

Dirty Profits 4

Report on Companies and Financial Institutions
Benefiting from Violations of Human Rights

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“At its essence, sustainability means ensuring prosperity and environmental protection without compromising the ability of future generations to meet their needs. A sustainable world is one where people can escape poverty and enjoy decent work without harming the earth’s essential ecosystems and resources; where people can stay healthy and get the food and water they need; where everyone can access clean energy that doesn’t contribute to climate change; where women and girls are afforded equal rights and equal opportunities.”

— Ban Ki-Moon, UN Secretary-General

“Not only governments, but also companies must take responsibility for human rights in their global business activities. What is profitable for some should not harm anyone else.”

— Frank-Walter Steinmeier, German Foreign Minister

Summary

Given the fact that our world is facing unprecedented environmental, social and economic crises, the Dirty Profits Report is born of the conviction that financial institutions (FIs) and corporations have a responsibility to respect human and environmental rights. This report is based on contributions from 17 civil society researchers and analysts from 10 countries, focusing on 20 controversial globally active corporations and the 3 largest commercial banks and asset management companies in Germany and internationally, as selected by Facing Finance.

14 of the 20 companies selected for this report do not mention the UN Guiding Principles on Business and Human Rights in their corporate communications or CSR online publications at all. Among the FIs analysed in this report only 6 of the 12 are signatories of the UN Global Compact and 5 have officially adopted the Equator Principles. Two of the 12 FIs selected have no connections, either as investor or member signatories, to the Carbon Disclosure Project (see also table on page 89). It becomes apparent that despite these commitments made by both FIs and corporations, violations continue to occur with limited repercussions.

Dirty Profits exposes the financial relations between these selected major German/International financial institutions (FIs) and multinational companies, across various sectors, that have consistently violated environmental and human rights standards. Between January 2013 and August 2015, loans between the 12 commercial and public banks and the 20 companies in this report totalled €8.3 billion; underwriting of shares and bonds around €25.4 billion; and management of shares and bonds €233.5 billion.

Again, in 2014 global CO₂ emissions reached record highs (40bn tonnes). In acknowledgement of this, the fourth edition of the Dirty Profits report provides some examples of FIs benefiting from financial relations to selected “Carbon Majors” – corporations responsible for the production of fossil fuels, which, through their use, have massively contributed to the global cumulative emissions of industrial carbon dioxide and methane. ExxonMobil generated the greatest interest among investors (share and bond holding): €55,4 billion. This represents 24 % of all investments (share and bond holding) identified in this report.

Other significant examples of controversial companies are provided from the pharmaceutical, mining and weapons industries – particularly in relation to labour violations and human rights, corruption and environmental abuses.

The two pharmaceutical companies shown in this report, in which selected FIs have €49.4 billion invested, have been shown to have ethical and legal failings, related to the harm caused by poor clinical trials, bribery and corruption, off-label marketing and environmental harm.

In view of mining, companies are engaged in operations that have resulted in environmental destruction and in violations of labour and/or human rights such as the right to free, prior and informed consent of communities. The issue of deep-sea mining has also been raised as a significant issue affecting the industry.

The weapons companies detailed in this report, show weapon sales to conflict regions and the production of controversial weapons (e.g. nuclear weapons) in which selected FIs have €29.8 billion invested.

The estimated number of people in modern slavery is 21 million and in 2015, serious labour rights violations have been brought forward in relation to 4 of the companies in this report, either through their direct operations or within their supply chains. These include issues ranging from slavery and forced labour, to withholding of wages and overtime pay. For example, the selected FIs hold shares amounting to more than €11 billion of Nestlé alone, a company accused of profiting from slave labour.

The report also provides critical analysis of voluntary commitments made by corporations and FIs. It becomes apparent that despite making these commitments, organisations continue to violate even the most basic and most important standards. Given the fact that largely corporations are not held to account for violating these principles, the call for necessary regulations becomes urgent.

Voluntary principles often only apply to certain sectors of an organisation or FI, for example, the Equator Principles apply only to the financing of projects, but not to export and corporate finance and is criticised for its limited scope due to the lack of accountability mechanisms and transparency. FIs self-commitments, which are intended to contribute to climate protection, are clearly ineffective, as the figures of this report show. FIs are just beginning to delineate their human rights responsibilities and continue to heavily benefit from human rights violations.

Accordingly, the Dirty Profits report advocates for the development of procedures by corporations and FIs that bring an end to the negative impact of their activities on human and environmental rights. It calls on corporations and FIs to establish, improve and implement effective policies governing their investments. These policies should adhere to internationally accepted social and environmental norms and standards.

However, it is the states' duty to protect against human rights abuses by third parties, and they must guide and accompany this process to ensure the full enforcement of the "UN Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework" (UNGPR).

Because little to no information is available through traditional legal channels about negative social and environmental impacts, binding regulations are considered necessary. This is because only a few regulations with binding requirements have been introduced in some (non-Western) countries.

There is still a long way to go for states and corporations, including those from the financial sector, to fully implement the UN Guiding Principles. Although they encompass a reporting framework, this is only a voluntary measure, and FIs currently seem to view the responsibility as applying only to companies and not themselves. The significant impact that financing and investments have on human rights and the environment, as well as the complex nature of financial processes, means specific transparent reporting structures are required.

There must be clear regulatory oversight of how FIs address human rights and environmental issues in all business relationships. There should be clear performance indicators against which they can be assessed and clear audit processes by independent third parties. Publicly accessible exclusion lists therefore help the FIs to show a clear intention to not invest in or engage with companies violating social and environmental norms and standards.

"If we are to be good ancestors we need an effective finance system. One that is fit for purpose in taking citizens' savings and investing them in sustainably profitable projects. That is both a huge opportunity, and a significant challenge for the financial services industry in the coming years."

David Pitt-Watson, Executive fellow London Business School¹

¹ Pitt-Watson, D (2015): 'Fossilist' finance blocks clean trillion, October, The Financial Times. www.ft.com (Accessed 12.01.2016)

Methodology

Company Selection and Research

Facing Finance conducts research into multinational companies that violate human rights¹ and environmental norms and standards. These violations are established in the ‘Company Profiles’ section of this report. Research into companies takes into account violations, complaints, as well as legal case outcomes, over the previous three-year period with a focus on recent events. This report therefore forms a compilation of information from news and media, industry journals, community organisations, (local) NGOs, legal records and other relevant sources. The 20 companies selected are not purported to be the worst performing companies in terms of CSR and ESG factors, nor are they ranked as such, however, the company will have had a significant controversial case in the past three years. Controversial case is defined here as “an alleged violation of laws and regulations, as well as alleged actions that violate commonly accepted norms and standards”. This can be very severe (usually the case) or a series of moderate cases in quick succession adding up to a more significant concern. The presence of a controversial case indicates a structural issue within the organisation, which requires addressing.

The 20 companies included in this report were selected from a wide range of companies benefitting from harmful business activities. They have been selected based on research into recent, persistent and/or severe violations of norms and standards that fall into these categories:

- ▶ Human rights violations (e.g., violations of community rights, child labour, forced labour, diminished access to land and/or fresh water, involuntary resettlements, or arbitrary detentions, illegal construction of permanent infrastructure on occupied territory);
- ▶ Labour rights violations (e.g., poor/hazardous working conditions, union discrimination);
- ▶ Violation of ethical principles governing clinical trials (i.e. Declaration of Helsinki);
- ▶ Environmental destruction and degradation;
- ▶ Significant contribution to climate change;
- ▶ The export of weapons to (non-democratic) countries disrespecting fundamental human rights resp. arms trade regulations or other relevant norms;
- ▶ The manufacturing of controversial weapons² (or significant components thereof) that violate fundamental humanitarian principles (i.e. nuclear weapons);
- ▶ Pervasive instances of corruption, and tax noncompliance.

This research does not focus on or evaluate policies of the company in question, but is comprised predominantly of case study research. The companies are assessed using a norms based exclusion approach³, which is widely used throughout Europe as a means of identifying harmful companies. The Global Sustainable Investment Review gives the following definition of norms-based screening:

“Screening of investments based on compliance with international norms and standards such as issued by ILO, OECD, UN, UNICEF etc. May include exclusions of investments that are not in compliance with norms or standards or over or under weighting.”⁴

Facing Finance has adopted this recognised approach to illustrate selected companies not in compliance or in conflict with norms and standards, such as the International Bill of Human Rights, the ILO international labour standards, the UN Guiding Principles on Business and Human Rights, the OECD Guidelines for Multinational Enterprises, the UN Global Compact, arms embargoes, and national laws (see Appendix A).

When selecting companies this report also pays particular attention to decisions by the Norwegian Government Pension Fund Global⁵ (GPF), considered to be a pioneer (and often referred to as the ‘Gold Standard’) in the field of responsible investing. The US Federal Contractor Misconduct Database (FCMD) which provides data on companies misconduct including contract fraud and other violations was also taken into account.⁶ Finally, ESG company profiles, compiled by organisations such as Sustainalytics and RepRisk, also were included in the assessment process.

1 UN Human Rights: Universal Declaration of Human Rights as proclaimed on 10 December 1948 Paris. www.ohchr.org (accessed 26.01.2016)

2 This edition of Dirty Profits does not focus on cluster munitions producers. For more information on investments in cluster munitions, please see IKV Pax Christi’s 2013 and 2014 edition of the “World Investments in Cluster Munitions: a Shared Responsibility.”

3 A basic definition of which is given as: Norm-based exclusion means investigating whether a company is involved in ongoing controversies (labour rights issues, involvement in sensitive countries, corporate scandals) that constitute material or reputational risks. These risks can have an impact on a company’s business and its profitability. www.credit-suisse.com (accessed 26.01.2016)

4 Global Sustainable Investment Alliance (2013): 2012 Global Sustainable Investment Review: www.gsiareview2012.gsi-alliance.org, p.36 (accessed 18.11.2014)

5 The Government Pension Fund Global (n.d.): Companies Excluded from the Investment Universe: www.regjeringen.no (accessed 18.11.2014)

6 Project on Government Oversight (2015): Federal Contractor Misconduct Database. www.contractormisconduct.org (accessed 26.01.2016)

Financial Institution Selection and Analysis

Where the policies of companies are not investigated in this document, those of Financial Institutions (FIs) are. This analysis is included in the Harmful Investments Section. This section takes into account the ESG policies and guidelines of FIs which they claim to assess their business relationships against and to measure the sustainability and ethical impact of an investment. ESG (Environmental, Social and Governance) is a “generic term used in capital markets and by investors to evaluate corporate behaviour”.⁷

ESG can be seen as a process and not an outcome, and can be applied to any context of decision-making. “ESG factors are a subset of non financial performance indicators including sustainable, ethical and corporate governance issues”⁸ which allow FIs to assess the sustainability of a company. ESG analysis should evaluate how a company deals with the environment, how it addresses its labour force and supply chain (i.e. Social) and how the management deals with ethical concerns such as corruption (i.e. Governance).

The table below illustrates the alignment between ESG considerations and the UN Global Compact Principles.

When undertaking a policy analysis of FIs it is important to note when the policy was introduced as there may be a lag between adoption and implementation. However, the opposite also appears to be true with FIs having policies for numerous years but failing to implement them.⁹

The FIs selected in this report include the top 3 European Banks by asset and top 3 European asset managers/funds, as well as the 3 top German banks by asset and the top 3 German asset managers/funds.¹⁰

Facing Finance has undertaken research into 20 controversial companies and 12 commercial and public banks and investment managers. The information focuses on share and bond underwritings and management as well as corporate loans. Data was gathered from the financial database Bloomberg on the loans, underwritings, shareholdings and bondholdings for the selected companies from January 2013 to November 2015. Facing Finance researchers gathered further financial data from company annual reports (including turnover and net profits), stock exchange activity analyses, financial/industry focused journals, and expert financial databases.

Lack of transparency in the financial and corporate sectors means it is impossible to determine whether the funds provided by these institutions directly contributed to the violations in question. Furthermore, not every business transaction between FIs and the controversial companies listed in this report constitutes a direct violation of international norms and standards, national laws or regulations. This report, therefore, does not provide detailed, quantitative assessments regarding financing intended specifically for controversial projects. Such straightforward relationships are rarely found, as FIs often provide financial support via broader channels (e.g. through general corporate loans).

In cases where a syndicate of banks issued loans, shares, or bonds for a single company or project, but a breakdown of each bank’s specific contribution was not accessible, the amount given in the financial data was divided based on the number of FIs involved in the deal. Often, underwritings of shares and bonds were also based on this estimation due to lack of detailed data.

	Sample Issue	UN Global Compact Principles
Environmental (E)	-climate change -compliance with environmental laws	Principle 7 Businesses should support a precautionary approach to environmental challenges; Principle 8 undertake initiatives to promote greater environmental responsibility; and Principle 9 encourage the development and diffusion of environmentally friendly technologies.
Social (S)	-labour issues -human rights issues -child labour -discrimination	Principle 1 Businesses should support and respect the protection of internationally proclaimed human rights; and Principle 2 make sure that they are not complicit in human rights abuses. Principle 3 Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining; Principle 4 the elimination of all forms of forced and compulsory labour; Principle 5 the effective abolition of child labour; and Principle 6 the elimination of discrimination in respect of employment and occupation.
Governance (G)	-anti-corruption -anti-fraud -corporate governance -bribery	Principle 10 Businesses should work against corruption in all its forms, including extortion and bribery.

7 Financial Times lexicon: Definition of ESG | <http://lexicon.ft.com/Term?term=ESG>

8 See Supra Note 7

9 HSBC (2016): Sustainability. www.hsbc.com (accessed 26.01.2016)

10 Relbanks (2014): The largest European Banks 2014. www.relbanks.com and Kennedy, L (2015): Top 400 asset managers 2015: global assets top €50 trn. June. Investment and Pensions Europe. www.ipe.com

COMPANY PROFILES



Bayway refinery in Linden, New Jersey, USA- the subject of an \$8.9 million lawsuit between the state and Exxon Mobil. Exxon Mobil, in the period that it owned the Bayway refinery, spilled over 7 million gallons of oil in the area, with 600 different kinds of contaminants being found in the soil.

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Photo: Eurosatory 2014, Airbus military helicopter
© Facing Finance

Airbus Group SE

Airbus Group (known as EADS until 2014), headquartered in the Netherlands, is one of the largest aerospace corporations in Europe. Airbus has significant operations in the defence sector.¹ According to SIPRI 2014, Airbus Group ranked 7th largest in the world by arms sales, although this only made up 18% of their total sales.²

Airbus produces the multipurpose combat plane Eurofighter Typhoon³, which has been bought by Saudi Arabia and used in military campaigns in Yemen.⁴ These campaigns have been widely criticised for resulting in significant civilian casualties.⁵ Eurofighters have also recently been bought by Kuwait.⁶ Airbus claims to “play a leading role in the markets for future unmanned aerial systems”.⁷ Together with Dassault and Alenia Aermacchi, Airbus has been contracted to begin development of a European Medium Altitude Long Endurance (MALE) drone that will be used for reconnaissance purposes and can also be armed.⁸

In response to restrictive export laws in Germany, with Germany preventing the export of helicopter components where they will be used in countries such as Uzbekistan, Airbus noted it is currently considering relocating their helicopter programs to France rather than staying in Germany.⁹ Airbus has previously criticised the German Government’s restrictive arms export policy.¹⁰

Additionally Airbus holds 37,5% of shares of the joint venture MBDA, together with BAE Systems (UK) and Finmeccanica (Italy).¹¹ MBDA produce the ASMPA air launched nuclear missile M51 and the M45 nuclear ballistic missiles for the French nuclear deterrent force.^{12 13} The anti-tank missile Milan is also produced by MBDA in France and under licence in other countries such as India.¹⁴ Based on their evident involvement in the production of nuclear weapons, the Norwegian Government Pension Fund excluded Airbus Group SE from their investments.¹⁵

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Estimated value of underwritten shares and bonds:	
Crédit Agricole	822.50
HSBC	225.00
BNP Paribas	225.00
Commerzbank	187.50
Deutsche Bank	125.00

Estimated value of managed shares and bonds:	
KfW	5,439.69
BlackRock	1,244.01
Vanguard	804.78
Crédit Agricole	476.82
Deutsche Bank	405.26

Revenues: 60,713.00

Profit after tax: 2,350.00

ISIN: NL0000235190

All figures in € mln.

Date and currency of company report:
31.12.2014, EUR

1 Airbus (2015): What we do. www.airbusgroup.com (Accessed 10.10.2015)

2 Stockholm International Peace Research Institute (2015): Top 100 arms producing companies. www.sipri.com (Accessed 14.12.2015)

3 Airbus Defence and Space (2015): Eurofighter Typhoon. www.airbusds.com (Accessed 20.10.2015)

4 Coughlin, C (2015): Saudi’s UK made war jets outnumber RAFs. 5 May, The Telegraph. www.telegraph.com and Al Arabia News (2015): Saudi deploys advanced fighter jets in Yemen. 27 March. www.alarabia.net (Accessed 20.10.2015)

5 Fahim, K (2015): Saudi’s face mounting pressure over civilian deaths in Yemen conflict, 29 September. The New York Times. www.nytimes.com (Accessed 11.11.2015)

6 Reuters (2015): Kuwait to buy eurofighters in deal worth 7–8 billion, 11 September. www.reuters.com (Accessed 11.11.2015)

7 See Supra Note 1

8 Airbus Group (2015): Military aircraft Future European MALE. www.airbusgroup.com (Accessed 20.12.2015)

9 Bloomberg (2014): German Arms-Exports Permit Crackdown Hits Airbus, Heckler & Koch. www.bloomberg.com (Accessed 20.10.2015)

10 Bryan, V (2014): Airbus CEO criticises German arms export rules, 11 September, Reuters. www.reuters.com (Accessed 20.10.2015)

11 MBDA Systems (2015): About MBDA Shareholders. www.mbda-systems.com (Accessed 20.10.2015)

12 MBDA Systems (2015): ASMPA datasheet. www.mbda-systems.com (Accessed 12.10.2015)

13 Airbus Defence and Space (2015): Programmes: M51 a new generation of missile. www.space-airbusds.com (Accessed 20.10.2015)

14 Army Technology (2015): Milan, www.army-technology.com and Army Technology (nd): Milan ER anti-tank missile system, France. www.army-technology.com (Accessed 20.10.2015)

15 Norges Bank Investment Management (2015): Exclusion of Companies as of 1 Jan 2015. www.nbim.no (Accessed 12.10.2015)

16 Heggman, G (2014): Sechs Kontrolleure schwänzen die Hauptversammlung. Die Welt. 27 May www.welt.de (Accessed 20.12.2015)

17 International Campaign to abolish nuclear weapons (2015): Arguments for nuclear abolition. www.ican.org (Accessed 20.12.2015)

„Nuclear weapons are unique in their destructive power, in the unspeakable human suffering they cause, in the impossibility of controlling their effects in space and time, and in the threat they pose to the environment, to future generations, and indeed to the survival of humanity.”

International Committee of the Red Cross, 2010¹⁷

“I still like what I do, it’s a fantastic sector.
Caffeine and jet fuel keep me alert and satisfied.”

Tom Enders, Airbus CEO¹⁶

Manasir camp, for people relocated from the fertile Nile Valley to the desert region.

© David Haberlah.



Alstom SA

Loans:	
BNP Paribas	1,130.77
HSBC	930.77
Crédit Agricole	930.77
Deutsche Bank	230.77
Commerzbank	30.77

Estimated value of underwritten bonds:	
HSBC	62.50

Estimated value of managed shares and bonds:	
BlackRock	153.14
Vanguard	138.18
Crédit Agricole	112.64
HSBC	39.92
BNP Paribas	35.31

Revenues: 6,163.00

Profit after tax: 701.00

ISIN: US0212442075

All figures in € mln.

Date and currency of company report:
31.03.2014, EUR

Alstom SA, headquartered in France¹, served the power generation and transmission, and the rail transport market until 2 November 2015. However, in April 2014 General Electric made a € 12.4 billion bid for Alstom Power (raising anti-trust concerns in Europe). GE finalised the deal and bought Alstom Power.² Alstom SA is now entirely focused on its transport business and all power related assets have been transferred to GE.

Alstom has been excluded by a number of private funds and pension funds, including KLP and Delta Lloyd Asset Management, due to human rights violations and serious and permeating corruption offences (see table 1 page 86). Additionally, in 2011, the Norwegian Government Pension Fund placed Alstom SA on their watch list for a period of four years due to serious concerns over their ethics in relation to corrupt business practices.³

Although Alstom claims to “prohibit all unlawful payments and practices” and to be “fully committed to complying with” international anti-corruption regulations⁴, the company faces several lawsuits and further allegations for bribery and corruption in a number of countries.

Among them: the largest ever fine under the US Foreign Corrupt Practices Act (\$772 million) in December 2014^{5,6}, a case in the UK (proceedings to start in May 2016)⁷, as well as investigations in Italy, Mexico, Slovenia, Taiwan⁸, Brazil⁹, and Zambia¹⁰.

In 2012, two subsidiaries of Alstom SA, Alstom Hydro France and Alstom Network Schweiz AG, were excluded from participation in projects funded by the World Bank, the Asian Development Bank, the European Bank for Reconstruction and Development and the Inter-American Development Bank for a period of three years.¹¹ This is due to Alstom offering a € 110,000 bribe for ‘consultancy services’ for a World Bank financed project in Zambia.

Alstom is currently engaged in the Sarawak Corridor of Renewable Energy’ (SCORE) in Borneo, having been contracted in December 2014 by Sarawak Energy Berhad (SEB) to construct an

1 Alstom (2015): Alstom Contact Us. www.alstom.com (Accessed 19.11.2015)

2 Alstom (2015): GE -Alstom Transaction. www.alstom.com (Accessed 09.12.2015)

3 Norwegian Council of Ethics (2015): 2014 Annual Report, 26 January, p198-199 <http://etikkradet.no> (Accessed 19.11.2015)

4 Alstom (2014): Code of Ethics, www.alstom.com (Accessed 19.11.2015)

5 US Department of Justice (2014): United States District Court District of Connecticut: United States of America v Alstom. 22 December. www.justice.gov.uk (Accessed 19.11.2015)

6 Tovey, A (2015): Alstom fined \$722 million in the US for brazen and astounding foreign bribery schemes. The Telegraph. www.telegraph.co.uk (Accessed 19.11.2015)

7 Serious Fraud Office (2015): Press release: Former Alstom Director faces UK corruption charges, 12 May. www.sfo.gov.uk (Accessed 19.11.2015)

8 Trace Compendium (2015): Alstom. www.traceinternational2.org (Accessed 19.11.2015)

9 The Associated Press (2015): Judge orders Alstom assets in Brazil blocked. The New York Times, 3 February. www.nytimes.com

10 Searcy, D and Crawford, D (2012): World Bank punishes units of Alstom SA for bribery, 23 February. www.wsj.com (Accessed 19.11.2015)

11 Ibid.

“We cannot let Public Eye say that our company has organised a system of corruption. So far we have neither been accused by a court nor condemned.”

electricity substation for the project.¹² Due to SEB's terrible reputation for corruption numerous investors have withdrawn from the project.¹³ The Bruno Manser Fund in September 2014 wrote to potential investors of SCORE, including Alstom, related to the financial, legal and reputational risks associated with corruption in Sarawak.¹⁴ The SCORE project has faced serious opposition from communities and an independent investigation into the project termed it an 'unequivocal failure' from a sustainability standpoint. The project will contribute to excessive carbon emissions; accelerate tropical deforestation and land degradation; benefit governments and corporations over communities; deprive communities of their free, prior and informed consent; contribute to pollution and water scarcity within communities and solidify corruption in Sarawak.¹⁵ In addition to this it is reported that they are unsure where the energy will be sold as Sarawak already has sufficient energy resources.¹⁶ With Alstom claiming to have reformed and have processes in place to prevent corruption, aligning themselves with such a project well known for corruption again brings into question their ethical commitment.

Alstom also shows an open disregard for the implication of its business practices on human rights concerns. In 2003 Alstom was awarded the contract to provide turbines for the construction of the Merowe Dam in the Sudan.¹⁷ At the time, the UN Human Rights Council called for companies to withdraw from the project due to serious human rights violations, including the displacement of 70,000 traditional Manasir people. Alstom did not withdraw. The Manasir are continuing to seek reparations from the companies who destroyed their livelihoods. In 2014 Alstom indicated interest in funding reparations but then abruptly changed course.¹⁸ In relation to this case the Nordic Engagement Cooperation, which includes three Nordic institutional investors, agreed to monitor Alstom's progress in this case. In their 2014 report

they note that Alstom's initial response was poor, but is improving.¹⁹ As corruption appears to have permeated every part of Alstom S.A it is not without merit that the Manasir people believe that Alstom paid a bribe to supply the Merowe Dam.²⁰ Through its provision of turbines, Alstom is involved in numerous controversial mega dam projects, including the Belo Monte Dam in Brazil²¹, details of which can be found in the Dirty Profits 3 report.²² Where companies or banks engage in or fund hydropower projects it is necessary to investigate whether it conforms to the 'International Association of Hydropower Sustainability Assessment'.

The Israeli NGO Who Profits reproached Alstom for supporting the illegal Israeli settlement of the Palestinian West Bank as they are involved in the light rail project crossing official state borders into the occupied West Bank in two areas, using occupied Palestinian lands, some of it privately owned, for an Israeli transportation project aimed exclusively for Israelis. According to international law, an occupier may not use the occupied resources solely for the benefit of its own citizens.²³

Additionally Alstom provide the infrastructure for many coal power stations, the dirtiest form of energy. In South Africa Alstom provides support for 12 out of the 13 coal fired power plants in the country. Alstom was also involved in the construction of two new coal power stations in South Africa, Kusile and Medupi. Alstom is no longer involved in Kusile but continues to support Medupi. When Medupi is complete it will emit 25 million tonnes of CO₂ per year.²⁴ Alstom should use its capacity and skill to move towards renewable energy markets instead of counting on coal, nuclear and hydro.

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12 Tawei (2015): Sarawak to bin French energy deal if claims of corruption proven, 28 April, The Malay Mail Online. www.themalaymailonline.com (accessed 11.12.2015)

13 Sarawak Report (2014): BMF Press Statement: Energy Industry warned against Investing in Sarawak, 8 September. www.sarawakreport.org (Accessed 19.11.2015)

14 Bruno Manser Foundation (2014): Letter to potential investors in Sarawak, Malaysia: Risks of investing in SCORE and Sarawak dams, September 2014. www.world-wire.com (Accessed 19.11.2015)

15 Savacool, K, B and Bulan, L, C (2012): They'll be damned: the sustainability implication of Sarawak Corridor of Renewable Energy (SCORE) in Malaysia. *Sustainability Science Journal* (8) pp 121-133.

16 The Borneo project (2015): Commerce or Corruption? The rainforest dams of Sarawak, 18 June. www.theecologist.org (Accessed 19.11.2015)

17 Alstom (2012): Press Release 2003 Alstom awarded 250 million euro contract in the Sudan, November, www.alstom.com (Accessed 19.11.2015)

18 Environmental Defender Law Centre (2015): Merowe Dam refugees in the Sudan www.edic.org (Accessed 19.11.2015)

19 Nordic Engagement Cooperation (2014): Annual Engagement Report www.klp.no (Accessed 19.11.2015)

20 See Supra Note 18

21 International Rivers (2015): Amazonian tribe brings an epic battle for indigenous rights to the United Nations, 22 June. www.internationalrivers.org (Accessed 26.01.2016)

22 Facing Finance (2014): Dirty Profits 3. www.facing-finance.org (Accessed 26.01.2016)

23 Who Profits (2014): Alstom www.whoprofits.org and Who Profits (2010): Crossing the line: the Tel Aviv Jerusalem fast train <http://whoprofits.org> A. Cassese, Powers and duties of an occupant in relation to land and natural resources, in E. Playfair (Ed.), *International Law and the Administration of Occupied Territories* (Oxford: Clarendon Press, 1992), p. 420.

24 Kamuti, T (2013): Africa at the coalface of development: The dilemma of coal as a necessary evil on the continent, Consultancy Africa Intelligence, 10 September. www.consultancyafrica.com (Accessed 19.11.2015)

25 Quote appears on Business and Human Rights Resource Centre in response to Public Eye Award 2013. Business & Human Rights Resource Centre invited Alstom to respond to the following item: Online Polls for Public Eye People's Awards 2013 Now Open!, Public Eye, 4 January 2012 <http://business-humanrights.org> (Accessed 26.01.2016)

26 See Supra Note 6

*"Alstom's corruption scheme was sustained over more than a decade and across several continents. It was astounding in its breadth, its brazenness and its worldwide consequences."*²⁶

Deputy Attorney General James Cole, in relation to the US Justice case against Alstom 2015.

