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Investment Guarantees and Political Risk Insurance: Institutions, Incentives and Development

by
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This paper provides information on institutional features and policy practices of investment guarantee programmes, reviews the institutional features of the public and private segments of the political risk insurance market and identifies issues of potential relevance for the investment policy community. Typically, international investment projects for which such insurance is sought are located in developing countries. In recent years, the value of investment guarantees has averaged about 3% of total FDI flows, but about 30% of FDI inflows to developing countries. Thus, investment guarantees and the public and private institutions that provide them influence investment flows to developing countries.

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1. Introduction

Most OECD governments and many non-OECD governments provide investment guarantees and political risk insurance designed to meet the needs of international investors. Private insurers also provide such services. Typically, international investment projects for which such insurance is sought are located in developing countries. In recent years, the value of investment guarantees has averaged about 3% of total FDI flows, but about 30% of FDI inflows to developing countries.[1] Thus, investment guarantees and the public and private institutions that provide them influence investment flows to developing countries. This document presents comparative institutional information about these insurers, based on a survey of public and private organisations in the sector.

Investment guarantees cover a broad range of products and can be defined as any guarantee and or insurance product that is relevant for international investment.[2] Political risk insurance (PR) is one of these guarantees. The World Bank Group's MIGA (Multilateral Investment Guarantee Fund) defines political risk as:

Political risks are associated with government actions which deny or restrict the right of an investor/owner i) *to use or benefit from his/her assets; or* ii) *which reduce the value of the firm. Political risks include war, revolutions, government seizure of property and actions to restrict the movement of profits or other revenues from within a country.*[3]

PRI is of particular relevance for the international policy co-operation undertaken by the investment policy community. This is because of its focus on developing countries and its potential for altering the behaviour of both international investors and of host country political actors. Understanding its characteristics and functioning will help the international investment policy community in several areas: investment for development (does the investment facilitated by these programs contribute to improved economic, social and environmental performance in host countries?); international investment agreements (how do PRI and international investment agreements interact to promote investment protection and international investment?) and responsible business conduct (how do governments use investment guarantee programs to promote legal compliance and observance of internationally-agreed standards for business conduct?).

The paper is structured as follows: Section 2 sets forth the main insurance concepts that are needed to understand the institutions that provide investment guarantees and PRI. Section 3 presents a fact-finding survey of the institutional characteristics and business practices of the publicly-sponsored investment guarantee providers of 13 OECD countries and 3 non-OECD countries (China, India and South Africa). Section 4 reports on a survey of 63 private PRI providers. The main policy issues raised by these surveys are identified in Section 5.

2. Political risk insurance: essential insurance concepts

This section describes some concepts needed to understand insurance in general and PRI in particular. These are: insurable risk, moral hazard, incomplete contracting, transactions costs, missing markets and insurers of last resort.

2.1. Insurable risks

"Insurable risk" is one of the most basic insurance concepts – it helps define the conditions under which the insurance industry will be able, over the long run, to profitably provide insurance that clients will want to buy. The technical conditions that make a risk insurable are, according to the OECD Insurance Committee: "assessability (probability and severity of losses should be quantifiable); randomness (the time at which the insured event occurs should be unpredictable when the policy is underwritten, and the occurrence itself must be independent of the will of the insured); mutuality (numerous persons exposed to a given hazard should be able to join together to form a risk community within which the risk is shared and diversified)".[4]

Political risks deviate in important ways from this concept of the insurable risk. For example, insured political events may be at least partially under the control of and not "independent of the will of the insured" – by their actions, international investors may be able to influence the likelihood that insured political events will take place. Furthermore, political risks tend to be quite idiosyncratic (they are influenced by the specifics of the host country political environment, the sector and the investor-state relationship). Thus, it may not be the case that insured investors form a homogeneous "risk community" over which political risks can be polled. Political events can unfold over many months or years, they take place within a relationship between investor and the host country officials and reasonable people can (and, as the survey will show, do) disagree about whether or not an insurable event has taken place – thus, at times, political risk is not easily assessable. Finally, the perception in the industry is that political risks are cross-correlated (so that insurers are likely to face multiple claims at the same time).[5]

These deviations from what might be thought of as ideal insurance conditions help to explain PRIs institutional characteristics, especially in the areas of insurance contracting, information gathering, contract monitoring and dispute resolution. The survey shows that the sector is characterized by relatively detailed contracting and reliance on "bespoke" (tailor made) insurance products. There is also a tendency to bundle insurance services with other information-gathering and consulting services. Finally, there is extensive recourse to *ex post* contract dispute resolution such as civil suits, arbitration and mediation.

2.2. Moral hazard and other behavioral effects of insurance

Moral hazard refers to changes in the insured's behaviour that are due to the insurance. Moral hazard is defined as the "incentive for additional risk taking that is often present in insurance contracts and arises from the fact that parties to the contract are protected against loss."[6] In some insurance situations, this takes fairly simple forms – for example, a person who has insured valuable property against theft might take fewer steps to prevent theft. Moral hazard is a fundamental concept in the insurance industry because the design of all insurance products must account for it.

The concept of moral hazard is also relevant for PRI because the PRI coverage lowers insured investors' incentives to reduce their exposures to political risks. For example, investors might choose to enter riskier investment environments (indeed, one purpose of publicly-provided PRI is to facilitate investments in politically risky environments that would not have occurred without such insurance). Another possibility is that, because they are insured, investors might manage their host country relationships differently – for example, they might be less accommodating when disputes with host governments arise (a study comparing the behaviour of insured and uninsured investors appears to bear this out[7]).

Insurers have a number of tools for dealing with moral hazard. One is "deductibles" in insurance contracts, which mean that the insured party is only reimbursed for part of the damage from the event. This helps to align the insured's interests with those of the insurer. In addition, some investment guarantee and PRI contracts (*e.g.* France's COFACE and the UK's ECGD) attempt to deal with moral hazard through clauses that exclude coverage of events that the insured entity might reasonably have been expected to avoid.[8]

Because PRI deals with relationships between investors and various political actors in host societies (*e.g.* officials from central governments or from lower level governments), the scope for moral hazard in PRI is more far-reaching and complex than for most other types of insurance. Usually, incentive effects of insurance operate only on the behaviour of the insured, but PRI has the potential to influence host country political behaviour as well. This can happen in at least two ways:

- *Reduced market-based incentives for host country reforms and learning opportunities*. PRI might interfere with market-based incentives for host country policy reform (but keeping in mind that OECD work has shown that host country competition for international investment is intense[9]). Knowing that international investors can get PRI cover, host governments may face weakened incentives to seek out credible ways of committing to protect investments (*e.g* enhancing public sector transparency and accountability and developing rules-based ways of resolving disputes with investors). Likewise, it may weaken incentives and learning opportunities for both investors and host governments to find institutions for managing their relationships in a productive and harmonious way throughout the life of the project (*e.g.* during bidding and contracting, monitoring and mutual accommodation in the event of disagreements).
- *Shift in the dynamics of investor-state relationships*. Publicly-sponsored PRI is also likely to influence the host government's evaluation of the risks of undertaking behaviour that is covered by the investment guarantee or PRI contract – in effect, these make the home country a potential actor in the investor-host state relationship. If the investor alerts the home country PRI provider of political events that might lead to a PRI claim, the home government may use diplomatic channels to attempt to forestall the event in the host country (that is, to engage in "advocacy"[10]). If the investor makes a claim under the PRI contract, the home government might well try to recover the value of damages from the host country.[11] In either case, the host government knows that, if it makes a move that is covered by the PRI contract, it knows that it is likely to find that its interlocutor in the relationship has shifted – that is, at some point, the home government will start to play a role in the dispute. If the host government believes that the home government is more of a force to be reckoned with than the investor, then it is less likely to engage in the behaviour (indeed, this deterrence effect could be considered to be one of the main advantages of publicly-provided PRI). Wodehouse (2006) finds that presence of bilateral or multilateral lenders or insurers on a project have significant risk-mitigating effects for investors through the operation of this deterrence effect.

2.3. Contracts, incomplete contracting and transactions costs

The insurance industry is a huge industry covering many types of risk. In order to profitably provide insurance, companies have to: evaluate the risks they face (often they rely on statistical models); create and market insurance products and services that attract clients, that can be offered profitably and that manage the incentive effects of insurance on clients' behavior; and take steps to manage the company's insurance portfolio so as to obtain an appropriate overall combination of risk and return (*e.g.* through portfolio diversification, reinsurance and coinsurance).

Transactions costs refer to the costs incurred when exchanging good and services. Transactions costs in the PRI sector tend to be high relative to other parts of the insurance industry. The reasons for this are:

- *High cost risk evaluation and packaging*. Political risk is "human, subjective, severe and unpredictable".[12] The sources of this risk are multi-faceted (*e.g.* the behavior of governments and other political actors and national and sub-national levels; as well as sectoral and macroeconomic developments). Thus, unlike some other insurance sectors, PRI risk evaluators cannot rely primarily on "statistical" modeling; models need to be supplemented by situation-specific, qualitative analysis.[13] This is an expensive process.
- *High contracting and monitoring costs*. PRI provides cover for what are often complex events unfolding over extended periods of time. Moreover, as noted above, the incentive effects of the insurance are multi-faceted and need to be managed carefully. This means that PRI contracts tend to be detailed and relatively non-standardised. For example, the survey shows that private political risk insurers often provide "bespoke" services (that is, their insurance policies are tailored to each client). Sometimes there is a need to monitor the project closely as the investment project evolves. In some cases, ongoing discussions are required between insured and insurer to clarify the meaning of the PRI contract (and possibly modify the contract) in light of unfolding political events.[14]
- *High cost claims management.* Incomplete contracting refers to the fact that, in most situations, it is impossible to write contracts in advance that are so detailed as to foresee all possible contingencies. In PRI, even with its relatively detailed insurance contracts, this is an important consideration. Disputes often occur as to how the contract applies to a particular political event. These are usually resolved by arbitration or mediation and some public PRI agencies report on their disputes with clients and on how these were resolved.[15] This need for *ex post* dispute resolution has two implications: 1) it raises the cost of administering PRI insurance; and 2) PRI insurance lowers political risk, but involves higher risks (relative to some other types of insurance) related to how the insurance contract will be executed in the event of a claim.

