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HERMES COVER SPECIAL

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

EXPORT CREDIT GUARANTEES OF THE  
FEDERAL REPUBLIC OF GERMANY

► **Hermes Cover**

## ► Assessment of environmental, social and human rights (ESHR) issues of export transactions: The Common Approaches

Officially supported export transactions are subject to a vast number of framework conditions. Hence, Export Credit Guarantees of the Federal Republic of Germany are governed by national and international regulations. The common prerequisites of the OECD countries for officially supported exports are defined in the so-called OECD Consensus. Common rules for the assessment of environmental, social and human rights (hereinafter: ESHR) risks and impacts, the so-called Common Approaches<sup>1</sup>, have been in place since as early as 2004. These Common Approaches define the procedural and assessment requirements of the export credit agencies. ESHR issues today are an essential criterion when the eligibility for support of export credit transactions offered for cover is examined.

This procedure harmonised within the OECD is intended to create a level playing field for the export companies. In addition, German exporters are competing with suppliers from non-OECD countries the export credit agencies of which are not bound to the regulations of the OECD and, by implication, also not to the Common Approaches. This is why the Federal Government is supporting continuation and intensification of the dialogue with these countries on joint global standards.

The Common Approaches take into account, on the one hand, the role, tasks, and potential influence of exporters, banks, and export credit agencies but, on the other hand, also the public expectations in the OECD countries. In the process, the Common Approaches are being adjusted to new findings and requirements on a regular basis.

On 06 April 2016, the OECD Council last passed a revised version under the new title “Recommendation on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence”<sup>1</sup>.

In particular human rights aspects were given higher priority as part of the revision. Besides, the autonomy and visibility of these aspects in the assessment process were further enhanced through the implementation of the National Action Plan for Business and Human Rights (NAP)<sup>2</sup> in December 2016.

### WHO IS RESPONSIBLE FOR THE ASSESSMENT OF ENVIRONMENTAL, SOCIAL AND HUMAN RIGHTS RISKS AND IMPACTS IN CONNECTION WITH EXPORT CREDIT GUARANTEES?

Experts from the Department Sustainability perform the review of the applications for cover regarding ESHR aspects<sup>3</sup> of the projects both based on their technical expertise and the know-how of countries and sectors. They are prepared to explain to applicants and project participants the individual aspects of the assessment and support them in collecting information or in any other pertinent measures.

### WHICH BUSINESS TRANSACTIONS COME UNDER THE COMMON APPROACHES?

Basically, goods and services with a repayment term of more than two years and an order value of at least 10 million special drawing rights (currently translating at a value of 15 million euros) come within the scope of application of the Common Approaches. This is based on

<sup>1,2,3</sup> Internet link, cf. page 11

the understanding that this offers sufficient possibilities for the applicant (exporter and/or bank) to be able to collect project information and exert influence.

The Common Approaches provide for a site-related assessment of the ESHR risks and impacts of projects. As a consequence, movable goods without a fixed location such as airplanes and ships are not subject to their scope of application. In addition, agricultural products and military equipment are expressly excluded.

In the event of a number of applications (also from different exporters) having been submitted for one and the same project, the cumulative order value is decisive for the classification and determination of the depth of the review. By implication, also smaller part deliveries of an order value of less than 15 million euros may become the subject of the ESHR impact assessment if the sum of all individual transactions exceeds this threshold value.

### **WHAT IS TO BE UNDERSTOOD BY THE TERM PROJECT WITHIN THE MEANING OF THE COMMON APPROACHES?**

In the context of the Common Approaches the concept of project is of particular importance as it defines the scope of review involved. The assessment of the ESHR risks and impacts in the buyer's country does not merely refer to the German goods and services in respect of which cover is applied for but to the project as a whole. In the process, the exporter's possibilities of influencing the respective project, for which the buyer is responsible, are to be taken into account.

The term **project** refers to all capital goods and services to be exported to an identified location. This may be either a new undertaking or any material modification of an existing undertaking with regard to output or function and may result in changes in the ESHR impacts.