Anglo American plc

Loans:	
HSBC	178.57
Crédit Agricole	178.57
BNP Paribas	178.57
Commerzbank	178.57

Estimated value of underwritten bonds:	
Crédit Agricole	450.00
HSBC	420.00
BNP Paribas	356.50
Commerzbank	300.00

Estimated value of managed shares and bonds:	
BlackRock	604.98
Deutsche Bank	338.77
Vanguard	255.90
State Street	232.83
BNP Paribas	191.51

Revenues: 22,270.79

Profit after tax: -1,253.67

ISIN: GB00B1XZS820

All figures in € mln.
Date and currency of company report:
31.12.2014, US Dollar (exchange rate
as of 31.12.2014, www.oanda.com)

Anglo American is a global and diversified mining company whose operations extend across Southern Africa, South America, Australia, North America, Asia and Europe.¹ In 2014, approx. 39% of revenues were from iron ore, 24% from copper, 27% from diamonds and 9.3% from coal with the remaining amount made up of platinum, niobium, nickel, and phosphates.²

Anglo American is protecting its limited coal market by lobbying in Europe. Anglo American has been exposed for having a damaging influence on European climate policy through its membership of European lobby groups working against renewables and energy efficiency targets.³

Anglo American was included in the Dirty Profits 2 report due to violations at its mines in Brazil, Chile, Colombia, Peru and South Africa. This report follows up additional/continuing abuses in South Africa, Colombia and Chile.

In South Africa Anglo American mines a number of commodities, including coal (Anglo Coal), iron ore (Kumba Iron Ore), platinum and diamonds. According to the South African Bench Marks Foundation, Anglo American is not delivering on its commitments to communities in South Africa, for example despite communities complaints about houses being damaged from blasting, and health issues from living near the mine, little has been done to address these issues. Anglo American's much lauded SEAT grievance mechanism⁴ is proving to deliver very little in the way of changes. Anglo American has also shown disregard for the importance of environmental impact assessments and water licences by beginning mine construction before undertaking consultation with affected communities.⁵ Kumba Iron Ore has also been in the spotlight recently for not delivering on its promises with regard to the

relocation of workers in Dingleton, Northern Cape. Workers are living in conditions with shortage of water, filthy and broken toilets and rubbish not being collected for weeks.⁶ A further report shows a discrepancy between the CSR commitments of the company and the perceptions of the surrounding communities.⁷ Anglo American's Twickenham mine in Limpopo province has also caused suffering to the communities by relocating them from ancestral land, allegedly without free, prior and informed consent.⁸

In Colombia, the Cerrejón coal mine has for years been surrounded by protests in relation to land and water exploitation and its inability to positively impact communities. While Anglo American has made some progress in addressing these issues it has not gone far enough and as yet there have been no reductions in carbon emissions at the mine, and very limited compensation to indigenous communities for their land.⁹

Two of Anglo American's five Chilean mines have over the past 2 years received fines from the Chilean regulator for environmental damage. In September 2014, a fine of \$4.5 million was levied on a subsidiary of Anglo American for water pollution and for not following through on environmental rehabilitation at the El Soldado mine.¹⁰ In May 2015 the Los Broncos Copper mine received a fine of \$6.2 million for the mismanagement of a dump resulting in acid leaching into the landscape and irreparably damaging the area. This was occurring for nine years without being addressed by Anglo American.¹¹

- 1 Anglo American (2015): International Operations. www.angloamerican.com (Accessed 20.10.2015)
- 2 Percentages derived from figures on pg 4 and 5 of Anglo American (2015): Annual Report 2015, www.angloamerican.com (Accessed 20.10.2015)
- 3 Friends of the Earth International (2014): How corporations rule: Anglo American Dirty Energy lobby and its false climate solutions, November. www.foei.org
- 4 Anglo American (2012): SEAT Tool Box. Socio-Economic Assessment Toolbox www.angloamerican.com (accessed 20.10.2015)
- 5 Bench Marks Foundation (2014): South African Coal Mining: Corporate Grievance mechanisms, Community engagement concerns and Mining Impacts. www.bench-marks.org.za (Accessed 20.10.2015)

- 6 Bench Marks Foundation (2015): Press Release Policy Gap 10: Dingleton relocation severely affecting community. 3 June. www.bench-marks.org.za (Accessed 20.10.2015)
- 7 Bench Marks Foundation (2015): Floating or Sinking : Social License to operate (SLO) Kumba Iron ore Limited. www.bench-marks.org.za (Accessed 20.10.2015)
- 8 Bench Marks Foundation (2015): Communities being stripped of their heritage by mining, 24 September. Yes to Life, No to Mining www.yestolifenotomining.org (Accessed 20.10.2015)
- 9 Cariboni, D (2014): Anglo American Coal firm undermining crucial climate policies, say NGOs. 8 December, The Guardian. www.theguardian.com (Accessed 20.10.2010)
- 10 Jamasmie, C (2014): Anglo American to pay \$4.5 million for environmental breaches in Chile. 3 September, www.mining.com (Accessed 20.10.2015)
- 11 O'Brien, R and Esposito, A (2014): Anglo's Los Bronco's mine fined \$6.2m for Chile environmental breaches. 5 May, Reuters. www.reuters.com (accessed 20.10.2015)

"Coal plays a necessary role to support the developing world to access affordable energy."

Anglo American's media manager, Emily Blyth¹⁸



◀
 Anglo American's Shishen Iron Ore mine,
 Northern Cape South Africa
 © Rogiro, flickr.

Canadian mining company Nautilus Minerals Inc. (Nautilus) is set to embark on the unprecedented extraction of metals from the sea floor. The mining project, known as the Solwara 1 project, will extract gold and copper from the floor of the Bismarck Sea in Papua New Guinea.¹² Anglo American owns a 5.95 % share in Nautilus Minerals. Nautilus and Anglo American have also signed a technical agreement, which means that Anglo American will assist with the development of the Solwara 1 project. This includes using Anglo American staff where specialist skills are required. Through this technical agreement Anglo American is an active participant in the project.¹³ Scheduled to begin commercial production in 2018¹⁴, the Solwara 1 project is being closely watched by companies and governments around the world as a test case, before they too begin this new type of extraction. Nautilus Minerals, however, has set a very poor example in relation to identification of environmental impacts, engaging with local communities, and transparency of information. Nautilus has gained its operating license without the free, prior and informed consent of communities in Papua New Guinea¹⁵ and in the face of strong opposition to the project from a broad range of groups, including NGOs, churches, students, and academics. Nautilus completed an

Environmental Impact Statement (EIS) as part of gaining their license for the project, but the EIS fails to address many pressing environmental concerns, including the possible exposure of marine food chains and coastal and island communities to heavy metals and the destruction of unique deep sea ecosystems.¹⁶ Despite clear flaws and gaps in its science, Nautilus has been issued with all the necessary permits by the government of Papua New Guinea to proceed with Solwara 1. While Nautilus Minerals is not a signatory to the UN Global Compact, Anglo American is and therefore as a minority shareholder should assert the principles onto Nautilus Minerals. Anglo American and other investors in the project can be held accountable for community and environmental issues that Nautilus encounters.¹⁷

→ Dr Helen Rosenbaum, Deep Sea Mining Campaign
 → Facing Finance

12 Nautilus Minerals (2015): About Nautilus. www.nautilus.com (Accessed 20.10.2015)

13 Nautilus Minerals (2006): Annual Report 2006. www.nautilusminerals.com (accessed 10.11.2015)

14 Nautilus Minerals (2015): Annual General Meeting, 16 June. www.nautilusminerals.com (Accessed 20.10.2015)

15 Deep Sea Mining Campaign (2015): Resources: Community Testimonies, www.deepseaminingoutofourdepth.org (Accessed 20.10.2015)

16 Luick, J (2012): Physical Oceanographic Assessment of the Nautilus Environmental Impact Statement for the Solwara 1 Project, Papua New Guinea, 6 November. www.deepseaminingoutofourdepth.org and Rosenbaum, H (2011): Out of our Depth: Mining the ocean Floor in Papua New Guinea. (Accessed 20.10.2015) www.deepseaminingoutofourdepth.org

17 Ruggie, J and Nelson, T (2015): Human Rights and the OECD Guidelines for Multinational Enterprises: Normative Innovations and Implementation Challenges. Corporate Social Responsibility Initiative Working Paper No. 66. Cambridge, MA: John F. Kennedy School of Government, Harvard University. <http://shiftproject.org> pg18 (Accessed 20.10.2015)

18 Cariboni, D (2014): Anglo American coal firm undermining crucial climate policies, say NGOs, 8 December. www.theguardian.com (Accessed 20.10.2015)

19 See Supra Note 8

“This is the norm in South Africa. There are many examples of communities moved to make way for mining. We have no real choice.”¹⁹

Trevor Malope, one of Bench Marks Foundation's many community monitors.

China Gold International Resources Corp. Ltd.

Estimated value of managed shares and bonds:	
Allianz	3.72
Vanguard	3.16
BlackRock	2.69
HSBC	1.89
<hr/>	
Revenues:	228.52
<hr/>	
Profit after tax:	34.47
<hr/>	
ISIN:	CA16890P1036

All figures in € mln.
Date and currency of company report:
31.12.2014, USD (exchange rate as of 31.12.2014,
www.oanda.com)

China Gold International Resources (CGIR) is a mining company registered and headquartered in British Columbia, Canada, and listed on the Toronto Stock Exchange (TSX). China Gold is the flagship, and only overseas listing vehicle, of the largest gold producer in China, China National Gold Group Corporation (China National Gold), which is a state-owned enterprise.¹ CGIR currently owns two mines, the CSH Gold mine in Inner Mongolia and the Gyama Mine in the Siphub Village in the Gyama Valley, Tibet, acquired in 2010 from China National Gold (which owned 51%) and Rapid Results Investments of the British Virgin Islands (which owned 49%).

Since 1949, Tibet has been controlled by China, which enforces highly suppressive policies on the Tibetan people.² Since 2009, at least 143 Tibetans have self-immolated in protest of China's policies, seven as of August 2015.³ Despite a security crackdown, including lengthy prison sentences for Tibetans found to be providing information to international monitoring groups, spontaneous

community protests continue to bring public attention to contentious mining projects across Tibet.⁴

In January 2014, the Canada Tibet Committee submitted a request for review to the Canadian National Contact Point (NCP) for the OECD Guidelines on Multinational Enterprises.⁵ The request for review was prompted by a March 29, 2013 landslide disaster that resulted in the deaths of 83 mine workers. The camp where the workers were buried belongs to Tibet Huatailong Mining Development Ltd., a wholly owned subsidiary of CGIR.

Although the company stated that the landslide was a natural disaster, there was considerable evidence that it was man-made and that the company had ignored previous warnings and local protests.⁶ The mine had already been the subject of numerous unresolved disputes with local communities related to discriminatory hiring

1 China Gold International Resources Corp. (2015): Company Overview. www.chinagoldintl.com (Accessed 26.10.2015)

2 Human Rights Watch (2014): World Report: China and Tibet, www.hrw.org (Accessed 26.10.2015)

3 A list of documented self-immolations is found here: www.savetibet.org (Accessed 20.10.2015)

4 Canada Tibet Committee submission to the United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, January 2015: Assembly and Association Rights in the Context of Natural Resource Exploitation (Tibet), www.tibet.ca (Accessed 26.10.2015)

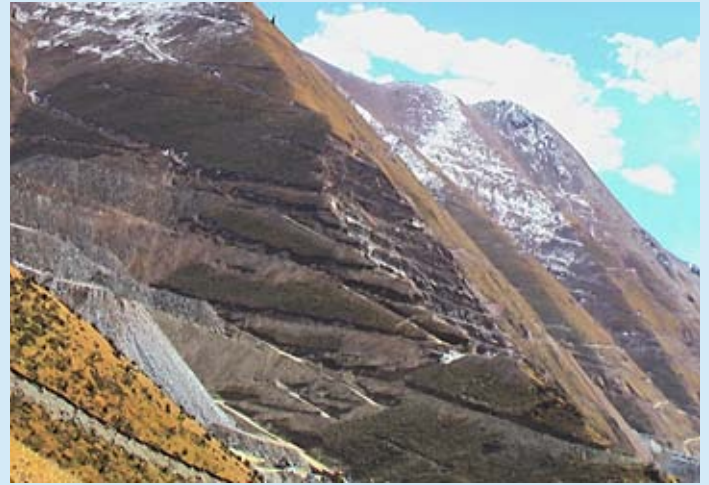
5 Canada Tibet Committee (2014): Request for Review Submitted to Canada's National Contact Point Pursuant to the OECD Guidelines for Multinational Enterprises Specific Instance Regarding: The Operations of China Gold International Resources Corp. Ltd., at the Copper Polymetallic Mine at the Gyama Valley, Tibet Autonomous Region, www.tibet.ca (Accessed 26.10.2015)

6 Central Tibetan Administration (2013): Assessment Report of the Recent Landslide Event in the Gyama Valley: It's Possible Cause and Impacts, April 9, www.tibet.net (Accessed 26.10.2015)

"Our social responsibility vision: Carry out all businesses in an ethic and sustainable way [...] operate in an environment responsible manner."



▲
Landslide theory at the Gyama Mine, Tibet.¹⁴
© EDD, Central Tibetan Administration



▲
Photo of the Gyama mine in 2011. It shows the damage to the mountain and surrounding environment.
© High Peaks Pure Earth

practices, forced evictions and expropriation of land, environmental damage, violations of the freedom of expression, assembly and to information, and the inability to obtain effective remedy.⁷

The Government of Canada NCP concluded that allegations made by the Canada Tibet Committee in its request for review were substantiated and that they merited further investigation.⁸ The NCP final statement is particularly significant because it was the first ever to apply sanctions to a company for failing to cooperate with the review process. The sanctions include the withdrawal of Government of Canada Trade Commissioner Services, issuance of letters of support, advocacy efforts in foreign markets, and participation in Government of Canada trade missions.

In its final statement, the Government of Canada NCP made recommendations to CGIR with respect to human rights due diligence including that it should undertake human rights impact assessments and disclose any past or future reports. The Canada Tibet Committee countered in its response that State policies prevent the credible application of such measures in Tibet where a climate of fear and intimidation prevails and where freedom of expression commonly results in imprisonment.⁹ In addition, requests for international monitoring are rejected or ignored by the State and Tibet is effectively closed to

international media. In this context it is not possible for companies to comply with human rights standards when they operate inside Tibet and therefore foreign investors must designate Tibet a no-go zone until the political conflict is resolved.

CGIR has announced a phase 2 expansion of the Gyama Valley mine which is scheduled to be completed in 2016.¹⁰ Gyama Valley communities continue to protest mining development which has polluted their waterways and put livestock livelihoods at risk.¹¹ No human rights or environmental assessments related to the expansion have been made public by CGIR.

→ Canada Tibet Committee

7 Wong, E (2013): Fatal Landslide Draws Attention to the Toll of Mining on Tibet, New York Times, 2 April. www.nytimes.com (Accessed 26.10.2015)

8 Department of Foreign Affairs, Trade and Development, Government of Canada (2015): Final Statement on the Request for Review regarding the Operations of China Gold International Resources Corp. Ltd., at the Copper Polymetallic Mine at the Gyama Valley, Tibet Autonomous Region, para 38.IV and 38.VI., www.international.gc.ca (Accessed 26.10.2015)

9 Canada Tibet Committee (2015): Response to the Government of Canada NCP Final Statement on China Gold International Resources Inc., April, www.tibet.ca (Accessed 26.10.2015)

10 China Gold International Resources Corp. (nd): Jiama Copper Gold Polymetallic Mine, www.chinagoldintl.com (Accessed 26.10.2015)

11 Radio Free Asia (2015): Tibetans Fear new Mine Is Planned For Polluted Gyama Valley, www.rfa.org (Accessed 26.10.2015)

12 China Gold International Resources Corp. (2013): Social Responsibility Report. www.chinagoldintl.com (Accessed 12.12.2015)

13 Finney, R (2013): Chinese mines pollute Tibet's rivers and streams, 6 May, Radio free Asia. www.rfa.org (Accessed 12.12.2015)

14 EDD's theory about the landslide:

1. Possibly a surface excavation on top of the mountain
2. The waste or ore from the excavation is dumped on the eastern flank of the mountain (indicated by blue arrow)
3. Due to the stockpile of these waste or ore dumped from a high elevation, the stability of the slope is disturbed. With the increasing weight of the stockpile and possibly aided by use of explosives for exploration drilling in the adjoining areas could have caused the whole waste or ore (in small sizes) to slip down the valley

"When water experts tested the water at the Gyama mine site, they found water poisoned with pollutants from the mining activities. Later, this was hushed up and the public was not informed."¹³

Yeshe Togden, former community resident now living in USA



▲ Groundwater in Perundurai, coloured dark red from industrial pollution.
© India Resource Centre



▲ The International Campaign to hold Coca-Cola accountable works to meet the demands of the communities impacted by the company's operations.
© latuff2

The Coca-Cola Company

Estimated value of underwritten bonds:

HSBC	3,513.86
Deutsche Bank	1,758.58
BNP Paribas	1,419.65
Crédit Agricole	79.45

Estimated value of managed shares and bonds:

Vanguard	9,801.81
BlackRock	9,266.11
State Street	6,246.11
Deutsche Bank	791.05
Crédit Agricole	643.15

Revenues: 37,838.87

Profit after tax: 5,838.96

ISIN: US1912161007

All figures in € mln.

Date and currency of company report:
31.12.2015, USD (exchange rate as of 31.12.2014,
www.oanda.com)

The Coca-Cola Company is one of the most prominent companies worldwide, with an extensive network of operators, licensees, subsidiaries and suppliers, of which not all apply the same business model. It manufactures, distributes and markets non alcoholic beverage concentrates and syrups.¹ These syrups are provided to bottling operators, which are operated either independently or through Coca-Cola's Bottling Investment Group (BIG).² Coca-Cola products are consumed by 1.7 billion people per day, or about 19,400 beverages a second,³ the sheer scale of which implies a significant ecological footprint that must be considered in all elements of the supply chain.

Coca-Cola's major input into its products is water, making water management a critical issue in its business. Norway's Government Pension Fund Global (GPF) Investor Expectation on Water Management document lists criteria to which companies must comply in order to be considered responsible investments.⁴ The Association of

International Water Studies in 2015 released a document advising the GPF to divest from Coca-Cola, based on the GPF criteria and Coca-Cola's unethical extraction methods in India.⁵

Dirty Profits 1, 2012, included detailed reports of excessive water extraction by Coca-Cola and pollution at their BIG operated bottling plant in Mehdiganj, India.⁶ Protests surrounding the plant had been ongoing since 2006. Finally, after years of protests the Uttar Pradesh Pollution Control Board investigated the situation and found these claims to be justified. A closure notice for the plant was issued in June 2014. It was established that Coca-Cola did not have clearance from the Central Groundwater Authority, which monitors extraction. It was also confirmed that Coca-Cola had increased production from 20,000 cases to 36,000 without the relevant permission and that pollutants were above permissible levels.⁷ Coca-Cola has recently completed construction of an expansion to the plant but has not been able to begin operations.⁸ Coca-Cola have been asked to

1 Morningstar (2015): Company profile Coca-Cola Co. <http://financials.morningstar.com> (Accessed 21.10.2015)

2 Coca-Cola (2015): The Coca-Cola System. www.coca-colacompany.com (Accessed 21.10.2015)

3 Coca-Cola (2015): Coca-Cola 125 years booklet; www.coca-cola.com (Accessed 21.10.2015)

4 Norges Bank Investment Management (nd): NBIM: Investor Expectations, Water Management. www.nbim.no (Accessed 21.10.2015)

5 The Association of International Water Studies (2015): Dead in the Water: Ethical ownership and water management in the Norwegian Government Pension Fund Global. www.fivas.org (Accessed 21.10.2015)

6 Facing Finance (2012): Dirty Profits, p16. www.facing-finance.org (Accessed 21.10.2015)

7 The Ecologist (2014): India Coca-Cola Bottling plant shut down, 19 June. www.ecologist.org (Accessed 21.10.2015)

8 Ibid.

'The concept of sustainable development is at the heart of our business. We have continuously been striving to create lasting positive impacts on the communities we proudly serve.'

renew the depleted groundwater and to close the bottling plant.⁹ However, Coca-Cola still seeks to keep the plant open and insists that the claims are misleading and false.¹⁰ This indicates a serious lack of commitment to sustainable water management in India, a country which according to the World Resources Institute has 'High water stress'¹¹. In November 2015, 18 villages surrounding the Coca-Cola plant in Mehdiganj came together to protest and demand that Coca-Cola stop using groundwater due to the growing water crisis in the area.¹² This conflict continues with little sign of resolution from Coca-Cola.

Coca-Cola has 58 existing bottling plants in India,¹³ of which at least three have been over extracting water¹⁴ and new plants have faced strong local opposition. In April 2014 a proposed bottling plant in Uttarkhand State was rejected and in 2015 a proposed plant in Tamil Nadu was cancelled by the respective state governments, both as a result of community pressure in relation to concerns over water availability.¹⁵ In addition to India, Coca-Cola has also faced opposition to the expansion of a bottling plant in El Salvador in relation to water extraction¹⁶ and in Vietnam in relation to water pollution.¹⁷

Coca-Cola's other major ingredient is sugar, and in 2013 Oxfam released a report linking sugar production with land grabs and human rights violations by certain sugar producers. Noting that major companies' supply chains are often interlinked with these producers, Oxfam called for greater transparency from the 'Big 10' food and beverage companies to ensure that their supply chains did not support land grabbing and human rights violations.¹⁸ Coca-Cola implemented a 'zero tolerance' approach and began an in depth study of its supply chains to eradicate these violations.¹⁹

9 The Guardian (2014): Indian officials order Coca-Cola plant to close for using too much water, 18 June. www.theguardian.com (Accessed 21.10.2015)

10 RT (2014): Coca-Cola forced to shut India bottling factory over excessive water use pollution, 19 June. www.rt.com (Accessed 21.10.2015)

11 World Resource Institute (2014): World's 36 most water stressed Countries, 1 September. www.wri.org (Accessed 21.10.2015)

12 Countercurrent.org (2015): Stop water for Coca-Cola, demand 18 village councils in india, 28 November, [AsianMirror](http://AsianMirror.com). www.asianmirror.lk (Accessed 20.12.2015)

13 See Supra Note 10

14 See Supra Note 5

15 Environment News Service (2015): India cancels Coca-Cola bottling plant on water fears, 21 April. www.ens-newsire.com (Accessed 21.10.2015)

16 Business and Human Rights Resource Centre (2015): El Salvador: Expansion of SABMiller's plant, bottling for Coca-Cola, reportedly threatens access to water of locals; SABMiller responds. www.business-humanrights.org (Accessed 21.10.2015)

17 Duggan, W (2015): Does Coca-Cola have a vietnam problem?. [Benzinga](http://Benzinga.com), 17 July. www.benzinga.com (Accessed 21.10.2015)

18 Oxfam (2013): Sugar Rush, 2 October. www.oxfam.com (Accessed 21.10.2015)

19 Tran, M (2013): Coca-Cola vows to axe suppliers guilty of landgrabbing, The Guardian, 8 November. www.theguardian.com (Accessed 21.10.2015)

However, a year after this investigation and its 'zero tolerance' approach, Coca-Cola refuses to publish its findings and NGOs in Cambodia have found that nothing has changed for the victims of landgrabbing in the sugar industry.²⁰ In an attempt to reduce sugar in its 'Life' range, Coca-Cola uses a sweetener known as Stevia. This has, according to a new report, been used without giving appropriate benefit or gaining permission from the local people in Brazil, thus violating the Convention on Biological Diversity.²¹

Coca-Cola has, despite criticism for a number of years, continued its operations in Swaziland, where it is claimed Coca-Cola's operations help to prop up the absolute monarch, engaging in human rights abuses. According to Swaziland Democracy Campaign, no organisations should be doing business with the regime in Swaziland, yet this is Coca-Cola's largest African operation.²² Coca-Cola, through a private franchisee, also has operations in the Occupied Palestinian Territories/settlements (Atarot) which contributes to the supply of the population in the illegal settlements.²³

Coca-Cola in their sustainability plan acknowledge their impact on greenhouse gas emissions through their core business processes. They note that 50% of carbon emissions of their entire operations come from packaging.²⁴ This is a significant figure and brings to the fore the importance of recycling. Despite the importance of this, Coca-Cola in Germany is seeking to withdraw its 500ml and 1.5l bottles from the bottle-reuse programme.²⁵ German environmental groups are concerned as Coca-Cola is one of the largest suppliers of non-alcoholic beverages. Additionally, there is concern that this may have a knock on effect to other suppliers. Coca-Cola has also acknowledged the carbon emissions produced through their supply chain, in particular through agricultural production of inputs such as sugar, however, it has committed to neither a plan nor a target to reduce these emissions.²⁶

→ Facing Finance

20 Peter, Z and Pheap, A (2015): No relief for evictees one year on from Coca-Cola visit, 14 February. The Cambodia Daily. www.camdobiadaily.com (Accessed 21.10.2015)

21 Berne Declaration (2015): Stevia derived sweeteners violate indigenous rights, 19 November. www.bernedeclaration.com (Accessed 21.10.2015)

22 Planet experts (2015): Is Coca-Cola supporting human rights abuses in Swaziland?, 24 April. www.planetexperts.com (Accessed 21.10.2015)

23 Eiris Foundation (2015): Business in Occupied Lands, www.businessinoccupiedlands.org (Accessed 21.10.2015)

24 Coca-Cola Enterprises (2015): Climate Change. www.cokece.com (Accessed 21.10.2015)

25 Iser, J (2015): Coca-Cola wendet sich von Mehrweg-Flaschen ab, 18 February. Süddeutsche Zeitung. www.sueddeutsche.de (Accessed 21.10.2015)

26 Oxfam (2014): Standing on the Sidelines, 20 May. www.oxfam.org (Accessed 21.10.2015)

*"Coca-Cola's thirst for profits in India have placed its business interests over the well-being of communities and the environment and this is not acceptable as the community of Mehdiganj has shown."*²⁸

Amit Srivastava of the international campaigning group, India Resource Center

Daewoo International Corp.

Estimated value of managed shares and bonds:	
BlackRock	16.36
Vanguard	12.15
Crédit Agricole	2.12
<hr/>	
Revenues:	15,305.81
<hr/>	
Profit after tax:	138.39
<hr/>	
ISIN:	KR704266001

All figures in € mln.
Date and currency of company report:
31.12.2014, KRW (South Korean Wong)
(exchange rate as of 31.12.2014,
www.oanda.com)

Daewoo International Corporation is the largest Korean trading company and the largest processor of cotton in Uzbekistan. Cotton processed in Daewoo's companies accounts for around 20% of all cotton processed in the country. Daewoo owns 100% of two textile companies - Daewoo Textile Buhkara LLC and Daewoo Textile Fergana LLC; collectively, "Daewoo Textiles". Furthermore, it has a 35% stake in Global Komsco Daewoo.¹

Daewoo International has been repeatedly criticised for tolerating forced labour of children and adults in the Uzbek cotton industry. The company not only admits purchasing Uzbek cotton, it has also made public statements acknowledging forced labour in the Uzbek cotton sector and the Uzbek government's total control over the sector. In February 2013, Daewoo stated that "To our knowledge and information, as the 90% of the harvested cotton are produced by not the machine but the hand-picking, the Uzbek government had taken advantage of the child labour during the harvest season..."² In June 11,

2013, Daewoo International confirmed in a response letter to the Cotton Campaign, an NGO coalition, that it cannot be free from the issue of alleged forced labour in Uzbekistan.³

In December 2014, a complaint for violation of the Guidelines for Multinational Enterprises by Daewoo International was filed with the OECD contact point in South Korea, for the continued purchasing and trading in cotton tainted with forced labour and Daewoo's failure to exercise human rights due diligence in its supply chains. The complaint included three other entities invested in Daewoo: POSCO, National Pension Service and Norges Bank Investment Management.⁴

For decades, the Uzbek government has employed a state orchestrated system of forced labour in its cotton industry. Uzbekistan is the fifth largest producer and second largest exporter of cotton in the world.⁵ Yet, the profits from the cotton yield disappear in an extra budgetary fund,

- 1 Business & Human Rights Resource Centre (2013): Daewoo International re purchasing cotton produced in Uzbekistan with child & forced labor, 19 February. www.business-humanrights.org (accessed 21.10.2015)
- 2 Business and Human Rights Resource Centre (2013): Cotton Campaign calls for stronger commitment from H&M to rid supply chain of Uzbek forced and child labour: Daewoo International response. www.business-humanrights.org (accessed 10 October 2015)

- 3 Complaint to the OECD contact point: Specific Instance Under OECD Guidelines for Multinational Companies submitted by Korean Transnational Corporations Watch December 2014, pg6.; www.oecdwatch.org (accessed 10 October 2015)
- 4 OECD (2014): Complaint as filed by Anti-Slavery International, the Cotton Campaign and Korean Transnational Corporations Watch, www.oecdwatch.org (accessed 10 October 2015)
- 5 Spectrum Commodities (nd): Cotton. www.spectrumcommodities.com (accessed 21.10.2015)

"Daewoo Textiles have annually bought cotton from UZINTERIMPEX, the company controlled by Uzbek's Ministry for Foreign Economic Relations."¹²



◀ Cotton picking, Uzbekistan.
©Nicole Hill, 2015.

benefiting only a small elite in the upper echelons around the Uzbek president.⁶ In 2014 the government continued a forced labour system of cotton production. The authorities coerced farmers to fulfill cotton production quotas and other citizens to fulfill harvest quotas under threat of penalty.

