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4 May 2021

To: Honourable Mary Ng, MP
Minister of Small Business, Export Promotion and International Trade

Cc: Mairead Lavery, President and CEO of EDC
Chrystia Freeland, Minister of Finance and Deputy Prime Minister
Jonathan Wilkinson, Minister of Environment and Climate Change

Dear Minister Ng,

We are writing to bring to your attention the attached legal opinion. The opinion sets out the international law obligations governing Export Credit Agencies (ECAs) in connection to their continued financing of fossil fuel-related projects and activities in the context of the climate change emergency. It is our understanding that, as the minister mandated to oversee Export Development Canada (EDC), you are responsible for ensuring Canada's export finance meets these obligations.

The legal opinion was commissioned by Oil Change International (OCI) from Jorge E. Viñuales, a professor at the University of Cambridge who specialises in public international law, climate and energy law and investment law, and from Kate Cook, a barrister at Matrix Chambers who specialises in public international law, climate change and human rights law.

The opinion draws several clear conclusions:

1. ECAs do not operate in an international legal vacuum. The conduct of ECAs is directly or indirectly governed by certain international legal obligations because their conduct may be attributed to the State and/or because States may be required under international law to regulate their conduct and/or because ECAs, as such, may be subject to certain international legal obligations.
2. Under customary international law, States are required, in principle, to:
 - a. not finance new fossil fuel-related projects/activities or increase the financing of existing ones;

- b. decrease existing support for fossil-fuel related projects/activities within a clear timeframe dictated, first and foremost, by scientific considerations and the temperature goals of the Paris Agreement, as a reflection of a global consensus;
 - c. make proactive efforts to avoid “locking-in” fossil fuel-related projects/activities which may use up a significant part of the remaining carbon budget;
 - d. adopt and proactively implement adequate procedures to assess the carbon footprint of any project to be potentially supported; and
 - e. adopt and proactively implement guidelines concerning the performance of the activities of the relevant ECA in the context of the climate emergency described above.
3. These State obligations under customary international law are confirmed, further specified and/or expanded by the obligations arising in specific normative contexts, including in the areas of international climate change law, international human rights law and certain specific instruments adopted under the aegis of the OECD. The opinion goes on to give detailed consideration to each of these areas.

In December 2020 more than 50 civil society organizations [called on](#) the Government of Canada to immediately end EDC’s support for the oil and gas sector. In view of the important legal considerations set out in the opinion, we urge you again to take meaningful action to prohibit EDC from further supporting fossil fuel companies and projects, at home and abroad.

Sincerely,

Karen Hamilton, Program Officer, Above Ground
Bronwen Tucker, Research Analyst, Oil Change International
Julia Levin, Climate and Energy Program Manager, Environmental Defence Canada