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

What must be differentiated from this is capital goods and services for an existing undertaking not causing any material changes in output or function and, by implication, no changes in the ESHR impacts of the operation. These so-called **existing operations** are not subject to the prerequisites governing projects, e.g. with a view to depth of review and duties of disclosure. In such cases therefore a review of the ESHR risks will do; benchmarking with international standards is not required.

Examples of deliveries to existing operations without material changes are modernisations and replacement of equipment such as the supply of turbine spare parts for a gas and steam turbine power plant or the replacing of filter units (for example for a coal-fired power station or steel mill).

## ► Assessment of environmental, social and human rights (ESHR) issues of export transactions: The Common Approaches

### ARE FACILITIES ASSOCIATED WITH THE PROJECT LIKEWISE SUBJECT TO REVIEW?

It is in particular in the case of large-scale projects that, apart from the project proper, frequently additional **associated facilities** are being newly built. As different prerequisites govern the review of such associated facilities, it is important to determine which undertaking is still a project component and which, as the case may be, is simply an associated facility.

Associated facilities are those facilities that are not project components but that would not be constructed or expanded if the project did not exist and on whose existence the viability of the project depends. It does not matter whether the buyer finances, owns, operates, manages or constructs the facilities or whether this happens through third parties or separately.

In respect of the review of associated facilities, if appropriate, the Common Approaches provide for an assessment of the potential ESHR risks and impacts on the basis of existing information and with due consideration of the contexts in terms of time and place. In the process, reasonable effort shall be made for a benchmarking with international standards.

#### World Bank Safeguard Operational Policies

1. Environmental assessment
2. Natural habitats
3. Forests
4. Pest management
5. Physical cultural resources
6. Involuntary resettlements
7. Indigenous peoples
8. Safety of dams
9. International waterways
10. Disputed areas

### WHAT ARE THE STANDARDS APPLIED?

The Common Approaches define the general principles governing a review and set the standards. A project must, to begin with, comply with the **national legislation** of the buyer's country. Proof may be furnished, for example, through information on local permits such as operating or environmental permits.

Moreover the Common Approaches require benchmarking with the **international standards** of the World Bank Group. These are in particular the World Bank Safeguard Operational Policies<sup>4</sup> and the Performance Standards of the International Finance Corporation (IFC Performance Standards)<sup>5</sup> as well as the technical sector guidelines of the World Bank Group, the Environmental, Health and Safety Guidelines.<sup>6</sup>

<sup>4,5,6</sup> Internet link, cf. page 11

According to the Common Approaches it is basically the World Bank Safeguard Operational Policies that are applied. For project-financed undertakings, by contrast, the IFC Performance Standards must be applied as review standards. This shall be done also, for example, for business transactions of a structure similar to project financing. Where, also from the point of view of the exporter or the bank providing the funding, it is useful, for example, if an Environmental and Social Impact Assessment (ESIA) report prepared in compliance with the IFC Performance Standards is available, a review subject to the IFC Performance Standards would also be conducted for the export credit guarantees.

For an overview of aspects 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 a particular sector and sector-related checklists on its [Responsibility](#) page. These important work tools are based on the review aspects of the international standards<sup>7</sup> mentioned above.

## WHAT DOES THE REVIEW PROCEDURE LOOK LIKE AND WHAT INFORMATION IS REQUIRED?

The Common Approaches provide for the ESHR impact assessment for the following stages (see diagram on page 8).

The first stage is to check whether a business transaction in respect of which cover is applied for is subject to the ESHR impact assessment (so-called [screening](#)). If that is the case, the next stage is to classify the project into a so-called environmental category which determines the scope of the following assessment ([classification](#)). This is followed by the assessment of the environmental and social impacts proper ([review](#)) in which benchmarking with the standards to be applied is conducted.