After a decade of global pressure, the Uzbek government began in 2012 to reduce the number of young children forced to pick cotton and accepted monitoring by the International Labour Organization in 2013. In 2014, however, the government of Uzbekistan continued its systematic use of forced labour and again imposed production and harvest quotas. The government forced more adults to pick cotton than previous years, including most public-sector workers, thereby leaving schools and hospitals understaffed.⁷ During the 2015 harvest⁸, human rights monitors have reported continued use of forced labour in the cotton sector, coupled with intensive harassment of anyone who attempts to monitor the practice.⁹

In July 2015 the Korean National Contact Point (NCP) dismissed the case against Daewoo without investigation, finding that the company has performed its human rights due diligence duties

required by the guidelines.¹⁰ Concerns over this decision have been raised by the complainants.

Daewoo's continued trade in Uzbek cotton, despite the sustained forced labour in the cotton industry, and the unwillingness by the company to use its leverage with the Uzbek government to stop that practice, shows that Daewoo is willfully generating profits from severe human rights violations – a modern form of slavery.

In August 2015, the Norges Bank Investment Management (NBIM) took the decision to divest from Daewoo International. NBIM stated that the decision was taken because of the concern over palm oil links in the company. It has not confirmed whether concerns over Daewoo's involvement in Uzbek cotton contributed to the decision taken.¹¹

→ Klara Skrivankova, Anti Slavery International

6 Equal Times (2015): Forced Labour Rampant in the Uzbekistan Cotton Industry, 15 September; www.equaltimes.org (accessed 10 October 2015)

7 Ibid.

8 At the time of writing in October 2015

9 BBC (2015): Arrested, threatened, Beaten: The Uzbek Activist who won't give up, 29 June; www.bbc.co.uk (accessed 14.10.2015)

10 MNE Guidelines (2015): Initial Assessment by Korean National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises; <https://mneguidelines.oecd.org> (accessed 10.10.2015)

11 Mohsin, S (2015): Norway's Wealth fund excludes POSCO Daewoo international, 17 August; www.bloomberg.com (accessed 10.10.2015)

12 See Supra Note 1

13 OECD (2014): Complaint as filed by Anti-Slavery International, the Cotton Campaign and Korean Transnational Corporations Watch; www.oecdwatch.org (accessed 10 October 2015)

"... the respondents (Daewoo Int corp) breached the OECD Guidelines for Multinational Enterprises by continuously purchasing of cotton produced in Uzbekistan through Daewoo Textile Fergana and Bukhara, despite its awareness of on-going state-sponsored forced labor in Uzbekistan." 13

Typhoon survivors and civil society groups in the Philippines deliver a complaint to the Commission on Human Rights of the Philippines (CHR) calling for an investigation into the responsibility of big fossil fuel companies for fuelling catastrophic climate change that is resulting in human rights violations.

© Vincent Go/Greenpeace



ExxonMobil Corp.

Loans:	
HSBC	544.43
Estimated value of underwritten bonds:	
HSBC	1,340.31
BNP Paribas	107.71
Deutsche Bank	83.87
Crédit Agricole	44.34
Estimated value of managed shares and bonds:	
Vanguard	20,260.27
BlackRock	18,900.22
State Street	13,856.44
Deutsche Bank	899.21
HSBC	483.48
Revenues:	338,869.26
Profit after tax:	27,652.37
ISIN:	US30231G1022

All figures in € mln.

Date and currency of company report:

31.12.2014, USD (exchange rate as of 31.12.2014, www.oanda.com)

ExxonMobil Corporation headquartered in Irving, Texas, is the largest publicly traded oil and gas company in the world¹ and has operations in North and South America, Asia Pacific, the Middle East and throughout Africa. ExxonMobil violates human rights and contributes to severe environmental destruction, including climate change, in its global operations. This seems vastly out of line with their corporate expectation of “Protect Tomorrow. Today”.

ExxonMobil is listed as a top carbon emitter in the “Carbon Majors” report released in 2014. Exxon is No. 2 on the rankings of the top investor and state owned carbon and cement entities and is linked to CO₂ emissions of 46.67 Gt CO₂e (for the no 1 emitter, Chevron, please refer to Dirty Profits 3).²

Until December 2015, Exxon’s “climate policy and principles” showed no commitments for carbon reduction, however, due to public pressure, Exxon has noted on their website that they are committed to carbon reduction.³ In a shareholder meeting in May 2015, ExxonMobil CEO Rex Tillman questioned the current climate change models and stated that oil and gas would remain an important player in world energy markets. In regard to renewable energy he made the claim that Exxon does not invest in renew-

ables as they “choose not to lose money on purpose”.⁴ For decades ExxonMobil and other oil and gas majors have “knowingly worked to deceive the public, distort climate findings and block policies for a clean energy transition”⁵. Exxon has stated in its carbon asset risk report that it intends to burn all its oil reserves.⁶

The consequences of climate change are felt very heavily across the world. In the Philippines, a network of civil society organisations and individuals filed a petition with the Commission on Human Rights against 50 companies, including Exxon, that they hold accountable for climate change due to large carbon emissions. The petition is based on the 2014 study on Carbon Majors by Richard Heede⁷. The Commission acknowledged that climate change will have an impact on human rights.⁸

Since 2001 ExxonMobil has been involved in a lawsuit related to their natural gas facility in rural Aceh, Indonesia. The plaintiffs maintain that ExxonMobil hired security personnel who were members of the Indonesian military to provide security at the natural gas facility. The security

1 ExxonMobil (2015): About Us. www.exxonmobil.com (Accessed 30.06.2015)

2 Heede, R (2014): Tracing Anthropogenic Carbon dioxide and methane emissions to fossil fuel and cement producers; *Journal of Climatic Change* (vol 122; pg 229-241) January 2014. www.springer.com (Accessed 10.09.2014)

3 ExxonMobil (2015): ExxonMobil’s perspectives on Climate Change. www.corporate.exxonmobil.com (Accessed 01.02.2016)

4 Davis, C (2015): ExxonMobil chief derides renewables, “Says we choose not to lose money on purpose”. *Natural Gas Intel*, 28 May. www.naturalgasintel.com (Accessed 10.10.2015)

5 Mulvey, K and Shulman, S (2015): *The Climate Deception Dossiers*, July. *Union of Concerned Scientists*. www.ucsusa.org (Accessed 21.10.2015)

6 ExxonMobil (2014): Exxonmobil releases reports to shareholders on managing climate risks, 14 May. www.exxonmobil.com (Accessed 10.10.2015)

7 Heede, R (2014): Carbon majors: Accounting for carbon and methane emissions 1854–2010. www.climateaccountability.org (Accessed 02.12.2015)

8 Sabillo, K (2015): Human rights complaint filed vs 50 oil, cement companies, 28 September. www.inquirer.net (Accessed 21.10.2015)

“My philosophy is to make money. If I can drill and make money, then that’s what I want to do.”²³

ExxonMobil CEO, Rex Tillman



◀ ExxonMobil advertisement at London Heathrow Airport 2007. © HM Cotterill

forces are claimed to have physically abused and killed family members who lived and worked in villages within the sprawling operations. Villagers suffered numerous human rights violations, including torture, rape and murder.⁹ New evidence has recently alleged that top executives at Exxon knowingly hired and supported these military forces.¹⁰

A further lawsuit against Exxon in New Jersey, USA, was settled in March 2015 for \$225 million. This related to decades of pollution by Exxon's Bayonne and Bayway refineries, including the contamination and loss of more than 1,500 acres of wetlands, marshes, meadows and waters in northern New Jersey. The initial lawsuit was for \$9 billion and the significant reduction in compensation has been widely discussed, linking Exxon to political figures in New Jersey.¹¹

ExxonMobil has also been widely criticised by civil society groups, including LNG Watch Papua New Guinea, in relation to their natural gas pipeline in Papua New Guinea. In one case it is alleged that the Exxon subsidiary, Esso Highland Limited, poorly managed a local limestone quarry supplying the pipeline construction. This lack of management resulted in a landslide which killed 27 local villagers; a supply road was then constructed directly over the buried bodies.¹² In addition to this, opposition to the pipeline has been fierce and issues have been voiced in relation to land tenure and restitution, rainforest destruction (the pipeline destroyed 7,000 hectares of tropical rainforest), and human rights abuses toward villagers, including allegations ExxonMobil is funding a notorious police unit who are suppressing opposition.¹³ The pipeline has been in use since April 2014.¹⁴

In June 2014 Mobil Producing Nigeria (subsidiary of ExxonMobil) admitted to an oil spill in the Ibeno Local Government area of Akwa Ibom State, Nigeria.¹⁵ The 15,000 barrels of oil spilled severely damaged the coastline destroying local fishing sites, agricultural and community lands.¹⁶ This follows four severe oil spills in the same region by ExxonMobil in 2010.¹⁷ Despite acknowledging the spill Exxon has not cleaned the site, resulting in protests from local youth in July 2014.¹⁸ The Artisanal Fishing Association of Nigeria is also pushing the Nigerian government to sanction oil companies that do not clean up spills, specifically Exxon.¹⁹

Furthermore, ExxonMobil is also engaged in hydraulic fracturing. The company contends that the industry had been using the method safely for decades and CEO Tillerson highlights the energy diversity the technology would bring.²⁰ However, German environmental group NABU has awarded Exxon's European division with the "fossil of fossil energy" prize for its fracking operations in Germany.²¹

The US Project of Government Oversight (POGO) has documented 84 instances of misconduct by Exxon (including environmental violation, pollution, lack of protection of workers, etc.) since 1995 resulting in penalties of \$2,886.6 million.²²

→ Facing Finance

9 Business and Human Rights resource Center (2014): ExxonMobil lawsuit re: Aceh, 18 February. www.business-humanrights.org (Accessed 10.10.2015)

10 Gillison, D (2015): Exxon Human Rights case survives – on claim that execs knew all along, 16 July. 100 reporters. www.100r.org (Accessed 10.10.2015)

11 Weiser, B (2015): Exxon Settles \$9 Billion Pollution Case in New Jersey for Far Less. 27 February, The New York Times. www.nytimes.com (Accessed 10.10.2015)

12 Shearman, T (2014): ExxonMobil's New Guinea Nightmare. 30 April. The Nation. www.thenation.com (Accessed 10.10.2015)

13 Ibid.

14 PNG LNG (2015): The project. www.pnglng.com (Accessed 21.10.2015)

15 Polson, J (2014): ExxonMobil reports fire, oil spill at Nigeria's terminal. 29 June. Bloomberg. www.bloomberg.com (Accessed 10.10.2015)

16 Sahara Reporters (2014): Fresh oil spill recorded in Ibeno Local Government Area of Akwa Ibom State. 3 July. www.saharareporters.com (Accessed 10.10.2015)

17 Business and Human Rights Resource Centre (2010): Human Rights impacts of oil pollution in Nigeria. www.business-humanrights.com (Accessed 10.10.2015)

18 Isine, I (2014): Oil Spill: Akwa Ibom community locks down ExxonMobil. 7 July. Premium Times. www.premiumtimes.com (Accessed 10.10.2015)

19 Premium Times (2015): Oil Spill: Fishermen urge Nigerian government to punish defaulting oil firms. 26 July. www.premiumtimesng.com (Accessed 10.10.2015)

20 Stothard, M (2015): Statoil and ExxonMobil chiefs call on EU to allow fracking, 4 June. www.ft.com (Accessed 10.10.2015)

21 NABU (2014): „Dino des Jahres“ für Gernot Kalkoffen. 29 December. www.nabu.de (Accessed 10.10.2015)

22 Federal Contractor Misconduct Database (2015): ExxonMobil. www.contractormisconduct.org (Accessed 10.10.2015)

23 Rose, C (2013): Charlie Rose talks to India's Rex Tillerson, 7 March. www.bloomberg.com (Accessed 17.12.2015)

24 Rowell, A (2014): ExxonMobil ignores IPCC warning, vows to burn all oil reserves. 14 April. www.ecowatch.com (Accessed 10.10.2015)

“... now investors know that Exxon is not addressing the low carbon scenario and (is) placing investor capital at risk.”²⁴

Natasha Lamb, director of equity research at Arjuna Capital, a sustainable wealth management group

Grupo México S.A.B. de CV

Estimated value of underwritten bonds:	
HSBC	211.03
Estimated value of managed shares and bonds:	
Vanguard	402.40
BlackRock	306.14
Allianz	32.90
HSBC	32.89
Deutsche Bank	14.92
Revenues:	7,670.15
Profit after tax:	1,400.67
ISIN:	MXP370841019

All figures in € mln.
Date and currency of company report:
31.12.2014, USD (exchange rate as of 31.12.2014,
www.oanda.com)

Mexico-based Grupo México is predominantly a mining company producing copper, silver, zinc, gold and lead.¹ Additionally, it is also involved in railroad services and construction. The company has operations in Mexico, Peru, the US, and explorations in Chile and has numerous subsidiaries including ‘The Southern Copper Corporation’, which operates mines in Peru and Mexico² and Ferromex, which operates in the transport division.³

In 2014, Grupo México was responsible for “the worst natural disaster provoked by the mining industry in the modern history of Mexico”.⁴ This was due to a spill at its Buenavista mine of 40,000 cubic meters of copper sulphate acid, which ran into two rivers in the Mexican state of Sonora. This significantly contaminated the water, leaving 24,000 people in seven communities without clean drinking water, and dozens of farmers without water to tend their crops. Additionally Grupo México failed to admit accountability in the incident, blaming instead heavy rains, although the Environment Ministry found proof of negligence, including in the maintenance of the tanks.⁵ The estimated cost of environmental damage is \$133.7 million.⁶ In March 2015 Grupo México was fined \$1.5 million, after having been found guilty

of 55 infractions leading to the spill.⁷ This fine is significantly less than the \$3 million initially suggested. The company set up a fund of \$150 million for cleanup and for restitution, but many communities say they have not received any money, and clean water was not readily available.⁸ Two collective claims have since been filed by communities against Grupo México in relation to the impact of the spill on their livelihoods.⁹

In the Arequipa region of Peru, significant protests have surrounded the Southern Copper Corporation’s Tía María mine. The objections to the proposed mine began in 2009 when a first Environmental Impact Assessment (EIA) was released and the local communities of Cocachacra, Punta del Bombón, and Deán Valdivia, surrounding the mine, rejected the project with a 93% majority.¹⁰ During 2010 and 2011, at the same time as the company held public hearings in an attempt to convince the communities, multiple protests were held against the revision of the EIA. Four protesters were killed during these protests. The revised EIA also included numerous faults, and the Tía María project was cancelled by the Government. However, the newly elected Government of Humala approved a further EIA in 2014 and held out the prospect of a licensing to Southern Copper in March 2015, which led to new

1 Reuters Finance (2015): Profile: Grupo México SAB de CV (GMEXICOB.MX), Reuters. www.reuters.com (Accessed 11.11.2015)
2 Grupo México (2015): Southern Copper Corporation. www.gmexico.com (Accessed 11.11.2015)
3 Grupo México (2015): Where we operate. www.gmexico.com (Accessed 11.11.2015)
4 Montez, J (2014): Grupo México face major cleanup fees after spill, 26 August. The Wall Street Journal. www.wsj.com (Accessed 11.11.2015)
5 Ibid.
6 Jamasmie, C (2014): Costs of Mexico Copper Mine spill climbs to almost 140 million. 9 October, www.mining.com (Accessed 18.11.2015)

7 Mexico News Daily (2015): Buenavista copper mine fined 23mn, 3 March, Mexico News Daily. www.mexiconewsdaily.com (Accessed 18.11.2015)
8 Bacon, D (2015): Unlikely allies: Mexican miners and farmers unite over toxic spill, 15 April, Al Jazeera. www.aljazeera.com (Accessed 18.11.2015)
9 Mexico News Daily (2015): Second claim filed over Sonora mine spill, 25 June, Mexico News Daily. www.mexiconewsdaily.com (Accessed 18.11.2015)
10 Sullivan, L (2015): Peru’s Tía María mining conflict: another mega imposition, 10 June. www.upsidedownworld.org (Accessed 18.11.2015)

“In Mexico, our major mining expansion project [...] is being developed according to best environmental practices, allowing us to grow sustainably [...], with the resulting benefit for our people and their communities.”¹⁹



▲ Grupo México spilled 40,000 cubic meters of copper sulphate acid into two rivers contaminating the waters.
© @infomovilnews (Twitter)



▲ Protest against Southern Copper in Peru.
© Creative Commons

severe protests, the killing of four protesters, and the declaration of the State of Emergency in May 2015.^{11 12} At the time of writing, protests against the mining project were still being held.¹³

A report by the Peruvian Society for Environmental Law cites several reasons why communities in the Arequipa region would distrust Southern Copper, summarised by Alliance for Global Justice as repeated instances of contamination of waterways and its constant release of sulfuric dioxide into the air at rates up to four and a half times those permitted. The report notes that Southern Copper is one of the ten most fined extractive companies by the Peruvian government's Organism for Environmental Evaluation and Assessment (OEFA), which has sanctioned Southern Copper twelve times since 2008.¹⁴

Grupo México has a history of serious environmental damage in Mexico, Peru, and the US as well as of environmental misconduct in the US. An explosion at the Pasta de Conchos mine in Mexico killed 65 workers, and protests erupted at the

Cananea Mine in relation to labour rights.^{15 16} Due to these serious labour violations at Grupo México mines, organisations such as the global union IndustriAll have put pressure on the Norwegian Government Pension Fund to divest from the company.¹⁷

Grupo México and its subsidiaries show consistently poor environmental, social and labour relations in all the countries in which they operate. A pattern emerges of denial of responsibilities, lack of environmental oversight, and operating without the free, prior and informed consent of communities. With a significant history of violations Grupo México shows a clear lack of impetus to improve.

Finally, a mining concession in southern Spain won by Grupo México has been frozen after a Spanish court opened an investigation into the tender process after reports surfaced alleging corruption, bribery, and influence-peddling.¹⁸

→ Facing Finance

11 Walker, B (2015): Peru declares state of emergency over mining violence, 24 May, CNN. www.cnn.com (Accessed 18.11.2015)

12 Quartararo, R (2015): Transnational Perceptions and Corporate greed behind the Tía María Protests, 10 June, Council on Hemispheric Affairs. www.coha.org (Accessed 18.11.2015)

13 RPP: (2015): Islay: anuncian continuación de protestas contra proyecto Tía María, 13 November, www.rpp.pe (Accessed 09.12.2015)

14 Jordan, J (2015): Peru: International labor solidarity aids fight against polluting, anti-union copper mine, 11 June, Climate and Capitalism. www.climateandcapitalism.com (Accessed 18.11.2015)

15 Flannery, N P (2014): Mexican Mining Giant faces criticism after chemical spill near US border. 29 September, Forbes. www.forbes.com (Accessed 18.11.2015)

16 Mexico News Daily (2015): Copper mine blamed for illness and death, 27 May, Mexico News Daily. www.mexiconewsdaily.com (Accessed 18.11.2015)

17 IndustriAll Union (2010): Trade Unions Ask Norwegian Pension Funds To Divest Of Grupo México Shares. www.industriall-union.org (Accessed 18.11.2015)

18 Reuters (2015): Spain suspends controversial mine project won by Grupo México, 15 May. www.reuters.com (Accessed 20.12.2015)

19 Grupo México (2013): Sustainability Report. www.gmexico.com (Accessed 20.12.2015)

20 See supra note 15

“Grupo México is far from being a socially responsible enterprise that respects the environment.”^{19,20}

El Financiero quotes a report from Mexico's Congress

The entrance to Hanson Nahal Rava quarry in the occupied West Bank, November 2008.
© Who Profits



HeidelbergCement AG

Loans:	
Deutsche Bank	157.89
BNP Paribas	157.89
Commerzbank	157.89
Estimated value of underwritten bonds:	
Deutsche Bank	151.32
Commerzbank	26.32
Crédit Agricole	26.32
Estimated value of managed shares and bonds:	
BlackRock	422.84
Deutsche Bank	396.00
Vanguard	291.77
Union Investment	186.31
Allianz	154.06
Revenues:	12,614.00
Profit after tax:	687.00
ISIN:	DE0006047004

All figures in € mln.
Date and currency of company report:
31.12.2014, EUR

The HeidelbergCement Group is headquartered in Heidelberg, Germany and is among the world's largest producers and distributors of cement and aggregates and active in 40 countries. In 2014, the Group revenue was € 12.6 billion euros.¹ Hanson Israel is a direct subsidiary of the HeidelbergCement Group.²

Hanson Israel supplies approximately 20% of Israel's demand for aggregates and concrete products,³ of which part of the operations are located in the West Bank.⁴ HeidelbergCement has acknowledged it operates the quarry and ready mix concrete plant, Nahal Raba, south of Elkana in Area C of the West Bank, through its subsidiary Hanson Israel.⁵ Area C accounts for sixty percent of the West Bank and is under Israeli control, limiting the ability of Palestinians to access land and resources.⁶ The company pays royalties to the

state of Israel, however, it is unclear how the authorities use these funds. While the company denies that it provides building materials to the West Bank and Israeli settlements, or the construction of border protection systems,⁷ NGOs in Israel, including Who Profits, have documented cases of access by Hanson to the Barkan Settlement Industrial Zone.⁸ Who Profits also note that Hanson operates further factories in the occupied West Bank, including concrete factories in Modiin Illit and Atarot.⁹

The Norwegian state pension fund KLP and the KLP mutual fund have excluded HeidelbergCement from their investment portfolios.¹⁰ The reason for exclusion is given as 'violations of fundamental ethical norms' by the company. KLP undertook a legal review of the situation, concluding that the extraction of non-renewable resources in occupied territories may weaken the future income potential of the local population. It states that the operations are inconsistent with the requirements of the law of belligerent occupation

1 HeidelbergCement (2015): Company, www.heidelbergcement.com (Accessed on 26.11.2015)

2 HeidelbergCement (2015): Israel, www.heidelbergcement.com (Accessed on 26.11.2015)

3 Ibid.

4 Business and Human Rights Resource Center (2015): response by HeidelbergCement in relation to Hanson Israel. August. www.business-humanrights.org (Accessed on 26.11.2015)

5 Ibid.

6 SettlerWatch (nd): West Bank ABC, www.settlerwatch.com (Accessed on 26.11.2015)

7 See Supra Note 4

8 Who Profits (2015): Hanson Israel, 14 May. www.whoprofits.org (Accessed on 26.11.2015)

9 Ibid.

10 KLP (2015): Decision to exclude from investments, 1 June. english.klp.no (Accessed on 26.11.2015)

*"We want to create added value for our company and for the communities in which we have facilities."*²³

and incompatible with Article 55 of the Hague Regulations.¹¹

At the company's AGM on May 7th, 2015, Pax Christi and the Association of Critical Shareholders called on HeidelbergCement to respect and implement international law and the OECD Guidelines for Multinational Enterprises as well as to separate immediately from its subsidiary's business activities in the West Bank.¹²

In May 2013, the union IndustriAll lodged a complaint at the OECD contact point in Germany against PT Indocement Tunggak Prakarsa, a subsidiary of HeidelbergCement in Indonesia. According to IndustriAll, Indocement was responsible for a number of incidents related to union busting, including criminalising the union leader.¹³ HeidelbergCement had been unwilling to solve the conflict, even going so far as supporting anti-union activists. In May 2014 the complaint to the OECD had been settled.¹⁴

Further accusations related to HeidelbergCement include several cases of cement dust causing serious harm to communities in Sierra Leone¹⁵, Liberia¹⁶, Tanzania¹⁷, and Georgia¹⁸.

HeidelbergCement is furthermore one of a number of cement companies under investigation by the EU for forming a cement cartel. The investigation over the cement cartel case started in 2008. In December 2010, the EU officially opened the antitrust proceedings against a number of cement manufacturers, amongst them HeidelbergCement. At the time of writing, the investigation was still in progress.¹⁹

According to the Environmental Investment Organisation (EIO), HeidelbergCement AG was the most CO₂-intensive German company emitting 3,800 tonnes of CO₂ per million US Dollar revenue in 2011. However, HeidelbergCement AG confirmed only 3,100 tonnes of CO₂ emissions for this period.²⁰ The companies's yearly total CO₂ emissions between 2005 and 2012 vary between 3.9 and 4.9 million tonnes.²¹ The Carbon Majors Study ranked HeidelbergCement No.3 with regard to the worldwide top 6 investor owned cement producers and attributed emissions, which sums up to 0.98 GtCO₂ between 1990 and 2010.²²

→ Facing Finance

11 Ibid.

12 Pax Christi (2015): Press release: Pax Christi fordert von HeidelbergCement Trennung von Westbank-Geschäftsbereich, 18. Juni 2015. www.paxchristi.de

13 IndustriALL Global Union (2013): Indocement criminalizes union leader in Indonesia. 17 January. www.industrial-all-union.org (Accessed on 26.11.2015)

14 IndustriALL Global Union (2014): Indonesian cement workers to benefit from OECD settlement. 26 May. www.industrial-all-union.org (Accessed on 26.11.2015)

15 Jabby, M (2013): Sierra Leone: Blatant Environmental Pollution At Cement Factory – Residents Demand Action, Compensation: allafrica.com (Accessed on 26.11.2015)

16 Global Cement (2013): Liberian government to sue Cemenco. www.globalcement.com (Accessed on 26.11.2015)
The Voice of Liberia (nd): Cement dust killing Liberians. www.thevoiceofliberia.org (Accessed on 26.11.2015)

17 Global Cement (2015): Twiga Cement shut over dust pollution. www.globalcement.com (Accessed on 26.11.2015)

18 Mikeladze, M (2015): Georgian Cement Plant Blamed for Health Problems. iwpr.net (Accessed on 26.11.2015)

19 Giannoulis, K (2014): General Court upheld Commission's investigation on cement cartel case. neurope.eu (Accessed on 26.11.2015)

20 Becker, M (2011) CO₂-Emissionen von Firmen: Rangliste entlarvt Europas Klimawandel, 26 April, Spiegel Online. www.spiegel.de (Accessed 17.12.2015)

21 World Wildlife Fund (2014): Zusatzgewinne ausgewählter deutscher Branchen und Unternehmen durch den EU Emissionshandel, March. www.wwf.de (Accessed 17.12.2015)

22 Heede, R (2014): Carbon majors: Accounting for carbon and methane emissions. Table no8, 1854–2010. www.climateaccountability.org (Accessed 2.12.2015)

23 Sustainable development report 2013/14. www.heidelbergcement.com

24 Global Cement News (2013): Liberian government to sue Cemenco, 4 September. www.globalcement.com (Accessed 26.11.2015)

“We have completed all medical examinations on dozens of residents in the Belema Community. Doctors have established that indeed the cement dust being produced by the company is responsible for their disability and lung infections.”²⁴

**INCHR Commissioner,
James D Tor**

Picture taken during the original 2011 inspections
in Brazilian workshops by Fernanda Forato.
© Repórter Brasil



Inditex S.A.

Estimated value of managed shares and bonds:	
Vanguard	1,388.42
BlackRock	1,250.88
Deutsche Bank	375.88
Allianz	282.33
State Street	117.67
<hr/>	
Revenues:	18,117.00
<hr/>	
Profit after tax:	2,501.00
<hr/>	
ISIN:	ES0148396007

All figures in € mln.

Date and currency of company report:

31.01.2015, EUR

Zara (part of Industria de Diseño Textil S.A., Inditex)¹ is a Spanish multinational clothing company and one of the leaders of the fast fashion industry. The company is praised for being able to respond to changing fashion trends at record speed. With intelligence gathering systems and a unique supply chain set-up, Zara has shortened the design-to-store cycle to an absolute minimum.

Zara produces 60% of its clothes according to the ‘proximity sourcing’ model, meaning production takes place close to the brand’s consumer markets. In line with this model, the majority of Zara pieces sold in Brazil are produced by Brazilian manufacturers. Speed and flexibility are the main requirements for these suppliers.

According to official statistics, Brazil’s garment industry employs 1.7 million people.² In addition to the official numbers, there is a large group of informal labourers working in unregistered sewing workshops. Informal workers do not enjoy basic rights that are guaranteed by law to regular workers and are commonly paid per piece, forcing them to work excessive hours to earn enough to

survive.³ Many of these informal workers are undocumented migrants. They are extremely vulnerable to labour exploitation that – in its worst forms – may amount to modern-day slavery.

