility of the foreign project operator or buyer for a facility or project.

In contrast, capital goods and services for an existing undertaking that do not cause any material changes in output or function—and consequently, no changes in the ESHR impacts of the operation—must be distinguished from projects. These so-called **existing operations** are not subject to the prerequisites governing projects, such as the depth of review and duties of disclosure. Therefore, in such cases, a review of the ESHR risks will suffice, and benchmarking against international standards is not required.

Examples of deliveries to existing operations without material changes include modernizations and equipment replacements, such as renewing a production line for glass bottles or modernizing a baggage handling system.

ARE FACILITIES ASSOCIATED WITH THE PROJECT ALSO SUBJECT TO REVIEW?

Especially in the case of large-scale projects, additional associated facilities are often newly constructed alongside the main project. Since different criteria apply to the review of such **associated facilities**, it is crucial to determine which undertakings are still considered project components and which are merely associated facilities.

Associated facilities are those that are not part of the project components but would not be constructed or expanded if the project did not exist, and upon whose existence the project's viability depends. It is irrelevant whether the buyer finances, owns, operates, manages, or constructs these facilities, or if this is done by third parties or separately.

Regarding the review of associated facilities, the Common Approaches, where appropriate, provide for an assessment of potential ESHR risks and impacts based on existing information, with due consideration of the contexts in terms of time and place. During this process, reasonable efforts should be made to benchmark against international standards.

IFC PERFORMANCE STANDARDS

1. Assessment and Management of Environmental and Social Risks and Impacts
2. Labor and Working Conditions
3. Resource Efficiency and Pollution Prevention
4. Community Health, Safety and Security
5. Land Acquisition and Involuntary Resettlement
6. Biodiversity Conservation and Sustainable Management of Living Natural Resources
7. Indigenous Peoples
8. Cultural Heritage

WHAT ARE THE STANDARDS APPLIED?

The Common Approaches establish the general principles for conducting reviews and set the standards. Initially, a project must comply with the **national legislation** of the buyer's country. Compliance can be demonstrated, for example, through information on local permits such as operating or environmental permits.

Additionally, the Common Approaches require benchmarking against the **international standards** of the World Bank Group. These include, in particular, the Performance Standards of the International Finance Corporation (IFC Performance Standards)[3] and the World Bank Environmental and Social Standards[4], as well as the technical sector guidelines of the World Bank Group, specifically the Environmental, Health, and Safety Guidelines.[5]

[3-4-5] Internet link, cf. page 11

According to the Common Approaches, the IFC Performance Standards are generally applied. However, for projects with sovereign obligors, the World Bank Environmental and Social Standards may be used.

For an overview of the review standards applied in each case, the website of the Export Credit Guarantees of the Federal Republic of Germany provides a questionnaire not related to any specific sector, along with sector-related checklists on its **ESHR Assessment** page. These essential tools are based on the review aspects of the aforementioned international standards.[6]

WHAT DOES THE REVIEW PROCEDURE ENTAIL AND WHAT INFORMATION IS REQUIRED?

The Common Approaches outline the ESHR impact assessment process, which involves several stages (see also page 8):

1. **Screening**: The first stage involves determining whether a business transaction for which cover is applied is subject to the ESHR impact assessment.

2. **Classification**: If applicable, the next stage is to classify the project into an ESHR category, which determines the scope of the subsequent assessment.

3. **Review**: This stage involves the actual assessment of the ESHR impacts, including benchmarking against the applicable standards.

The assessment of ESHR impacts is conducted simultaneously with the review of risk justifiability. The results are combined into a recommendation for the Interministerial Committee (IMC).[7] If necessary, the decision may be subject to conditions, which could include ongoing **monitoring** (see page 7) throughout the project's duration after cover is granted.

Typically, the assessment begins with preparing a detailed set of questions for the applicant to address, focusing on additional information not included in the initial application documents. The topics raised vary based on the project's country, sector, and site, and are influenced by the applicable assessment standards.

If necessary, on-site visits are conducted to inspect the project, involving local German embassies or external consultants. Travel expenses for these visits are generally borne by the applicant.

The Common Approaches require the applicant to provide adequate information to evaluate the ESHR aspects relevant to the project. Initial information is crucial for classification and establishing the review's scope and depth. A project memorandum or the sector-neutral questionnaire submitted with the application can facilitate processing. Since the ESHR impact assessment can be conducted alongside the credit review, providing relevant information early helps ensure timely processing.

WHY ARE PROJECTS SUBJECT TO CLASSIFICATION?