2.4. Missing markets and insurer of last resort

The concept of "missing markets" refers to the fact it is not always possible to form a market price for all possible products and risks. "Missing markets" are often viewed as being a condition that could potentially favor government intervention in markets (because if the government intervenes, it will not be "crowding out" private activity). In PRI markets, high transactions costs mean that many markets will not be able to be served profitably – that is, there will be missing risk markets (*e.g.* for smaller clients whose business might not generate enough revenues to cover the high transactions costs). Although government insurers will not, themselves, be able to avoid the high transactions costs that characterise the sector, governments may nevertheless choose to provide services to these market segments because they believe that there is some other benefit to be had from doing so.

As will be seen in Section 3, some government providers of PRI deliberately position themselves as "insurers of last resort" – their mission is to complement private markets by serving customers who cannot find private coverage. The survey in Section 3 suggests that the public providers are aware of and promote this aspect of their business – for example, many of them have special services for small businesses and Canada's EDC notes that 90% of its business is conducted with small and medium sized enterprises.

3. Publicly-sponsored investment guarantees and PRI

This section reviews institutional features and business practices of publicly-sponsored investment guarantees and PRI programs. It is based on a sample consisting of the programs of 13 OECD countries (Australia, Austria, Belgium, Canada, France, Germany, Italy, Japan, Korea, Netherlands, Turkey, the United Kingdom, and the United States) and 3 non-OECD countries (China, India and South Africa). Some information is also provided for the Multilateral Investment Guarantee Agency, which is part of the World Bank Group.

The full list of OECD countries providing such services appears in Table A2.1. The list shows that 3 OECD governments do not provide any investment guarantee services (Ireland, Mexico and New Zealand). Annex 1 describes the survey methodology.

3.1. Mission

Why do governments sponsor or provide directly investment guarantees and PRI? One way to answer this question is to look at what governments themselves say in the statutes creating the programs or in published mission statements. Table A2.2 summarises such texts. It shows that governments pursue a variety of objectives with these policies:

- *Enhancing home country economic performance* appears, in one form or another, in all 16 of the mission statements surveyed. Most agencies have home country development (*e.g.* business competitiveness, job creation, economic growth) as their primary objective (*e.g.* Australia, Austria, Canada, Germany, Netherlands, Korea, Japan, Italy, Turkey, India, South Africa, China).
- *Filling gaps in private sector cover*. Three countries (Australia, Japan and the United States) ask their guarantee agencies to "fill the gap" (to use Australia's term) created by incomplete private coverage.[16] These countries deliberately position their agencies as "insurers of last resort" that provide guarantees when private sector coverage is unavailable.
- *Promoting development of host economies*. One agency, US OPIC, originated in the national development agency (US Agency for International Development) and has host country development as its primary mission. Its statutory mission statement asks it to mobilize US "private capital and skills for economic and social development of less developed countries and transition economies." Australia asks its agency to "contribute to the community in Australia and overseas".
- *Realising diplomatic objectives*. Belgium ONDD's mission is to realise Belgium's diplomatic objectives.

3.2. Legal status and governance

The survey reveals four categories of legal status for agencies providing publicly-sponsored investment guarantees and PRI (Table A2.3); 1) government departments funded as part of the annual budget process (Turkey); 2) self-financing government agencies that operate with the full faith and credit of their respective governments (Australia, Belgium, Japan, Korea, the United Kingdom and the United States); 3) public limited companies that are fully state-owned or are limited liability public agencies (Canada, India, Italy and South Africa); 4) private provision of publicly-sponsored PRI (Austria, France, Germany, Netherlands).

3.2.1. Governing bodies

Governing bodies (*e.g.* Board of Directors and Supervisory or Management Boards) provide strategic guidance and oversee the agency's pursuit of its objectives. The survey looks at the composition of the membership of these supervisory bodies for the 7 programs for which directors' background information is available.[17] It shows:

- The Australian agency's Board has nine members, including 3 public officials and 6 non-executive directors (all from business, of which 5 are from the financial sector).
- The Austrian supervisory board has 24 members, including 7 labor representatives, 2 government officials and 15 business representatives (of which 13 are from the financial sector).
- Canada's board has 12 members, including 9 non-executive directors (8 directors from the business sector, including 5 from finance and 1 director with a managerial position in higher education).
- France's COFACE has a board with 21 members, including 16 non-executive directors, of which 14 are from the financial sector (the other 2 are the president of the largest French business federation and a member of the French legislature).
- Netherlands Atradius' Supervisory Board has nine members. All are from the business sector and all have financial backgrounds.
- The 11-person UK ECGD board has 5 executive and 6 non-executive directors (all non-executive directors are from the financial sector).
- The US (OPIC) Board of Directors has 15 members. Seven of these are from the Federal government and 8 from the private sector, including two non-executive directors who have worked in the financial sector and one each from organised labor, small business and cooperatives (thus, 7 from the business sector, of which 2 from the financial sector).

This survey of the membership of the governing bodies of government-sponsored PRI providers shows: 1) representation is heavily weighted toward business and the public sector. Of the total of 97 directors whose backgrounds were examined, 20 are from the public sector and 69 from business. 2) in almost all cases, the public sector directors are executive directors (that is, they work as top managers in the agency itself). Only one public sector director represents a development ministry (the national development agency sits on the board of US OPIC);[18] 3) business representation is heavily weighted toward the financial sector – of the 69 directors coming from the business sector, 54 are from the financial sector. The US and Canadian Boards draw on a somewhat broader range of business experience (*e.g.* from real estate development, apparel, pharmaceuticals, public transport); and 4) among the 8 Directors who do not come from the business or public sectors, representation is mainly from labor unions (which account for 7 of these directors).

3.2.2. Transparency and disclosure

The survey shows that the disclosure practices of providers of publicly-sponsored investment guarantees (Table A2.4) vary greatly.

Almost all investment guarantee programs publish aggregate financial information. Most also publish information about the sectoral and geographic composition of their portfolios. However, beyond this basic level of disclosure, agencies differ greatly in the amount of information they make publicly available. Many agencies publish annual reports (such reports were not found for Italy, Korea, Turkey India, South Africa and China), but the amount and type of information disclosed in these reports varies markedly. Several agencies also make large amounts of information available on-line (*e.g.* environmental impact assessments). Some countries provide detailed information about individual investment guarantee transactions (*e.g.* amount and type of guarantee, location of project, name of client, outcomes of projects, claims paid, and arbitration decisions) while others show no project-specific information.

Overall, then, there is no standard disclosure practice by publicly-sponsored investment guarantee programs and there is little publicly-available information about some programs. The survey also shows that the most standardised disclosure practices occur in the area of environmental impact assessment. This standardisation appears to stem from the work of the OECD Working Party on Export Credits and Credit Guarantees.[19]

Several agencies note that other transparency measures (other than annual reports and continuous web-based disclosure) are relevant for their operations. For example, the United States and the United Kingdom's agencies state that "Freedom of Information" is relevant for them. In addition, many agencies describe reporting and disclosure channels to other parts of government and to the broader budgeting process. For example, the web sites of 5 agencies (Australia, Canada, France, Germany, Italy, United Kingdom and the United States) mention making reports to legislative bodies and some hold consultations with civil society.

3.3. Products, services and prices

The investment guarantee programs covered by this survey provide a wide variety of services. Most of the investment guarantee programs are administered by agencies with broader mandates, including the provision of export credits. This sections looks only at investment guarantee and PRI products.

Risks insured. Table A2.5 shows that the 16 PRI providers surveyed cover very similar sets of political risks. These include: 1) currency inconvertibility and transfer restrictions; 2) confiscation, expropriation, nationalisation; 3) political violence; 4) default on obligations such as loans, arbitral claims, and contracts. One difference that does emerge is coverage of a separate "terrorism" risk, which is explicitly mentioned on the websites of the German, Italian, and US agencies. It is possible that, in many other countries, this risk is subsumed under "political violence" coverage. Some agencies also cover commercial and natural disaster risks (*e.g.* Italy and the Netherlands).

Eligibility. In defining who is eligible for investment guarantees, all countries look at nationality or some other form of close tie to the home country (Table A2.6). All of the agencies surveyed provide cover for their own citizens. Seven PRI providers offer coverage for foreign corporations with domestic presence (Australia, Austria, Belgium, France, Netherlands, Turkey and the United Kingdom). Six provide political risk cover for the

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overseas subsidiaries of domestic companies (Belgium, Canada, Germany, Italy, the United Kingdom and the United States). Belgium appears to have the most comprehensive definition: investors are eligible if they are "integrated in the Belgian economic community". In addition, the programs sometimes identify target clients that they attempt to attract by offering special products. The most common target client found is small- or medium-sized enterprise, with 12 of the 13 OECD public PRI providers stating that they have a special mission to serve these clients or offering special products geared to their needs.