A study by the Dutch organisation SOMO and Repórter Brasil looked at exploitative practices that took place at manufacturers producing Zara orders in 2011 and Zara’s resultant reactions.⁴ In 2011 Brazilian inspectors found 15 migrants – one of them only 14 years old – working and living in deplorable conditions in two small workshops in São Paulo. The workshops were crowded, dirty, unventilated and with poor electrical wiring. Workers had to work 16 hours a day and were restricted in their freedom of movement. The workers were living with their families at the workshops, sharing just a few rooms and sleeping on mouldy mattresses. They had been recruited in Bolivia and Peru and were forced to work to pay off debts.

1 In addition Inditex’s brand portfolio includes Pull & Bear, Massimo Dutti, Bershka, Stradivarius, Oysho and Uterqüe.

2 Brazilian Ministry of Labour and Employment (2012): General Register of Employed and Unemployed Workers – Cadastro Geral de Empregados e Desempregados (CAGED). <https://granulito.mte.gov.br> (Accessed 27.8.2015)

3 Parliamentary Inquiry Committee, São Paulo City Council (2006): Relatório Final da Comissão Parlamentar de Inquérito para Apurar a Exploração de Trabalho Análogo ao de Escravo. www.camara.sp.gov.br (Accessed 27.8.2015)

4 SOMO and Repórter Brasil (2015): From moral responsibility to legal liability? Modern day slavery conditions in the global garment supply chain and the need to strengthen regulatory frameworks: The case of Inditex-Zara in Brazil. www.somo.nl (Accessed 27.8.2015)

“[Zara Brasil] would never consent to any exploitation of labour in a situation analogous to slavery [...] but social responsibility must be distinguished from legal responsibility.”⁹

After analysis of the case, the labour inspectors concluded that the conditions were to be classified as ‘analogous to slavery’. According to the inspection report, Zara exercised directive power over the supply chain and therefore should be seen as the real employer and should be held legally responsible. The company was fined for 48 infractions and risked being included on the Brazilian ‘dirty list’ of slave labour. The dirty list is a public registry of individuals and enterprises caught employing workers under slave-like conditions and has been described as a best practice by institutions such as the ILO and the UN.

Responding to the scandal, Zara has combined progressive measures in the CSR realm (increasing the number of supplier inspections, strengthening its supplier monitoring mechanisms, investing in migrant communities’ projects) with reactive litigation in the legal realm. In June 2012, the company filed a lawsuit against the Brazilian authorities, contesting the fines as well as the decision to put Zara on the dirty list. This combination of strategies reveals an inconsistency: in the CSR realm, Zara assures its stakeholders that it is able to effectively monitor its supply chain, while in the legal realm, it refuses to assume responsibility for the conditions in the sewing workshops, arguing the outsourcing was unauthorised, Zara was not aware of it, and that its contracting party had been deceiving audits. In other words: Zara is unable to control its supply chain and voluntarily assumes ‘moral’ responsibility but resists legal responsibility.

The company’s litigation efforts against the labour inspection and the ‘dirty list’ risk undermining the potential of the Brazilian authorities to effectively fight other situations of modern slavery. Zara argues that the ‘dirty list’ goes against the right to a full defense and the principle of presumption of innocence. It would apply sanctions that are not up to the Executive Power to define, but rather to the Judiciary Power.⁵ Such arguments suppress the fact that the list is not a sanction in itself, but only a transparency tool with regard to the outcome of government inspections. Zara’s irresponsible legal strategy undermines Brazilian efforts to eradicate modern-day slavery.

The Brazilian Labour ministry has continued to find violations in Zara’s supply chain and in May 2015 found that up to 7,000 workers were badly treated since 2012.⁶ These incidents are unfortunately not isolated to Brazil. Inditex (Zara) has also been implicated in forced labour in sweatshops in Argentina.⁷ Inditex’s other primary brand Pull & Bear was found by the Institute for Global Labour and Human Rights to be sourcing from a factory in Bangladesh where women were forced to work 100 hour weeks at very low pay in terrible working conditions.⁸

→ Martje Theuws,
Centre for Research on Multinational Corporations (SOMO)
→ Facing Finance

5 Zara Brasil Ltda. vs. Federal Government of Brazil: Lawsuit 00016629120125020003, 3rd Labour Court of São Paulo

6 Butler, S (2015): Zara owner Inditex faces fines in Brazil over poor working conditions claim, 12 May, The Guardian. www.theguardian.com (Accessed 27.8.2015)

7 Schweimler, D (2015): No Action as Argentina’s illegal sweatshops flourish, 19 May, AlJazeera. www.aljazeera.com (Accessed 27.8.2015)

8 Institute for Global Labour and Human Rights (2015): International label children’s clothing made under slave like labour in Bangladesh, 10 March. www.globallabourrights.org (Accessed 27.8.2015)

9 See supra note 4

10 Statement of two Bolivian workers who were working at an informal workshop producing Zara clothes in 2013. Repórter Brasil (2015): “A dona ficava com o nosso salário”. www.reporterbrasil.org.br (Accessed 24.9.2015)

“The owner kept our salary. She always lied, saying that the Brazilian bank charges high interest rate. We had just arrived, so we trusted her.”¹⁰

Two Bolivian workers

Lockheed Martin Corp.

Loans:	
Crédit Agricole	546.52
Estimated value of underwritten bonds:	
Crédit Agricole	149.81
Estimated value of managed shares and bonds:	
State Street	10,585.46
Vanguard	3,930.68
BlackRock	3,879.87
Deutsche Bank	168.46
Allianz	35.21
Revenues:	
	37,511.474
Profit after tax:	
	2,972.95
ISIN:	US5398301094

All figures in € mln.
 Date and currency of company report:
 31.12.2014, USD (exchange rate as of 31.12.2014,
 www.oanda.com)

Lockheed Martin is a global security and aerospace company headquartered in Maryland, USA.¹ It is the number one arms supplier in the world in terms of defence and military sales. In 2014 Lockheed Martin had net sales of \$45.6 billion,² of which \$37.47 billion was generated by arms sales (82%), resulting in a \$3.615 billion profit according to SIPRI.³

Lockheed's weapons have been supplied to over 70 countries⁴, including Israel where combat aircraft (F-16), helicopter parts (AH-64 Apache) and Longbow Hellfire missiles have been used in the Gaza wars.⁵ In 2014, a Hellfire missile hit a UN school in Gaza resulting in 15 casualties.⁶ The REAPER drone, which serves as a carrier for the Hellfire missile, has been used in Afghanistan and other countries, resulting in civilian casualties.⁷ Lockheed Martin's F16 aircraft have been used in both Yemen and Syria, reportedly resulting in significant civilian casualties.⁸

Lockheed Martin produces a wide variety of nuclear weapons and nuclear control systems, among them the Trident II D5 missile used on British and US nuclear submarines.⁹ Lockheed Martin also wholly owns Sandia¹⁰, which manages the US nuclear arsenal. In August 2015, Sandia was required to pay nearly \$5 million to the

federal government for using federal funds to lobby officials and lawmakers.¹¹ In June 2015, Sandia was required to pay \$577,500 for leaking classified nuclear information.¹² Due to Lockheed's production of nuclear weapons at least 40 banks, investment managers and pension funds have excluded Lockheed Martin from investment portfolios (View Appendix: Divestment from companies).

Lockheed is also engaged in the production of Lethal Autonomous Weapon Systems (LAWS), for example, the hypersonic aircraft (SR-72), which will take the form of a 4,000 mph reconnaissance drone with strike capability.¹³ Autonomous weapons have been highly criticized and their ban is discussed in UN fora because they remove human decision making on issues of life and death in future conflicts.¹⁴

When Marillyn Hewson, the chief executive of Lockheed Martin, was asked by an analyst at Deutsche Bank about the Iran nuclear deal possibly impeding military sales in the region she responded that "volatility all around the region" should continue to bring in new business. According to Hewson, "A lot of volatility, a lot of instability, a lot of things that are happening" in both the Middle East and the Asia-Pacific region means both are "growth areas" for Lockheed Martin.¹⁵ This type of comment shows the Lockheed's core business model and the questionable incentive structure within the international arms market. Lockheed Martin has stated that it seeks to increase its dealings in international markets, launching Lockheed Martin International and opening new offices in

- 1 Lockheed Martin (2015): Who we are. www.lockheedmartin.com (Accessed 12.10.2015)
- 2 Lockheed Martin (2015): Annual Report 2014. www.lockheedmartin.com (Accessed 12.10.2015)
- 3 SIPRI (2015): The SIPRI top arms producing companies. December www.sipri.org, www.fool.com (Accessed 12.12.2015)
- 4 Lockheed Martin (2013): Lockheed Martin international Launch Press Conference. July 2013. www.lockheedmartin.com (Accessed 10.10.2015)
- 5 See supra note 1
- 6 Raghavan, S and Eglash, R (2014): In deaths of civilians in Gaza US weapons sales to Israel comes under scrutiny, 23 August, Washington Post. www.washingtonpost.com (Accessed 12.10.2015)
- 7 Robinson, W (2014): New RAF Reaper drones armed with laser guided bombs and Hellfire missiles start operations in Afghanistan, 3 July, Daily Mail. www.dailymail.co.uk (Accessed 12.10.2015)
- 8 Mazzetti, M and Cooper, H (2015): Sale of US Arms fuels the wars of Arab States, 18 April, New York Times. www.nytimes.com (Accessed 12.10.2015)
- 9 Lockheed Martin (2015): Trident II D5 Fleet Ballistic Missile. www.lockheedmartin.com (Accessed 12.10.2015)
- 10 Sandia National laboratories (2015): About Us. www.sandia.gov (Accessed 12.10.2015)

- 11 Malone, P (2015): Lockheed Martin Nuclear subsidiary fined for paying lobbyists with federal funds, 24 August, TIME. www.time.com (Accessed 27.10.2015)
- 12 Daily Beast (2015): Two nuclear weapons labs spilled nuclear secrets for years, 5 June. www.dailybeast.com (Accessed 12.10.2015)
- 13 Dillow, C (2015): Inside America's next spyplane, 19 May, Popular Science. www.popsoci.com (Accessed 12.10.2015)
- 14 UN Office at Geneva (nd): Background Lethal Autonomous Weapons Systems. www.unog.ch (Accessed 17.12.2015)
- 15 Global Research (2015): Bankers hate peace: All wars are bankers wars, 26 March. www.globalresearch.ca (Accessed 27.10.2015)

*"Lockheed Martin's business success depends on our commitment to integrity. We do more than just comply with laws and regulations. We aim to do what is right every day."*²⁵



▲ An AGM-114 Hellfire missile hung on the rail of an US Air Force MQ-1L Predator Unmanned Aerial Vehicle (UAV).
© TGST Scott Reed, Wikicommons



▲ Scenes from Gaza Crisis 2014. “F-16s, Hellfire missileshave been directly linked to violations of international humanitarian and human rights law by Israeli forces”.
© UN Photo Shareef Sarhan, 30 July 2014, Gaza Strip

Israel, the United Kingdom, the United Arab Emirates (UAE), Saudi Arabia¹⁶, and Qatar¹⁷ in the last year.

Lockheed Martin has also been contracted to produce the F35 Joint Strike Fighter jet, at a cost of \$400 billion. It has faced serious criticism in relation to the cost, the length of production and performance.¹⁸

In addition to its core defence role, Lockheed Martin has gained permission to proceed with seabed mining in the Clarion-Clipperton fracture in the Pacific Ocean. In May 2015, the US Centre for Biological Diversity filed a lawsuit against the US government for allowing the extension of permits for Lockheed Martin to mine in the Clarion-Clipperton fracture.¹⁹ The UK government has also permitted UK Seabed Resources Ltd., a wholly owned subsidiary of Lockheed Martin, to mine the same vicinity providing exploratory permits in 2013.²⁰ Large scale deep sea mining will undoubtedly damage the seafloor and will likely irreparably damage underwater ecosystems.²¹ Additionally, Ocean Mineral Singapore (OMS) has received

authority to mine the Clarion-Clipperton fracture. OMS is part owned by UK Seabed Resources Ltd.²² The minerals that are being mined for on the ocean floor are used extensively in the defence industry as well as the consumer electronics market, which explains the drive for defence companies to play a part in the extraction of these minerals.²³

Lockheed Martin has had a large number of misconduct cases in the Federal Misconduct Database, with 79 instances of misconduct since 1995 (including overbilling, discrimination, fraud, wastewater discharge, etc.) leading to penalties of \$ 750.6 million.²⁴

→ Facing Finance

16 See supra note 3

17 See supra note 9

18 Bender, J (2015): Pentagon: Here are all the problems with the F35, 20 March, Business Insider. www.businessinsider.com (Accessed 27.10.2015)

19 Law360 (2015): Enviro’s sue feds over Lockheed Deep Sea mining permits, 13 May. www.law360.com (Accessed 27.10.2015)

20 Lockheed Martin (2013): Press Release: UK Government sponsors Lockheed Martin UK subsidiary for license to harvest Polymetallic Nodules. www.lockheedmartin.com (Accessed 27.10.2015)

21 Reprisk (2015): RepRisk Special Report on Seabed Mining and Deep Sea Drilling. www.reprisk.com (Accessed 27.10.2015)

22 Schuler, M (2015): Keppel unit wins seabed exploration contract in search of mineral resources, 16 June, GCaptain. www.gcaptain.com (Accessed 27.10.2015)

23 Chuter, A (2013): Lockheed Martin Announces Deep Sea Mining Venture, 14 March, Defense News. www.defensenews.com (Accessed 27.10.2015)

24 Federal Contractor Misconduct Database (2015): Lockheed Martin. www.contractormisconduct.org (Accessed 17.12.2015)

25 Lockheed Martin (2015): Who we are: ethics. www.lockheed.com (Accessed 27.10.2015)

26 Denholm, A (2015): Scottish Universities investing millions in arms companies, Herald Scotland. www.heraldscotland.com (Accessed 27.10.2015)

“The arms trade is not a legitimate industry and should not be treated as one. These are companies that directly profit from, and encourage, oppression, global insecurity and conflict.”²⁶

Sam Robinson,
Campaign Against the Arms Trade

Motorola Solutions Inc.

Loans:	
Deutsche Bank	123.51
HSBC	61.76
BNP Paribas	61.76

Estimated value of underwritten bonds:	
Deutsche Bank	261.53
HSBC	165.88
BNP Paribas	74.16

Estimated value of managed shares and bonds:	
BlackRock	1,120.53
Vanguard	742.20
State Street	524.67
Deutsche Bank	71.15
Allianz	68.01

Revenues: 4,837.83

Profit after tax: 1,068.58

ISIN: US6200763075

All figures in € mln.

Date and currency of company report:

31.12.2014, USD (exchange rate as of 31.12.2014, www.oanda.com)

Motorola Solutions Inc. headquartered in Illinois, USA, sells mission-critical communication infrastructure, accessories, software, and services to governments and commercial companies that increase efficiency and safety of mobile workforces.¹ The products vary from devices that guarantee public security, mobile computers, mobile workplaces, digital radio systems, and infrastructure for wireless and communication networks.² In 2014, 70% of the company's annual revenue came from sales to government customers.³

NGOs accuse the company, and in particular its subsidiary Motorola Solutions Israel, of profiting from the unstable situation in the Middle East through its provision of surveillance and communication technologies. Motorola Solutions Israel was the first branch of Motorola outside the US⁴ and in 2014 had a total revenue of \$95 million.⁵ Motorola Israel delivers surveillance systems ("MotoEagle Surveillance") for Israeli settlements,

checkpoints, and military camps in the West Bank as well as mobile communication systems ("Mountain Rose"). Israel is violating international humanitarian law through its military and settlement operations carried out in the Occupied Palestinian Territory.⁶

Motorola, in 2005, developed virtual surveillance fences for settlements in the Occupied West Bank under contract from the Israeli Ministry of Defense. The system, called "MotoEagle Surveillance", uses radar engineering and cameras to detect human movement outside the settlements, and cameras to follow anyone who breaches the invisible border.⁷ MotoEagle has been installed in approx. 25 settlements, including Otniel, Bei Hagai, Rehelim, Mechora and Talmon.⁸ In order to provide an early warning system these radar surveillance systems are often on Palestinian land, thus confiscating additional land from Palestinians. The radar system protects the illegal Israeli settlements on occupied Palestinian territory which are considered to be in violation of international humanitarian law.

1 Motorola Solutions (2015): Investor Relations Company Profile. www.motorolasolutions.com (Accessed 02.11.2015)

2 Motorola Solutions (2015): Products. www.motorolasolutions.com (Accessed 02.11.2015)

3 Norton, L P (2015): Motorola Solutions could see business recover, 10 July, Barrons. www.barrons.com (Accessed 02.11.2015)

4 Motorola Solutions (2015): Careers in Israel, www.motorolasolutions.com (Accessed 02.11.2015)

5 CSI Market (2014): Motorola Solutions Inc: Sales by geography. www.csimarket.com (Accessed 02.11.2015)

6 ICRC (2012): International humanitarian law, ICRC and Israel's status in the Territories. www.icrc.org (Accessed 17.12.2015)

7 The Jerusalem Post (2006): Millions spent on virtual fences, 9 August. www.jpost.com (Accessed 11.11.2015)

8 Who Profits Research Centre (2014): Motorola Solutions Israel, January. www.whoprofits.org (Accessed 02.11.2015)

"Motorola Solutions has a comprehensive set of policies and procedures that addresses human rights, which is designed to ensure that our operations worldwide are conducted using the highest standards of integrity and ethical business conduct applied uniformly and consistently."¹⁵



◀ Motorola radar detectors in the illegal Israeli Otniel settlement.
© Who Profits

In addition to this, the communication system “Mountain Rose” was specially developed for the Israeli military between 2001 and 2004 by Motorola and is used by soldiers in the occupied West Bank.⁹ A new system was commissioned in January 2014 by the Defense Ministry and awarded to Motorola, which will replace the current system with an advanced encryption technique.¹⁰ The project will span a 15-year period in which Motorola will provide services, and a secure network.¹¹ Israeli police also use Motorola communication systems in their operations in the occupied Palestinian territories.¹² While this communication infrastructure is not exclusively used in occupied territories, it again reinforces the illegal settlement structure in the region.

9 Israel at FIDEA 2008: Motorola Israel Ltd: Defence Solutions Department. www.sibat.mod.gov.il (Accessed 02.11.2015)

10 Lappin, Y (2014): Motorola to create new smartphone-based network for IDF. www.jpost.com (Accessed 02.11.2015)

11 Israel Hayom (2014): IDF purchases field ready smart-phones, 2 January www.isrealhayom.com (Accessed 02.11.2015)

12 See supra note 8

According to the 2012 UN Special Rapporteur “Beyond sustaining the settlements, these security systems further limit the Palestinians’ freedom of movement within their territory”¹³.

In 2014 the 221st General Assembly (2014) of the Presbyterian Church (U.S.A.) approved divestment from three United States companies (Caterpillar, Hewlett-Packard and Motorola Solutions) for doing business in Israel-Palestine.¹⁴

→ Facing Finance

13 United Nations General Assembly (2012): Note by the General Secretary: Situation of human rights in the Palestinian territories since 1967 pg21, 19 September. www.blog.unwatch.org (Accessed 02.11.2015) (p21)

14 Presbyterian Church USA (2014): By slim margin, Assembly approves divestment from three companies doing business in Israel/Palestine www.pcusa.org (Accesses 02.11.2015)

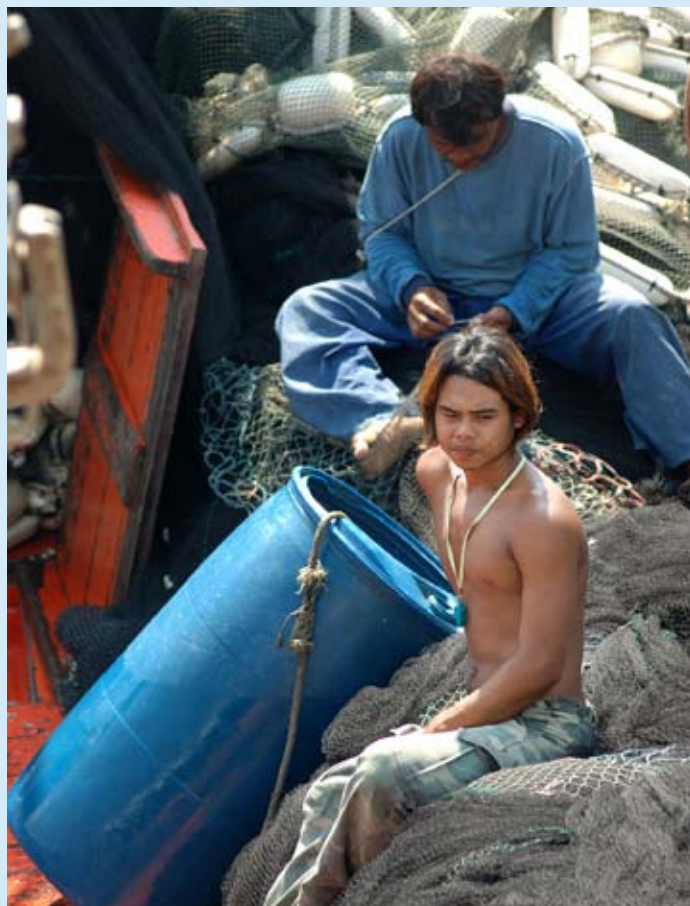
15 Azzam, Z (2014): Israel facing new divestment support in US, 24 July, AlJazeera. www.aljazeera.com (Accessed 17.12.2015)

16 United Nations (2016): Secretary-General’s remarks to the Security Council on the Situation in the Middle East [as delivered], 26 January. www.un.org (Accessed 01.02.2016)

“Progress towards peace requires a freeze of Israel’s settlement Enterprise.”¹⁶

Ban Ki-Moon, United Nations

Burmese migrants working on Thai boat.
© International Labour Organisation, 2005



Nestlé S.A.

Loans:	
Deutsche Bank	233.43
HSBC	233.43
Commerzbank	181.50
BNP Paribas	181.50
Crédit Agricole	181.50

Estimated value of underwritten bonds:	
Deutsche Bank	427.87
HSBC	226.93
BNP Paribas	211.50

Estimated value of managed shares and bonds:	
Vanguard	4,500.81
BlackRock	3,911.67
Deutsche Bank	1,822.03
Union Investment	281.99
Deka	219.06

Revenues: 76,369.21

Profit after tax: 12,389.99

ISIN: CH0038863350

All figures in € mln.

Date and currency of company report:

31.12.2014, CHF (exchange rate as of 31.12.2014, www.oanda.com)

Nestlé is the world's largest food and beverage company, headquartered in Switzerland.¹ Nestlé is a member of the Roundtable on Sustainable Palm Oil (RSPO), which promotes the growth and use of sustainable palm oil products through global standards and engagement with stakeholders. Nestlé is also a participant of the UN Global Compact which asks companies to support and respect the protection of internationally proclaimed human rights. Nestlé has attracted global criticism for a variety of issues, including marketing and business practices, violating human and labour rights, and pollution. In 2010 TRIODOS classified Nestlé as “not eligible for investment” because of animal testing, environmental damage, labour rights, and genetic engineering.²

In August 2015 the Hagens Berman law firm filed a U.S. class action lawsuit alleging that Nestlé “knowingly supports a system of slave labour and human trafficking to produce its Fancy Feast cat food, while hiding its involvement with human rights violations from the public...”.³ From

its supplier Thai Union Frozen Products PCL, Nestlé imported seafood-based pet food from which some ingredients were obtained through slave labour. Men and boys from Cambodia and Burma were trafficked to Thailand and forced to work on fishing boats under harsh labour conditions. Reasons for this are “lax maritime labour laws and an insatiable global demand for seafood even as fishing stocks are depleted”.⁴ Often trafficked from Thailand's poorer neighbours such as Cambodia and Burma, men and boys are sold to fishing boat captains needing crews to man their fishing boats. Here, workers are mistreated, held like slaves, beaten or even killed. Work is dangerous and receives little or no compensation. Working shifts last up to 20 hours a day. According to accounts from escaped workers to police, immigration, and human rights organizations, people “who fled recounted horrific violence: the sick cast overboard, the defiant beheaded, the insubordinate sealed for days below deck in a dark, fetid fishing hold”.⁵ Nestlé has recently taken steps to address the issue and aims to ensure that slavery is eliminated from its fishing supply chain.

1 Fortune (2015): World's most admired Companies 2015. www.fortune.com (Accessed 19.11.2015)

2 Triodos (2010): Company Engagement Report. www.triodos.com (Accessed 28.10.2015)

3 Hagens Berman (2015): Cat Food – Slave Labour. www.hbslaw.com (Accessed 28.10.2015)

4 Urbina, I (2015): Sea Slaves: The Human Misery That Feeds Pets and Livestock, 27 July. www.nytimes.com (Accessed 28.10.2015)

5 Ibid.

“Nestlé is in a strong position to have a positive impact on those who we affect. We continue to follow national laws and international standards, and actively reinforce them. We recognise our responsibility to respect human rights throughout our value chain.”²¹

The impacts of these steps remain to be seen.⁶ In December 2015, further evidence was found of child and slave labour in the shrimp processing industry, which again included Nestlé's Fancy Feast cat food brand.⁷

Furthermore, Nestlé has received criticism in view of child labour related to its suppliers in Côte d'Ivoire. According to a 2015 report by the Fair Labour Association (FLA)⁸, evidence of child labour was found while monitoring cocoa suppliers operating under the Nestlé Cocoa Plan (NCP)⁹ and conducting assessments at cocoa farms connected to Nestlé. The report states that on 260 of the visited farms, assessors found 31 young workers and 25 child workers. Of them, four children were under the age of 15 and one case of forced labour involved a 15-year-old worker. Seven other young workers were between the ages of 15 and 18. These children perform the same work as adults including the same working hours.¹⁰ The use of child labour in its supply chain is prohibited by Nestlé's own code of conduct.¹¹

In Malaysia, Nestlé's palm oil supplier Felda Global Ventures, one of the largest producers of crude palm oil, has been criticised for abusing workers on its palm oil plantation.¹² Felda is a member of the Roundtable for Sustainable Palm Oil (RSPO). Allegations involve links with human traffickers, violence, exploitation and lack of payment of workers.¹³

The Indian regulatory authorities issued a recall order of Nestlé's Maggi instant noodles over safety concerns as the noodles contained excessive levels of lead.¹⁴ Although it did eventually recall over 30,000 metric tonnes of noodles, Nestlé's response to the situation was slow and confrontational and in this way lost the support of communities in India. Nestlé will need to fight to regain its social licence to operate.¹⁵ After extensive testing the product was found to be safe.¹⁶

Furthermore, Nestlé's over extraction of water in several regions of the world has faced opposition. This includes the production of bottled water in countries like Pakistan, Nigeria, South Africa, and the US.¹⁷ In 2015, the historic drought in California which caused state-wide mandatory water restrictions raised questions by experts and the public over Nestlé's use of millions of gallons of California water. Nestlé has five bottled water plants in California and uses about 705 million gallons of water each year. Nestlé announced it would continue to operate its bottling facilities across California.¹⁸

According to Oxfam, Nestlé is one of the big 10 food and beverage companies and therefore a significant emitter of greenhouse gases (GHGs). These companies need to set new targets to cut GHG emissions. Oxfam concludes that Nestlé still needs to improve its policies to reduce agricultural emissions.¹⁹

→ Facing Finance

6 Swissinfo (2015): Nestlé plans to tackle Thai fishing abuses, 23 November. www.swissinfo.ch (Accessed 12.12.2015)

7 Mason, M, et al (2015): Global Supermarkets selling shrimp peeled by slaves, 15 December, Associated Press. www.ap.com (Accessed 17.12.2015)

8 Fair Labour Association (2015): Independent External Monitoring of Nestlé's Cocoa Supply Chain in Ivory Coast: 2014-2015. www.fairlabour.org (Accessed 28.10.2015)

9 Nestlé Cocoa Plan: www.nestlecocoaplan.com (Accessed 28.10.2015)

10 See supra note 8, p. 6

11 Nestlé Supplier Code: www.Nestlé.com (Accessed 28.10.2015)

12 Zain Al-Mahmood, S (2015): Palm-Oil Migrant Workers Tell of Abuses on Malaysian Plantations, 26. July. www.wsj.com (Accessed 28.10.2015)

13 Business and Human Rights Resource Centre (2015): Malaysia: Migrant workers abuses reported at Felda palm oil plantation supplying US companies. www.business-humanrights.org (Accessed 28.10.2015)

14 The Guardian (2015): Nestlé takes instant hit from India's Maggi noodle ban amid lead scare, 16 June. www.theguardian.com (Accessed 28.10.2015)

15 On Common Ground Consultants Inc (2015): What is the Social Licence? <http://sociallicense.com> (Accessed 19.11.2015)

16 Dutta, A (2015): Nestlé India's Maggi Noodles passes safety test, 17 October, Business Standard. www.business-standard.com (Accessed 11.11.2015)

17 See Dirty Profits II (2013), p. 43-44

18 Lockie, A (2015): Nestlé Waters' CEO will 'absolutely not' stop bottling water in California - 'In fact, if I could, I'd increase it', 14 May. www.uk.businessinsider.com (Accessed 28.10.2015) and www.uk.businessinsider.com (Accessed 15.12.2015)

19 Oxfam (2014): Standing on the Sidelines - Why food and beverage companies must do more to tackle climate change. www.oxfam.org (Accessed 28.10.2015)

20 See Supra Note 12

21 Nestlé (2015): Human Rights Compliance. www.nestlé.com (Accessed 17.12.2015)

"They buy and sell us like cattle", said one 25-year-old Bangladeshi, who said he had been shunted among three contractors for six months without receiving any pay.^{20,21}

Occupy Wall Street protest against Pfizer in New York, February 2012. © Michael Fleshman.