## IFC Performance Standards

- PS 1: Assessment and management of environmental and social risks and impacts
- PS 2: Labour and working conditions
- PS 3: Resource efficiency and pollution prevention
- PS 4: Community health, safety and security
- PS 5: Land acquisition and involuntary resettlement
- PS 6: Biodiversity, conservation and sustainable management of living natural resources
- PS 7: Indigenous peoples
- PS 8: Cultural heritage

The assessment of the environmental and social impacts as a matter of principle is conducted simultaneously with the review of the justifiability in terms of risk. The respective results are combined in a recommendation for a decision for the Interministerial Committee (IMC)<sup>8</sup>. Where reasonable or necessary, this decision may be made subject to conditions. These may also include monitoring over the further course of the project after granting of cover (so-called [monitoring](#), cf. page 7).

<sup>7,8</sup> Internet link, cf. page 11

## ► Assessment of environmental, social and human rights (ESHR) issues of export transactions: The Common Approaches

As a rule, the assessment starts with the preparation of a detailed set of questions to be submitted to the applicant for reply and concerning additional necessary information not yet available in the project information submitted with the application documents. Depending on project constellation (country, sector, project site), varying topics are raised resulting in the first place from the assessment standards to be applied.

As far as necessary visits on site to inspect a project will be carried out, the local German embassies involved or also external expertise (consultants) drawn on. Travel expenses for visits on site must normally be borne by the respective applicant.

The Common Approaches provide that the applicant makes available appropriate information permitting the evaluation of the ESHR aspects of relevance to the respective project.

Some initial information is indispensable for the classification and, by implication, for establishing the scope and depth of the review. A project memorandum, submitted together with the application for cover, or the questionnaire not related to a particular sector will facilitate processing. As the assessment of ESHR impacts can, in principle, be conducted simultaneously with the credit review, early furnishing of the relevant information will contribute to timely handling.

### WHY ARE PROJECTS SUBJECT TO CLASSIFICATION?

The Common Approaches adopt a risk-oriented approach making the scope of assessment depend on the potential ESHR risks and impacts that go together with the project. Depending on the severity of potential adverse impacts, a project is classified into one of the environmental categories: A, B, and C. Projects of Category A and B are subject to an in-depth assessment of ESHR impacts, projects of Category C do not require further review unless other factors increasing the risk play a part.

### WHAT CHARACTERISES PROJECTS OF CATEGORY A?

**Category A** projects have significant adverse ESHR impacts which are diverse, irreversible and/or unprecedented. Accordingly they are making higher demands on the assessment of the ESHR impacts.

Annex I of the Common Approaches offers an indicative list of project types to be classified as project type A with a high degree of probability. It includes, for example, also projects that will entail the resettlement of a significant number of people.

Moreover, projects located in or near a **sensitive area** will have to be classified as Category A projects regardless of their order value. Sensitive areas are national parks, other areas protected by national or international law and sensitive regions of international, national, and

regional importance. This includes, for example, wetlands, forests with a high biodiversity value, areas of archaeological or cultural significance, and areas of importance for indigenous peoples or other vulnerable groups.

### WHAT CHARACTERISES PROJECTS OF CATEGORY B?

The potential ESHR risks and impacts of **Category B** projects are lower than those of Category A projects. Impacts are locally limited or more readily reversible or cause less severe impacts beyond the project site. Still complete benchmarking is made against the relevant reference standards with due consideration of the risks.

The scope and degree of detailed analysis of the ESHR impact assessment of a Category B project may vary from project to project.

Typical Category B projects are wind power plants or facilities for the manufacturing of medium-density fibreboard.

### WHICH PROJECTS COME UNDER CATEGORY C?

Projects characterised by merely minimal or no adverse ESHR impacts are classified under **Category C**. This refers to all projects in the scope of application of the Common Approaches that are not classified either under Category A or B. They do not require further assessment.