Pricing, contract details and subsidies. Although the survey examined carefully the details of the insurance contracts published on websites (*e.g.* in relation to pricing, deductibles, processing and application charges, duration, claims execution, dispute settlement) it is not possible to present this information across countries and across products in a meaningful way. What from this review, however, the available information shows that pricing and related practices vary widely among the agencies in the survey. The programs offer different services, charge different rates, have different deductible and related policies, and have different service charges for processing the contract. This suggests these public programs, because of their differing product and pricing strategies, could introduce competitive distortions in international investment processes.

An interesting aspect of the pricing question concerns whether or not publicly-sponsored PRI involve subsidies. A subsidy in this context would consist of a program that does not return a risk-free rate of return plus a premium for the capital that the taxpayer has put at risk – that is, a non-subsidised program must deliver at least a zero net present value for taxpayers' investment.[20] Providing internationally-comparable estimates of subsidies would be a very costly exercise and this document does not attempt to make such estimates.

However, two national studies shed direct or indirect light on the question of subsidies. A 1996 study by the bank, J.P. Morgan (and commissioned by the US government) evaluates the desirability of a possible privatisation of US OPIC. The study finds that the value of the investment guarantee operation would be reduced if OPIC were to be privatised. This is because the public agency had an exceptional record (relative to the private sector) in claims management (preventing insurable events from happening) and recovery (retrieving the value of insured assets after a claim has been made). If cost structures are very different between the public and private sectors, subsidy calculations would also have to account for these costs differentials (thus, low pricing for public sector products cannot be taken as evidence of a subsidy; it might simply reflect a cost advantage).[21] A 2003 study estimating subsidy level for some of the products offered by UK ECGD, found that a subsidy exists, but that the "subsidy levels constitute a very small proportion of the total value of UK capital goods exports for the relevant sector."[22]

3.4. Project assessment criteria and norms for business conduct

Publicly-sponsored PRI providers use a variety of assessment criteria when deciding which investments qualify for coverage (Table A2.7). They look at: 1) the economic and financial viability of the project; 2) home country impacts (*e.g.* on domestic employment); 3) host country development impact (*e.g.* employment; linkages). In addition, providers of publicly-sponsored PRI communicate to prospective and actual clients the standards of business conduct that they are expected to observe.

3.4.1. Communicating expectations on business conduct

All of the OECD programs except one (as well as MIGA) include among their assessment criteria various combinations of environmental, local community impacts, labor rights and anti-bribery considerations. In this context, they refer to major international instruments in the environmental, labor and anti-corruption fields. Four OECD instruments are frequently cited and promoted by the PRI providers – the Guidelines for Multinational Enterprises (cited by 7 of the 13 OECD countries surveyed); the Recommendation on Common Approaches on Environment and Officially Supported Export Credits (cited by 12); the Convention and/or Recommendation against Bribery of Foreign Public Officials in International Business Transactions (cited by 7) and the Action Statement on Bribery and Officially Supported Export Credits (cited by 5).[23]

PRI providers promote internationally-agreed standards by means of: 1) explanatory texts on websites and manuals written for clients describing the standards of conduct that are expected of them; or 2) contract clauses with related certain performance requirements. For example, Coface's (France) investment guarantee contract contains text and a supporting letter of commitment in which the client acknowledges that his/her rights under the contract will become null and void if the client is found guilty of bribing foreign public officials.

This business practice – communication to clients of expectations as to business conduct in the environmental, labor and anti-corruption field – is one of the main differences between private and public sector business practices in PRI provision (see review of private sector practices in Section 4).

3.4.2. Political risk analysis

Eleven of the 13 OECD-based insurers cite the OECD Arrangement on Officially Supported Export Credits, which creates, *inter alia*, an international co-operation process for country risk analysis[24] that is also relevant for PRI and investment insurance.

Table A2.8 shows that several countries (Austria, Belgium, Germany, Japan, Netherlands, US) publish lists of host countries that communicate country risk assessments. For Australia and Belgium, these lists report on country risk assessments and the assessment exists for developed and developing countries alike. For some countries, these lists define eligibility. Japan has three lists – one consists of host countries that qualify under the Japanese program, a second lists preferred host countries (that is countries that are favored under the program), and a third lists countries where decisions are made on a case-by-case basis. In many cases (Belgium, Germany, Netherlands) the assessment takes into account the existence of "investment protection agreement" (basically a bilateral investment treaty) between the home and host country.

Some publicly-sponsored PRI programs also use commercial country risk ratings or have proprietary country risk analysis programs of their own. France's COFACE and Netherlands Atradius (both of which are private companies) provide broader, in-house risk evaluation and management services and their publicly sponsored services are offered in parallel with these other product lines.

3.5. Monitoring contract compliance and environmental and development impacts

How do publicly-sponsored PRI programs ensure that their clients respect their contractual commitments? How do they monitor the developmental and environmental impacts of the projects they facilitate? Table A2.9 summarises the information on monitoring practices found on the websites of the 16 publicly-sponsored PRI programs. Monitoring techniques used are as follows:

- *Self monitoring and self reporting.* Many agencies stress that clients are responsible for complying with their contracts. Some seek to help them to do this by providing self-monitoring tools and some ask clients to make self monitoring reports. For example, OPIC operates a self monitoring program in which each investor completes an annual questionnaire/report covering such project impacts as human capacity building, private sector development, developmental infrastructure improvements, macroeconomic and institutional effects and technology and knowledge transfer. It also asks for ongoing project information relevant for understanding environmental and labor management risks. NEXI (Japan) bases its monitoring activity (*e.g.* in relation to environmental and social matters) on information provided by the client. MIGA describes its environmental monitoring procedure as follows: "Compliance will be assured by the applicant's specific and continuing representations and warranties that measures to comply with environmental requirements will be taken and maintained throughout the term of the Contract of Guarantee."
- *Contractual obligation to cooperate with verification.* COFACE's (France) clients have a contractual obligation to cooperate with agency attempts to verify compliance once a problem has been identified, notably by providing documents and authorising "verifications".
- *Monitoring by agency officials* (EFIC, OPIC, MIGA). OPIC also conducts on site inspections. Under its "Site monitoring" program, OPIC randomly selects the projects sites that staff will monitor during a three year period (monitoring involves a one-time site visit). In addition to randomly selected projects, all investments considered to be economically or environmentally sensitive are visited.
- *Complaints facilities/ombudsman* (Australia, Canada, United Kingdom and the United States, South Africa and MIGA). A number of the agencies provide contacts for complaints facilities or ombudsmen. Often these complaints facilities are housed in agency compliance offices and complaints are vetted and, in some cases, followed up on with additional services (audits, mediation).

3.6. Managing relations with host countries

The programs have numerous potential impacts on host societies and host governments. One might expect these impacts to be broadly positive if these programs are successful in promoting productive investment and, therefore, economic development.

However, the programs also influence the way that host governments exercise their sovereign powers in at least two potentially sensitive ways. First, the investment guarantee agency acts on behalf of another sovereign state to influence investment patterns in the host country – this, in itself, might be a source of concern for the host government. Second, the guarantee or insurance service may shift the balance of power between the investor and the home government (since, the home government may intervene through advocacy or recovery if the host government threatens or takes actions that are covered by the home country program). This might also be a source of concern for host countries. The survey looks at how home governments manage these home country-host country issues.

The countries studied use a variety of practices to manage their relations with host countries:

- *Bilateral treaties*. As already noted in the section on evaluation and risk assessment, international investment agreements play a role in the management of these programs (*e.g.* those of Austria, Belgium, Germany, and the Netherlands). US OPIC appears to be the only investment guarantee agency whose relations with host countries are governed by bilateral treaties that are specifically negotiated for this purpose. These treaties cover the rights and responsibilities of both home and host governments in relation to OPIC services. For example, the Mexican-US investment incentive agreement contains *inter alia* the following commitments: OPIC only supports investments permitted by NAFTA or the laws of Mexico; OPIC is not treated as an insurer or a financial organisation under Mexican financial regulation; disputes are to be resolved through negotiation between the two governments and, if these fail, the dispute is to be submitted to an arbitration tribunal in accordance with rules set forth in the treaty.
- *Prior notification*. US OPIC has a policy of systematically informing host governments when it provides guarantees related to projects that are likely to be highly disruptive.
- *Advocacy*. A number of agencies (OPIC, MIGA) mention advocacy. This involves the use of home government diplomatic resources to try to head off potential problems (and associated insurance claims) before they become serious. For example, OPIC describes one episode of advocacy as follows: "OPIC sent a letter to a provincial tax ministry on behalf of a small oil and gas investor, after the local tax ministry assessed property and profits taxes, interest, fines and penalties following an audit. The local arbitration court ruled in the investor's favor, but the tax ministry prevailed in a subsequent appeal. OPIC's letter urged the tax ministry to defer taking any enforcement actions until the investor had the opportunity to have its tax liability fully adjudicated by the court system in the country."
- *Mediation*. MIGA provides mediation services in order to reduce host country/investor tensions and to avoid situations that might lead to a PRI claim. Its website describes these services as follows: "Investment disputes can entail a government being accused of breaching its contract with an investor or expropriating an investor's concession, or an investor being accused of violating its contractual obligations to the host country. Both sides disagree about which is at fault and about how the damaged party should be compensated. MIGA uses its good offices" in these cases to examine areas of responsibility and potential liability, and to help the parties reach an agreement that would settle the dispute to the satisfaction of both sides.
- *Integrating host country concerns into project assessment criteria*. ECGD (United Kingdom) states that "before insurance can be given, ECGD must be satisfied that the investment is acceptable to the host government. Also, the investor will have a continuing responsibility to satisfy all requirements that the host government may lay down in relation to the investment. The ECGD will have no liability for expropriation provoked or instigated by the investor … or from the failure… to comply with local laws and regulations. It is particularly important that the investment should be made and administered in accordance with the customs and sensitivities of the host country."

