



EXPORT DEVELOPMENT CANADA'S ROLE IN BAILING OUT THE OIL AND GAS SECTOR

The COVID-19 crisis has put the livelihoods of millions in Canada at risk, and the federal government is preparing historic levels of public finance in response. Since the stimulus money will shape our economy for decades to come, the government should use this opportunity to build resilience to future crises and invest in a clean recovery that maximizes job creation. It must not respond with further public backing of oil and gas, which is entirely incompatible with the Paris Agreement's goal of limiting warming to well below 2°C. This would leave us vulnerable to escalating climate impacts and economic risks associated with an overreliance on fossil fuel extraction.

Canada's export bank, Export Development Canada (EDC), already provides on average nearly fourteen billion dollars in support to oil and gas companies each year. As a result, Canada ranks second highest among G20 countries in public finance for fossil fuels.¹ Now the federal government is using EDC to channel even more support to the oil and gas sector, which has been intensely lobbying the government for a bailout package of up to \$30 billion.²

EDC is not the sole vehicle through which the government is offering bailout money to oil and gas firms. A program to provide large companies loans of \$60 million or

more through the Canada Development Investment Corporation is but one example of other support measures recently introduced. EDC's role is significant, however, and bears scrutiny given the agency's track record of providing vast sums of support to oil and gas with minimal disclosure. This document answers basic questions about EDC and its role in Canada's COVID-19 relief for oil and gas firms, and provides recommendations to align the government's pandemic response with its climate commitments.



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¹ Tucker, B. and DeAngelis, K. (Oil Change International and Friends of the Earth U.S.), *Still Digging: G20 governments continue to finance the climate crisis* (2020) at p 20: <http://priceofoil.org/content/uploads/2020/05/G20-Still-Digging.pdf>

² Seskus, T., "Kenney warns Alberta headed for 25% unemployment," *CBC News* (7 Apr 2020): <https://www.cbc.ca/news/canada/calgary/kenney-unemployment-alberta-prediction-capp-symposium-1.5524461>

AN OPAQUE CROWN CORPORATION WITH MINIMAL GOVERNMENT OVERSIGHT

Export Development Canada is Canada's export credit agency (ECA). ECAs are public entities that provide corporations with government-backed loans, guarantees and insurance to support exports and foreign investments. Export Development Canada (EDC) is a Crown corporation that reports to Parliament through the trade minister.

Until recently EDC's mandate was to support Canadian companies' business abroad. In response to the 2008 financial crisis, Parliament expanded EDC's mandate to allow the agency to support domestic business in Canada.³ Though intended to be temporary, EDC's domestic powers were never fully rolled back.

EDC is not funded from government coffers. Instead, the agency finances its operations from its revenues. If EDC were unable to make good on its obligations, however, ultimately the Government of Canada – and therefore taxpayers – would be on the hook.

Observers have long called attention to Parliament's lax scrutiny of EDC.⁴ As an agent of the government, EDC is bound by Canada's international commitments, including those on climate. Yet its governing legislation, the *Export Development Act*, grants the agency broad discretion to handle environmental risks however it sees fit. A review of this act,

which Parliament is mandated to undertake every 10 years, began in 2018 but is now stalled in the trade committee.

EDC itself has been repeatedly criticized for its lack of transparency.⁵ A 2019 exposé by *The Globe and Mail* describes a “pattern of secrecy” at the agency.⁶ It is unclear how the agency screens potential clients for environmental and social risks, including risks of climate harm and human rights violations. EDC rarely discloses details about why it chooses to support a company despite such risks and what preventive measures, if any, it will insist on as a condition for support. A government report prepared as part of the stalled parliamentary review of the *Export Development Act* confirmed that the agency's disclosure practices are deficient.⁷

EDC'S CANADA ACCOUNT: A CHANNEL FOR RISKY LOANS

The Canada Account⁸ was set up by the government to facilitate loans or guarantees that the trade minister deems to be in Canada's national interest, but that EDC would not normally support due to the risk involved.⁹ Although the account is administered by EDC, the trade and finance ministers initiate and approve transactions in this account, bypassing EDC's usual risk assessment process. The government finances these transactions directly from general government revenue, which means any loss incurred is directly borne by Canadian taxpayers. As we outline below, it is through the Canada Account that the

government purchased the Trans Mountain Pipeline and is now financing its expansion.