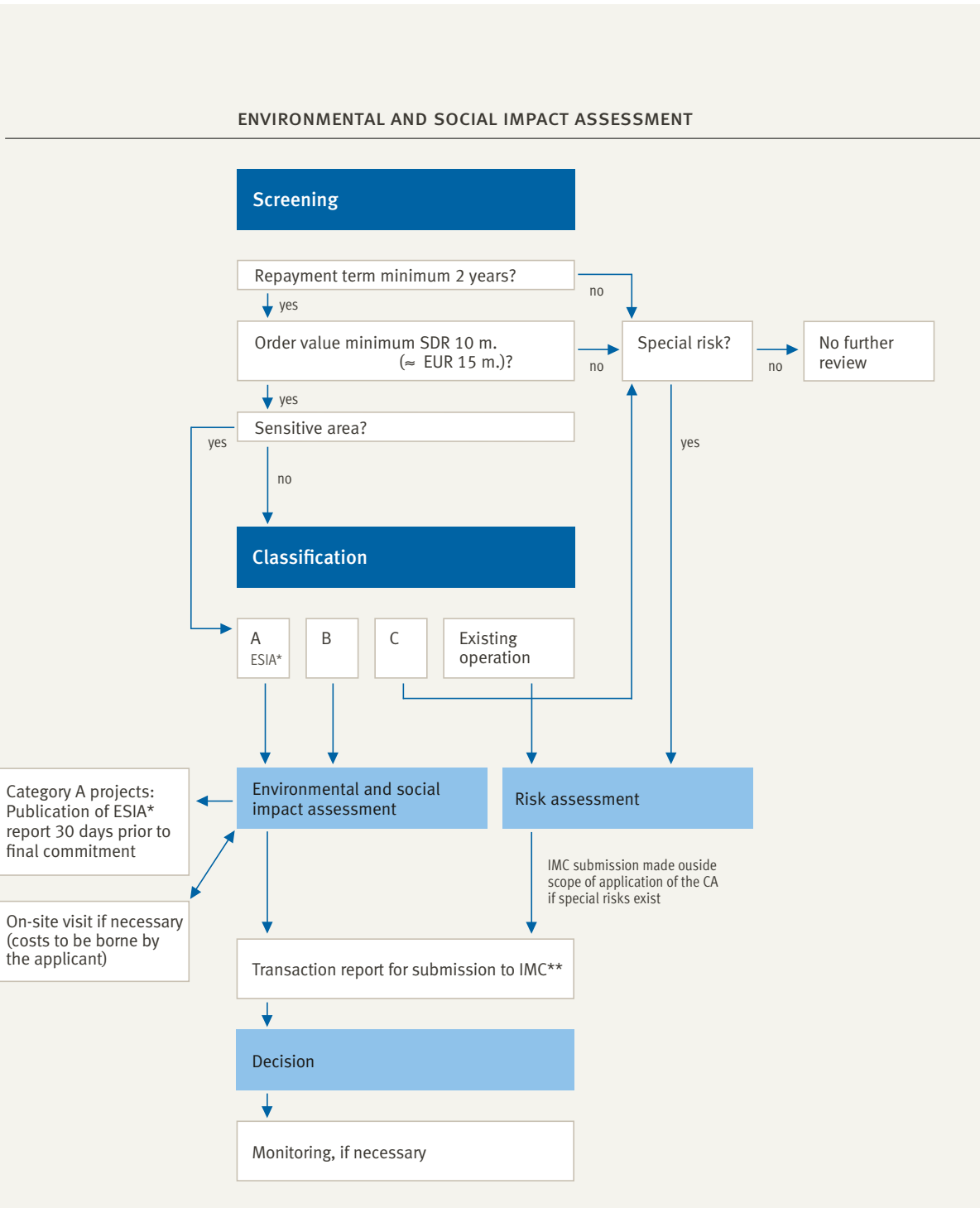
### WILL THE PROJECT BE MONITORED BEYOND GRANTING OF COVER (MONITORING)?

**Monitoring** must be performed if the Federal Government requires the fulfilment of certain conditions or special agreements as a prerequisite for cover to safeguard compliance with the standards applied in the course of the project. Such special agreements and requirements shall be established with due consideration of the project risks and the scope of potentially negative impacts, in compliance with the international standards applied and with due regard to the size of the share and influence of the exporter/bank in the overall project. Normally, the need for monitoring arises in complex Category A projects with corresponding ESHR risks or impacts.