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4. Private PRI providers

The private sector is also active in the provision of political risk insurance. This section provides a selective survey of private PRI providers. The purpose of the section is to document the similarities and differences between private and public insurers in PRI. The section is based on a fact-finding survey of 63 firms. The website of MIGA's "PRI Centre" provides a directory of private political risk insurers that lists 63 insurers with accessible websites. 59 of these companies are insurers, while 4 provide information and management consulting services. The positioning of the companies ranges from small, boutique insurers that specialise in particular sorts of risks to subsidiaries of major global insurers.

A review of these websites reveals the following similarities and differences between public and private insurers:

Same set of political risks covered. The range of risks covered by the private sector is essentially identical to those covered by the publicly-sponsored programs: 1) currency inconvertibility and transfer restrictions; 2) confiscation, expropriation, nationalisation; 3) political violence; 4) default on obligations such as loans, arbitral claims, and contracts.

Detailed private sector contracting. The private insurers also adapts its contracting practices in order to deal with the difficulties of PRI contracting. As noted earlier, the complex nature of political risk means that insurance contracts in the sector have to be detailed. All of the companies that discuss their contracting practices describe contracts that tailored to the needs of client's business situation (many of them stress the "bespoke" – or tailor made – element of the PRI products).

Break-down of activities in the private PRI sector. The breakdown of activities in the sector between brokerage, underwriting, insurance and reinsurance is typical for a private insurance sector. Brokerage and agents constitute what might be through of as the "marketing" arm of the insurance sector. Thirty-two of the 63 companies in the sample identify themselves as insurance brokers (they act as intermediaries between the client and the underwriters and their role is to help the client find a good match between its needs and the available insurance products). This marketing function is absent in publicly sponsored programs, presumably because they can rely on their visibility as sole public providers to attract customers. Twenty three of the 63 companies describe themselves as underwriters. The underwriter accepts the obligation to pay or indemnify the insured – thus, underwriting is the process which defines the terms by which the insured shifts his risk onto the underwriter. Lloyds of London plays an important role in private PRI underwriting – 12 of the 23 underwriters manage "syndicates for Lloyds". In the area of underwriting, the public and private PRI sectors do basically the same thing. Reinsurance is insurance for insurers – it allows insurers to adjust the risk-return profile of their portfolios. Fifty-two of the companies in the sample are in insurance, 25 are in reinsurance and 20 are in both insurance and reinsurance. Reinsurance (along with other risk adjustment techniques such as diversification and coinsurance) are important in the PRI market because, as noted earlier, risks in this market are cross-correlated (thus, insurers are likely to receive many claims all at once). Some public PRI providers also provide reinsurance services and some are clients of private re-insurers.

The prominent role of business expertise and advisory services in the positioning of private PRI providers. The websites of private PRI providers call attention to the value of their information, expertise and advisory services. They position themselves to take advantage of synergies between PRI provision and their political, sectoral and managerial expertise. Twenty-seven of the companies in the sample provide consulting services and 4 offer political information and forecasting services. Often, expertise is sectoral, geographical and/or by risk category – 28 of the 63 companies have a sectoral dimension to their product lines. Sectors frequently cited include petrochemicals, aviation, maritime transport, construction and electricity. Some companies describe products in highly-specialised sectors such as fine arts and breeding stock. Expertise described on the websites also sometimes involves geographical areas (*e.g.* Indian Ocean or sub-Saharan Africa) or risk categories (*e.g.* war damages).

Advocacy and recovery. Private PRI insurers only rarely cite their capacities for advocacy and recovery as being important competitive strengths. As noted before, advocacy involves intervention with host country political actors with a view to forestalling an event that could result in a PRI claim. As noted above, it an important part of public PRI provision. Only one private PRI insurer mentions that it engages with host country officials in this way. Likewise, only one private PRI insurer mentions that it uses the services of a "recovery" specialist to retrieve the value of insured assets for which a claim has been made. Thus, judging from their websites, private insurers do not attempt to position themselves as having competitive advantage in advocacy and recovery. The study of US OPIC, cited above, by the bank, J.P. Morgan supports the view that OPIC has a strong competitive advantage, relative to private insurers, in both advocacy and recovery.[25]

Communicating expectations on business conduct. Although 28 of the companies surveyed had codes of conduct, none published anything indicating that they seek to promote internationally-agreed standards for business conduct among their clients.[26] In comparing insurance practices in the public and private parts of the PRI market, this appears to be a major difference (Section 3 shows that all but one of the OECD public PRI programs communicate with clients on social, labour, environment, and/or anti-corruption issues).

5. Political risk insurance: a survey of issues

The issues raised by the preceding discussion are:

5.1. *Public* versus *private provision*

Private and public insurance providers have co-existed in the PRI market for many years. A few general questions concerning the co-existence of private and public PRI providers are worth exploring in more detail.

- *Insurer of last resort, market failure and government failure*. Missing markets are commonly cited as being a potentially valid justification for market intervention by governments. The paper suggests that the PRI sector might well be characterised by large gaps in market coverage due to the sector's high transactions costs. These could make it impossible to serve smaller and niche customers profitably. The survey shows that three public PRI providers are mandated to serve as insurers of last resort (that is, they offer PRI cover when it is not available from the private sector). Other agencies may act as *de facto* insurers of last resort even though this is not officially part of their mission. However, it cannot be taken for granted that a market failure justifies government intervention. Offsetting this rationale for intervention are the countervailing risks posed by "government failure". These arise from the scope opened up by public service delivery for creating vested interests, for inappropriate political interventions in market activity (for example, on behalf of favored clients) and from the lack of market incentives for the government officials providing such services.

- *Governments' competitive strengths as PRI insurers*. Publicly-sponsored PRI might be justified on the grounds that, in this sector, governments have unique competitive strengths that can be used to produce welfare-enhancing services at low cost. These strengths would stem primarily from governments' ability to use their diplomatic networks as risk management and asset recovery tools – in this way, governments create economies of scope by using their existing assets to provide services that private sector insurers cannot produce.[27] One example of how this might work can be found in recovery of claims for currency inconvertibility. In a letter to the US General Accounting Office, OPIC's CEO explains: "as part of the government-to-government agreements it negotiates with each country where it operates, OPIC obtains special arrangements for recovering salvage when it pays inconvertibility claims. Under these arrangements, OPIC makes inconvertible local currency available for other US government uses, in exchange for dollars that would have been spent, for example, by a US embassy for its local currency expenses. Through this mechanism, which is not available to private sector insurers, OPIC has been able to obtain excellent salvage on currency inconvertibility claims."[28]
- *Promoting international standards for business conduct*. Another major difference between public and private PRI providers is that publicly-sponsored providers position themselves as platforms for promoting responsible business conduct at the same time investment is being promoted. The survey shows that the private insurance sector is not involved in such promotion. This is in marked contrast to the OECD-based public agencies surveyed, which frequently use and promote relevant international standards (especially environmental standards under the OECD Common Understanding, the OECD Convention against Bribery of Foreign Public Officials and the OECD Guidelines for Multinational Enterprises) and/or monitor clients' observance of these standards.

5.2. Do these programs promote investment for development?

The survey shows that, viewed as a whole, investment guarantee programs do not view their mission as being one of contributing to host country development. As noted earlier, only one (US OPIC) has host country development as its primary mission. The survey also turned up other institutional signs that host country development may not be foremost in the priorities of most investment guarantee organisations:

- *Membership of governing bodies*. The review of membership in the governing bodies of these organisations shows that development concerns are hardly represented. In only one case (US OPIC) is a development ministry official a member of the investment guarantee agency's governing board (and in Germany the development ministry is represented on the inter-ministerial committee that makes major operational decisions). In addition, none of the outside directors in the survey are noted for their development expertise nor is there any direct representation of developing countries (*e.g.* of regional organisations representing countries that are important recipients of projects covered by investment guarantees). The main non-business and non-executive directors are trade union representatives. Thus membership in governing bodies seems to reflect the statutory focus of these agencies on home country economic growth, employment creation and competitiveness goals.
- *PRI applications*. Only 2 application forms for PRI coverage found on line ask for information about the development impacts of the project for which insurance coverage was requested.

- *Performance reporting*. Performance reporting allows agencies to be held accountable for achieving their objectives. As noted earlier, performance reporting practices are highly variable among the 16 programs studied. Some provide information on the sectoral and geographical composition of their portfolios and a few disclose project level information. Some of this information could be used to assess development impacts. However, the general impression left by the survey of the 16 agencies' performance reporting practices is that these are not generally geared to holding the programs accountable for their host country development impacts.

It could be argued that the fact that these investment guarantee programs make possible investments in developing countries that would not otherwise have occurred is, in itself, a development benefit. Thus, one reason that investment guarantee agencies might not build pursuit of host country development into their control and reporting practices is that they take it for granted that their impacts are beneficial for host countries.