Loans issued through the Canada Account can easily become grants. The government's 2009 bailout of the auto sector was channelled through the Canada Account. Part of the finance, a \$2.6 billion loan to Chrysler, was written off in 2018 without any details disclosed regarding the loan or the reason for the write-off.¹⁰

As part of its COVID-19 response, the government greatly increased limits to the Canada Account's liability. In doing so, it granted itself leeway to issue billions more in risky loans via EDC to companies that may not be able to repay.

EDC'S ROLE IN THE COVID-19 OIL AND GAS BAILOUT

In addition to support EDC provides to oil and gas through its usual activities, which we examine further below, the agency appears set to deliver what may be billions of dollars in support to this sector through measures in the government's COVID-19 Economic Response Plan.¹¹ We outline these measures here:

Business Credit Availability Program (BCAP)

- ◆ **Total amount: Initially \$65 billion; later expanded to an unknown amount**
- ◆ Under this program EDC and the Business Development Bank of Canada (BDC) will provide small and medium-sized companies with loans and other supports. EDC will provide guarantees

3 EDC, “EDC ready to deliver new domestic business on Day 1,” news release (13 Mar 2009): <https://www.canada.ca/en/news/archive/2009/03/edc-ready-deliver-new-domestic-business-day-1.html>

4 Above Ground, *Bringing Accountability and Transparency to Export Development Canada's Practices* (2019) at pp 3-8: <https://aboveground.ngo/wp-content/uploads/2019/03/LR-main-submission-final.pdf>

5 Doukas, A. and Scott, A. (Oil Change International), *Risking it all: How Export Development Canada's support for fossil fuel drives climate change* (2018) at p 12: <http://priceofoil.org/2018/11/22/risking-it-all-export-development-canada/>

6 McClearn, M. & York, G., “See no evil: How Canada is bankrolling companies accused of bid-rigging, graft and human-rights violation,” *The Globe and Mail* (1 Jun 2019): <https://www.theglobeandmail.com/canada/article-export-development-canada-investigation/>

7 McClearn, M., “Federal review of Export Development Canada finds inadequate disclosure practices,” *The Globe and Mail* (1 Jul 2020): <https://www.theglobeandmail.com/canada/article-federal-review-slams-export-development-canadas-disclosure-practices/>

8 EDC, “Canada Account”: <https://www.edc.ca/en/about-us/corporate/disclosure/reporting-transactions/canada-account.html>

9 “In a transaction where [the risks] are considered beyond the risk capacity of [EDC] and inconsistent with ensuring its long-term financial viability, the Government may authorize EDC to undertake the transaction and effectively assume the risk itself provided that the transaction is in the national interest of Canada.” EDC, *Canada Account Annual Report 2017-2018* (2018) at p 3: <https://www.edc.ca/en/about-us/corporate/corporate-reports.html>

10 Beeby, D., “Liberal government writes off \$1.1B US loan to Chrysler, plus interest, docs show,” *CBC News* (22 Oct 2018): <https://www.cbc.ca/news/politics/chrysler-auto-loan-canada-account-write-off-edc-bailout-taxpayer-wudrick-mike-1.4871648>

11 Government of Canada, “Canada's COVID-19 Economic Response Plan” (2020): <https://www.canada.ca/en/department-finance/economic-response-plan.html>

on loans issued from various Canadian financial institutions.¹² It was initially announced that EDC would guarantee 80% of loans of up to \$6.25 million.¹³ The program was later expanded dramatically for medium-sized firms, which can now receive EDC guarantees covering 75% of loans of up to \$80 million.¹⁴ The government offered expanded support first to the oil and gas sector, which it identified as a priority sector for the program,¹⁵ before extending it to other sectors.

Reserve-Based Lending for small and medium-sized oil and gas firms

② Total amount: Unknown

② In April, the government announced new EDC and BDC supports specifically for small and mid-sized companies in the oil and gas sector.¹⁶ EDC's role is to provide credit insurance and 75% loan guarantees of up to \$100 million per company. There is no upper limit to the total amount of support EDC and BDC will provide through this program. When asked about this, Finance Minister Bill Morneau said, "we are not putting a limitation" on the program, which will be "demand driven."¹⁷

Changes to EDC's governing legislation

② To enable these and any forthcoming programs, the *COVID-19 Emergency Response Act*¹⁸ made important changes to EDC's governing legislation.