Pfizer Inc.

Estimated value of underwritten bonds:	
Deutsche Bank	623.52
HSBC	289.61
BNP Paribas	278.94
Estimated value of managed shares and bonds:	
BlackRock	13,120.68
Vanguard	11,389.76
State Street	10,035.38
Deutsche Bank	1,338.12
Allianz	1,003.46
Revenues:	
	40,806.07
Profit after tax:	
	7,514.63
ISIN: US7170811035	

All figures in € mln.
 Date and currency of company report:
 31.12.2014, USD (exchange rate as of 31.12.2014,
www.oanda.com)

Pfizer is a multinational pharmaceutical corporation headquartered in New York City. Its portfolio includes medicines, vaccines, and consumer healthcare products such as Advil, Centrum, and Caltrate.¹ Pfizer has a number of subsidiaries globally, including Wyeth and Innopharma.² In November 2015, they agreed to merge with the Irish company Allergan, with the new entity residing in Ireland for tax reasons, which has been widely criticised.³ This merger will make Pfizer the largest drug's company in the world.⁴

Pfizer has dropped five places to rank 16th out of 20 in the Access to Medicine Index, which measures pharmaceutical companies' commitment, transparency, innovation and performance in relation to access to medicines, showing that it does not perform as well in terms of its social responsibility.⁵ In Pfizer's 2014 Annual Review, it highlights its four pillars of societal responsibility, one of which is access to medicine. Pfizer aims "to bring more medicines to more people and to improve health around the world".⁶ However, Pfizer has not been meeting this aim.

Pfizer has not joined other major healthcare companies in signing the BSR Access to Healthcare Guidelines, which provide a call to action to expand access to quality healthcare.⁷

Pfizer performs poorly on research and development into diseases affecting the developing world.⁸ This means that only a very small share of their research pipelines targets diseases in the 106 countries where access to medicine is most needed. One way Pfizer's lack of commitment to access is shown, is in the case of their linezolid known by its brand name Zyvox. This drug is used to treat patients with bacterial infections such as MRSA. However, there is evidence that the drug could be used to treat multidrug-resistant tuberculosis (MDR-TB), which is a 'major public health problem'⁹ in Africa and the developing world. Pfizer owns the drug and has not funded clinical trials for Zyvox for TB and therefore the drug is not made available for TB use at an affordable price. For Pfizer there is no incentive to fund clinical trials for the drug's efficacy in treating TB as trials are costly and TB is isolated predominantly to the developing world's poor.¹⁰ In South Africa, where MDR-TB is a major concern, Pfizer holds a patent for Zyvox and refuses to lower prices.¹¹ There have also been protests

1 Pfizer (2015): Pfizer fact sheet. www.pfizer.com (Accessed 10.10.2015)
 2 A full list of subsidiaries can be found here: www.sec.gov and in 2014 Pfizer bought Innopharma Inc. www.pfizer.com (Accessed 10.10.2015)
 3 King, A (2015): Pfizer and Allergan agree mega-merger, 27 November. www.rsc.org (Accessed 11.12.2015)
 4 NYSE Post (2015): Pfizer Inc, Allergan Plc confirm \$160 billion deal to create world's biggest. 7 December. www.nysepost.com (Accessed 11.12.2015)
 5 Access to Medicine Foundation (2014): Access to medicine index 2014. www.accessmedicineindex.org (Accessed 10.10.2015)
 6 Pfizer (2015): Annual Review 2014: Embracing our responsibility to society. www.pfizer.com (Accessed 10.10.2015)

7 BSR (2015): Guiding Principles on Access to Healthcare: A project of the BSR healthcare working group. www.bsr.org (Accessed 12.10.2015)
 8 Access to Medicine Index (2014): Pfizer company report card 2014. www.accessmedicineindex.org (Accessed 19.10.2015)
 9 WHO (2015): Multidrug-resistant tuberculosis. www.who.int (Accessed 14.10.2015)
 10 Jack, A (2014): Linezolid, a potential new TB cure is trapped in a Catch-22. 24 March. Financial Times. www.ft.com (Accessed 12.10.2015)
 11 Treatment Action Group (2014): Linezolid, an activist's guide. September. www.treatmentactiongroup.org (Accessed 02.11.2015)

"At Pfizer we strive to positively impact the health of people around the world."²⁸

against Sanofi in relation to access to linezolid in South Africa in December¹² (Read more on Sanofi on pg 40).

In the latest Access to Medicine Index, Pfizer ranks 13th out of the 20 companies in relation to Public Policy, which indicates corrupt behaviour, unethical marketing and breaches of competition law. Pfizer has also been shown to be secretive about its lobbying activities and does not disclose contributions made to interest groups.¹³ This is quite clearly shown by its membership of the South African pharma lobby group IPASA.¹⁴ In October 2014, IPASA and associated pharma companies were implicated in covertly working to override the South African government as they began to implement a new law that would allow generic drugmakers to produce cheaper versions of patented medicines and make it harder for firms to register and roll over patents. As at time of publication the process to improve the patent laws has stalled.¹⁵ This would vastly increase access to drugs in the developing world but reduce profits for pharmaceutical companies. South Africa is struggling to provide drugs to its population grappling with the world's heaviest HIV/AIDS caseloads and its biggest treatment program.¹⁶ While Roche and Novo Nordisk have resigned from the IPASA, Pfizer is still a member.¹⁷ Pfizer is also a member of ALEC in the US which has been linked to lobbying against climate change policies and for the tobacco industry.¹⁸

In 2012 Pfizer was charged with violating the US Foreign Corrupt Practices Act for making improper payments to foreign officials to attain regulatory approval, sales, increased prescriptions, and for concealing this bribery.¹⁹ In 2014, a court case against Pfizer was dismissed in relation to an antitrust lawsuit saying they delayed the generic Lipitor from reaching the market. The case was dismissed due to the claimants not providing enough detail, however, the claim – that Pfizer agreed to drop a suit against Ranbaxy in return for them staying out of the Lipitor market

until November 2011- was not disputed. Whether this was an antitrust case or not, the ethics of the case seem clear.²⁰ Pfizer has been engaged in a number of lawsuits in the US related to anti-competitive marketing over the past three years, such as the case for Effexor and Lipitor²¹ as well as cases of off-label marketing, for example the \$945 million settlement for Neurontin.²²

In addition to these ethical concerns, pharmaceutical companies also have an impact through their manufacturing process and supply chains. While Pfizer is a member of the Pharmaceutical Supply Chain Initiative (PSCI)²³, a recent report shows that the environmental impact from one of its suppliers in China, NCPC Semisyntech, included possible contamination onsite, as well as issues with dumping untreated antibiotic waste into rivers. Quality assurance in 2010, 2013, and 2014 of this supplier's site showed numerous problems of contamination and in 2014 resulted in the recall of two batches. Additionally, they have been cited for fraudulent documentation. This Chinese supplier provides Pfizer with active pharmaceutical ingredients used in the production of final medications.²⁴ Pfizer also has connections to Aurobindo in India, which sources from many Chinese suppliers with serious environmental and quality issues in the production of their pharmaceutical inputs. Pfizer, and other pharma companies, has been accused of poor supply chain management in India by Nordea Investment Group, ignoring poor wastewater management leading to devastating impacts on the environment.²⁵

The US Government has documented 26 instances of misconduct by Pfizer since 1995 (including corruption, illegal promotion, illegal testing in Nigeria, etc.) resulting in \$5,212.3M penalties.²⁶

→ Facing Finance

12 Treatment Action Campaign (2015): Sanofi faces criticism at Lung conference, 4 December. www.tac.org.za (Accessed 02.11.2015)

13 Access to Medicine Index (2014): Public Policy and Market influence. www.accessmedicineindex.org (Accessed 02.11.2015)

14 IPASA: Innovative Pharmaceutical Association South Africa (2015): Members. <http://ipasa.co.za> (Accessed 02.11.2015)

15 Fix the Patent Laws (2015): Stalled policy will cost lives: Patient groups appeal to Minister Davies. www.fixthepatentlaws.org (Accessed 02.11.2015)

16 Motsoeneng, T (2014): South Africa slams Big Pharma in generic drugs row. Reuters. 17 January. www.reuters.com (Accessed 02.11.2015)

17 Kahn, T (2014): Roche follows Novo-Nordisk out of Ipasa, 31 January. Business Day Live. www.bdlive.co.za (Accessed 02.11.2015)

18 Riestenberg, J (2015): Six reasons why pfizer should stop funding ALEC, Daily Kos, 4 March. www.dailykos.com (Accessed 02.11.2015)

19 US Securities and Exchange Commission (2012): SEC charges Pfizer with FCPA violations, 7 August. www.sec.gov (Accessed 02.11.2015)

20 Pierson, B and Stempel, J (2014): Pfizer, Ranbaxy win dismissal of lawsuit over generic Lipitor, 12 September. Reuters. www.reuters.com (Accessed 14.10.2015)

21 Knaub, K (2015): 3rd circuit to link up effexor lipitor pay for delay appeals, Law360, 8 July. www.law360.com (Accessed 14.10.2015)

22 Staton, T (2014) Pfizer adds another 325 mill neurontin settlement. Total \$945m, FiercePharma, 2 June. www.fiercepharma.com (Accessed 12.10.2015)

23 PSCI (2015): Our Members. www.psci.org (Accessed 02.11.2015)

24 Sum of Us (2015): Bad medicine: How the pharmaceutical industry is contributing to the global rise of antibiotic resistant superbugs. June. www.sumofus.org (Accessed 14.10.2015)

25 Marriage, M and Grene, S (2015): Pharmaceutical pollution in India is Bitter pill for Nordea, 21 June, The Financial Times. www.ft.com (Accessed 12.10.2015)

26 Federal Contractor Misconduct Database (2015): Pfizer Inc. www.contractormisconduct.org (Accessed 02.11.2015)

27 See supra note 25

28 Pfizer (2015): Global Health Programme. www.pfizer.com (Accessed 02.11.2015)

“Water pollution in India is dreadful – it looks really bad. AstraZeneca, Pfizer and others are not aware of the seriousness of it. They are quite ignorant.”²⁷

Sasja Beslik, Nordea's head of corporate governance



Rheinmetall AG

Loans:	
Deutsche Bank	38.46
Crédit Agricole	38.46
BNP Paribas	38.46
Commerzbank	38.46
Estimated value of managed shares and bonds:	
BlackRock	65.15
Deka	36.26
Deutsche Bank	26.57
Union Investment	23.50
Allianz	19.17
Revenues:	4,688.00
Profit after tax:	21.00
ISIN:	DE0007030009

All figures in € mln.
Date and currency of company report:
31.12.2014, EUR

Rheinmetall AG produces automotive components and defence equipment, including land systems, weapons and munitions, propellants, and air defence. 48% of Rheinmetall's sales are military whereas the company increased its military revenues from 2.86 US\$ m to nearly 3 US\$ m in 2014. Rheinmetall is No. 31 on SIPRI's TOP 100 arms producing companies worldwide.¹

It is headquartered in Düsseldorf, Germany and has numerous subsidiaries including Rheinmetall Denel Munitions in South Africa.² Rheinmetall AG has not signed the UN Global Compact. Currently 11 investors and pension funds have divested from Rheinmetall, including three Dutch Pension Funds (view: Appendix Divestment from Companies).

Rheinmetall has developed a reputation for selling arms to countries accused of multiple human rights violations. On several occasions the German Government has blocked these contracts due to public pressure. In 2013, Rheinmetall received permission to export Leopard 2 tanks to Indonesia and additionally has recently exported

42 upgraded Marder IFVs to Indonesia³, despite concerns regarding human rights in the country⁴. Rheinmetall has also been contracted to provide 12 Fuchs tanks to Kuwait⁵, where the oppressive regime stifles political dissent.⁶ In pursuit of seeking 'to gain a stronger foothold in Asia, South America and the MENA region'⁷, Rheinmetall signed a €2.7 billion deal to manufacture 980 Fuchs 2 armoured vehicles in Algeria despite the fact that Amnesty International has confirmed that the human rights situation in Algeria remains poor.⁸ To date 247 of the 980 Fuchs vehicles have been assembled in Algeria, and a new order to the value of €700 million has been placed.⁹ In 2013, an export permit to Qatar was granted for Leopard 2A7 tanks and artillery to the value of €1.89 billion, of which the first 62 were to be delivered late in

1 SIPRI (2014): Top 100 arms producing companies 2014. www.sipri.org (Accessed 17.12.2015)
2 Rheinmetall (2014): Corporate Sectors. www.rheinmetall.com (Accessed 01.10.2014)

3 Defence Blog (2014): Rheinmetall presented marder evolution concept at Indodefence 2014, 8 November. www.defence-blog.com (Accessed 02.11.2015) and Defence Blog (2015): Indonesian Army has received a new batch of leopard 2 tanks and marder IFVs, 10 September. www.defence-blogs.com (Accessed 02.11.2015)
4 Amnesty international (nd): Indonesia Country Report, www.amnesty.org (Accessed 17.12.2015)
5 Defence Blog (2015): Kuwait to get Fuchs NBC recce vehicles, 4 July. Defence Blog. www.defence-blog.com (Accessed 02.11.2015)
6 Human Rights Watch (2015): Kuwait. www.hrw.org (Accessed 02.11.2015)
7 Rheinmetall Defence (2014): Opening the door to new markets and new business opportunities. www.rheinmetall-defence.com (Accessed 01.10.2014)
8 Amnesty International (2015): Algeria. www.amnesty.org (Accessed 02.11.2015)
9 Defence Blog (2015): 247 Fuchs II already assembled in Algeria, 4 June. www.defence-blog.com (Accessed 02.11.2015)

*"I understand these moral concerns. But other governments need to guarantee the security of their countries as well. We provide the necessary equipment. And if we don't do it, someone else will."*²³

2015. Rheinmetall provided the main armaments and ammunitions.¹⁰ There is concern that these tanks could be used in the civil war in Yemen.¹¹

Additionally, Rheinmetall has been accused of trying to circumvent the German export regulations by setting up and expanding the Research and Development activities of its subsidiary Rheinmetall Denel in South Africa.¹² Norbert Schultz, CEO of Rheinmetall Denel, made a comment to the press that “it was somewhat difficult at present to get export licenses out of Germany and much more supportive for defence businesses through South Africa’s National Conventional Arms Control Committee (NCACC), making South Africa a better choice for such a facility.”¹³

Rheinmetall has also signed a Memorandum of Understanding with the Turkish defence contractor MKEK “... paving the way for extensive cooperation between the two groups. ...” Both companies agreed a joint venture in Turkey to “develop new forward-looking products in the field of weapons systems and munitions.”¹⁴ Turkey has, since 1984, been waging war against the Kurdish separatist group PKK.

In terms of artillery, both Rheinmetall Denel Munitions and Rheinmetall AG¹⁵ have marketed their production of the 155mm “Assegai family” of artillery ammunition at various weapons expos.¹⁶

In September 2013 Rheinmetall Denel were shown to be selling mortar ammunition to an undisclosed customer in the MENA region which included white phosphorous obscurant rounds.¹⁷ White phosphorous is a chemical that spontaneously ignites when exposed to air and is used to disorientate enemies and limit their vision.¹⁸ Human Rights Watch identifies the impact of white phosphorous as analogous to napalm.¹⁹ Six investment funds have excluded Rheinmetall in relation to its production of white phosphorous (view: Appendix Divestment from Companies).

Together with Diehl, Rheinmetall is also involved in the production of a sensor fuzed Munition (SMArt 155) carrying “... two autonomous, intelligent and high performance sub-munitions to defeat any kind of stationary and moving protected vehicles...”²⁰ Potentially lethal autonomous weapon systems (LAWS) could identify and attack a target without human intervention. Thus a ban on LAWS is currently being discussed under the framework of the United Nations.²¹

Rheinmetall has also been involved in corruption allegations in Greece. In relation to this Greece has considered excluding Rheinmetall from any further public procurement deals in the country.²²

→ Facing Finance

10 IHS Jane’s 360 (2015): Leopard ready to prowl in Qatar, 21 February, Janes. www.janes.com (Accessed 02.11.2015)

11 Hickman, C (2015): Deutschland liefert Kampfpanzer nach Katar, 22 October, Süddeutsche Zeitung. www.sueddeutsche.de (Accessed 02.11.2015)

12 Alessi, C (2014): German gunmakers looks to South African Exports, Wall Street Journal, 26 December. www.wsj.com (Accessed 02.11.2015)

13 Martin, G (2014): Rheinmetall to establish development centre in South Africa, 1 August, Defenceweb. www.defenceweb.co.za (Accessed 21.10.2015)

14 Rheinmetall Defence (2015): Latest news Rheinmetall and MKK sign memorandum of understanding for joint cooperation. 5 May. www.rheinmetall-defence.com (Accessed 21.10.2015)

15 Rheinmetall Defence (2014): Rheinmetall comprehensive competence in weapon systems and ammunition. 16 June. www.rheinmetall-defence.com (Accessed 01.10.2014)

16 Henning, D (2014): Part of an extended family IHS, 19 September. www.ihs.com (Accessed 04.09.2013)

17 Army Technology (2013): Rheinmetall to supply mortar ammunition for undisclosed MENA customer, 6 September. www.army-technology.com (Accessed 21.10.2015)

18 Global Security (2015): White Phosphorous. www.globalsecurity.org (Accessed 21.10.2015)

19 Human Rights Watch (2012): White Phosphorous: the new napalm?, 8 June. www.hrw.org (Accessed 02.11.2015)

20 Gesellschaft für Intelligente Wirksysteme mbH (nd): SMart 155 provides the advantage required. www.giws.de (Accessed 21.10.2015)

21 United Nations office at Geneva (2015): Background: Lethal Autonomous Weapons Systems. www.unog.ch (Accessed 18.12.2015)

22 Keep Talking Greece (2015): Greece to exclude Siemens, Rheinmetall, Eurocopter from public procurements, 28 February. www.keeptalkinggreece.com (Accessed 21.10.2015)

23 RP online (2015): Keine Europäische Armee in den nächsten 20 Jahren, 25 July, RP Online. www.rp-online.de (Accessed 21.10.2015)

24 Facing Finance (2015): Presseerklärung: Rheinmetall Waffendeals mit Konfliktregionen. www.facing-finance.org (Accessed 18.12.2015)

“The current strategy, for coping with reduced sales figures in the core business, to increase exports to crisis regions is economically risky and scandalous. Particularly macabre: Rheinmetall does not even hesitate to support military dictators and autocratic regimes.”²⁴

Barbara Happe of the human rights organization urgewald

MTU Rolls-Royce series 4000 engine for power generation, marine, oil and gas, and rail and mining applications. In mining, these engines power vehicles like haul trucks, wheel loaders and excavators.
© Facing Finance



Rolls-Royce Holdings Plc

Estimated value of underwritten bonds:

BNP Paribas	297.92
HSBC	297.92

Estimated value of managed shares and bonds:

BlackRock	727.97
State Street Global Advisors	491.92
Deutsche Bank	182.03
BNP Paribas	120.57
HSBC	68.84

Revenues: 17,550.62

Profit after tax: 74.11

ISIN: GB0007477614

All figures in € mln.

Date and currency of company report:

31.12.2014, GBP (exchange rate as of 31.12.2014, www.oanda.com)

Rolls-Royce “designs, develops, manufactures and services integrated power systems for use on air, land and at sea.”¹

They are the second largest provider of defence aero engines and services in the world, headquartered in the UK, with operations in over 50 countries. Rolls-Royce is the 16th largest arms producer and military service company on the SIPRI top 100 arms producers list, with 23% of their business coming from this sector.² Through its production of power systems Rolls-Royce supports offshore drilling as well as the defence industry.

Rolls-Royce Holdings Plc operates a number of companies, including Rolls-Royce Power Systems AG, which has a wide-ranging product portfolio including MTU Friedrichshafen, L’Orange and Bergen Engines.^{3 4} MTU America Inc is a subsidiary of Rolls-Royce Power Systems AG, as are the new operations launched in February this year within MTU Middle East.⁵ Through MTU, Rolls-Royce Power Systems produce engines for military and marine defence.

MTU diesel engines produced in Friedrichshafen (Germany) have been delivered to the Navy in India, Pakistan, China, and Taiwan, all of which are conflict regions. Diesel engines for military armored vehicles (Leopard 1 & 2, LECLERC Arjun, Merkava-4) are manufactured or supplied by MTU Friedrichshafen and are used widely including conflict zones.⁶

Rolls-Royce’s defence portfolio includes “engines for combat jets, helicopters, transporters, trainers, tactical aircrafts, and unmanned aerial vehicles. It also provides marine propulsion systems consisting of automation and control systems, electrical power systems, diesel engines, gas turbines, gas engines, propulsions, ship lifts, stabilization and manoeuvring systems, and submarine equipment.”⁷

The company works within a number of consortiums to produce engines for defence aircraft (both jets and helicopters) including the EJ200 which is used for the Eurofighter Typhoon aircraft⁸ and the Adour, used on the BAE Systems Hawk jet.⁹ The RB199 powers the Tornado jets¹⁰

1 Rolls-Royce (2015): About. www.rolls-royce.com (Accessed 18.12.2015)

2 SIPRI (2015): The SIPRI top arms producing and military service companies 2014. December 2015. www.sipri.org (Accessed 18.12.2015)

3 Rolls-Royce (2015): Press Release: Rolls-Royce and Daimler agree on valuation of Daimler’s equity interest in Rolls-Royce Power Systems. 16 April 2014. www.rolls-royce.com (Accessed 18.12.2015)

4 Rolls-Royce (2014): Rolls-Royce Power Systems Corporate Brochure, August. www.rolls-royce.com (Accessed 18.12.2015)

5 Rolls-Royce (2015): Press Release: MTU Middle East; 11 February. www.rolls-royce.com (Accessed 18.12.2015)

6 Grässlin, J (2012): MTU der unterschätzte Rüstungsriese, 9 April. www.friedenskooperative.de (Accessed 18.12.2015)

7 Defence Industry Reports (2015): Rolls-Royce Defence Aerospace. www.defenceindustryreports.com (Accessed 18.12.2015)

8 Rolls-Royce (2015): EJ200. www.rolls-royce.com (Accessed 18.12.2015)

9 Rolls-Royce (2015): Products Combat Jets Adour. www.rolls-royce.com (Accessed 18.12.2015)

10 Royal Air Force (2015): Products Combat Jets Tornado GR4. www.raf.mod.uk (Accessed 18.12.2015)

“High ethical standards and behaviours, supported by good governance, are fundamental to our continued success. We have a strong focus on ethics that helps ensure we win right every time.”²²

used by the UK, Germany, and other European nations. Typhoon and Tornado jets have been sold to countries such as Saudi Arabia and Bahrain by their respective manufacturers, despite serious human rights concerns in these countries.¹¹ The Rolls-Royce Liftsystem® is used predominantly on the F35B lightning II jets made by Lockheed Martin.¹² Rolls-Royce is currently embarking on a €3.5 million project financed by the EU to develop autonomous cargo ships.¹³

In addition to this, Rolls-Royce provide the nuclear propulsion system for the UK Navy submarines¹⁴, which are used on the Vanguard class submarines armed with trident nuclear ballistic missiles.¹⁵ Rolls-Royce also provide infrastructure and servicing for nuclear power plants.¹⁶

The Rolls-Royce group currently stands accused of having been involved in a multi-million pound corruption and bribery case in relation to the state oil company in Brazil, Petrobras. Rolls-Royce has been accused of paying bribes to secure business for their gas turbines for power generation on offshore oil rigs.¹⁷ The UK Serious Fraud Office has also brought allegations against Rolls-Royce for bribery and corruption in China and Indonesia.¹⁸

In relation to offshore mining, Rolls-Royce has recently been contracted to provide diesel generators for the ships undertaking the Solwara 1 Deep Sea Mining Project.¹⁹ The Solwara 1 project by Nautilus Minerals has been criticised by numerous NGOs as the environmental impact assessment is insufficient, and free, prior and informed consent has not been gained from the communities in Papua New Guinea. This final frontier in mining has the potential of causing severe environmental damage and has already caused social upheaval in the surrounding communities (see the article on Anglo American in this report).

MTU America Inc., a subsidiary of Rolls-Royce Power Systems, has been fined approx. €1 million by the US Environmental Protection Agency for producing and selling engines without the correct environmental certification. This allowed heavy-duty engines (used in mining, marine and power generation) to be sold which emitted carbon monoxide, hydrocarbons and nitrogen dioxides. These chemicals are damaging to the lungs and can cause respiratory illness.²⁰

All in all, since 1995, 6 instances of misconduct have been documented by the US Government resulting in \$1.9M penalties.²¹

→ Facing Finance

11 Norton Taylor, R (2015): Saudi Arabia and Bahrain: UK arms sales trump human rights. *The Guardian*, 15 January. www.theguardian.com (Accessed 18.12.2015)

12 F35 Lightning II (2015): Lockheed Martin: About the F35; The multivariant, multirole 5th generation fighter. www.f35.com (Accessed 30.09.2015)

13 Wakefield, J (2014): Rolls-Royce imagines a future of unmanned ships, *BBC News*. 2 March. www.bbc.com (Accessed 30.09.2015)

14 Rolls-Royce (2015): Submarines. www.rolls-royce.com (Accessed 30.09.2015)

15 Don't Bank on the Bomb (2013): Rolls-Royce. www.dontbankonthebomb.com (Accessed 30.09.2015)

16 Rolls-Royce (2015): Nuclear Services. www.rolls-royce.com (Accessed 30.09.2015)

17 Sunderland, R (2015): Rolls-Royce accused in alleged multi-million pound bribery scandal with Brazilian oil company Petrobras. *This is Money*. 16 February 2015. www.thisismoney.co.uk (Accessed 30.09.2015)

18 Reuters (2014): Rolls-Royce bolsters ethics policy in face of corruption probe, 5 March. www.reuters.com (Accessed 11.11.2015)

19 Rolls-Royce (2015): Rolls-Royce to deliver multiple B33:45 gensets to world's first seabed mining ship. www.rolls-royce.com (Accessed 30.09.2015)

20 Wheeler, L (2015): Rolls-Royce engine company will pay 1.2 million for violating the Clean Air Act. *The Hill*. 24 March. www.thehill.com (Accessed 30.09.2015)

21 Federal Contractor Misconduct Database (2015): Rolls-Royce. www.contractormisconduct.org (Accessed 18.12.2015)

22 Rolls-Royce (2015): Sustainability: Ethics. www.rolls-royce.com (Accessed 18.12.2015)

23 House, R (2015): Petrobras scandal runs Rolls-Royce through "Car Wash", 29 October, *Financial Times*. www.ft.com (Accessed 18.12.2015)

*"A Petrobras official told Brazilian police he received a \$200,000 bribe from Rolls-Royce."*²³

Financial Times

German Chancellor Angela Merkel pushes the button to start a new production facility for insulin during a visit of the Sanofi pharmaceutical company in Frankfurt, Germany May 28, 2015. REUTERS/Torsten Silz/Pool



Sanofi S.A.

Loans:	
HSBC	250.00
Deutsche Bank	250.00
BNP Paribas	250.00
Crédit Agricole	250.00

Estimated value of underwritten bonds:	
HSBC	807.46
Deutsche Bank	672.69
Crédit Agricole	486.06
BNP Paribas	429.10

Estimated value of managed shares and bonds:	
Vanguard	4,079.84
BlackRock	3,614.02
Crédit Agricole	1,156.21
Deutsche Bank	900.32
State Street	414.55

Revenues: 34,109.00

Profit after tax: 4,390.00

ISIN: FR0000120578

All figures in € mln.
Date and currency of company report:
31.12.2014, EUR

Sanofi S.A. is a multinational pharmaceutical company headquartered in Paris, and is the world's fourth largest with global revenues of USD\$36 million.¹ The company was formed as Sanofi-Aventis in 2004 by the merger of Aventis and Sanofi-Synthélabo. Its key products are in diabetes solutions, human vaccines, innovative drugs, consumer healthcare, emerging markets, animal health, and Genzyme.²

In the 2014 Access to Medicine Index, Sanofi fell five places and performed very poorly on public policy³, meaning it has been involved in comparatively more corruption, bribery, and unethical marketing cases than other large pharma companies. Sanofi has been implicated in bribing doctors in Kenya by paying medical professionals to attend conferences and giving them gifts and cash to win business.⁴ Sanofi is involved in a large-scale bribery investigation in China, along with GlaxoSmithKline (GSK).⁵ Additionally, there were also bribery and corruption concerns identified in Sanofi's Middle East operations.⁶ In 2012, Sanofi paid \$109 million to settle a lawsuit in the US relating to its drug Hyalgan, which was provided free to doctors as an

inducement to increase sales.⁷ In March 2014, it came to light that in the previous year Sanofi was fined € 28 million by a German court. This was in relation to two German employees making illicit payments to a consultancy advising one of the drugmaker's clients between 2007 and 2010. This ensured Sanofi was given preference over other companies. The information only came to light in 2014 as no court trial occurred.⁸ The unethical relationship between doctors and pharmaceutical companies harms both patient and doctor and can increase the cost of treatment for the patient or government involved. Despite Sanofi's anti-bribery policy and stated commitment to transparency, it is clear that unethical practices are deeply entrenched in the organisation.