However, as pointed out in the OECD Policy Framework for Investment the "benefits of investment do not necessarily accrue automatically or evenly across countries, sectors and local communities. Countries' continuous efforts to strengthen national policies and public institutions, and international co-operation, to create sound investment environments matter most." Because this assumed link between these home country programs and host country development benefits relies so much on the quality of the host country policy environment, there would seem to be strong synergies between investment guarantee programs and the *Policy Framework for Investment* as well as other international co-operation processes for improving policy environments.

5.3. PRI as a second best policy relative to fundamental host country policy reform

The preceding discussion notes a number of problems with investment guarantees and PRI. First, because of high transactions costs, PRI is an expensive insurance product to produce (for both public and private insurers). Moreover, it often only partly succeeds in lowering risk (because, to some extent political risk is replaced by risks associated with claims management). Second, PRI may produce incentive effects in the host country that undercut the impetus for reform and for international investors and host governments to learn to work out their differences through mutual accommodation. Third, the variation in home government policies (three OECD countries have no investment guarantee programs, while many have extensive programs) may distort international investment markets. In addition, these policies could force a kind of "arms race" in investment guarantees, where home countries have no choice but to put in place such policies if they want to meet the competition from other countries' policies.

It is clear from these shortcomings that political risk insurance is a second best policy. A first-best policy involves moving toward investment policy reform and creating sound policy environments in all countries. This will not eliminate political risk – any policy system needs to be able to respond to changing circumstances and these changes are a source of risk for investors affected by regulatory outcomes. However, it will establish predictable and transparent mechanisms for policy change, which both domestic and international investors will find reassuring, and will create credible mechanisms for host country dispute management that take due account of the full range of societal needs (thereby *inter alia* reducing risks of civil unrest). All of this will lower political risk without the expense and uncertainty of PRI contracting.

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5.4. Relationship with international investment agreements

The survey highlights the close relationship between PRI and international investment agreements and related institutions. The goals of IIAs and PRI are essentially identical – both seek to promote international investment by lowering political risks. The political events they cover – expropriation, conflict, currency inconvertibility, and breach of host government commitments – are very similar. Risk assessments under many PRI programs often look at the existence of BITs or other agreements (*e.g.* the United States has home-host agreements specifically negotiated for its investment guarantee agency). Some draw on the same international dispute resolution procedures as those specified by international investment agreements.

There are major differences between the two approaches to investment promotion and protection, however. While international investment agreements are treaties between sovereign governments, public PRI are generally based on contracts linking public PRI agencies and private investors. Another difference is that, while many governments are reluctant to include texts on environment, labor, anti-corruption or human rights into their investment agreements, international standards in these areas are promoted by nearly all of the OECD investment guarantee programs in the survey.

Notes

1. These averages are for 2003-2005. World investment guarantee/insurance flows are taken from the Berne Union 2007 Annual Report, which reports on its members' "new business" for "investment insurance". (The Berne Union's members are public and private organisations from the global export credit and investment insurance industry.) World and developing country FDI flows are from Annex B of the 2006 World Investment Report.
2. This definition is modelled on the one provided in a 2005 OECD Development Centre publication that looks at "development guarantees". This monograph defines a guarantee as "Guarantees and insurance against political, contractual/regulatory, credit and foreign exchanges risks." (see Winpenny (2005), page 15.) This monograph looks only at guarantee programs that have development motives.
3. This definition comes from the online glossary of the Political Risk Insurance Centre, a website sponsored by the MIGA *www.pri-center.com/*.
4. List taken from the *OECD Checklist of Criteria to Define Terrorism for the Purpose of Compensation: Recommendation of the Council*. 15 December 2004. See Section 3.1.1. under "Technical Insurability".
5. According to Hamdani *et al.* (2005), "PRI losses exhibit significant volatility from year to year. Not only is there the potential for significant losses associated with political developments in a single country, but events may well be correlated in time across countries."
6. The International Association of Deposit Insurers: *www.iadi.org/Lists/Glossary/DispForm.aspx?ID=21*.
7. Moran (2006) page 84. This text refers to the behaviour of international power companies with investments in Indonesia during the Asian financial crisis.
8. For France, see Article 14, clause 4 of Assurances Investissement: Conditions Générale DMT 101 J; *www.coface.fr*. For the UK, see warning to clients quoted in section 3.6 of this document.
9. See *Policy Competition for Foreign Direct Investment*, OECD Development Centre Studies. This study finds that as "barriers to international investment have fallen over the last two decades the significance of competition for FDI has increased." (Page 10.)
10. US OPIC reports on a number of examples of advocacy at: *www.opic.gov/insurance/projects/profile_advocacy.asp* These include: 1) multiple discussions with the associated city government in an effort to enforce an arbitral award against the local joint venture partner for a fast-food vendor; 2) sending a letter to a provincial tax ministry on behalf of a small oil and gas investor, after the local tax ministry assessed property and profits taxes, interest, fines and penalties following an audit; and 3) sending a letter to a host government following its refusal to recognise an international arbitral award in regards to a dispute that involved a US investor and a local firm.

11. See Section 3 of this document for discussion of advocacy and recovery by home governments.
12. Quote from David James (2004), page 29.
13. On page 35 of David James (2004), James states: "Models can be useful underwriting tools, but not means of controlling aggregate exposure."
14. See for example, the "Findings of Fact" section of the American Arbitration Association's "Findings of Fact, Conclusions of Law and Award". AAA Case No. 50 T 195 00509 02. This section describes discussions between the insured company and OPIC, as both attempted to clarify the meaning of the PRI contract in light of events in the Indian power sector. There were also discussions of modifying the coverage (see for example, paragraph 26 of the Award).
15. MIGA, for example, in its 2006 Operational Overview states: MIGA did not pay any claims in fiscal year 2006, but is actively seeking to resolve three pending claims …. MIGA is also closely monitoring and actively working to resolve the problems of eight other disputes relating to investment guaranteed by the Agency… The Findings of Fact section of American Arbitration Association decision AAA Case No. 50 T195 00509 02 also illustrates how such disputes can arise.
16. The Netherlands asks its publicly-sponsored PRI provider to "complement" the private market.
17. In some cases (*e.g.* Germany), governments have created executive committees (that is, having operational, rather than supervisory, responsibilities) for their investment guarantee programs. These were not included in this survey.
18. In Germany, the inter-ministerial committee that makes decisions on investment guarantee proposals by PWC (the private company charged with running German's investment guarantee program) includes a representative from the German development ministry.
19. See the Revised Council Recommendation on Common Approaches on the Environment and Officially Supported Export Credits. The Recommendation commits member countries to: "Foster transparency, predictability and responsibility in decision-making, by encouraging disclosure of relevant environmental information with due regard to any legal stipulations, business confidentiality and other competitive concerns. It also provides guidance on how this should be done."
20. See Schich (1997) for an options-based model of how such risk adjusted pricing can be done for the export credit industry.
21. Stduy cited in Moran (2003) in several places. See, in particular, page 26.
22. See NERA Economic Consulting (2003) page viii.
23. Quite a few other instruments are also used by public PRI providers. For example, the OECD Risk Awareness Tool for Multinational enterprises in Weak Governance Zones is cited by US OPIC.
24. The OECD risk classification of countries is achieved through the application of a methodology comprised of two basic components: 1) the Country Risk Assessment Model (CRAM), which produces a quantitative assessment of country credit risk, based on three groups of risk indicators (the payment experience of the Participants, the financial situation and the economic situation) and 2) the qualitative assessment of the Model results, considered country-by-country to integrate political risk and/or other risk factors not taken (fully) into account by the Model.
25. This J.P. Morgan study is cited in Moran (2003). Moran describes its results as follows: "A study of the potential privatisation of OPIC commissioned from J.P. Morgan concluded that the US government would actually have to offer OPIC's assets at a discount to induce any private corporation to take over its portfolio because the private sector would simply not be able to replicate its deterrent function or reproduce its recovery rates." [Page 4.]
26. One of the companies in the sample is an information and consultancy whose range of services includes consulting in the area of responsible business conduct.
27. A study of OPIC done by the bank J.P. Morgan notes OPIC's "exceptional" performance in claims recovery. The study notes that an eventual privatisation of OPIC would probably lead to a loss in value for the US government because prospective private buyers would factor in a much lower recovery rate. Study described in Moran (2003) page 26.
28. From "Comments from OPIC on page 40 of the US General Accounting Office Report Overseas Investment: Issues Related to the Overseas Private Investment Corporation's Reauthorisation". September 1997.

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ANNEX 1

Methodology

The survey described in this document draws only on publicly available information. It is based on information provided on the websites of investment guarantee agencies and from other official sources (*e.g.* the websites of the World Bank Group and of the Berne Union).

The survey covers national, publicly-sponsored investment guarantee programmes for a sample of OECD and non-OECD countries. The OECD countries selected were chosen to give a balance of geographical coverage. Only websites available in English, French, German or Spanish were considered for eligibility in the sample. The three non-OECD countries in the sample (China, India and South Africa) were chosen because of these countries' importance as global or regional investors.

The survey of private providers of political risk insurance also uses only publicly available information. The sample is the list of private PRI service providers that appears on the MIGA's website, PRI Center (*www.pri-center.com*).

In all cases, the information is that appearing on the relevant websites between April-June 2007.