First, it expanded EDC's domestic mandate, suspending prior conditions placed on EDC's domestic powers. This allows EDC to support a much broader range of companies, including some in oil and gas. These powers will be in place until at least December 2021.¹⁹ Second, it increased the total liability that EDC can incur, from its previous limit of \$45 billion to \$90 billion, until at least October 2020. Third, it increased limits on the Canada Account's liability, from \$20 billion to \$75 billion, until at least October 2020. The government has signalled an intention to use the Canada Account in COVID-19 relief measures.²⁰

With no apparent upper limit to the support to be provided through these and other measures, it seems Ottawa's aid to the oilpatch through its COVID-19 economic response and EDC's routine lending could easily surpass the \$30-billion bailout the industry has requested. The final figure may be difficult to determine even in retrospect, as the government has disclosed few details on how it will report on these loans and guarantees.

EDC has stated that medium-sized oil and gas companies receiving support from these new COVID-19 facilities will be required to commit to publish annual climate-related disclosure reports consistent with the Financial Stability Board's Task Force on Climate-related

Financial Disclosures (TCFD).²¹ However, there are still few details about other conditions companies must meet to receive the support. For example, it is unclear whether companies will be required to align with Canada's target to achieve zero emissions by 2050 or whether assessments will include consideration of stricter polluter-pay requirements for future inactive well and tailings ponds clean up.

Finally, it is unclear how assessment of companies' economic viability will be made. Many companies in the oil and gas sector were struggling before the COVID-19 pandemic, and the sector as a whole faces systemic financial risks that have only been exacerbated by recent events.²² Guaranteeing loans to these companies is a risky proposition that may end up putting taxpayer dollars on the line.

EDC's track record and policies provide no assurance of transparency on these matters.

EDC'S ROUTINE BANKROLLING OF THE OIL AND GAS SECTOR

Prior to the pandemic, EDC was already providing an annual average of \$13.8 billion in support to the oil and gas sector, including through Canada Account transactions.²³ Between 2012 and 2017, EDC provided twelve times more support for oil and gas than for "cleantech."²⁴

12 Scotiabank, "Export Development Canada (EDC) Business Credit Availability Program (BCAP)" (2020): <https://www.scotiabank.com/ca/en/personal/scotia-support/business-banking/commercial/edc-business-credit-availability-program.html>

13 Government of Canada, "Prime Minister announces additional support for businesses to help save Canadian jobs," news release (11 May 2020): <https://pm.gc.ca/en/news/news-releases/2020/05/11/prime-minister-announces-additional-support-businesses-help-save>

14 EDC, "EDC announces expanded support for more Canadian companies to help navigate COVID-19 crisis," news release (11 May 2020): <https://www.edc.ca/en/about-us/newsroom/edc-coronavirus-medium-sized-support.html>

15 EDC, "EDC increasing financial capacity to support Canadian oil and gas companies," news release (17 Apr 2020): <https://www.edc.ca/en/about-us/newsroom/covid-19-oil-gas-support.html>

16 EDC, "EDC increasing financial capacity to support Canadian oil and gas companies," news release (17 Apr 2020): <https://www.edc.ca/en/about-us/newsroom/covid-19-oil-gas-support.html>

17 Bolongaro, K. and Orland, K., "Trudeau gives aid to energy workers, hints at liquidity help," *Financial Post* (17 Apr 2020): <https://business.financialpost.com/pmn/business-pmn/trudeau-offers-aid-to-energy-workers-while-skirting-full-bailout>

18 *COVID-19 Emergency Response Act* (SC 2020, c 5): https://laws-lois.justice.gc.ca/eng/AnnualStatutes/2020_5/

19 EDC, "New domestic mandate enhances EDC's role in supporting all Canadian businesses through COVID-19 crisis," news release (27 Mar 2020): <https://www.edc.ca/en/about-us/newsroom/edc-coronavirus-domestic-support.html>

20 Government of Canada, "Prime Minister announces additional support for businesses to help save Canadian jobs," news release (11 May 2020): <https://pm.gc.ca/en/news/news-releases/2020/05/11/prime-minister-announces-additional-support-businesses-help-save>

21 House of Commons Standing Committee on Finance, "Meetings on Proceedings," 43rd Parliament, 1st Session, Meeting 35, 9 June 2020, <https://www.ourcommons.ca/DocumentViewer/en/43-1/FINA/meeting-35/minutes>.