In December 2014, a Paris appeals court upheld a judgement fining Sanofi € 40.6 million for campaigning to discourage doctors and pharmacists from prescribing or substituting generic versions of its former blockbuster blood thinner Plavix.⁹ Sanofi claimed that other generics would endanger patients. This seems sadly misplaced as in 2012 the US Department of Justice was investigating Plavix due to potentially life threatening effects.¹⁰ In Hawaii a further case was brought against Sanofi in March 2014, as the life threatening consequences of Plavix were more

1 PM Live (2015): Top Pharma list 2014. www.pmlive.com (Accessed 02.11.2015)

2 Sanofi (2015): Our Company. www.sanofi.com (Accessed 02.11.2015)

3 Access to Medicine Foundation (2014): Access to medicine index 2014. www.accessmedicineindex.org (Accessed 02.11.2015)

4 Silverman, E (2014): Sanofi is the latest drug maker to probe bribery allegations, The Wall Street Journal Blog. 7 October. www.blogs.wsj.com (Accessed 02.11.2015)

5 Roland, D (2013): Sanofi dragged into China bribery scandal with media report, 8 August. The Telegraph. www.telegraph.co.uk (Accessed 02.11.2015)

6 Koons, C (2014): Sanofi notifies US about overseas bribery allegations, 7 October. Bloomberg. www.bloomberg.com (Accessed 02.11.2015)

7 Palmer, E (2014): Sanofi Viehbach accused of kickback scheme in whistleblower suit, 3 December. Fiercepharma. www.fiercepharma.com (Accessed 02.11.2015)

8 Sheahan, M et al (2014): Former Sanofi employees convicted of bribery in Germany, 3 March. Reuters. www.reuters.com (Accessed 02.11.2015)

9 Helfand, C (2014): Sanofi strikes out in bid to escape France's 49m Plavix antitrust fine, 23 December. Fiercepharma. www.fiercepharma.com (Accessed 02.11.2015)

10 Staton, T (2013): DOJ Probes Sanofi disclosures on Plavix effectiveness, 11 March. Fiercepharma. www.fiercepharma.com (Accessed 02.11.2015)

*"Sanofi's sustainability approach places the patient at the heart of what we do and the way we conduct our business."*²¹

prevalent in Hawaiians due to genetic makeup.¹¹

Sanofi fired its CEO, Viehbacher, in October 2014 citing communication issues. In December 2014 a former paralegal filed a whistleblower lawsuit, specifically against Viehbacher and several top executives, claiming that Sanofi was funnelling tens of millions of dollars to pharmacy groups and hospitals through consultants Accenture and Deloitte, using contracts that seemed legitimate but were in fact bribes.¹² The suit alleges that about \$1 billion is 'unaccounted for' at the company. This again illustrates a clear disregard for the supposed ethical standards that Sanofi holds itself to. Its code of ethics states that the highest standards of individual behaviour creates mutual trust.¹³

In June 2015, Sanofi Pasteur Inc. (100% subsidiary of Sanofi) and GSK were fined nearly \$10 million by the Indian Competition Commission for colluding and forming a cartel in their bidding practices to get government contracts for the supply of a meningitis vaccine. The vaccine was for use among approximately 200,000 pilgrims visiting Mecca, Saudi Arabia.¹⁴

According to the Access to Medicine Index, Sanofi's equitable pricing focus is limited. Sanofi does take steps to produce medicines for resource poor countries, for example it has produced a vaccine for dengue fever, which is endemic to over 100 countries. While some of these are poor developing countries others are middle income and Sanofi stands to make, according to Deutsche Bank analysts, approx. € 1 billion per year on this vaccine.¹⁵ How Sanofi reacts to an equitable pricing model for its dengue vaccine remains an opportunity for it to improve.

It has also been evidenced that Sanofi has engaged in unethical clinical trials in Kenya in relation to its TB drug, Priftin. It was found to have been conducting clinical trials without the informed consent of participants.¹⁶ Most recently in December 2015, it came to light through a study released by the British Medical Journal that pharmaceutical companies are using free 'health camps' in India to test poor patients for diseases and then prescribe their drugs. These health camps often do not have licensed doctors but use drug sales representatives to undertake health checks. This is in violation of the regulations of the Medical Council of India. Sanofi is one of the companies participating in this practice to increase drug sales.

According to one Indian sales representative: "I am conducting ECG camp, then doctor is prescribing my brand. This is the main purpose of this camp."¹⁷

A group of US medical practitioners brought a case against Sanofi in relation to overcharging for its paediatric vaccines by bundling it with other vaccines. After a four year legal battle, in September 2015 the New Jersey Federal Court certified a class action case against Sanofi Pasteur Inc.¹⁸

The US Government has documented 12 instances of misconduct by Sanofi-Aventis since 1995 (including fraudulent pricing and misreporting prices) resulting in \$414.8 million in penalties.¹⁹

→ Facing Finance

11 Gullo, K (2014): Bristol Myers, Sanofi sued by Hawaii over Plavix labelling, 3 December. Bloomberg. www.bloomberg.com (Accessed 02.11.2015)

12 See supra note 7

13 Sanofi (2015): Corporate Code of Ethics. www.sanofi.com (Accessed 17.12.2015)

14 Lane E, J (2015): GSK Sanofi hauled up the Indian Competition watchdog on vaccine tenders, Fierce Pharma, 8 June. www.fiercepharma.com (Accessed 03.11.2015)

15 Webber, J et al (2015): Sanofi confident dengue drug will benefit patients and investors, Financial Times, 20 July. www.ft.com (Accessed 11.12.2015)

16 Wemos (2014): The clinical trials industry in Kenya www.wemos.nl (Accessed 03.11.2015) (pg 29)

17 BMJ (2015): India's Health camp the drug rep will see you now, 2 December. www.bmj.com vol 351:h6413 (Accessed 03.11.2015)

18 Orzek, K (2015): Sanofi Vaccine customers get class cert in anti-trust case, 30 September, Law360. www.law360.com (Accessed 03.11.2015)

19 POGO (nd): Federal Contractor Misconduct Database, Sanofi-Aventis, www.contractormisconduct.org (Accessed 03.11.2015)

20 TNN (2015): Drug cos use health camps to push sales, 3 December, Times of India. www.timesofindia.com (Accessed 18.12.2015)

21 Sanofi India (2015): Our Social Responsibility. www.sanofiindia.com (Accessed 18.12.2015)

*"Boosting drug sales through screening programmes that look like charity is common practice in India."*²⁰

**British Medical Journal, 2015
CSR Approach Sanofi India**

Tea plantation workers in India regularly spray pesticides without proper protective clothing.

© IUF



Syngenta AG

Estimated value of underwritten bonds:

Deutsche Bank	187.50
HSBC	166.67
Crédit Agricole	166.67

Estimated value of managed shares and bonds:

Vanguard	793.59
BlackRock	776.83
Deutsche Bank	282.39
State Street	47.45
Deka	38.21

Revenues: 12,449.53

Profit after tax: 1,472.49

ISIN: CH0011037469

All figures in € mln.

Date and currency of company report:

31.12.2014, USD (exchange rate as of 31.12.2014, www.oanda.com)

Syngenta AG is a Swiss agribusiness company with over 28,000 employees in over 90 countries. It was formed in 2000 by the merger of Novartis Agribusiness and Zeneca Agrochemicals.¹ Syngenta's main areas of business include: herbicides, insecticides and fungicides for crop protection, field crops, vegetables and flower seeds, seed care products, turf, garden, home care, and public health products.²

Syngenta, Monsanto, and DuPont together control 50% of global seed patents³ which results in reduced biological diversity of seeds, and increased control over pricing. In Africa 80% of seeds are currently still produced and disseminated through 'informal seed systems'.⁴ But, launched in 2012 by the G8, the New Alliance for Food, Security and Nutrition seeks to commercialise the African seed and food system. It has been widely condemned as the takeover of Africa's food supply by private business.⁵ Syngenta is not only a corporate participant of the New Alliance, but is also on the leadership board and a significant investor.⁶ Syngenta is a New Alliance participant in Tanzania, Nigeria, and Ethiopia. A key project related to the New Alliance in Tanzania is the Southern Agricultural Growth Corridor of

Tanzania (SAGCOT), which has been classified as "high risk" by the World Bank due to the issues of land tenure, vulnerable and indigenous groups, and lack of village land use plans, yet many private companies support the project, including Syngenta.⁷

Following the launch of the New Alliance, research emerged showing companies' failure to safeguard the livelihoods of communities involved. This included a study of the Kilombero Plantations Ltd. (KPL) in Tanzania (a flagship SAGCOT project), of which Syngenta is a partner. The study found small-scale rice farmers forced into debt through outgrower schemes, low salaries paid to employees, problems with the agrochemicals used, and impacts on water resources.⁸

The global pesticide market is valued at \$51.9 billion, of which Syngenta is one of the market leaders.⁹ In Brazil, Syngenta, and others, sell pesticides which are illegal in developed countries due to health or environmental risks. Brazil's ascent into a global agricultural leader has led to the increasingly unsafe use of pesticides and many organisations in Brazil, including the National Cancer Institute, have called for a substantial reduction in pesticide use due to serious health effects.¹⁰ The herbicide Paraquat has been banned in Europe and Switzerland and restricted in the US due it being "highly poison-

1 Syngenta (2015): Company History. www.syngenta.com (Accessed 02.11.2015)

2 Syngenta (2015): Key Facts. www.syngenta.com (Accessed 02.11.2015)

3 The Rural Advancement Foundation International (2014): 2014 summit on seeds and breeds for the 21st century. www.rafiusa.org (Accessed 02.11.2015)

4 GRAIN (2015): Land and seed laws under attack: who is pushing changes in Africa? 21 January. www.grain.org (Accessed 02.11.2015)

5 Provost, C and Ford, L (2014): G8 New Alliance condemned as new wave of colonialism in Africa. 18 February. The Guardian. www.guardian.com (Accessed 02.11.2015)

6 New Alliance for Food Security and Nutrition (2014): 2014 Leadership Council Members, August. www.new-alliance.org (Accessed 02.11.2015)

7 Action Aid (2015): Stop EcoEnergy's landgrab in Bagamoyo, Tanzania. Pg 12, March. www.actionaid.org (Accessed 02.11.2015)

8 Global Justice Now, The Oakland Institute, Greenpeace (2015): Irresponsible Investment: Agric's broken development model in Tanzania. June. www.globaljustice.org.uk (Accessed 02.11.2015)

9 PRNewswire (2014): Global pesticides Market, 18 August. www.prnewswire.com (Accessed 02.11.2015)

10 Prada, P (2015): Brazil prosecutors seek \$16 million from pesticide makers, 18 May. Reuters. www.reuters.com (Accessed 02.11.2015)

*"Our intention is to make a deep, lasting and positive impact on the farmers and rural communities who provide the world's food security and the long-term sustainability of our planet."*²⁴



◀ Demonstration by La Via Campesina, an international movement defending small scale agriculture, opposing agribusiness.
© La Via Campesina

ous”, but Syngenta continues to sell this pesticide for use in Brazil and other developing countries such as India.^{11 12} In one example, in July 2014, a 31 year old employee of Fresh Del Monte, Brazil, who worked stocking pesticides fell ill and in October died from pesticide poisoning. One of these pesticides was Paraquat, allegedly sold to the farm by Syngenta.¹³ Numerous NGOs and developing countries have been seeking a global ban on Paraquat due to its toxicity, however, in May 2015 in Geneva the addition of Paraquat to the Rotterdam Convention¹⁴ to employ stricter trade regulations did not pass.¹⁵ In a further case in May 2015, Brazil brought forward claims against an industry group, which included Syngenta, related to unsafe disposal of chemical containers, exposing workers to toxic chemicals.¹⁶ Interestingly, Syngenta’s “Good Growth Plan” seeks to “Help people stay safe” but this only addresses training those using the pesticides and not making the pesticides themselves safer, nor discontinuing those that are found to be toxic.¹⁷

Syngenta has also recently been found to have been providing unsafe pesticides in the Punjab region of India.¹⁸ According to Syngenta, nearly 1.4 million farmers in India use the company’s products. Human rights and development organizations like Bread for the World (Brot für die Welt) have criticized both Bayer and Syngenta for the distribution of highly hazardous pesticides in India. The health of tens of thousands of people is in jeopardy. The organizations call for an

immediate stop to all sales in India of Bayer products such as Confidor, Nativo, Gramoxone and Matador produced by Syngenta. They have also demanded further investigations by the FAO and WHO, as this is considered a breach of the FAO pesticides code.¹⁹

In November 2015, Syngenta was found responsible by a court in Brazil of perpetrating an attack on members of Via Campesina by armed militia, killing one person and seriously injuring others. The judge termed this incident a “massacre disguised as repossession of property”.²⁰

According to Swiss reports from 2014, Syngenta paid US scientists from the Health Organisation ACSH to publish benevolent articles about the pesticide Atrazine in professional journals. In addition, Syngenta hired a detective agency to spy on US regulatory consultants, the report said. Syngenta’s pesticide Thiamethoxam has been related to the reduction in bee population in Europe.²¹

In relation to union busting, a case was brought forward against Syngenta in Pakistan, where the Pakistan Federation of Chemical, Energy, Mine and General Workers Union is trying to unionise temporary workers. The labour court ruled in favour of the workers. In response to this case the union leader was fired by Syngenta after refusing to stop trade union activities. This occurred in 2010 and the global union IndustriAll is continuing to plead the case at Syngenta shareholder meetings to rehire the union leader and allow trade unions to operate in accordance with Pakistan laws.²²

→ Facing Finance

11 Berne Declaration (2015): Paraquat in India: Untenable risk for farmer and workers, 23 April. www.bernedecaration.ch (Accessed 02.11.2015)

12 Prada, P (2015): Why Brazil has a big appetite for risky pesticides, 2 April. Reuters. www.reuters.com (Accessed 02.11.2015)

13 Ibid.

14 Pic (nd): Rotterdam Convention www.pic.int (Accessed 18.12.2015)

15 Chandra, M (2015): Victory! Another global pesticide ban, 28 May. Pesticide Action Network. www.paan.org (Accessed 02.11.2015)

16 See Supra Note 10

17 Syngenta (2014): Annual Report 2014. www.syngenta.com (Accessed 02.11.2015)

18 Swiss Info (2015): Pesticides: Syngenta and Bayer sell ‘dangerous’ pesticides in India, 4 October. www.swissinfo.ch (Accessed 02.11.2015)

19 ECCHR (2015): Bayer and Syngenta Pesticides endanger tens of thousands in Punjab, March. www.echr.eu (Accessed 18.12.2015)

20 Terra de Direitos (2015): Syngenta convicted: Justice finds company responsible for armed attack on encamped rural workers. 18 November. www.terradedireitos.org (Accessed 18.12.2015)

21 Handelszeitung (2014): Mit diesen strittigen Methoden arbeitet Syngenta. www.handelszeitung.ch (Accessed 14.12.2015)

22 IndustriAll (2015): Syngenta, stop union busting and reinstate leader Imran Ali in Pakistan, 28 April. www.industriall-union.org (Accessed 02.11.2015)

23 See Supra Note 19

24 Syngenta (2015): Strategy, www.syngenta.com (Accessed 18.12.2015)

“Foreign companies come with their pesticides and say they will double production. They do not think about the harms to human beings in the country.”²³

A farmer in Punjab (India) in March 2015



▲
Protest during the COP21 in Paris, December 2015. Protestors stand outside Total SA office in Paris decrying Total's climate impact.
© Action Non-Violente COP21

Total S.A.

Loans:	
Crédit Agricole	28.74
BNP Paribas	28.74
Estimated value of underwritten bonds:	
HSBC	2,187.93
Deutsche Bank	1,680.17
BNP Paribas	747.15
Crédit Agricole	544.88
Estimated value of managed shares and bonds:	
Vanguard	2,372.44
BlackRock	2,367.38
Crédit Agricole	1,158.45
Deutsche Bank	699.34
Allianz	564.67
Revenues:	174,410.25
Profit after tax:	3,496.14
ISIN:	FR0000120271

All figures in € mln.
Date and currency of company report:
31.12.2014, USD (exchange rate as of 31.12.2014,
www.oanda.com)

Total S.A. is a leading oil and gas company with its headquarters in Paris, France. They produce, refine and market oil, and manufacture petrochemicals. In addition they are also a major player in natural gas and solar energy.¹ Total have more than 100,000 employees in over 30 countries.

Total has claimed that it wants to be 'part of the solution' to climate change.² On its website it notes that the company is curtailing emissions and is a 'responsible industrial operator'.³ However, many oil and gas companies are already overexposed to high risk projects in the oil and gas sector and Total is no exception. The Carbon Tracker Initiative shows that Total continues to invest in high-risk, high cost oil projects, with a focus on deep water and ultradeep water projects (totalling 73% of its capital expenditure).⁴ The study identifies two new ultradeep water projects by Total that should be cancelled, both of these in Côte d'Ivoire.⁵ These risky projects call into question Total's supposed commitment to carbon reduction.

Additionally, ShareAction, an NGO based in the UK that promotes Responsible Investment, recently launched a campaign called 'Clean Words Dirty Lobby', targeting companies' use of trade associations that lobby to undermine climate

legislation at an EU level.⁶ Total was one of nine companies targeted, but was selected as a target company for the public-facing side of the campaign due to its large expenditure on lobbying activity, despite public claims to 'want to be part of the solution' to climate change. The campaign aimed to outline the risks to investors of investee companies taking progressive stances on climate in public, whilst funding obstructive lobbying groups behind the scenes. ShareAction targeted Total directly, by challenging the company CEO, Patrick Pouyanné, in relation to Total's membership of lobby groups. They also targeted UK pension funds to engage with Total. ShareAction mobilised investors with over £45 billion in assets to write to Total expressing concern over the lobbying being undertaken in their name, and urging them to clarify their position on climate change. These actions resulted in significant media attention⁷ and BusinessEurope, one of the trade associations highlighted, was forced to hit back with a defensive response.⁸

In its Code of Conduct, Total includes human rights as one of its fundamental commitments. It has also been a member of the Global Compact since 2002 and applies the Voluntary Principles on Security and Human Rights.⁹ However, despite these policies, Total's subsidiary Total E&P Maroc continues its exploration operations in the

1 Total (2015): Total at a glance: fourth largest global oil and gas company. www.total.com (Accessed 02.11.2015)
2 BP (2015): Press release: Oil and Gas majors call for carbon pricing. 1 June. www.bp.com (Accessed 02.11.2015)
3 Total (2015): Combating Climate Change. www.total.com (Accessed 02.11.2015)
4 Carbon Tracker Initiative (2014): Oil and Gas Majors fact sheets, August. www.carbontracker.org (Accessed 02.11.2015)
5 Ibid.

6 Fagan-Watson, B; Watson, T; Elliott, B (2015): Policy Studies Institute, Lobbying by Trade Associations on EU Climate Policy, March. www.psi.org.uk (Accessed 02.11.2015)
7 Fagan-Watson, B (2015): BP, EDF and Procter & Gamble face pressure over climate change lobbying, The Guardian. 10 September. www.theguardian.com (Accessed 02.11.2015)
8 Business Europe (2015): Clarifying Statement by the President and Director General of Business Europe. 2 September. www.buinesseurope.eu (Accessed 02.11.2015)
9 Total (2015): Respecting Human Rights in our sphere of operations. www.total.com (Accessed 02.11.2015)

"As a leading oil industry player, we take great care to respect the environment, protect human health, ensure product and facility safety, and promote social and economic development in our host countries."¹⁸



◀ The vessel BGP Prospector, owned by a subsidiary of the Chinese national oil company CNPC, carried out seismic surveys for Total in Western Sahara for over half a year. Total might now have turned the Boujdour block into one of the most extensively explored blocks in Africa, even though the UN has said it would be in violation of international law.
© Western Sahara Resource Watch

Western Sahara. Western Sahara is a disputed territory, which has effectively been annexed by Morocco, forcing Sahrawis to flee to refugee camps in Algeria. Moroccan authorities have constructed a separation barrier in Western Sahara to prevent infiltration into Moroccan controlled territory. The Total operations at the Anzaran offshore area are currently exploratory and no extraction is taking place. However, civil society organisations have decried Morocco's illegal oil programme and Total's role in it.¹⁰ If Total begins exploitation of resources it will be in contravention of the UN Law of the Sea. Financial investors such as KLP have divested and note that the operations constitute an "unacceptable risk of complicity in serious violations of fundamental ethical norms".¹¹ Total continues exploration in Western Sahara.¹² This continued exploration, in possible violation of human rights norms, becomes all the more questionable in relation to the future extraction and carbon emissions reduction promises that Total makes.

In May 2013 Total agreed to pay \$398 million in penalties to the US Department of Justice for bribing an Iranian official for access to oil fields.

10 Western Sahara Resource Watch (2013): Totally wrong: Total SA in occupied Western Sahara. September. www.wsrw.org (Accessed 02.11.2015)

11 KLP (2013): Exclusion from investment portfolios. 3 June. www.klp.no (Accessed 02.11.2015)

12 Total (2015): Total in Morocco. www.total.com (Accessed 02.11.2015)

The claim relates to two cases in Iran in 1995 and 1997 when 'consultants' were paid \$60 million to enable Total to gain access to oil fields in the region. Total covered up these illegal payments by entering into sham consulting agreements.¹³ Total also stands to be charged in this regard in the French courts in 2015.¹⁴

Total is No. 14 on the rankings of the top investor and state owned carbon and cement entities and is responsible for 11.91 GtCO₂e of cumulative CO₂ emissions.¹⁵

The US Government has identified 5 instances of misconduct by Total since 1995 resulting in penalties worth \$ 674.1 million.¹⁶

→ Grace Hetherington, ShareAction
→ Facing Finance

13 Cassin, R (2013): Total SA pays \$398 million to settle U.S. bribe charges. 29 May. FCPA blog. www.fcpablog.com (Accessed 02.11.2015)

14 Jaeger, J (2014): Total to face new corruption charges in France. 26 November. Compliance Week. www.complianceweek.com (Accessed 02.11.2015)

15 Heede, R (2014). Carbon Majors: Accounting for carbon and methane emissions 1854–2010, Climate Mitigation Services. <http://carbonmajors.org> (Accessed 02.11.2015)

16 POGO (nd): Federal Contractor Misconduct Database, Total. www.contractormisconduct.org (Accessed 03.11.2015)

17 Howarth, C and Frumhoff, P (2015): Oil Majors must change their Jekyll and Hyde climate policy, The Financial Times, 5 July. www.ft.com (Accessed 02.11.2015)

18 Total (2015): Society and Environment: Operating sustainably and responsibly every day. www.total.com (Accessed 02.11.2015)

*"Total, (for example,) claims climate leadership while funding numerous trade associations that have lobbied obstructively on climate change. This is not the type of climate leadership from companies that institutional investors, scientists and divestment activists have been calling for."*¹⁷

Catherine Howarth,
ShareAction

Verizon Communications Inc.

Loans:	
BNP Paribas	101.66
State Street	101.66
Deutsche Bank	101.66
Estimated value of underwritten bonds:	
Deutsche Bank	1,899.71
BNP Paribas	160.21
Estimated value of managed shares and bonds:	
Vanguard	13,022.80
BlackRock	12,175.48
State Street	6,801.18
Allianz	3,098.08
Deutsche Bank	1,233.08
Revenues:	104,537.3
Profit after tax:	9,835.24
ISIN:	US92343V1044

All figures in € mln.

Date and currency of company report:

31.12.2014, USD (exchange rate as of 31.12.2014, www.oanda.com)

Verizon Communications Inc. is a provider of communications, information, and entertainment products and services to consumers, businesses and governmental agencies.¹ Its two segments are Wireless and Wireline.

Verizon Communications provides global services through various subsidiaries including Verizon Enterprise Solutions Inc.²

According to the Federal Contractor Misconduct website, Verizon has had some 27 counts of misconduct since 1995. They have amassed fines in the US totalling approx. \$550 million.

These fines relate to various cases including privacy issues, discrimination, overcharging and illegal fees, as well as labour issues related to failure to pay overtime to employees.³

Verizon has faced strong criticism over the past years in relation to privacy of customer information. The German government has recently cancelled their contract with Verizon as there is concern that the company is legally required to provide certain information to the US government. Therefore Verizon is unable to assure the German government that the required level of privacy will be provided.⁴ The German Ministry of the Interior also made reference to the close relationship between technology companies and foreign intelligence agencies.⁵ Germany is not the only country to question Verizon's privacy and security of data. In the UK, Verizon and six other companies were providing sensitive information to the UK intelligence agency GCHQ.⁶ In relation to this

1 Verizon (2015): About. www.verizon.com (Accessed 12.10.2015)

2 Bloomberg (2015): Company Overview of Verizon Enterprise Solutions Inc., 16 November. Bloomberg. www.bloomberg.com (Accessed 11.11.2015)

3 Federal Contractor Misconduct Database (2015): Verizon Communication Inc. www.contractormisconduct.org (Accessed 11.11.2015)

4 BBC News (2014): Germany cancels Verizon contract due to snooping fears, 26 June. www.bbc.com (Accessed 11.11.2015)

5 Mogg, T (2014): German government ends contract with Verizon following NSA revelations, 27 June. Digital Trends. www.digitaltrends.com (Accessed 11.11.2015)

6 Ball, J et al (2013): BT and Vodacom among telecoms companies passing details to GCHQ. 2 August, The Guardian. www.theguardian.com (Accessed 18.11.2015)

"Verizon continually takes steps to safeguard our customers' privacy. Verizon also complies with the law in every country in which we operate."¹⁵

Spokeswoman for Verizon in relation to UK privacy case



Privacy International filed an OECD complaint against the six companies, including Verizon Enterprise, claiming that the company violated customers' human rights in relation to 'right to privacy and freedom of expression'.⁷

In further privacy violations, in 2014 it came to light that Verizon Wireless was using enhanced cookies to track users behaviour online and linking this information to advertisers. The information was unencrypted and could be used by other entities to track customers.⁸ Verizon has since provided an "opt out" possibility for its customers, however, organisations such as AccessNow claim that this is still a violation and a clear "opt in" policy is required.⁹ Verizon was also fined \$7.4 million in mid 2014 for failing to inform new customers about their privacy rights.¹⁰

In relation to labour rights, Verizon has been involved in numerous labour disputes. In 2014, Verizon were fined \$15 million for issuing inaccurate

wage statements.¹¹ In a class action lawsuit in 2013 they were fined \$7.7 million for violations of the Fair Labor Standards Act in relation to the payment of overtime wages and bonuses.¹² A further case was lodged against them in New York in July 2015, again in relation to lack of payment of overtime wages.¹³

→ Facing Finance

7 Privacy International (nd): OECD complaint against BT, Verizon Enterprise, Vodafone Cable, Viatel, Level 3, and Interoute. www.privacyinternational.org (Accessed 18.11.2015)

8 Lawler, R (2015): Verizon customer-tracking 'supercookies' connect to AOL ads. Engadget. 6 October. www.engadget.com (Accessed 18.11.2015)

9 AccessNow (2015): The rise of mobile tracking headers: How telcos around the world are threatening your privacy. 17 February. www.accessnow.org (Accessed 18.11.2015)

10 Reuters (2014): Verizon to pay \$7.4 million over failure to notify consumers over privacy rights. 3 September. www.reuters.com (Accessed 18.11.2015)

11 Law360 (2014): Verizon \$15 million settlement OK'd in pay stub class action, Law360, 21 October. www.law360.com (Accessed 19.12.2015)

12 Law360 (2013): \$7.7 million approved in Verizon OT class action, Law360, 29 October. www.law360.com (Accessed 19.12.2015)

13 Law360 (2015): Verizon accused of misclassifying employees to avoid OT, 16 July. www.law360.com (Accessed 19.12.2015)

14 See Supra Note 4

15 See Supra Note 6

"Furthermore, the ties revealed between foreign intelligence agencies and firms in the wake of the US National Security Agency affair, show that the German government needs a very high level of security for its critical networks."¹⁴

German Interior Ministry spokesman Tobias Plate

FEATURES

Features

Working towards a low carbon, low emission future: Is the car industry committed?