ANNEX 2

Information Tables for Publicly-Sponsored PRI Providers

Table A2.1. **Institutions providing PRI for OECD Governments**

	Agency: IG Provider	MIGA MEMBER
OECD		
Australia	EFIC – Export Finance and Insurance Corporation (*www.efic.gov.au/)*	Yes
Austria	OEKB – Oesterreichische Kontrollbank AG (*www.oekb.at/control/index.html*)	Yes
Belgium	ONDD – Office National du Ducroire/ Nationale Delcrederedienst (*www.ondd.be/*)	Yes
Canada	EDC – Export Development Canada (*www.edc.ca/*)	Yes
Czech Republic	EGAP – Export Guarantee and Insurance Corporation (*www.egap.cz/*)	Yes
Denmark	EKF – Eksport Kredit Fonden (*www.ekf.dk/*)	Yes
Finland	FINNVERA PLC (*www.finnvera.fi/*)	Yes
France	COFACE – Compagnie Française d'Assurance (*www.coface.com*)	Yes
Germany	PWC – PricewaterhouseCoopers AG (*www.agaportal.de*)	Yes
Greece	ECIO – *Export Credit Insurance Organisation* (*www.oaep.gr/*)	Yes
Hungary	MEHIB – Hungarian Export Credit Insurance (*www.mehib.hu/*)	Yes
Iceland	TRU – Tryggingardeild Utflutnings (*www.nsa.is*)	Yes
Ireland	No information found on any national PRI agency	Yes
Italy	SACE – Servizi Assicurativi del Commercio Estero (*www.sace.it*)	Yes
Japan	NEXI – Nippon Export and Investment Insurance (*www.nexi.go.jp*)	Yes
Korea	KEIC – Korea Export Insurance Corporation (*www.keic.or.kr*)	Yes
Luxembourg	Office du Ducroire Grand Duché de Luxembourg (*www.ducroire.lu*)	Yes
Mexico	No information found on any national PRI agency	Not a member
Netherlands	ATRADIUS Dutch State Business (*atradius.com/nl/dutchstatebusiness/*)	Yes
New Zealand	No information found on any national PRI agency	Application in progress
Norway	GIEK – Garanti-Instituttet for Eksportkreditt (*www.giek.no/default.asp*)	Yes
Poland	KUKE – Export Credit Insurance Corporation Joint Stock Company (*www.kuke.com.pl/*)	Yes
Portugal	COSEC – Companhia de Seguro de Créditos (*www.cosec.pt*)	Yes
Slovak Republic	EXIMBANKA SR – Export-Import Bank of the Slovak Republic (*www.eximbanka.sk*)	Yes
Spain	CESCE – Compañía Española de Seguros de Crédito a la Exportación (*www.cesce.com*)	Yes
Sweden	EKN – Exportkreditnämnden (*www.ekn.se*)	Yes
Switzerland	No information found on any national PRI agency	Yes
Turkey	TURK EXIMBANK (*www.eximbank.gov.tr/*)	Yes
UK	ECGD – The Export Credits Guarantee Department UK (*www.ecgd.gov.uk/*)	Yes
US	OPIC – Overseas Private Investment Corporation (*www.opic.gov*)	Yes
Non-OECD		
China	SINOSURE – China Export and Credit Insurance Corporation (*www.sinosure.com.cn/index.jsp*)	Yes
India	ECGC – Export Credit Guarantee Corporation of India Ltd. (*www.ecgc.in/portal/*)	Yes
South Africa	ECIC – Export Credit Insurance Corporation of South Africa (Pty) Ltd (*www.thedti.gov.za/thedti/ecic.htm*)	Yes
Multilateral		
MIGA (World Bank Group)	MIGA – Multilateral Investment Guarantee Agency (*www.miga.org*)	

Table A2.2. **Mission Statements**

Agency	Promote host country welfare and/or development	Promoting the external competitiveness of home country entities	Fill the market gap – make up for lack of private insurance	Meet international policy objectives	Comments (texts in quotes are from agency websites)
OECD					
OEKB (*Austria*)	Not found in mission statement	Yes	Not found in mission statement	Not found in mission statement	OeKB's primary objective since 1950 has been the promotion of exports by helping to reduce risks for Austrian companies and protecting them against losses abroad. OeKB supports exporters competing in the world market
EFIC (*Australia*)	Yes	Yes	Yes	Not found in mission statement	EFIC's mission statement says: "We seek to create opportunities for our clients, particularly small to medium enterprises, when the private market lacks capacity or willingness, filling the market gap on a commercial basis to contribute to the community in Australia and overseas."
ONDD (*Belgium*)	Not found in mission statement	Not found in mission statement	Not found in mission statement	Yes	ONDD is an autonomous public institution with a mission "to promote international economic relations."
EDC (*Canada*)	Not found in mission statement	Yes	Not found in mission statement	Not found in mission statement	"Our mandate is to support and develop Canada's export trade and Canadian capacity to engage in that trade and to respond to international business opportunities. To fulfil this mandate, we provide trade finance and risk mitigation services to Canadian companies involved in export trade."
COFACE (*France*)	Not found in mission statement	Not found in mission statement	Not found in mission statement	Not found in mission statement	COFACE's mission is to "facilitate exchange between companies everywhere in the world."
SACE (*Italy*)	Not found in mission statement	Yes	Not found in mission statement	Not found in mission statement	SACE's "mission is to provide support for the internationalisation if the Italian economy, by insuring and reinsuring political and commercial risks to which Italian operators may be exposed in their international transactions."
PWC (*Germany*)	Not found in mission statement	Yes	Not found in mission statement	Not found in mission statement	The German government supports the activities of German companies abroad by means of its foreign trade and investment promotion scheme and in doing so maintains their competitiveness, contributes to job security and promotes exports thus acting as an important growth factor.
NEXI (*Japan*)	Not found in mission statement	Yes	Yes	Not found in mission statement	NEXI's "mission is to assist customers to conduct international business with a sense of security by reducing incidental business risks. NEXI aims to efficiently and effectively conduct insurance business of covering risks which arise in foreign transactions and which are not covered by commercial insurance".
KEIC (*Korea*)	Not found in mission statement	Yes	Not found in mission statement	Not found in mission statement	KEIC promotes "the nation's export, overseas investment, and other overseas business activities by providing various types of export-related insurances, overseas investment insurances, and guarantees."

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Table A2.2. **Mission Statements** *(cont.)*

Agency	Promote host country welfare and/or development	Promoting the external competitiveness of home country entities	Fill the market gap – make up for lack of private insurance	Meet international policy objectives	Comments (texts in quotes are from agency websites)
ATRADIUS DSB *(Netherlands)*	Not found in mission statement	Yes	Not found in mission statement	Not found in mission statement	Astradius promotes "complementary to the market, Dutch exports and foreign investment by providing credit and investment insurance."
Türk EXIMBANK *(Turkey)*	Not found in mission statement	Yes	Not found in mission statement	Not found in mission statement	Türk Eximbank supports foreign trade and Turkish contractors/investors operating overseas through various credit, guarantee and insurance programs.
ECGD *(UK)*	Not found in mission statement	Yes	Not found in mission statement	Yes	ECGD's mission is to "benefit the UK economy by helping exporters of UK goods and services to win business and UK firms to invest overseas by providing guarantees, insurance and reinsurance against loss, taking into account the Government's international policies."
OPIC *(US)*	Yes	Not found in mission statement	Yes	Not found in mission statement	OPIC's "mission is to mobilise and facilitate the participation of United States private capital and skills in the economic and social development of less developed countries and areas, and countries in transition from non market to market outcomes."
Non-OECD					
ECGC *(India)*	Not found in mission statement	Yes	Not found in mission statement	Not found in mission statement	ECGC's mission is "To support the Indian Export Industry by providing cost-effective insurance and trade-related services to meet the growing needs of the Indian export market through the optimal utilisation of available resources."
ECIC *(South Africa)*	Not found in mission statement	Yes	Not found in mission statement	Not found in mission statement	ECIC "facilitates and encourages South African export trade … To achieve this, the ECIC evaluates export credit and foreign investment risks and provides export credit and foreign investment insurance cover on behalf of government…"
SINOSURE *(China)*	Not found in mission statement	Yes	Not found in mission statement	Not found in mission statement	SINOSURE mission is to protect "Chinese companies from commercial and political risks in export and overseas investments, facilitating the financing of these transactions, improving the competitiveness of Chinese companies in international markets and rendering them strong support overseas."