22 Felt, S. and Muffett, C. (Center for International Law), *Pandemic crisis, systemic decline: Why exploiting the COVID-19 crisis will not save the oil, gas, and plastic industries* (2020) at pp 9-10: <https://www.ciel.org/wp-content/uploads/2020/04/Pandemic-Crisis-Systemic-Decline-April-2020.pdf>

23 Tucker, B. and DeAngelis, K., *supra* note 1 at p 5.

24 It is important to note that EDC does not provide a definition of what comprises their clean tech category. Doukas, A. and Scott, A., *supra* note 5 at p 4.

An average of nearly 30 per cent of EDC's support for oil and gas finances the domestic operations of Canadian companies, many of which are heavily involved in the carbon-intensive oilsands industry. From 2013 through 2017, EDC provided at least \$4.4 billion in support to several of the largest firms active in oilsands development and transportation, though this number is likely a conservative estimate.²⁵ EDC provides make-or-break support for some fossil fuel businesses and large oil and gas projects. By assuming lending and insurance risk, EDC provides substantial commercial and competitive advantage for domestic fossil fuel producers.²⁶

EDC's support to oil and gas includes support for projects that have been criticized for violating human rights, including the right of affected communities to free, prior and informed consent. For instance, in April EDC approved a loan of up to \$500 million for the Coastal GasLink Pipeline in British Columbia, a project opposed by hereditary leaders from all five clans of the Wet'suwet'en Nation.²⁷

In 2018 the Government of Canada directed EDC to issue a \$6.5-billion Canada Account credit agreement for

the government's purchase of the Trans Mountain Pipeline Expansion project. The following year a new \$2.6-billion Canada Account credit agreement was reached, which was later increased to \$4 billion in 2020.²⁸ If the project is completed, a total public cost of at least \$12.6 billion is expected.²⁹

EDC'S INADEQUATE ACTION ON CLIMATE

EDC released its first climate change policy in 2019.³⁰ The policy does not commit EDC to phase out its support for the oil and gas sector.³¹ Instead, the agency has made the modest pledge that by 2023 it will reduce by 15% the total value it loans to the six most carbon-intensive sectors in its lending portfolio, one of which is upstream oil and gas. The target is based on a 2018 baseline of \$22.2 billion. If met, it would slightly decrease the total figure to \$18.9 billion.³² None of the reduction would necessarily come from oil and gas, and the policy leaves EDC free to maintain or increase its support to midstream and downstream oil and gas development.³³ The policy also commits EDC to integrate climate-related risks into its risk assessment processes, but does not give any sense of what weight they will be given in EDC's decision-making.

A CALL FOR REALIGNMENT WITH CLIMATE COMMITMENTS

The response to COVID-19 requires unprecedented support for workers in many industries, including oil and gas, but this support should neither introduce nor entrench subsidies that hinder our urgently needed transition away from fossil fuels.

A broad range of civil society organizations and academics warn that by bailing out the oil and gas sector, Canada further entrenches its woefully inadequate response to the climate emergency.³⁴ EDC's ongoing backing for the expansion of fossil fuels is incompatible with Canada's Paris Agreement commitments and out of step with the international finance community's shift towards decarbonisation. Many public financial institutions, such as the World Bank Group, the European Investment Bank and the Swedish export credit agency, are already taking steps to shift their investments away from oil and gas.³⁵ Furthermore, the Organization for Economic Cooperation and Development and International Energy Agency urge that COVID-19 recovery efforts be used to phase out support for fossil fuels.³⁶

In addition to these problems, we are concerned that the public will never know

25 As EDC reports the values of transactions only in broad ranges, this estimate is highly conservative as it takes the lowest value of each. *Ibid* at p 12.

26 *Ibid* at p 8.