The Common Approaches utilize a risk-oriented approach, where the scope of assessment is determined by the potential ESHR risks and impacts associated with the project. Based on the severity of potential adverse impacts, a project is classified into one of three ESHR categories: A, B, or C. Projects in Categories A and B undergo an in-depth assessment of ESHR impacts, while projects in Category C do not require further review unless other factors increase the risk.

WHAT CHARACTERIZES CATEGORY A PROJECTS?

Category A projects are characterized by significant adverse ESHR impacts that are diverse, irreversible, and/or unprecedented. Consequently, they require a more

[6,7] Internet link, cf. page 11

rigorous assessment of ESHR impacts.

Annex I of the Common Approaches provides an indicative list of project types likely to be classified as Category A. This includes projects that involve the resettlement of a significant number of people.

Additionally, projects located in or near **sensitive areas** are, in principle, classified as Category A, regardless of their order value. Sensitive areas include national parks, areas protected by national or international law, and regions of international, national, or regional importance. Examples include wetlands, forests with high biodiversity value, areas of archaeological or cultural significance, and areas important to indigenous peoples or other vulnerable groups.

WHAT CHARACTERIZES CATEGORY B PROJECTS?

Category B projects have potential ESHR risks and impacts that are lower than those of Category A projects. Their impacts are typically limited to the local area, more readily reversible, or less severe beyond the project site. Despite this, a comprehensive benchmarking against relevant reference standards is conducted, taking into account the associated risks.

The scope and level of detail in the ESHR impact assessment for a Category B project can vary depending on the specific project. Typical examples of Category B projects include wind power plants and facilities for manufacturing medium-density fiberboard.

WHICH PROJECTS FALL UNDER CATEGORY C?

Projects that are characterized by minimal or no adverse ESHR impacts are classified as **Category C**. This includes all projects within the scope of the Common Approaches that do not fall under Category A or B. These projects do not require further assessment.

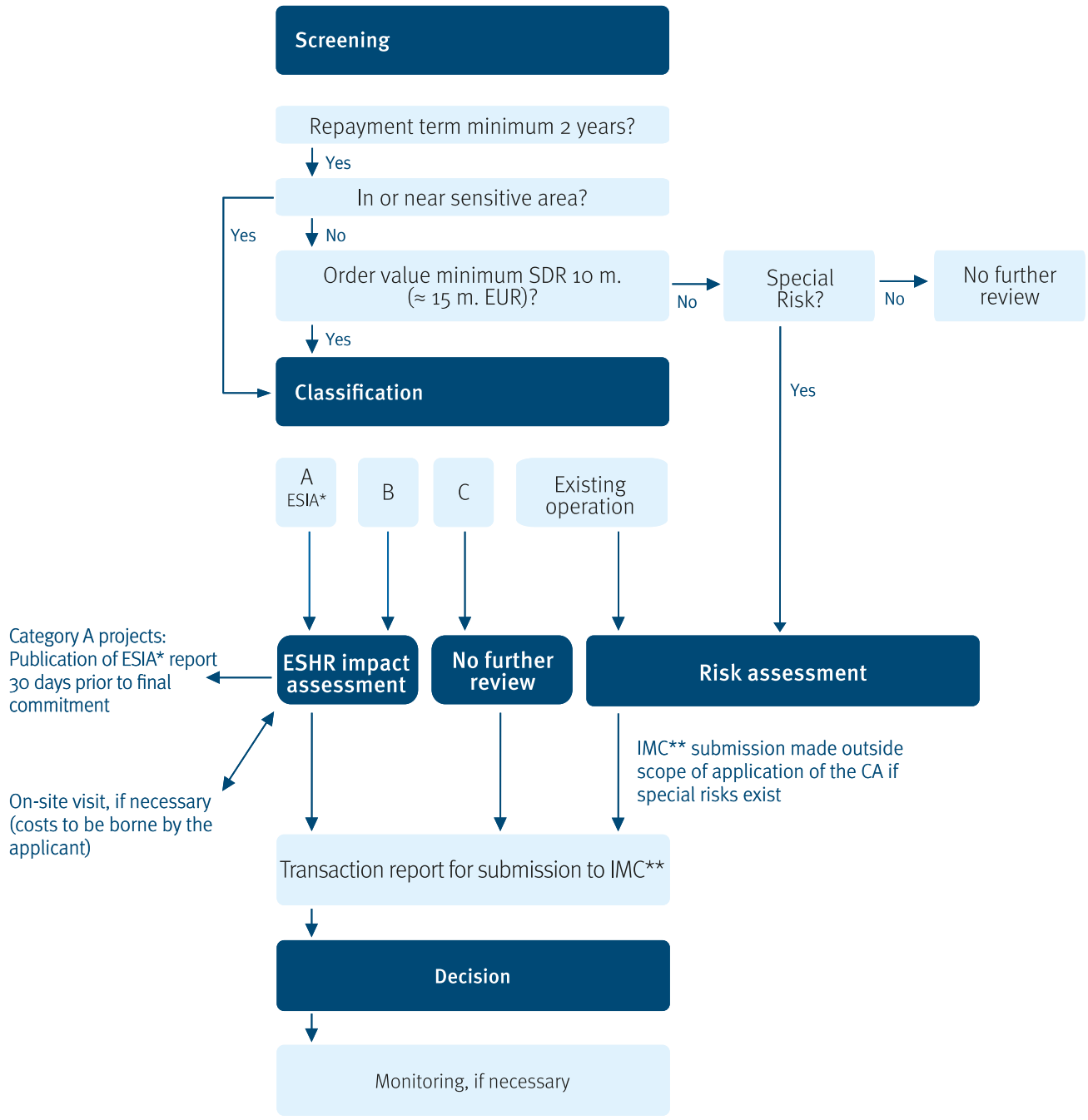
WILL THE PROJECT BE MONITORED BEYOND THE GRANTING OF COVER?