Table A2.3. **Legal status**

Agency	Legal status	Short Description
OECD		
EFIC *(Australia)*	Part of Ministry	EFIC is part of the Foreign Affairs and Trade portfolio and reports to the Minister for Trade. EFIC's provides finance, guarantees, insurance and bonding facilities to support Australian companies exporting or investing overseas.
OEKB *(Austria)*	Private company	Part of a private financial services group. In the field of export credit and investment insurance, OeKB operates the investment guarantee on behalf of the Republic of Austria.
ONDD *(Belgium)*	Independent agency	Autonomous public institution.
EDC *(Canada)*	Independent agency	EDC is a Canadian Crown Corporation.
COFACE *(France)*	Private company	Owned by Natixis, a private financial services group, COFACE provides credit insurance, information and corporate ratings and receivables management training on behalf of the French government.
PWC AG *(Germany)*	Private company	The German Government appointed a consortium (PricewaterhouseCoopers Aktiengesellschaft (PwC AG) as lead partner with Euler Hermes Kreditversicherungs-AG (Euler Hermes)) to act on its behalf.
SACE *(Italy)*	Public-limited company	All shares are owned by the Ministry of Finance and Economics.
NEXI *(Japan)*	Independent agency	Independent administrative institution referring to the Minister of Economy, Trade and Industry.
KEIC *(Korea)*	Independent agency	KEIC operates under the policy guidance of the Ministry of Commerce, Industry and Energy. KEIC provides export credit insurance to Korean exporters, guarantees to banks that provide export financing and issue bonds for exporters and political risk insurance to new investment overseas.
ATRADIUS DSB *(Netherlands)*	Private company	A fully owned subsidiary of Atradius Group, Atradius Dutch State Business (Atradius DSB) provides medium term export credit and investment insurance services for the account of the Dutch State.
Türk EXIMBANK *(Turkey)*	Independent agency	Turkey's official export credit agency, the Bank currently supports Turkish exporters, contractors and investors through various credit, guarantee and insurance programs. Investment insurance cover may be offered on a case-by-case basis.
ECGD *(UK)*	Part of Ministry	ECGD is a separate department of the UK government, responsible to the Secretary of State for Trade and Industry.
OPIC *(US)*	Independent agency	Independent US government agency. Supports US foreign policy by promoting overseas investment projects with substantial US participation through financing, investment funds and by providing political risk insurance. OPIC is required by statute to give preferential consideration to investments in developing countries with low per capita income. Projects significantly involving US small business and cooperatives are considered a priority.
Non-OECD		
ECGC *(India)*	Independent agency	Established in 1957 by the Government of India, ECGC operates under the control of the Ministry of Commerce.
ECIC *(South Africa)*	Independent limited liability agency	Independent limited liability company with the Government of South Africa, through the Department of Trade and Industry, as the sole shareholder. Provides export credits and foreign investment insurance on behalf of the Government.
SINOSURE *(China)*	Public corporation	Established in 2001 by merging the Export Credit Insurance Departments of PICC (People's Insurance Company of China) and EXIM.

Table A2.4. **Disclosure and reporting**

Agency	Agency-wide reporting			Project-specific reporting			Other remarks
	Annual report?	Financial information for IG programme	Reports to Parliament or other legislative bodies?	Project reports?	Financial	Outcomes	Other information (*e.g.* environmental or social impacts).
OECD							
EFIC *(Australia)*	Yes	Yes	Yes	Yes; the Annual Report discloses information on medium to long term projects (*e.g.* on investor's identity; activity; size and type of transaction, foreign counterparty)	Yes	Not found	"Freedom of information" is noted as a mechanism for information disclosure on agency website.
OEKB *(Austria)*	Yes	Yes	Not found	Yes	Yes, above 10M EUR	Not found	Environmental and social impact assessments of projects above 10M Euros (with consent of client).
ONDD *(Belgium)*	Yes	Yes	Not found	Yes	Not found	Not found	With clients' consent, information on category A projects is made available for public comment. Online listing of projects classified under categories A and B with the project description, the host country, the contracting party, the amount involved (in categories), the environmental category and possibly a hyperlink to the Environmental Impact Assessment of the project.
EDC *(Canada)*	Yes	Yes	Yes	Yes	Not found	Not found	For projects likely to have significant adverse environmental impact: date of signing, host country, investor, principal counterparty, transaction description and size.
COFACE *(France)*	Yes	Yes	Yes	Yes	Not found	Not found	If a transaction is classified as a category A project, information on the environmental impact is made available to the public for at least 30 days before the policy is issued.
PwC *(Germany)*	Yes	Yes	No, except as part of annual budget discussions	Yes, reports on selected cases	Not found	Not found	
SACE *(Italy)*	Yes	Yes	Yes	Not found	Not found	Not found	
NEXI *(Japan)*	Yes	Yes	Not found	Yes	Not found	Monitoring of environmental impacts of sponsored projects	For contracts not yet concluded, the project name, category according to environmental and social impact, reason for categorisation and project location.
KEIC *(Korea)*	Yes	Yes	Not found	Not found	Not found	Not found	
ATRADIUS DSB *(Netherlands)*	Yes	Yes	Not found	Yes	Not found	Not found	If a transaction is classified as a category A project, information on the environmental impact is made available to the public for at least 30 days before the policy is issued.

Table A2.4. **Disclosure and reporting** *(cont.)*

Agency	Agency-wide reporting			Project-specific reporting			Other remarks
	Annual report?	Financial information for IG programme	Reports to Parliament or other legislative bodies?	Project reports?	Financial	Outcomes	Other information (*e.g.* environmental or social impacts).
Türk EXIMBANK *(Turkey)*	Yes	Yes	Not found	Not found	Not found	None found	
ECGD *(UK)*	Yes	Yes	Yes	Yes.	Not found	Not found	If a transaction is classified as a category A project, the information on the environmental impact of it will be made available to the public for at least 30 days before the policy is issued. A list of projects with potentially high social and environmental impacts for which ECGD support has been requested is published (with the consent of the customer). Freedom of information is noted on website as a mechanism for information disclosure.
OPIC *(US)*	Yes	Yes	Yes	Yes	Yes	Yes (*e.g.* claims paid and information about outcomes of arbitration cases)	The Annual Report lists all investment activities sponsored by OPIC. It presents the investor identification, host country, short description of the investment, type of service provided by OPIC and the amount involved. OPIC lists all projects in sectors considered "environmentally sensitive" for a 60-day public comment period. The listing includes the country and industry sector of the projects but not the investor's name. Freedom of information is noted on website as a mechanism for information disclosure. Other transparency mechanisms also apply (*e.g.* reporting on results of OPIC Board meetings).
Non-OECD							
ECGC *(India)*	Not found	Not found	Not found	Not found	Not found	Not found	
ECIC *(South Africa)*	No activities of ECIC described in DTI Annual Report	Not found	Not found	Not found	Not found	Not found	
SINOSURE *(China)*	Yes	Yes	Not found	Not found	Not found	Not found	
Multilateral							
MIGA	Yes	Yes	Not relevant	Yes	Yes	Yes	

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Table A2.5. **Political risks covered***

Agency	Currency inconvertibility/ Transfer restrictions	Confiscation, expropriation, nationalisation	Political violence/war	Default on obligations (loans, arbitral claims, contractual, etc.)	Terrorism	Other risks covered
OECD						
EFIC *(Australia)*	Yes	Yes	Yes	Not found	Not found	Cover can also be provided for other political events such as selective discrimination and arbitral award default
OEKB (Austria)		Yes	Yes	Yes	Not found	
ONDD *(Belgium)*	Yes	Yes	Yes	Yes	Not found	
EDC *(Canada)*	Yes	Yes	Yes	Yes	Not found	
COFACE *(France)*	Yes	Yes	Yes		Not found	Changes in host country legislation; denial of justice in countries with which France has no bilateral investment agreement
PWC *(Germany)*	Yes	Yes	Yes	Yes	Yes (included in war risks)	
SACE *(Italy)*	Yes	Yes	Yes	Yes	Yes (including sabotage)	Embargo; force majeure including natural disasters; exchange rate fluctuation due to laws adopted by the host country
ATRADIUS DSB *(Netherlands)*	Yes	Yes	Yes	Yes	Not found	Some commercial risks also covered; force majeure including natural disasters; default on local authorities' obligations
NEXI *(Japan)*	Yes	Yes	Yes	Yes	Not found	Force majeure
KEIC (*Korea*)	Yes	Yes	Yes	Yes	Not found	
Türk EXIMBANK *(Turkey)*					Not found	
ECGD *(UK)*	Yes	Yes	Yes	Yes	Not found	
OPIC *(US)*	Yes	Yes	Yes	Yes	Yes (as a stand-alone policy)	Coverage of project specific risks
Non-OECD						
ECGC *(India)*	Yes	Yes	Yes	Not found	Not found	For Construction Works abroad: Exchange rate fluctuation, failure of the employer to pay the amounts due
ECIC *(South Africa)*	Yes, for works of a capital nature abroad only	Yes	Yes	Yes, for works of a capital nature abroad only	Not found	For works of a capital nature abroad: insolvency
SINOSURE *(China)*	Yes	Yes	Yes	Yes	Not found	

* The risks included in the table are those found on the website of the political risk insurers. In some cases, the risks shown are available only for certain sectors, projects, activities or asset types. In other cases, it can only be purchased on a stand-alone and/or bespoke (tailor-made contract) basis.

** Includes politically motivated violence: revolutions, rebellions, civil disturbances, war, etc.

Table A2.6. **Eligible clients**

Agency	Domestic Residents		Foreign subsidiaries of domestic companies	Observations
	Nationals	Foreign corporations with domestic presence		
OECD				
OEKB *(Austria)*	Yes	Yes (export oriented, EU member, Austrian origin verified products)	No	
EFIC *(Australia)*	Yes	Yes	No	EFIC states that eligibility "criteria are product specific, and include EFIC being satisfied that all parties in a transaction are acceptable and capable of fulfilling their respective obligations."
ONDD *(Belgium)*	Yes	Yes	Yes	Clients are those who are integrated in the Belgium economic community.
EDC *(Canada)*	Yes		Yes	
COFACE *(France)*	Yes	Yes	No	
PWC *(Germany)*	Yes	No	Yes[a]	Endowment capital for foreign branches of German companies. There must be an explicit German interest in the realisation of the project abroad.
SACE *(Italy)*	Yes	No	Yes	
NEXI *(Japan)*	Yes	No	No	
KEIC *(Korea)*	Yes	No	No	
ATRADIUS DSB *(Netherlands)*	Yes	Yes	No	
Türk EXIMBANK (*Turkey*)	Yes	Yes	No	
ECDG *(UK)*	Yes	Yes	Yes	"All companies and persons carrying on business in the UK are in principle eligible for insurance, provided that the investment is identifiable as of UK origin in the host country. This also applies where the investment is made via an overseas subsidiary. Cover can be considered where an eligible UK investor channels an investment through a non-UK intermediary provided that the investor has a sufficient degree of control over the intermediary."
OPIC *(USA)*	Yes	No[a]	Yes[b]	Company must be "beneficially owned" by US citizens.
Non-OECD				
ECGC *(India)*	Yes	No	No	Target clients are referred to as Indian investors and contractors.
ECIC *(South Africa)*	Yes	No	No	Target clients are defined as South African entities.
SINOSURE *(China)*	Yes	No	No	Enterprises and financial institutions registered and having its principal place of business in Mainland China, excluding those controlled by Hong Kong, Macau and Taiwan enterprises, institutions and citizens.

