

May 6, 2024

United States Export-Import Bank (EXIM)
811 Vermont Ave NW
Washington, DC 20571

Re: Information Request on Financing Support for Critical Minerals Projects

Dear Chair Reta Jo Lewis,

The civil society and Indigenous-led organizations below respond to EXIM's request for information to assist the United States Export-Import Bank (EXIM) in supporting critical minerals projects, [89 FR 16564](#). Considering the high risk of negative environmental and social impacts related to extraction and processing, we urge EXIM to take the following actions:

- Require companies supplying (or sourcing) minerals for the energy transition to have explicitly stated commitments to respect and uphold Indigenous Peoples and customary land rights holders right to Free, Prior, and Informed Consent (FPIC) as enumerated in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).
- Instead of prioritizing new mining and exploration projects, prioritize finding and funding solutions to minimize the need to extract energy transition minerals (ETMs), including multiple-life applications and recycling.
- Require applicants of any projects involving ETM extraction to conduct intersectional¹ human rights impact assessments by an external and impartial consultant as part of their environmental and social impact assessments (ESIAs), integrate these findings into their Environmental and Social Management system (ESMSs), and disclose these assessments publicly. EXIM should also require these applicants (especially any that receive EXIM support) to adhere to internationally recognized human rights and environmental due diligence policies like the UN Guiding Principles on Business and Human Rights² and the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.³
- Require companies to have stated commitments to respect international environmental law and to avoid mining activities in no-go zones, including Ramsar Sites; biosphere reserves; the Arctic and Antarctic regions; the deep sea (both in the "Area" as governed by the International Seabed Authority and in the country's own Exclusive Economic Zones and extended continental shelves); protected areas by third countries; and sacred sites, zones, or spaces listed as tangible or intangible cultural heritage at the domestic or international level.
- Refuse to conduct business with any entity whose key personnel or beneficial owners have conflicts of interest that cannot be adequately managed or with those with a record of corruption where there is no evidence of mitigating corruption risks. Companies should document this commitment in a publicly available policy and report on their implementation of this policy.

¹ This additional guidance is required because the level of attention given to gender and the analysis of gender impacts within standards like the IFC Performance Standards is low.

² https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

³ <https://www.oecd.org/corporate/mne/mining.htm>

- Adopt, disclose, and enforce strong “revolving door,” lobbying, and political donation rules to avoid conflicts of interest and undue influence of mining companies and the mineral extraction industry.
- Adopt responsible tax principles and implement responsible tax practices, including minimizing the use of subsidiaries in tax havens, avoiding project-specific tax incentives, committing to cooperative engagement with tax authorities, and publishing tax transparency reports. EXIM critical minerals projects should follow [Extractives Industry Transparency Initiative \(EITI\)](#) standards, which are where countries publish tax, payment, and contract data between governments and mining companies.
- Add to the categorical prohibition list:
 - Quarries and opencast mining where the surface of the site exceeds 25 hectares.
 - Deep sea mining.

Further, EXIM should have an independent accountability mechanism so that communities can raise concerns about the [impacts](#) of EXIM’s critical minerals transactions at any point in the approval process for the project, so that communities are not put under pressure by unrealistic deadlines, etc. We appreciate your recent commitment in the [National Action Plan on Responsible Business Conduct](#) to work with Export Credit Agency counterparts to strengthen best practices around access to remedy. EXIM’s current Environmental and Social Project Information and Concerns portal falls short of international [best practices](#), and we request that you soon launch a public consultation to improve EXIM’s accountability process.

We welcome the opportunity to discuss this issue and these recommendations. We appreciate you taking our comments into account as you consider increasing your support for transition minerals projects.

Sincerely,

Accountability Counsel
 Alyansa Tigil Mina - Philippines
 Cultural Survival
 Deep Sea Mining Campaign
 Earthworks
 First Peoples Worldwide
 Friends of the Earth US
 International Indigenous Fund for development and solidarity “Batani” (Batani Foundation)
 SIRGE Coalition
 Society for Threatened Peoples - Switzerland
 The Ocean Foundation