The illusion built up by the car industry over the last few years; that cars could be simultaneously produced to be bigger, heavier and more powerful, while also reducing fuel consumption and CO₂ emissions; is beginning to show cracks. Gradually consumers and politicians have come to realise that much of the CO₂ reductions specified by the manufacturers have to date been purely theoretical. In part, the increased awareness of consumers to the emission commitments of the car industry has come about from the significant media attention given to the so-called Volkswagen “diesel dupe”. The installation by VW of defeat devices in more than 8 million cars in Europe has further eroded the trust between the automotive industry and consumers.¹

The promises made by the automotive industry, to produce and build in Europe the cleanest and most economical vehicles, are being questioned in light of real world operations. In particular, the German automotive industry prides itself, and is seen worldwide, as a driving force for innovation, including in the field of fuel-efficient technology. In addition, the German manufacturers today pride themselves on being a ‘lead provider of electric mobility’. However, a survey on the policies of the German car industry, commissioned by the German environmental NGO BUND (Friends of the Earth Germany), in advance of the International Automobile Expo (IAA) 2015, shows a significant failure in the production of fuel efficient vehicles.² The study illustrates that the European, and above all the German, auto companies have failed to connect with innovative and truly energy-efficient and clean technologies by deciding to focus on large, heavy and powerful vehicles.

1 Russel, K et al (2016): How Volkswagen got away with Diesel deception, 5 January, The New York Times. www.nytimes.com

2 Helmers, E (2015): Die Modellentwicklung in der deutschen Autoindustrie: Gewicht contra Effizienz, 9 September. www.bund.net (Accessed 18.12.2015)

Features



EA189-Motor in a Tiguan
© Tony Hisgett, Creative Commons

The manufacturers consistently seek to demonstrate that they are technically able to produce more fuel efficient and economical vehicles, e.g., the VW Lupo 3L, Audi Duo, BMW i3 or the Smart Fortwo ed.³ However, the implication of the existing pricing model results in far fewer of these fuel efficient vehicles being sold while larger and more powerful vehicles still dominate the road. This is partially due to manufacturers still earning good returns on their conventional models, therefore they see little reason to change. With more ambitious legislation a greater momentum for change could be created to move the industry towards a more sustainable future.

In many previous cases legal decisions have been made by politicians working hand in glove with the automotive industry. This was particularly evident in the recent negotiations on legislation limiting CO₂ emissions from cars at the European level. In this instance the German government exerted its influence to ensure that the business model of automakers remained unharmed allowing them to operate in much the same way as they had for decades.⁴

These developments run counter to the German climate goals and even increase pollutant emissions, putting the health of thousands of citizens at risk. Nonetheless, climate or air pollution concerns hardly influenced political decision-making. The large and heavy vehicles that are being promoted by the auto industry have a significant impact on air pollution, predominantly in urban areas, as the larger the vehicle, the more likely it is to be equipped with a diesel engine. These are known to be more polluting especially in terms of NO_x emissions.⁵

Exactly how much CO₂ and air pollutants these vehicles emit in real world conditions is not officially monitored. Emission measurements are neither taken when new vehicle models are being approved for the European market nor on subsequent biennial inspections. Also there is no system that can determine whether the built-in anti-pollution systems are still in the car or whether they are still functional. Governments rely solely on measurements provided by the manufacturers, who provide results directly to the inspector.

The political inaction heavily supports the business model of manufacturers. Because the data supplied by the manufacturers serves as the sole basis for car taxation and for official CO₂ emission calculations, the trend for ever-larger vehicles is allowed to continue. The existing efficiency gains in the automotive sector are likely to be 'eaten away' by a significant increase in vehicle weight and power, as shown by figures released by the Federal Statistical Office.⁶ This has to do, in part, with the increasingly strong trend for SUVs in Germany. These so-called sport and utility vehicles weigh up to 2.5 tonnes and have much higher fuel consumption, especially in urban driving conditions that require frequent stop and go situations. These situations usually result in higher emissions due to interrupted and congested traffic flow.⁷

The massive impact that manufacturers have on the legislative process allows them to evade the enormous scope for the energy efficiency of their cars. In summary, a lack of political courage, social responsibility by the automakers, insufficient public discussion on these relationships and influential lobby structures are delaying the environmentally sound development of vehicles by the German manufacturers.

→ Jens Hilgenberg, BUND (Friends of the Earth Germany)

3 Ibid.

4 Spiegel Online (2013): CO₂ Grenzwerte: EU verschiebt erneut Abstimmung über Abgasnormen für Autos, 4 October. www.spiegel.de (Accessed 18.12.2015)

5 International Council on Clean Transportation (2015): FAQ: In-use NO_x emissions from diesel passenger cars. www.theicct.org (Accessed 18.12.2015)

6 Statistisches Bundesamt (2013): Gestiegene Motorleistung verhindert stärkeren Rückgang der CO₂-Emissionen, 11 June. www.destatis.de (Accessed 18.12.2015)

7 Choudhary, A and Gokhale, S (2016): Urban real world driving traffic emissions during interruption and congestion, Transport Research part D: transport and the environment. Vol 43, pp59-70 www.sciencedirect.com (Accessed 18.12.2015)

Features

Bankrolling Modern Slavery: Financial Institutions profiting from modern slavery

One of the most abusive and brutal labour issues, inflicting enormous human suffering, has again been highlighted over the last year, following investigations into the fishing industry in Thailand (see also Nestlé in this report), the construction industry in the Persian Gulf and consumer industries such as electronics and textiles (see also Daewoo in this report). Despite laws clearly banning the practice, it is evident that the occurrence of modern slavery is still widespread.

The term ‘modern slavery’ encompasses many forms, including forced labour, debt bondage, and human trafficking. Forced labour can be defined as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”.¹ These are people who are exploited through force, fraud, or coercion to work on fishing boats, in plantations, factories, mines or sweatshops. Approximately 21 million people worldwide are victims of forced labour- of which some 19 million are exploited by private enterprise or individuals – accruing total global profits of around \$150 billion per year², more than the entire US banking industry’s annual profits.³

Why should Financial Institutions work to prevent modern slavery?

While the ethical reasons to prevent modern slavery should be sufficient impetus for FIs to introduce policies, this must often be supported by financial and reputational reasons. Beyond the ethical obligations, investors face serious reputational damage if they are not perceived to have robust due diligence procedures to assess investee risks.⁴ The shocking images associated with forced labour evoke a significant reaction from the public and this response will negatively impact a company’s reputation and those associated with the company. For example, companies such as Nestlé that have been implicated in slavery in the Thai fishing industry have had to deal with an overwhelming negative public response. From a financial perspective, “A failure to manage social risks such as forced labour could negatively impact a company’s share price, brand value and operational performance”⁵ having a resultant impact on investor returns.

As forced labour is a criminal offence, those companies implicated in the use of forced labour can also be engaged in costly and lengthy lawsuits, for example Costco⁶, Nestlé⁷, Mars⁸ and Vinci Construction (see box below) have all had lawsuits brought against them recently in relation to forced labour. This again affects the investment potential of businesses. Financial Institutions that are UN Global Compact Signatories, UNPRI members, and those adhering to the OECD guidelines, are required to address human rights issues, including forced labour.

1 International Labour Organisation (2015): Convention 29 on Forced Labour adopted in 1930. www.ilo.org (Accessed 21.10.2015)

2 ILO (2015): Forced Labour, Human Trafficking, and Slavery. www.ilo.org (Accessed 21.10.2015)

3 Institute of Business Ethics (2015): Business Ethics Briefing: Modern Slavery. September. www.ibe.org (Accessed 21.10.2015)

4 Compere, L (nd): UN Guiding Principles reporting Framework means no more excuses for companies on Human Rights Performance, Ceres. www.ceres.org (Accessed 21.10.2015)

5 Workers Capital (nd): Investing in Decent Work: Forced Labour, pg 8. www.workerscapital.org (Accessed 21.10.2015)

6 Rathke, T et al (2015): Litigation fallout from all this supply chain transparency legislation, The National Law Review, 26 August. www.natlawreview.com (Accessed 21.10.2015)

7 Revesz, R (2016): Nestle is being sued for allegedly using child slaves on Cocoa Farms, The Independent, 11 January. www.theindependent.co.uk (Accessed 13.01.2016)

8 Haglage, H (2015): Lawsuite: Your candy bar was made by child slaves, Daily Beast, 30 September. www.thedailybeast.com (Accessed 12.01.2016)

Features

What are Financial Institutions doing to combat modern slavery?

There are many ways that FIs can address the issue of modern slavery and the first is to ensure a robust policy, which clearly excludes companies found to be complicit in slavery and forced labour. No investment should be provided to any company unwilling or unable to provide a clear commitment to the eradication of forced labour. FIs should also look out for certain ‘red flags’ indicating a high risk of forced labour in the industry or country in which the company is operating.

Investor action on forced labour can instigate real change, for example in 2010 Domini Social Investments successfully engaged with Nucor, the largest buyer of Brazilian pig iron, to address slavery in their supply chain.¹³ However, very few financial institutions are addressing this issue directly. A good bank policy on labour issues should include a clear direction to exclude companies which operate in high risk industries without clear policies and a specific management programme regarding contractors, health and safety and fundamental labour rights covered by the ILO.

Of the six banks investigated (asset managers were not investigated in this particular study) in this Dirty Profits report, none had specific public policies requiring their investee companies to demonstrate what they were doing in relation to forced labour¹⁴, not even for those companies operating in countries where issues related to labour violations are significant. While 5 of the 6 banks have signed the UN Global Compact and 4 are members of the PRI no clear implementation of this is shown in their policies. KfW bank does have a policy on human rights, which includes clear references to ILO standards and also compels companies they engage with to adhere fully to labour laws. However, it is unclear as to how they apply the policy and there are no specific countries or industries identified as high risk for labour issues. HSBC Holdings plc has no policy referring to human rights and no specific policy on forced labour. The only mention of forced labour is given through their sectoral policy on agricultural commodities. All of the six banks mention ILO standards in at least one of their

The Electronics Industry Malaysia

A two-year comprehensive study of the electronics industry in Malaysia, undertaken by Verite, across all major producing regions and electronic products showed one in three foreign workers working in conditions of forced labour.⁹ This included forced labour linked to recruitment fee charging and indebtedness – forcing workers to borrow large amounts of money as a “recruitment fee” and then working to pay it off – as well as deceptive recruitment, withholding of passports and unsafe, overcrowded living conditions. The supply chain for electronics is highly complex due to the large number of component parts that can be outsourced. Many large electronics companies, including Apple, Samsung and HP¹⁰, source from Malaysia and the scale of this study shows the likelihood of these companies supporting forced labour in their supply chains is high. According to the Global Slavery Index, the Malaysian government has a response to modern slavery but it is limited and interaction with business is rare.¹¹ In May 2015 a migrant mass grave was discovered in Malaysia further demonstrating the significant problem with human trafficking in the country.¹²

“This is a terrible life. I would have never come here if I had known that this is what I would go through. Luck has not favored me. I can’t even return to my home country because I don’t have my passport.”

Male Burmese worker in Klang Valley, Malaysia

“After work, the employer locks us in the hostel. Every week he just chooses a few of us to go out to the market for a few hours, then back to the hostel. The guard supervises us closely. We can’t go out, if we don’t listen to him, he will beat us.”

Female Vietnamese worker in Penang

9 Verite (2014): Forced labour in the production of electronic goods in Malaysia, September. www.verite.org (Accessed 21.10.2015)

10 Cheeseman, G (2015): Program Aims To Improve Conditions In Malaysia’s Electronics Supply Chain, 31 August, Triple Pundit. www.triplepundit.com (Accessed 21.10.2015)

11 Global Slavery Index (2014) : How did we measure Government Response, www.globalslaveryindex.org (Accessed 21.10.2015)

12 Lih Yi, B (2015): Malaysia migrant mass graves policies reveal 139 sites, some with multiple corpses, 25 May, The Guardian. www.guardian.com (Accessed 21.10.2015)

13 Domini Social Investments (2015): Achievements, www.domini.com (Accessed 21.10.2015)

14 Facing Finance (2015): Investigation into banks Forced labour policies; supplement to DP4.

sectoral policies, however, this does not go far enough in addressing the wide range of labour related issues, nor the specific countries or industries where forced labour can be of consequence. None of the six banks specifically identify exclusions based on ILO standards, nor do any of the six banks clearly require information from companies on what they are doing to address forced labour.

As of October 2015, the Modern Slavery Act¹⁵ in the UK will allow FIs access to information on what large UK companies are doing to combat slavery but this does not address companies registered in other European countries, nor smaller UK companies. Without a clear policy and process for identifying companies with a high risk of involvement in slavery or forced labour, and requiring them to provide information on their prevention of forced labour, banks will not be able to identify companies most at risk. In this way banks face the possibility of being associated with and funding this most inhumane of labour practices. In addition to developing their own policies, FIs can also ensure that they speak out and support legislation which encourages supply chain transparency. Of the six banks in this Dirty Profits report, only BNP Paribas advocated for the Modern Slavery Bill in the UK.¹⁶

→ Facing Finance

The case of Construction in Qatar: Vinci Construction

On 23 March 2015 the French NGO Sherpa filed a legal case against Vinci Construction Grands Projets and its subsidiary Qatari QDVC based on evidence of forced labour and servitude on construction sites, including those for the football world cup, in Qatar. In April the Nanterre Public Prosecutor's office noted there was enough evidence to take the case forward, despite Vinci disputing the claims.¹⁷

In interviews undertaken by the NGO, migrants worked for 11 hours a day, 6 days a week in harsh temperatures; they had their passports taken away and were threatened with dismissal if they protested the poor working conditions. They were not free to change employers and thus required to accept poor working conditions. Additionally camps were found to be overcrowded, with sometimes 8 people to a room, no fans and inadequate bathrooms.

Qatar ranks fourth on the Global Slavery Index with 1.35% (29,400 people) of the population enslaved with many of these in cheap labour in the construction industry.¹⁸

“Under European law, European firms can be sued for serious labor violations in their supply chain abroad. Where Qatar and the other Gulf states are concerned, it’s probably more a question of when a European construction firm gets sued rather than if.”

Nicholas McGeehan of Human Rights Watch told the Associated Press¹⁹.

“On our site, four people died at work because they were working underground without appropriate protection—they inhaled toxic gas, didn’t get enough oxygen and died.”²⁰

“We don’t have any protection against the heat. We work in the sun. We don’t have air conditioning in the buses or in the camps.”²¹

15 UK Parliament (2105): Modern Slavery Bill 2015 received Royal Assent on the 26 March 2015. www.parliament.uk (Accessed 21.10.2015)

16 Rathbone Greenbank Investments (2014): Investors support inclusion of supply chain reporting in the Modern Slavery Bill, 19 November. www.rathbonegreenbank.com (Accessed 21.10.2015)

17 Sherpa (2015): Vinci in Qatar: Nanterre public prosecutor launches preliminary investigation, 27 April. www.asso-sherpa.org (Accessed 21.10.2015)

18 Global Slavery Index (2014): Country Profile Qatar. www.globalslaveryindex.org (Accessed 21.10.2015)

19 Smallteacher, R (2015): “Modern Slavery” French construction company Vinci accused of labour violations on Qatar construction contracts, 21 April, Global Research. www.globalresearch.ca (Accessed 21.10.2015)

20 Sherpa (2015): Vinci in Qatar: Sherpa Petition, www.asso-sherpa.org (Accessed 21.10.2015)

21 Ibid.

Features

Brazil's Toxic Tsunami: How a sea of mud destroyed villages, lives, and ecosystems

On November 5th, 2015 in Minas Gerais, Brazil, two mining dams storing 62 million cubic meters of sewage sludge burst their banks, leading to an immense mud tsunami. Within minutes this toxic mudslide buried the nearby town of Bento Rodrigues, destroying houses, killing 17 people and leaving two still missing.¹

This largest-ever environmental catastrophe in the history of Brazil is the responsibility of Samarco Mineração S.A. The company is a joint venture of the Brazilian company Vale and the Anglo-Australian BHP Billiton and is the second biggest seaborne iron ore pellet exporter on the market. They produce predominantly for export, including to Europe.²

After the dam break, the immense mass of mud, equivalent to the content of 25,000 Olympic size swimming pools, swept over the landscape.³ In the span of two weeks it had contaminated over 800km of the immense Rio Doce ("Sweet River") until it reached the sea, where the mud continues to spread (see cover photo of this report). While Samarco, Vale and BHP Billiton for weeks claimed that there were no harmful toxins in the mud,⁴ just days after the incident the water quality tests by the Institute for Water Management in Minas Gerais (IGAM) showed 10 times the legal limit of arsenic, as well as mercury⁵. The independent UN human rights agency corroborated these figures although the details of the specific toxins were not released.⁶ In contrast to this, on December 15 the Brazilian Geological Service released their data, noting that the levels of toxins were consistent with 2010 data. They confirmed that after proper treatment the water would be drinkable.⁷

Independent of whether the mud is toxic or not, the consequences of the incident are immense. Not only did people die and disappear, whole villages were buried, and the entire ecosystem of the river and the surrounding area has been destroyed. Thousands of fish suffocated in the mud and lie dead on the banks of the river. Hundreds of villages (around 280,000 people) that were dependent on the river have been deprived of drinking water and of their food sources.^{8,9}

While Vale's director of human resources claimed that the mud would help to revive the shores of the river "like fertilizer for reforestation"¹⁰, the reality of the situation is far from this. With the villagers relying on fishing, tourism and marine conservation, the impact on livelihoods and the environment will be severe.¹¹ The biologist André Ruschi notes "It will take at least 100 years until the residue of these toxins slowly disappear".¹²

As with all the other variables, the reason for the dam break has not yet been fully investigated. A report prepared by the Instituto Prístino for the Minas Gerais public prosecutors' office in October 2013 found a number of failings with the dams and recommended optimisation work.¹³ This work was required due to the 15% increase in production of the mine the year before, with the dams reaching the limit of their capacity.¹⁴ The report also recommended a contingency plan be put in place. To what extent these recommendations were actually implemented is under investigation by the public prosecutor's office.¹⁵

1 Yeomans, J (2015): BHP Billiton reveals death toll from Brazilian dam burst has rise, 22 December. The Telegraph. www.telegraph.co.uk (Accessed 12.01.2016)

2 Samarco (n.d.): Samarco. www.samarco.com (Accessed 15.12.2015)

3 Reuters (2015): Mud from Brazil dam disaster is toxic, UN says, despite mine operator denials. 26 November, The Guardian. www.theguardian.com (Accessed 12.12.2015)

4 BHP Billiton (2015): Latest News: Update Samarco, 30 November. www.bhpbilliton.com (Accessed 12.12.2015)

5 Reuters (2015): Arsenic and Mercury found in river days after Brazil dam burst, 26 November, The Guardian. www.theguardian.com (accessed 12.12.2015)

6 See Supra Note 3

7 Samarco (2015): News release CPRM and ANA Analysis reports attest to the water quality of the Doce River. 17 December. www.samarco.com (Accessed 18.12.2015)

8 N-tv (2015): BHP und Vale sollen 4,9 Milliarden zahlen. www.n-tv.de (Accessed 15.12.2015)

9 KoBra (2015): "Wie Dünger für die Wiederaufforstung". www.kooperation-brasilien.org (Accessed 15.12.2015)

10 See Supra Note 8

11 Douglas, B (2015): Anger rises as Brazilian mine disaster threatens river and sea with toxic mud, 22 November, The Guardian. www.theguardian.com (Accessed 12.12.2015)

12 Heute (2015): Brasilien: "Das ist unser Fukushima". www.heute.de (Accessed 15.12.2015)

13 Johnson, R and Dickerson, M (2015): Brazilian mine officials pressed to explain dam break response, 7 November, The Wall Street Journal. www.wsj.com (Accessed 12.12.2015)

14 See Supra Note 9

15 See Supra Note 13

On the day of the incident there were several small earthquakes, although experts note there is no established link between these earthquakes and the dam break. Additionally, the area is known to be seismically active.¹⁶ Despite this, Samarco, Vale and BHP Billiton claim the earthquakes were the cause of the dam break.¹⁷ What is not debated though is the absolutely insufficient warning system the mining company had in place. Despite the recommendation that a contingency plan be put in place, the system used on the day of the incident was to telephone local residents. Some residents said they only knew about the dam break when they saw the “massive clouds of red dust”.¹⁸

The reaction of the Brazilian state to this incident was provocatively slow and passive. Just days after the catastrophe, the president Dilma Rousseff flew over the affected region to inspect the damage. She stated that the region would be reconstructed and the river revitalized. In order to facilitate immediate aid to the affected people, the president decreed that the incident was due to natural causes. This drew significant criticism as it meant funds would be issued from the state’s social insurance rather than force responsibility from the companies.¹⁹ Initially the Brazilian state filed a lawsuit against Samarco, for 62 million Euro, however, Samarco blocked their bank account, and even this relatively small sum could not be collected.²⁰ Two weeks later the government filed against Samarco for \$5.2 billion in damages.²¹ However, this is still significantly less than the cost estimated by specialists to restore the damage, which adds up to \$30 billion – if the recovery is technically possible at all.²²

But the lack of ambition from the side of the state is not the only factor impeding the huge but necessary recovery of the region. In 2014, Samarco had a net income of approximately \$747 million. The company was insured by Germany’s Allianz Insurers for civil liabilities claims up to the value of \$17 million, nowhere

near what is required for the damages.²³ The parent companies BHP Billiton and Vale have stated that the disaster is Samarco’s responsibility, however the scale of the damage means it is likely to impact the parent companies significantly.²⁴ In December 2015 Samarco noted it would pay approx. \$25,000 to each victim’s family.²⁵

It will have to be seen whether in light of such an immense catastrophe the companies will once again escape unpunished – and set a further precedent for lack of accountability in future incidents. On the very same day of the accident, a legal proposal to impose an obligatory accident and damage insurance on all tailings dams in the country was defeated, thus reducing environmental regulation on “strategic infrastructure projects”.^{26 27} There are at least 15 other dams in the state of Minas Gerais that are considered in danger of collapsing.²⁸ In the words of the governor of Minas Gerais “We have to learn the lessons of this accident.”²⁹

→ Deborah Ferreira, Facing Finance

16 Mining (2015): Several casualties feared after tailings dam bursts in Brazil. www.mining.com (Accessed 15.12.2015)

17 See Supra Note 12

18 See Supra Note 13

19 See Supra Note 9

20 See Supra Note 9

21 BBC (2015): Brazil to sue Samarco mining firm for \$5.2bn over dam burst, 28 November. www.bbc.co.uk (Accessed 18.12.2015)

22 See Supra Note 9

23 Bautzer, T (2015): Insurers face 600 million claim in Brazil dam burst, sources say, 10 November, Reuters. www.reuters.com (Accessed 18.12.2015)

24 Johnson, R (2015): Two more dams at risk Brazil mine operator, Samarco claim. 18 November, The Wall Street Journal. www.wsj.com (Accessed 18.12.2015)

25 Sonawa, V (2015): BHP-Vale’s Samarco offers \$25,000 each to Brazilian dam burst victims, 25 December, International Business Times. www.ibtimes.com (Accessed 12.01.2016)

26 Hinman, P (2015): Brazil: Mountain tsunami a disaster waiting to happen, 4 December, Greenleft Weekly. www.greenleft.org (Accessed 12.01.2016)

27 See Supra Note 9

28 See Supra Note 12

29 Farrer, M (2015): Brazil dam burst: BHP bosses to inspect disaster zone with dozens missing, The Guardian. 9 November. www.theguardian.com (accessed 12.01.2016)

Features

Clinical trials in Africa: An exploitative relationship

Pharmaceutical companies are increasingly looking for places outside Europe and the United States to test their new medicines. China, Russia, India, and Latin America are well-known destinations. More recently, the pharmaceutical industry has become interested in Africa as a testing ground. Since 2013 the Dutch Foundation, Wemos, has published three reports on clinical trials on the African continent.¹ This article is based on these reports, which outline clinical trials in South Africa, Kenya and Zimbabwe.

South Africa in particular is now an important destination for clinical trials with over 2.200 clinical trials registered on clinicaltrials.gov.² Kenya has only recently attracted the interest of the pharmaceutical industry, whereas in Zimbabwe relatively few trials take place. This may be explained by the fact that both South Africa and Kenya have a considerable middle class and therefore are an increasingly profitable market for pharmaceuticals. Next to market access, there is another important reason for pharmaceutical companies to recruit in African countries: it is easier to find participants there. While there is an increasing reluctance of people in affluent economies to participate in trials because of the potential risks of unknown side effects, research in Africa shows that limited access to healthcare increases willingness to participate, as it may be the only way to get access to treatment. Other reasons are that the costs of trials are lower in Africa than in the United States or Europe and that medicines against diseases of affluence – such as diabetes, cancer and heart conditions – can increasingly be tested in Africa.

Violations of ethical principles

Research over the past decade has exposed a variety of violations of ethical principles by all big pharmaceutical companies.³ These principles are laid down in the Declaration of Helsinki (DOH), the most authoritative guideline pertaining to medical research. A very common violation is the lack of informed consent. This means that the participants have neither been informed of the fact that they are receiving experimental treatments, nor about the risks that this treatment entails. Furthermore, when trial participants are harmed as a result of drug trials, they often do not receive appropriate care or compensation. Companies often deny a relation between the experimental drug and the experienced harm. Lastly, pharmaceutical companies very rarely arrange and pay for access to treatment after the trial has ended⁴, which is particularly worrying as many participants in low and middle income countries have no health insurance.

Flaws in oversight

Wemos' research has shown that both Kenya and South Africa have clear guidelines and laws to protect the rights of clinical trial participants. However, violations of these laws occur repeatedly. It is alarming that legal bodies charged with approving and overseeing clinical trials are underfunded, understaffed and ill-equipped. However, South Africa has managed to make considerable improvements to its regulatory system. A decade ago the pharmaceutical industry would go 'shopping' for the most lenient ethics committee to get a speedy approval, but this method is no longer possible. However, considerable underfunding still remains a point of concern in South Africa as well as in Kenya and Zimbabwe.

1 Wemos (2015): Publications. www.wemos.nl (Accessed 26.10.2015)

2 [Clinicaltrials.gov](http://clinicaltrials.gov) is the world's largest registry and is a service of the US National Institutes of Health. <https://clinicaltrials.gov> (Accessed 26.10.2015)

3 Weyzig, F, Schipper, I (2008): Examples of Unethical Trials. SOMO briefing paper on ethics in clinical trials. SOMO. <http://somo.nl>

Buncombe, A, Lakhani, N, (2011): Without Consent: how drugs companies exploit Indian 'guinea pigs', The Independent. www.independent.co.uk
Déclaration de Berne (Ed., 2013): Le mirage des essais clinique suisses. Lausanne/Zurich. www.ladb.ch

Hackenbroch, V, Kuhrt, N, (2015): Pharmatesters in Schwellenländern. Krank und ausgenutzt. Der Spiegel. www.spiegel.de (Accessed 26.10.2015)

4 Schipper, I. (2015): Post-trial access to treatment. Corporate best practices. SOMO. <http://somo.nl> (Accessed 26.10.2015)

Such systemic weaknesses may explain why clinical trials receive approval that are deemed unethical by western ethics committees. One such example is a placebo-controlled trial of an asthma drug on young children which took place in South Africa.

Placebo-inhalers in South Africa

A British-Swedish pharmaceutical company trialled an existing children's asthma drug against a placebo treatment.⁵ This trial was being carried out on asthmatic children as young as six, who were given a placebo inhaler instead of their usual medication for a period of six weeks. Many health experts believe that the withdrawal of regular medication puts children at unnecessary risk of a serious, possibly even fatal asthma-attack. Ethics committees in Western Europe therefore do not allow placebo-controlled trials in serious conditions such as asthma, which is why placebo-controlled trials often take place outside Western Europe. This is an alarming trend as being put on a placebo may cause serious and irreversible harm. This is even more concerning when trials take place in countries with limited access to health care. The pharmaceutical company in question states that placebo-controlled trials are necessary to satisfy 'regulatory requirements' by the United States' Food and Drug Administration (FDA).

The question is why children in South Africa should participate in risky trials to help the pharmaceutical industry get approval for the market in the United States. Even more so because experts, quoted in the report, state that this and other placebo-controlled trials described in the South Africa report are not meant to develop new drugs with an added therapeutic value. These trials are merely intended to protect the market share of the company by adding minor variations to an already existing drug, a procedure with which they hope to preserve their revenue stream once the patent of the old drug has expired. This leads to the conclusion that vulnerable children run the risk of being harmed for clinical trials that will not benefit them, or their country, but are merely intended to protect a company's interests.

The Helsinki Declaration very clearly states that placebo-controlled trials can be conducted only in conditions where there is no proven treatment available. By admitting that the placebo trials are being done just for regulatory reasons, they are admitting to a violation of the ethical guidelines of the World Medical Association.