Moreover, pursuant to the Common Approaches all project-financed undertakings classified as Category A shall be monitored during the repayment term.

In such cases the experts of the Department Sustainability will keep track of the project for a reasonable period (maximum for the full repayment term) depending on the condition/project aspects. For the exporter this may, for example, mean submission of monitoring reports at agreed intervals, reporting on project progress and compliance with the agreed implementation of objectives.

► Assessment of environmental, social and human rights (ESHR) issues of export transactions: The Common Approaches



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



## EXAMPLE: ESHR IMPACT ASSESSMENT OF A CATEGORY A PROJECT

### EXPANSION OF AN OPEN-PIT MINE

A German exporter has applied for cover of **goods and services related to a materials handling system**. The project (expansion of an open-pit mine) for which these goods and services are intended was classified as a Category A project. The Common Approaches require the presentation of an Environment and Social Impact Assessment (ESIA) report for Category A projects, which was submitted together with the application documents. In the case on hand, the exporter was requested to submit a final version of the Environmental Action Plan, the Environmental Management Plan (EMP), and the most recent monitoring report on air emissions, groundwater quality and water discharges into a nearby river. Moreover, against that backdrop that according to the ESIA an impact cannot be excluded on farms located in the neighbourhood, detailed information was requested on the development of the groundwater level and the overall water balance. In the further course of the assessment characterised by close cooperation between exporter (and foreign buyer), financing banks and staff of the export credit agency a visit on site was agreed. The findings gained in the process were integrated in the transaction report for submission to the IMC and a positive decision was returned for the transaction for which cover had been applied for. It was agreed that monitoring reports were to be submitted at given deadlines to be reviewed by the export credit agency. This type of project monitoring guarantees that the cover terms will be reviewed also after the date on which cover was granted, for example, in the course of the construction work for the expansion, and complied with.

## EXAMPLE: ESHR IMPACT ASSESSMENT OF A CATEGORY B PROJECT

### CONSTRUCTION OF A WIND FARM

A manufacturer of wind power plants applied for cover of **goods and services for the construction of a wind farm**. The project for which these goods were intended was classified as Category B. At the start of the assessment, information gaps resulting from the documents submitted (project memorandum) were closed with the help of a project-specific set of questions. These questions referred to the potential expropriation of land and economic resettlements (loss of income sources through loss of agricultural land), potential impacts of the project on sensitive areas (sanctuaries etc.) as well as on the local population on account of noise pollution and shadow impact. In addition the required access roads and power lines were taken into consideration. It turned out from the answers that the majority of the sites in question could be leased from the state so that there was no need for expropriation of private persons. Neither were any impacts to be expected from noise or shadows. However, a potential impact was identified on a major bird migration route located in the neighbourhood of the wind farm. As a consequence, further information regarding the potential impact on migratory birds was called for. The analysis of the reports submitted showed that no major impact was to be expected. These results were submitted as part of the transaction report to the IMC which passed a positive decision on the transaction.

## ► Assessment of environmental, social and human rights (ESHR) issues of export transactions: The Common Approaches

### ARE ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENTS ALSO MADE IN THE CASE OF EXPORTS NOT COMING UNDER THE APPLICATION SCOPE OF THE COMMON APPROACHES?

Basically, if there are indications that serious ESHR risks exist, a risk assessment will be conducted independent of whether a project comes under the application scope of the Common Approaches (so-called watchful-eye approach). The assessment will take into account the characteristic features of the transaction in respect of which cover is applied for.

Transactions with a **repayment term of less than two years** are exempt from the application of the Common Approaches. Still, the Sustainability Department will make a risk assessment for short-term transactions with an order value of more than 15 million EUR if:

- projects were to be classified in Category A in the case of long-term credit periods (repayment terms of more than two years);
- transactions relate to a sector which, according to currently available information, is considered to entail particular risk;
- the German deliveries represent a complete large-scale plant or a complete large-scale project with an order value of more than 50 million euros (i.e. the central responsibility for the planned plant/project rests with the German exporter).