27 EDC, "Signed Category A projects after Nov. 1, 2010": <https://www.edc.ca/en/about-us/corporate/disclosure/reporting-transactions/signed-category-a-after-november-2010.html>; Baker, R., "A who's who of the Wet'suwet'en pipeline conflict," *CBC News* (26 Feb 2020): <https://www.cbc.ca/news/canada/british-columbia/wetsuweten-whos-who-guide-1.5471898>

28 CDEV, *Condensed Consolidated Financial Statements* (2019) at p 3: <https://www.cdev.gc.ca/wp-content/uploads/2019/11/CDEV-Q3-19-Report-EN.pdf>

29 Kapelos, V. and Tasker, J., "Cost of Trans Mountain expansion soars to \$12.6B," *CBC News* (7 Feb 2020): <https://www.cbc.ca/news/politics/vassy-trans-mountainpipeline-1.5455387>

30 EDC, "Export Development Canada releases new Climate Change Policy," news release (28 Jan 2019): <https://www.edc.ca/en/about-us/newsroom/climate-change-policy-2019.html>

31 See Above Ground, "With new limits on coal but none on oil and gas, EDC's climate policy misses the mark" (14 Feb 2019): <https://aboveground.ngo/edc-new-climate-change-policy-falls-short/>

32 EDC, *Growing Canadian trade, responsibly: EDC 2019 annual report* (2020) at p. 29-30: <https://www.edc.ca/en/about-us/corporate/corporate-reports/2019-annual-report.html>

33 Doukas, A. (Oil Change International), "Export Development Canada's new climate targets miss the mark" (9 Jun 2020): <http://priceofoil.org/2020/06/09/export-development-canadas-new-climate-targets-miss-the-mark/>

34 Environmental Defence Canada, "No new money for oil and gas companies - give it to workers - say large collection of groups representing more than one million Canadians," news release (24 Mar 2020): <https://environmentaldefence.ca/2020/03/24/no-new-money-oil-gas-companies-give-workers-say-large-collection-groups-representing-one-million-canadians/>; Adkin, L. and Davidson, D., "265 academics to Trudeau: No bail out for oil and gas in response to COVID-19" (25 Mar 2020): <https://www.nationalobserver.com/2020/03/25/opinion/265-academics-trudeau-no-bail-out-oil-and-gas-response-covid-19>

35 Tucker, B. and DeAngelis, K., *supra* note 1 at p 30.

36 OECD and IEA, "Governments should use COVID-19 recovery efforts as an opportunity to phase out support for fossil fuels, say OECD and IEA" (5 Jun 2020): <http://www.oecd.org/environment/governments-should-use-covid-19-recovery-efforts-as-an-opportunity-to-phase-out-support-for-fossil-fuels-say-oecd-and-ia.htm>

the full costs, economic and environmental, of new EDC supports for the oil and gas sector.

We make the following recommendations to the federal government:

- Across all public finance institutions and government departments, ensure stimulus spending supports a just recovery, carving a path to resilient, equitable zero-carbon societies instead of further locking in fossil fuel production and use. This should align with the six Principles for a Just Recovery³⁷ endorsed by hundreds of organisations across Canada, and should include the development of public finance institutions explicitly structured to support this transition.
- Complete the 2018 legislative review of the *Export Development Act*. Amend the act to end EDC support for fossil fuels, including support provided through the Canada Account.
- Ensure EDC's new climate change policy

aligns its entire portfolio with Canada's climate commitments.

- Ensure transparent and timely reporting of all support provided by EDC to oil and gas firms, including that provided through the government's COVID-19 response. This should include the exact amount and type of each transaction, and accounting of the associated life-cycle emissions.
- Impose the following conditions on all support provided by EDC, including support issued through the government's COVID-19 response:
 - Companies in carbon-intensive sectors must demonstrate they will achieve emissions reductions in line with Canada's commitment to net zero emissions by 2050, including downstream (scope 3) emissions. This information must be publicly accessible.
 - Companies that lobby or are members of industry associations that lobby against progressive

climate policy development should be barred from receiving support.

- EDC's assessments of economic viability must be based on demand scenarios that are consistent with global decarbonisation and the implementation and goals of the Paris Agreement. Economic assessments must also consider a company's environmental liabilities. These assessments must be publicly accessible.
- Companies receiving support should be required to forego dividend payments, stock buybacks and excessive executive compensation.
- Corporations that operate in tax havens to avoid Canadian taxes should be denied support.
- Corporations with a record of human rights violations, including violations of the United Nations Declaration on the Rights of Indigenous Peoples, should be denied support.

37 See <https://justrecoveryforall.ca/>



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July 2020