Monitoring is required if the Federal Government mandates the fulfillment of specific conditions or special agreements as a prerequisite for cover, ensuring compliance with the standards applied during the project. These agreements and requirements are established with careful consideration of the project's risks and the scope of potential negative impacts, in alignment with international standards and taking into account the extent of the exporter's or bank's involvement and influence in the overall project. Typically, monitoring is necessary for complex Category A projects with significant ESHR risks or impacts.

Furthermore, according to the Common Approaches, all project-financed undertakings classified as Category A must be monitored throughout the repayment term.

In such cases, experts from the Department of Sustainability will oversee the project for an appropriate period, up to the full repayment term, depending on specific conditions and project aspects. For the exporter, this may involve submitting monitoring reports at agreed intervals, detailing project progress and compliance with the agreed implementation of objectives.

ENVIRONMENTAL, SOCIAL AND HUMAN RIGHTS ASSESSMENT



* = Environmental and Social Impact Assessment, mandatory for Category A projects

** = Interministerial Committe

EXAMPLE: ESHR ASSESSMENT OF A CATEGORY A PROJECT

EXPANSION OF AN OPEN-PIT MINE

A German exporter applied for cover for **goods and services related to a materials handling system**. The project, an expansion of an open-pit mine, was classified as a Category A project. The Common Approaches require the submission of an Environmental and Social Impact Assessment (ESIA) report for Category A projects, which was provided with the application documents. In this case, the exporter was asked to submit a final version of the environmental action plan, the environmental management plan (EMP), and the latest monitoring report on air emissions, groundwater quality, and water discharges into a nearby river. Additionally, given that the ESIA indicated potential impacts on nearby farms, detailed information was requested regarding the development of the groundwater level and the overall water balance.

Throughout the assessment process, characterized by close cooperation among the exporter, foreign buyer, financing banks, and the export credit agency, an on-site visit was arranged. The findings from this visit were incorporated into the transaction report submitted to the IMC, resulting in a positive decision for the transaction for which cover was applied. It was agreed that monitoring reports would be submitted at specified intervals for review by the export credit agency. This type of project monitoring ensures that the terms of cover are reviewed even after cover is granted, for example, during the construction work for the expansion, and that compliance is maintained.

EXAMPLE: ESHR ASSESSMENT OF A CATEGORY B PROJECT

CONSTRUCTION OF A WIND FARM

A manufacturer of wind power plants applied for cover for **goods and services related to the construction of a wind farm**. The project was classified as Category B. At the beginning of the assessment, information gaps identified in the submitted documents (project memorandum) were addressed using a project-specific set of questions. These questions focused on potential land expropriation and economic resettlements (loss of income sources due to loss of agricultural land), potential impacts on sensitive areas (such as sanctuaries), and effects on the local population due to noise pollution and shadow impact. Additionally, considerations were given to the required access roads and power lines.

Responses indicated that most of the sites could be leased from the state, eliminating the need for private expropriation. No significant impacts were anticipated from noise or shadows. However, a potential impact was identified concerning a major bird migration route near the wind farm. Consequently, further information regarding the potential impact on migratory birds was requested. The analysis of the submitted reports indicated that no major impact was expected. These findings were included in the transaction report submitted to the IMC, which resulted in a positive decision on the transaction.