The risk assessment in these cases is more oriented to the German delivery and to the circumstances of the individual case and is normally carried out on the basis of existing information. The fact that in the absence of credit financing, the exporter's possibilities to obtain

information and exert influence (on the project environment, the project design, and the buyer in general) are limited is likewise taken into account. Complete benchmarking against international standards is not conducted.

### TRANSPARENCY

The Common Approaches specify which information on assessed and covered projects that are subject to the ESHR impact assessment shall be shared within the OECD or disclosed. This transparency is intended to contribute in the best possible manner to a level approach among the various OECD export credit agencies (level playing field) and to an exchange of experience. This is also the objective, among other things, of the meetings, held at regular intervals, of the technical working group of the ESHR experts of the export credit agencies.

The Common Approaches provide for a project-related ex post reporting of all Category A and B projects to the OECD and specify the details of the assessment to be reported at what frequency rate. In addition, the export credit agencies too are bound to publish the projects they assessed (and reported to the OECD)<sup>9</sup>.

Category A projects require that essential project information be published no later than 30 days prior to the final commitment. Also the environmental and social impact assessment (ESIA) report shall be made public<sup>10</sup>.

In addition, the basic information on all projects (exporter's name, buyer's country, order value in categories, repayment terms) above 15 million euros regardless of their environmental relevance are published at regular intervals after granting of cover for them. The publication is subject to the applicant's approval.<sup>11</sup>

<sup>9,10,11</sup> Internet link, cf. page 11

For further information consult the following links:

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<sup>1</sup> **Original wording of Common Approaches:**

[www.oecd.org](http://www.oecd.org) › Topics › Trade › Export Credits › Common Approaches

<sup>2</sup> **Human rights:**

[www.exportkreditgarantien.de/en](http://www.exportkreditgarantien.de/en) › Quick Links › Responsibility › Human rights

<sup>3</sup> **Environmental and social impact assessment:**

[www.exportkreditgarantien.de/en](http://www.exportkreditgarantien.de/en) › Export › Process  
› Assessment of environmental, social and human rights issues (ESHR)

<sup>4</sup> **World Bank Safeguard Operational Policies:**

[www.worldbank.org](http://www.worldbank.org) › What we do › Environmental and Social Policies for Projects

<sup>5</sup> **IFC Performance Standards:**

[www.ifc.org](http://www.ifc.org) › Sustainability › Env., Social & Governance › E & S Policies and Standards  
› Environmental and Social Performance Standards

<sup>6</sup> **Environmental, Health, and Safety Guidelines (EHS Guidelines):**

[www.ifc.org](http://www.ifc.org) › Sustainability › Policies and Standards › E & S Policies and Standards  
› Environmental, Health and Safety Guidelines

<sup>7</sup> **General Questionnaire not related to any sector of industry and sector-related check-lists:**

[www.exportkreditgarantien.de/en](http://www.exportkreditgarantien.de/en) › Quick Links › Responsibility › EHSR Assessment

<sup>8</sup> **Interministerial Committee (IMC):**

[www.exportkreditgarantien.de](http://www.exportkreditgarantien.de) › Schnellzugriff › IMA-Sitzungstermine

<sup>9</sup> **Reporting to OECD:**

[www.exportkreditgarantien.de/en](http://www.exportkreditgarantien.de/en) › Basics › Responsibility

<sup>10</sup> **Publishing of A projects:**

[www.exportkreditgarantien.de/en](http://www.exportkreditgarantien.de/en) › Exports › Practice › Project information

<sup>11</sup> **Publishing of Projects above 15 million EUR:**

[www.exportkreditgarantien.de/en](http://www.exportkreditgarantien.de/en) › Exports › Practice › Project information

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



Federal Ministry  
for Economic Affairs  
and Climate Action

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.bmwk.de/en](http://www.bmwk.de/en) under the heading Promotion of Foreign Trade and Investment.

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