Notes: The term "domestic residents" refers to entities operating in the domestic/home market of the country that is providing PRI. "Subsidiaries of domestic residents" refers to affiliates of domestic residents, either national or foreign.

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Table A2.7. **Assessment criteria and conditions**

Agency/Criteria	Economic Evaluation			Environmental Impact	Social Impact	Labour Rights	Bribery
	Economic and financial viability	Home country impact	Host country development impact				
OECD							
EFIC *(Australia)*	Yes	Yes	Not found	Yes	Yes	Yes	
OEKB *(Austria)*	Yes	Yes	Not found	Yes	Yes	Not found	Yes
ONDD *(Belgium)*	Not found	Yes	Not found	Yes	Yes	Not found	Not found
EDC *(Canada)*		Yes	Not found	Yes	Not found	Not found	Yes
COFACE *(France)*	Yes	Yes	Yes	Yes	Not found	Not found	Yes
PwC (*Germany)*	Yes	Yes	Yes	Yes	Not found	Not found	Not found
SACE *(Italy)*	Not found	Yes	Not found	Yes	Not found	Not found	Not found
KEIC (*Korea*)	Not found	Not found	Not found	Not found	Not found	Not found	Not found
NEXI *(Japan)*	Yes	Not found	Not found	Yes	Yes	Not found	Not found
ATRADIUS DSB *(Netherlands)*	Not found	Not found	Not found	Yes	Yes	Yes	Yes
Türk Eximbank *(Turkey)*	Not found	Not found	Not found	Not found	Not found	Not found	Not found
ECGD *(UK)*	Not found	Yes	Not found	Yes	Yes	Not found	Yes
OPIC *(USA)*	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Non-OECD							
ECGC *(India)*	Not found	Not found	Not found	Not found	Not found	Not found	Not found
ECIC *(South Africa)*	Not found	Not found	Not found	Not found	Not found	Not found	Not found
SINOSURE *(China)*	Not found	Not found	Not found	Not found	Not found	Not found	Not found

Notes: This table describes criteria used by agencies to evaluate investment projects overseas and also conditions or criteria used to refuse sponsorship ("Off-limit" or prohibitive criteria. If clients are asked to sign forms regarding environmental, labour and/or anti-bribery, this is treated as a condition for providing insurance cover. The column heading "Social impact" refers to the agency taking into account the consequences of the investment to local communities. It is often a prohibitive criterion – for example, projects that require major displacement of local populations are not eligible for coverage. "Labour rights" refers to the observance of international labour rights (*e.g.* ILO) by the investor.

Table A2.8. **Political risk assessment practices**

Agency	List of eligible countries	Investment protection treaties or agreements relevant	International ratings used	Notes
EFIC *(Australia)*	Yes	Not found	Not found	
OEKB *(Austria)*	Yes	Not found	Not found	
ONDD *(Belgium)*	Yes	Yes	Not found	
EDC *(Canada)*	Not found	Not found	Yes	To qualify, "overseas investments must be beneficial to Canada and comply with EDC's Code of Business Ethics including commitment to the environment and anti-corruption." The website contains country-by-country political and economic analysis for many countries.
COFACE *(France)*	Not found	Not found	COFACE has a proprietary risk evaluation system	
PwC *(Germany)*	Yes	Yes	Not found	Sector specific contracts.
SACE *(Italy)*	Not found	Not found	Yes	
KEIC *(Korea)*	Not found	Not found	Not found	
NEXI *(Japan)*	Yes	No reference found	Yes	Japan has several lists denoting the status of the host country under the programme: one is of countries that are not eligible; a second were limited insurance coverage is available and a third for which a review must be conducted due to NEXIs limited underwriting experience. Other countries are eligible.
ATRADIUS DSB *(Netherlands)*	Yes	Yes	Atradius has a proprietary risk evaluation system	
Türk EXIMBANK *(Turkey)*	Not found	Not found	Not found	
ECGD *(UK)*	Not found	Not found	Not found	The ECGD application forms ask for detailed information about relations with host governments. It also notes that the existence of an adequate arbitration agreement between the investor and the host government will viewed with favour as the application is considered.
OPIC *(USA)*	Yes	Yes	Not found	The website shows, for most eligible countries, special bilateral "Investment Incentive Agreements" that govern OPIC-host government relations.
Non-OECD				
ECGC *(India)*	Not found	Not found	Not found	
ECIC *(South Africa)*	Not found	Not found	Not found	
SINOSURE *(China)*	Not found	Not found	Not found	

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Table A2.9. **Monitoring of outcomes/client compliance with contractual obligations**

Agency	Complaints facility or Ombudsman	Contract compliance monitoring by agency staff	Notes
OECD			
OEKB *(Austria)*	Not found	Yes	Screening is used to identify environmentally sensitive projects or projects located in or near sensitive areas which would require further review. The decision on the kind of further review is based on the applicant's statement in the application form and other information received from the applicant.
EFIC *(Australia)*	Not found	Yes	For Category A and B projects having contract conditions relating to environmental and social impacts, EFIC monitors such conditions for the duration of the contract.
EDC (*Canada)*	Yes	Yes	A compliance audit can be conducted by EDC's internal auditors or an external third party to verify whether or not EDC is complying with its policies, procedures and guidelines. This audit takes place separate from the complaint process.
ONDD *(Belgium)*	Not found	Not found	
COFACE *(France)*	Not found	Yes	COFACE requires clients to facilitate its right of control by supplying documents and authorising inspections to allow COFACE to verify the client's compliance with his obligations.
PWC *(Germany)*	Not found	Yes	Not specifically mentioned, but PWC generally monitors and accompanies investors.
SACE *(Italy)*	Not found	Not found	
NEXI *(Japan)*	Not found	Not found	If environmental reviews indicate a need for monitoring, NEXI undertakes monitoring based on regular self-reports submitted by the client. The timing of self-reporting depends on various factors (sector, location, project-specific characteristics). Items required monitoring shall be decided according to the sector and nature of the project, with reference to a list of terms described in Appendix 3 ("Items Requiring Monitoring") of NEXI's "Guidelines on Environmental and Social Considerations in Tade Insurance". Examples include: 1) matters indicated by local environmental authorities; 2) anti-pollution measures concerning air and water quality; 3) consideration for rare species during construction work; 4) social aspects, including progress in resettlement plans.
KEIC *(Korea)*	Not found	Not found	
ATRADIUS DSB *(Netherlands)*	Not found	Not found	
Türk EXIMBANK *(Turkey)*	Not found	Not found	
ECGD (*UK*)	Yes	Not found	ECGD's website proposes several options for filing complaints, including contacting the ombudsman located in the Parliamentary Commission for Administration.
OPIC *(USA)*	Yes	Yes	OPIC is required by statute to monitor the actual effects of projects assisted by the agency. OPIC monitors the actual economic impact of every project until the conclusion of the investment. Specifically, the projects are evaluated for their effects on the host country economies and employment, their environmental impact, and conformance with internationally recognised worker rights standards; Two procedures are in place: 1) the "Site Monitoring" Program by which OPIC randomly selects the projects that staff will monitor (via a one-time on site visit) during a 3 year period. In addition to random visits, all investments considered to be economically or environmentally sensitive are also visited; 2) OPIC operates a "Self-Monitoring" Program by which each investor completes an annual questionnaire reporting on the project's developmental impact.
Non-OECD			
ECGC *(India)*	Not found	Not found	
ECIC *(South Africa)*	Not found	Yes	The ECIC website directs readers to the South African Department of Trade and industries "Fraud Hotline."
SINOSURE *(China)*	Not found	Not found	

Table A2.9. **Monitoring of outcomes/client compliance with contractual obligations** *(cont.)*

Agency	Complaints facility or Ombudsman	Contract compliance monitoring by agency staff	Notes
Multilateral			
MIGA	Yes	Yes	To mitigate against the risk of loss in the case of investment disputes, investors are required to notify MIGA as early as possible of difficulties with a host government that might give rise to a claim of loss under the guarantee. In the environmental and social fields… Compliance will be assured by the applicant's specific and continuing representations and warranties that measures to comply with environmental requirements will be taken and maintained throughout the term of the Contract of Guarantee. Failure to do so may result either in contract cancellation or denial of a claim. MIGA may from time-to-time request warranties from the guarantee holder that the project remains in compliance with the terms and conditions of the contract. For all Category A projects, the guarantee holder is required to submit at MIGA's request an environmental monitoring report confirming compliance with local environmental laws and regulations, and demonstrating compliance with the Environmental Action Plan. MIGA may also carry out monitoring visits, request specific data, or carry out other measures as necessary to verify information. Frequency of site visits will depend on environmental and social complexity of the project. Evidence that a project is not in compliance are grounds for canceling coverage or denying a claim.

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