ARE ENVIRONMENTAL, SOCIAL, AND HUMAN RIGHTS IMPACT ASSESSMENTS CONDUCTED FOR EXPORTS OUTSIDE THE SCOPE OF THE COMMON APPROACHES?

Essentially, if there are indications of serious ESHR risks, a risk assessment will be conducted regardless of whether the project falls within the scope of the Common Approaches (known as the “watchful-eye approach”). This assessment considers the specific characteristics of the transaction for which cover is applied.

Transactions with a repayment term of less than two years are exempt from the Common Approaches. However, a risk assessment is still performed for export credit guarantees in this area, focusing on:

- existing project risks such as protests, critical reporting, human rights violations, resettlements, or sensitive areas;
- sectors identified as particularly risky based on current insights.

In these cases, the risk assessment is more focused on the German delivery and the specific circumstances of each case, typically utilizing existing information. It also considers the limited ability of the exporter to obtain information and exert influence on the project environment, project design, and the buyer, due to the absence of credit financing. Complete benchmarking against international standards is not conducted.

TRANSPARENCY

The Common Approaches outline which information regarding assessed and covered projects subject to ESHR impact assessment should be shared within the OECD or disclosed. This transparency aims to foster a level playing field among various OECD export credit agencies and facilitate the exchange of experiences. This is also one of the objectives of the regular meetings held by the technical working group of ESHR experts from export credit agencies.

The Common Approaches require project-related ex post reporting of all Category A and B projects to the OECD, specifying the details of the assessment to be reported and the frequency of reporting. Additionally, export credit agencies are obligated to publish the projects they have assessed and reported to the OECD.[8]

For Category A projects, essential project information must be published at least 30 days before the final commitment. Additionally, the Environmental and Social Impact Assessment (ESIA) report must be made publicly available.[9]

[8] Internet link, cf. page 11

[9] Internet link, cf. page 11

FOR FURTHER INFORMATION CONSULT THE FOLLOWING LINKS

1 **Original wording of Common Approaches:**
https://one.oecd.org/document/TAD/ECG(2024)3/en/pdf

2 **Environmental, social and human rights impact assessment:**
www.exportkreditgarantien.de/en › Sustainability › Assessment of ESHR issues

3 **IFC Performance Standards:**
https://www.ifc.org/en/insights-reports/2012/ifc-performance-standards

4 **World Bank Environmental and Social Standards:**
https://projects.worldbank.org/en/projects-operations/environmental-and-social-framework/brief/environmental-and-social-standards

5 **Environmental, Health, and Safety Guidelines (EHS Guidelines):**
https://www.ifc.org/en/insights-reports/general-environmental-health-and-safety-guidelines

6 **General questionnaire not related to any sector of industry and sector-related checklists:**
www.exportkreditgarantien.de/en › Sustainability › Assessment of ESHR issues

7 **Interministerial Committee (IMC):**
www.exportkreditgarantien.de/en › Knowledge › Knowledge transfer › Interministerial Committee

8 **Reporting to OECD:**
www.exportkreditgarantien.de/en › Sustainability › Responsibility

9 **Publishing of A projects:**
www.exportkreditgarantien.de/en › Sustainability › Trust › Category A projects

www.exportkreditgarantien.de/en

Export Credit Guarantees and Untied Loan Guarantees: instruments to promote foreign trade and investment provided by the

Federal Ministry
for Economic Affairs
and Energy

Commissioned to implement the federal funding instruments Export Credit Guarantees and Untied Loan Guarantees:

EULER HERMES

Cover from the Federal Republic of Germany for foreign business

Export Credit Guarantees and Untied Loan Guarantees have been established and effective foreign trade promotion instruments of the Federal Government for decades. Export Credit Guarantees (so-called Hermes Cover) protect German exporters and banks financing exports against political and commercial risks. Untied Loan Guarantees are to support raw material projects abroad regarded as eligible for promotion by the Federal Government. Both promotion instruments play an important role in fostering economic growth as well as in protecting and creating jobs. Federal Government commissioned Euler Hermes Aktiengesellschaft to manage the federal funding instruments Export Credit Guarantees and Untied Loan Guarantees.

Information on other foreign trade promotion instruments of the Federal Government can be found at **www.bundeswirtschaftsministerium.de/en** under the heading Promotion of Foreign Trade and Investment.

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