The role of the Contract Research Organizations (CROs)

It is estimated that half of all clinical trials are contracted out to private organisations known as CROs. CROs are hired to oversee many aspects of a clinical trial, such as securing the approval from the ethics committees, finding suitable locations and recruiting patients and medical investigators. Patient recruitment is an important aspect of their work; the ability to recruit and retain

enough patients is essential to success. Eventually the sponsor of the trial (i.e. the pharmaceutical company) is responsible for the way the trial is carried out and how participants are protected. However, these sponsors do not always stringently monitor the CROs, especially not on issues related to the protection of the rights of clinical trial participants.

What do we want from the pharmaceutical industry?

When a pharmaceutical company carries out trials in low and middle-income countries where trial participants have limited access to health care, they should tread carefully in order to protect the rights of vulnerable clinical trial participants. It is crucial that the pharmaceutical industry sends out a strong signal to those to whom it outsources clinical trials that compliance with ethical standards is a priority. This means that informed consent taken from vulnerable trial subjects is done diligently. It also means that when trial subjects experience harm, they are granted access to care and compensation. Furthermore, pharmaceutical companies and CROs should strive to get approval from the most ambitious ethics committee and not the most lenient.

Last but not least: placebo-controlled trials should, in accordance with the DOH, only be carried out if no current proven treatment exists. However, as Wemos' study reports show, the opposite appears to be true. Pharmaceutical companies operating in Africa do not hesitate to exploit the loopholes in local oversight systems and the vulnerability of trial participants. They will continue to do so until they are held accountable for violating the rights of clinical trial participants.

Who should hold them accountable?

After pressure from NGOs, parliamentarians and media, the European Medicines Agency has indicated that they will assess whether medicines tested in vulnerable settings have been tested according to ethical principles before granting market authorization. However, so far there is no record of a drug being denied European market access based on an ethical violation. Investors have huge leverage over pharmaceutical industry behaviour. They are called upon to assess whether companies adequately protect the rights of vulnerable clinical trial participants prior to investing in that particular company. No doubt this topic would then rank higher on the priority list of pharmaceutical industry.

→ Annelies den Boer and Amy Davies, Wemos Foundation

⁵ The study, which was completed in 2013, was also carried out in Bulgaria, Latvia, Hungary, Poland, Slovakia and the US. <https://clinicaltrials.gov> (Accessed 26.10.2015)

Features

The land rush – “gold with yield” or a risky business?

Land rights and tenure risks – how can they be better understood and addressed by financial investors?

The global rush for land – driven by increasing demand for fuel, food, raw materials, and financial speculation – has caused land grabbing, deforestation and human rights violations across the world. Land, as territory, is the world’s most ultimate finite resource. Since 2000, at least 39 million hectares of land in developing countries, an area just larger than Germany, has been leased to companies, or is under negotiation.¹ This is driven by increasing global demand for biofuel and raw materials, as well as the food price crisis of 2007 and 2008, which was followed by the financial crisis, after which investors began to speculate on agricultural land and food prices.² So attractive has the agricultural land sector been to investors that the financial media have described it as “like gold, with yield”.³

But, not only are such land investments causing environmental and social harm, they also pose considerable material risks for the companies involved, and their financial backers. In 2012, research demonstrated that the financial risks for companies posed from not addressing land tenure were multiple, ranging from a delay in construction and cash flow losses due to suspension to expropriation of assets following the loss of insurance coverage.⁴ The escalation of such risks can be extremely rapid and irreversible, with the report concluding that the average global operating cost of a three-year investment of around USD\$10 million could be as much as 29 times higher if the project was forced to stop its activities because of local opposition. Further research in 2014 assessed 73,000 mining, oil and gas, logging and agribusiness concessions in eight tropical forested countries, and found that 93% of them involved land inhabited by indigenous peoples and local communities.⁵

An additional concern for investors should be the frequent illegal nature of the land acquisitions; around half of all tropical deforestation since 2000 has been due to illegal conversion of forests for commercial agriculture⁶, and approximately half of this land is now producing agricultural goods for export.

The OECD has itself recognised the “direct link” between the financial sector and the adverse impacts of the projects they invest in, by the Working Party on Responsible Business Conduct in 2014, which recommended that: “Financial institutions, like any other MNEs, should thus avoid causing or contributing to adverse impacts, and seek to prevent or mitigate those impacts when their operations, products and services can be directly linked to them by a business relationship”.⁷

Government regulatory intervention to curb corporate and financial excess is also being called for by leading members of the financial industry: “We see the primary failure of the capital markets in relation to sustainable development as one of misallocation of capital. This in turn, is a result of national governments’ failure to act properly to ensure environmental and social costs are reflected in companies’ profits and loss statements. ... Until these market failures are corrected through government intervention of some kind, it would be irrational for investors to incorporate such costs since they do not affect financial figures or appear on the balance sheet, therefore affecting companies’ profitability.”⁸

1 Based on the most up to date information available in the Land Matrix database. www.landmatrix.org/en/ (Accessed 12.10.2015)

2 Anseeuw, W, Alden Wily, L, Cotula, L and Taylor, M (2012): Land Rights and the Rush for Land: Findings of the Global Commercial Pressures on Land Research Project. ILC, Rome. www.landcoalition.org (Accessed 12.10.2015)

3 Koven, P (2012): ETF may stand for exchange-traded farmland. Financial Post, 19 January. www.financialpost.com (Accessed 21.10.2015)

4 Munden Project (2012): The Financial risks of insecure land tenure, Rights and Resources Initiative, December. www.rightsandresources.org (Accessed 21.10.2015)

5 RRI (2014): Communities as Counterparties: Preliminary review of concessions and conflict in emerging and frontier market concessions, Rights and Resources Initiative, 30 October. www.rightsandresources.org (Accessed 21.10.2015)

6 Lawson, S (2014): Consumer Goods and Deforestation: An Analysis of the Extent and Nature of Illegality in Forest Conversion for Agriculture and Timber Plantations, Forest Trends, September. www.forest-trends.org (Accessed 12.10.2015)

7 OECD (2014) Working Party on Responsible Business Conduct: The terminology on “directly linked” in the context of the financial sector, note by the Secretariat. 19 July, DAF/INV/RBC(2014)1/REV1

8 Available for download at: www.aviva.com (Accessed 12.10.2015)

However, such recognition has not yet translated into action at the point of due diligence or risk assessments by either investors themselves, or by regulators. European-based investors continue to frequently rely on voluntary certification schemes as a proxy for due diligence into land-tenure risk.⁹ Calvert – a US-based group describing themselves as “socially responsible investors” – has also publicly recognised the lack of land tenure data used by financial markets; stating that only one out of 2,167 standard environmental, social and governance criteria they are aware of relates to land.¹⁰

But our organisations do not believe that proactive improvements in due diligence by investors themselves is enough. The scale of the land grabbing and deforestation crisis and extent to which companies and investors appear to be ignoring their own corporate social and environmental commitments, is evidence that the solution is the introduction of binding and regulatory due diligence requirements.¹¹

What strengthened due diligence on land rights and tenure risks could be required of investors?

In response to this gap of due diligence on land rights and tenure risks, Friends of the Earth Europe, Global Witness, Client Earth, and FERN have developed three principles for what agribusiness companies and their investors should be required to assess by regulators, in order to adequately understand and take action to mitigate the land and resource-based tenure risks associated with new, or existing, projects:

- ▶ **Principle 1:**
Undertake investments only in projects that guarantee the Free, Prior and Informed Consent (FPIC) of all potentially affected communities through the entire lifecycle of the project;
- ▶ **Principle 2:**
No investments in developments on contested land;
- ▶ **Principle 3:**
No violations of human rights in the acquisition or management of the land investment.

Of course, these three principles on land rights and tenure do not stand alone; they are designed to be part of a broader set of due diligence standards which would also include: climate change, protection of intact forests, biodiversity, labour rights, transparency, tax avoidance, corruption, money laundering and grievance mechanisms.

9 See study in Profundo (2014) Opportunities for EU-regulatory reform concerning EU investments in non-EU agribusiness, available on request from mmacinnis@globalwitness.org

10 Presentation made by Gabriel Andres Thoumi from Calvert at the World Bank Annual Conference on Land and Poverty, Washington DC, March 2015.

11 For examples of investors and companies failing to meet their own social and environmental corporate commitments, see Global Witness (2013): Rubber Barons www.globalwitness.org and the research into Singaporean company Wilmar, by: Friends of the Earth (2014): Uganda Palm oil Land Grab. www.foeurope.org

These three principles are nothing new, they are based on international standards and reporting requirements already in place, for example the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Forests and Fisheries and the Roundtable on Sustainable Palm Oil¹², which many global corporations are expected to implement. In fact, meeting these principles and assessing the potential land rights, and tenure associated risks of an investment project, simply requires companies and their investors to think about questions they already need to consider, but from a land-related perspective. Therefore, such a requirement to address these issues (as opposed to meeting voluntary commitments) would not amount to an onerous additional task for companies. It is also expected that some, if not all, of these requirements would already be covered by national legal requirements.

Further details of the three principles and their subsequent criterion are provided in the box on the following page:

A number of arguments support further transparency in the sector. Public disclosure of this information by companies is the basis for developing a “social license”; mutually beneficial relationships with communities local to the project, while accessing this information helps communities (and the non-governmental organisations supporting them) to protect their rights. Furthermore, the internal collection and external reporting of the above type of land tenure information and social buy in would enable companies not only to “know” internally how they are meeting legal requirements and environmental, social and governance commitments, but also “show” this to investors, local communities and the wider public.

→ Megan MacInnes, Campaign Leader Land at Global Witness
→ Anne van Schaik, Accountable Finance Campaigner, Friends of the Earth Europe and Fern

12 See Appendix Norms and Standards.

Principle	Criterion	Relationship with existing international standards
<p>Principle 1: FPIC for all potentially affected communities and individuals</p>	<p>Criterion 1.1: The investment does not diminish the legal, customary or user rights of other users without their FPIC</p>	<p>For indigenous peoples, this right is already enshrined in international human rights laws and international standards, such as the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), ILO Convention 169, the UN Voluntary Guidelines on the Governance of Tenure of Land, Forests and Fisheries in the Context of National Food Security (VGGTs), and finally Performance Standards 7 and 10 of the International Finance Corporation (IFC)</p> <p>FPIC is recognized as a right for all potentially affected communities by the Round-table on Sustainable Palm Oil (RSPO) criterion 12.b</p>
<p>Principle 2: No development on contested land</p>	<p>Criterion 2.1: The right to use the land is demonstrated and is not legitimately contested by local people who can demonstrate that they have legal, customary, or user rights</p>	<p>International human rights laws and standards such as ILO Convention 169, the right to food and adequate housing in the International Covenant on Economic, Social and Cultural Rights (CESCR), and the VGGTs articles 3A, 12.4, 12.6, 12.10, 12.15</p> <p>Commodity specific standards such as RSPO Criterion 2.2 and 7.5, the Roundtable on Responsible Soya, criteria 1.2, 3.2.1, 3.2.2 and 4.2.2 and the Roundtable on Sustainable Biofuels (RSB) Principle 12</p>
	<p>Criterion 2.2: Fair and adequate compensation has been paid for loss of rights</p>	<p>Again reflected in the VGGTs RSPO 6.4, RTRS 3.2 and 3.2.2 RSB 12.b, furthermore this is covered by the IFC's Performance Standard 5, 9 and 10</p>
	<p>Criterion 2.3: Land acquisition does not involve host governments' illegitimate use of eminent domain to acquire farmland</p>	<p>This is a relatively new standard, following the VGGTs 16.7 and 16.8, as well as being included in the indicator framework of Oxfam's Behind the Brand campaign</p>
<p>Principle 3: No systematic violations of human rights in the acquisition or management of the land investment</p>	<p>Criterion 3.1: Operations respect rights to food, adequate housing and adequate standard of living</p>	<p>These rights are core to the CESCR and the International Covenant on Civil and Political Rights (CCPR), as well as the VGGTs and ILO core conventions Also reflected in RSPO 6 and RTRS 2.4</p>
	<p>Criterion 3.2: Freedom of association, expression and assembly and other civil and political rights are respected</p>	

Features

Central role of Israeli banks in Israeli settlement construction and expansion

Israeli banks play a central role in all aspects of Israeli control over the territories it has occupied and colonised since 1967. Illegal Israeli settlements are just one example. UN Security Council Resolutions 242 (1967) and 338 (1973) demand that Israel should withdraw completely from the territories it occupies.¹ Israeli settlements are illegal according to international law and are considered a violation of Article 49(6) of the Fourth Geneva Convention² and Article 55 of the Hague Regulations (1907)³. In 2004 the International Court of Justice confirmed that Israeli settlements have been established in breach of international law.⁴

According to the United Nations, Israeli settlements are understood “to encompass all physical and non-physical structures and processes that constitute, enable and support the establishment, expansion and maintenance of Israeli residential communities beyond the Green Line of 1949.”⁵

The independent UN fact finding mission to investigate the implications of Israeli settlements (2013) concluded that Palestinian “[...] rights to freedom of self-determination, non-discrimination, freedom of movement, equality, due process, fair trial, not to be arbitrarily detained, liberty and security of person, freedom of expression, freedom of access to places of worship, education, water, housing, adequate standard of living, property, access to natural resources and effective remedy are being violated consistently and on a daily basis.”⁶

The report ‘Financing the Israeli occupation’⁷ by the Israeli NGO Who Profits (2010) and its 2013 update⁸ describe how Israeli banks provide the financial infrastructure for the Israeli settlements:

► **Israeli banks provide mortgages to homebuyers in settlements.** The property they buy is used as collateral, as is common practise with mortgage loans. In cases of foreclosure the bank ends up owning that property.

► **Israeli banks provide special loans for residential construction projects in settlements.** These loans are provided under specific terms, which are regulated through “accompaniment agreements” under the Israeli Sale Law. The terms ensure that a bank guarantees the construction project, backs the construction company, and protects the buyers’ investments by providing a bank guarantee. Prior to an accompaniment agreement, the bank appoints somebody to examine the profitability of the project. Sometimes the bank holds the real estate property as collateral until all housing units are sold. The payments of homebuyers are deposited in a dedicated bank account, and the bank monitors the financial status as well as the development of the project. Usually the bank is also involved in determining the price of the apartments and the schedule for completion of the construction. The bank forms a close partnership with the construction company and is thus deeply implicated in settlement construction.

1 UN Security Council (1967): Resolution 242 of 22 November 1967. <https://unispal.un.org/>; and UN Security Council (1973): Resolution 338 of 22 October 1973 <https://unispal.un.org/> (Accessed 19.12.2015)

2 International Committee on the Red Cross (n.d.): Fourth Geneva Convention, www.icrc.org (Accessed 19.12.2015)

3 International Committee on the Red Cross (n.d.): The Hague Regulations, www.icrc.org (Accessed 19.12.2015)

4 International Court of Justice (2004): Legal consequences of the construction of a wall in the occupied Palestinian territory, 9 July. www.icj-cij.org (Accessed 20.12.2015)

5 UN Human Rights Office of the High Commissioner (2014): Statement on the implications of the Guiding Principles on Business and Human Rights in the context of Israeli settlements in the Occupied Palestinian Territory, 6 June. www.ohchr.org (Accessed 20.12.2015)

6 UN Human Rights Council (n.d.): 22nd Session of the UN Human Rights Council: Human Rights situation in Palestine and other occupied Arab territories. www.ohchr.org (Accessed 18.12.2015)

7 Who Profits (2010): Financing the Israeli occupation, October. www.whoprofits.org (Accessed 20.12.2015)

8 Who Profits (2013): Financing the Israeli Occupation, November. www.whoprofits.org (Accessed 19.12.2015)

► **Israeli banks provide the financial infrastructure and services to settlement authorities.** Regional councils, local councils and municipalities of Israeli settlements in the occupied West Bank and the Golan Heights depend on these services. The banks provide a wide variety of services including managing bank accounts and transfer of funds from the government and other sources for the settlement authorities to govern the municipalities. Israeli banks also provide loans, which are used for the development of infrastructure, the construction of public buildings and for providing municipal services, like electricity, health, transportation, education etc. The provision of these loans makes the banks investors in the continued development and prosperity of the settlements, as the future income from taxes and other revenues are provided as collateral.

► **Israeli banks operate branches in Israeli settlements.** Through these branches banks provide financial services to settlers and companies in settlements. The bank branches are part of the service infrastructure that enables the development and expansion of the settlements and constitute a direct physical presence in the settlements. In addition, Israeli banks directly participate in the settlement economy as municipal tax payers.

► **Israeli banks provide financial services to businesses in settlements and to businesses whose activity is related to the occupation.** For instance, Israeli banks provide loans to factories operating in the industrial zones of settlements, or whose main activity is the construction of settlements, or infrastructure projects for the use of Israeli settlers. The property of these businesses is often used as collateral, making banks the property owner in case of bankruptcy. Another well know example is the funding of construction and operation of the Jerusalem Light Rail, which connects Israel to Israeli settlements in violation of international law. (See Alstom Company Profile page 10)

Israeli banks do not differentiate between Israel and its settlements and Israeli law prohibits them from doing so. Israeli settlements are illegal according to international law constituting a war crime and a violation of numerous human rights. Israeli banks do not just facilitate, but are an integral and essential part of the ongoing development of Israeli settlements, and thus also responsible for the related breaches of international law and human rights violations they constitute.

Institutional investors, both owning or managing shares in Israeli banks, condone the illegal and ongoing construction and expansion of Israeli settlements and profit from it. Financial institutions should realise that their investments ignore the UN Guiding Principles on Business and Human Rights, the OECD guidelines in which these are fully incorporated, and principle 1 and 2 of the UN Global Compact. (See page 85 for information on Norms and Standards)

For legal and ethical reasons it is clear that investing in Israeli banks is unacceptable. Not only ethical investors who claim to consider human rights when making investment decisions, but all institutional and private investors should realise the legal, financial and reputational risks involved in such investments and should accordingly divest from Israeli banks.

→ John Veron, Article 1 Collective

Features

The Paris Pledge Campaign: Getting banks out of coal

Coal, as the dirtiest of the fossil fuels, is the largest source of manmade greenhouse gas emissions and makes up 46% of global energy-related carbon emissions.¹ Coal mining and burning not only impact climate change, but also carry significant risks to public health and the environment.² Additionally, coal represents a financial risk: since 2011 the Carbon Tracker Initiative has issued warnings that up to 80% of fossil fuel reserves are unburnable “stranded assets” that must be kept in the ground if dangerous global warming is to be avoided.³

Armed with both moral and financial arguments, in recent years a movement for divestment has been set in motion and spreads rapidly. Hundreds of universities, municipalities, pension funds, and insurance firms have made commitments to divest from coal specifically, or from fossil fuels in general. However, amidst this burgeoning movement, relatively little was heard from one of the crucial actors in climate change; one providing the companies with capital: the banking sector.

The banking sector has a significant role to play in encouraging the transition to a low carbon economy. One real opportunity to achieve this is the phasing out of financing available for both coal mining and coal power. A study undertaken by BankTrack in 2015 identified the largest “coal banks” and the total amount of funds they had in coal lending and underwriting between the period 2011 and April 2014. This ranking included many of the largest and best known European banks including BNP Paribas, Barclays and Deutsche Bank. It also showed that 73% of coal financing came from just 20 banks.⁴

In response to this information and in the lead up to the December 2015 Paris Climate Summit, BankTrack launched the ‘Paris Pledge’ in July 2015, inviting all banks financing the coal sector to pledge to phase out financing for both coal mining and coal power. The pledge supported a total phase-out covering all banking activities and services (lending, share and bond underwriting, asset management and advisory services), complemented by a shift in lending towards supporting renewables, energy efficiency and low-carbon infrastructure. Banks currently not providing finance for coal could also sign the pledge, thereby showing their intention to continue avoiding coal finance and inspiring others in the finance sector to follow suit.

The co-ordinated campaign covered the largest “coal banks” as identified in the aforementioned study. In addition to coalition members, including Friends of the Earth, Urgewald (Germany) and Rainforest Action Network (United States) who targeted banks in their respective countries, a shared platform of 167 civil society organisations (including Facing Finance, Greenpeace International, 350.org, Oxfam International, many smaller organisations from a variety of sectors, and over 10,000 individual supporters) was built. This new coalition presented a unified call to banks around the world to take meaningful steps out of coal. The Paris Pledge was not alone in its ‘coal call’, with initiatives such as a global call for a moratorium on new coal mines helping build momentum towards Paris.⁵

1 International Energy Agency (2015): CO2 Emissions From Fuel Combustion Highlights. www.iea.org (Accessed 18.12.2015)

2 BankTrack (2015): The facts about coal’s impact on health and the environment – and the growing support given by Coal Banks. www.coalbanks.org (Accessed 18.12.2015)

3 Carbon Tracker (2011): Unburnable Carbon – Are the World’s Financial Markets Carrying a Carbon Bubble? www.carbontracker.org (Accessed 18.12.2015)

4 BankTrack (2015): The top 20 Coal Banks. www.coalbanks.org (Accessed 18.12.2015)

5 The Australian Institute (2015): No New Coal Mines. <http://www.nonewcoalmines.org.au> (Accessed 18.12.2015)

While there was limited expectation that the big banks would rush to sign the Paris Pledge, it was hoped that the pressure could result in positive responses from a few. As the campaign progressed a pattern emerged: one bank after another began to take steps out of coal. The steps varied in their significance, and none amounted to a complete exit from the sector, but in total nine international banks announced they would stop or reduce their finance for coal mining or coal power. The Coal Test,⁶ published by BankTrack, Rainforest Action Network, Friends of the Earth France and Urgewald, during the Paris climate summit, tracks these moves and their significance. This report concluded that there is no true leader among the large international banks.

However, it is the smaller banks that have shown real leadership. In total, 21 social and ethical banks⁷, spread across ten countries, and collectively handling over EUR 85 billion in assets, took the Paris Pledge to continue to steer clear of coal by the time of the Paris Agreement. These signatories show that it is possible to avoid finance for coal while operating in a fossil fuel based economy, and they demonstrate that real alternatives exist.

After the Paris climate summit concluded with an agreement to aim to keep global warming to well below 2°C, with an ambition to limit it to 1.5°C, the case for banks to quit coal is more urgent than ever. The commitments made by the large banks still do not go far enough to achieve these aims and the Paris Pledge coalition will continue to challenge international banks to ensure that their financing is in line with the ambition agreed in Paris. This means deep cuts in their fossil fuel financing, starting with coal.

→ Catalina von Hildebrand, BankTrack

6 BankTrack, Les Amis de la Terre, Rainforest Action Network, urgewald (2015): The Coal Test – Where Banks stand on climate at COP 21, 2 December. www.banktrack.org (Accessed 18.12.2015)

7 The banks that signed the Paris Pledge to Quit Coal are: Alternative Bank Schweiz, ASN, Banco Fie, Beneficial State Bank, Cultura Bank, Ecology Building Society, Ekobanken, Ethikbank, Folkeparekassen, GLS Bank, JAK Medlemsbank, La Nef, Merkur Cooperative Bank, NewB Cooperative, New Resource Bank, ProCredit, Sparda-Bank München eG, Steyler Ethik Bank, The Co-operative Bank, Triodos Bank, and Umweltbank.

Features

Banks dragging their heels in fully adopting the UN Guiding Principles

While the UN Guiding Principles on Business and Human Rights¹ are not perfect, their full adoption by the banking sector could still spur real progress in business adherence to human rights standards across the board, making corporate activities which cause human rights abuses less likely to find the finance they need to proceed, and providing more avenues for victims to seek justice. Yet four years on from the endorsement of the Guiding Principles by the UN Human Rights Council, banks are still a long way from fully adopting them.

BankTrack's research report, "Banking with Principles", showed that only around half of the 32 large commercial banks covered in the report have developed human rights policies.² And while some have begun to outline their approach to conducting due diligence, the sector has scarcely begun to make progress on reporting on how they address human rights impacts, or on developing grievance mechanisms to allow those affected to advance complaints.

Grievance mechanisms: Earth calling the banking sector!

In particular the lack of grievance mechanisms in the banking sector has been the focus of BankTrack's efforts recently. Some banks have been resistant to the very idea that they need grievance mechanisms at all, while others have pointed out barriers to developing them, which need to be overcome. BankTrack notes that banks use three principal lines of argument as to why they have not yet made more progress.

Firstly, banks have argued that there is a need for greater clarity on their precise responsibilities for respecting human rights before they can make progress; for example, on when banks can be considered as "contributing to" a human rights impact, rather than being simply "directly linked" to it through their business relationships. This distinction is important in the Guiding Principles, as the responsibility to remediate human rights impacts is limited to instances where businesses themselves identify that they have "caused or contributed to" the impact through their own operations.

It is fair to say that more guidance on such terminology would be helpful, but this objection is indicative of an approach which is focussed on seeking to establish the minimum level of responsibility before acting. The Guiding Principles make clear that businesses may also "take a role" in providing remedy to victims where they do not cause or contribute to the impact, but where the impact is directly linked to its business relationships. This should be seen, then, as good practice, and a bank which was striving towards such good practice would be prepared to risk going further than the minimum expectations of the Guiding Principles; hereby providing channels for remedy to all victims of human rights abuses linked to its finance.

Secondly, banks have argued that most of the time, when a bank is 'linked' to a human rights issue, it is caused by the client rather than directly by the bank, and therefore the client is "in a better position" to provide remedy.

¹ Office of the High Commission for Human Rights (2011): *Guiding Principles on Business and Human Rights*. www.ohchr.org (Accessed 19.12.2015)

² BankTrack (2014): *Banking with Principles*, December. www.banktrack.org (Accessed 20.12.2015)

Although this might often be the case, banks have their own responsibilities as well, and with good reason. For rights-holders, being able to seek remedy from the financiers of a project as well as the project sponsors directly will only be to their benefit – indeed the company directly responsible may prove unwilling or unable to remedy the impact. But beyond this, grievance mechanisms help companies identify potential human rights issues, and make sure they are addressed early before they become full-blown complaints, leading to expensive lawsuits or derailing projects completely. Banks should surely welcome this as an essential element of their risk management process.

Thirdly, some banks have argued that they meet their responsibilities because they have signed the Equator Principles³ – as under the Equator Principles, banks must make sure the projects they finance include grievance mechanisms. However, the Guiding Principles stipulate that banks have a responsibility to “establish or participate in” grievance mechanisms, not simply ask their clients to set them up and then step back and ignore the complaints. The Equator Principles themselves are also notably lacking in a complaints mechanism to allow for complaints against signatory banks.

In short, bank explanations for not getting complaints mechanisms in place do not hold a lot of water, and progress on this issue is urgently needed. Encouragingly there are signs that awareness of the need for more progress on this front is becoming more widespread.

Transparency needed on what banks are financing

While it is important to keep an eye on banks’ progress on policy development, reporting, and grievance mechanisms, it’s also important to maintain a focus on the human rights impacts of the projects and companies that banks are financing. Doing so is an ongoing challenge.

Reports such as this, along with BankTrack’s library of Dodgy Deal profiles, shed some light on this question, thanks to painstaking and costly research. Yet in doing so, organisations are hamstrung by limited transparency from banks on what they are financing, and what actions they are taking when human rights issues arise.

Banks frequently claim that they are unable to discuss specific transactions, or that commercial confidentiality prevents them from discussing particular clients. This needs examining afresh in light of the UN Guiding Principles, and their requirements for all businesses to communicate how they address the human rights impacts they identify. After all, banks can and do disclose detailed information on certain transactions in their sustainability reports, and also to pay-walled financial databases, accessed regularly by their competitors.

A step change in banking transparency, about what banks finance and how they manage their human rights impacts, is both possible and necessary, and that there is an urgent need for a wider debate on how banks might find a way to discuss specific transactions, where there is a clear public interest in them doing so.

→ Ryan Brightwell, BankTrack.

3 The Equator Principles Association (2013): The Equator Principles III. www.equator-principles.com (Accessed 19.12.2015)

HARMFUL INVESTMENTS



Children in Palangka Raya, Central Kalimantan, wear masks when playing outside due to forest fires.
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Harmful Investments

Financial institutions benefiting from harmful investments

If “every big advance in social justice began as a civil society movement”¹ is it possible for civil society, while battling a huge lack of resources, to be able to move forward change in the financial system, all the while being sidelined by an extremely powerful financial sector lobby? The sheer number of financing and investments in the controversial companies presented in this report clearly demonstrate that FIs’ voluntary policies are insufficient to prevent human rights violations or environmental destruction by their investee companies. Also voluntary commitments to international standards such as the UN Global Compact, the UN Principles for Responsible Investment, the UN Principles for Sustainable Insurance, the Equator Principles² or support for the Ruggie Principles (UN Guiding Principles on Business and Human Rights) which clearly outline companies’ and FI’s responsibilities for respecting human rights and the environment seem to be insufficient to prevent harmful business practices. In the light of the world’s pressing challenges such as climate change, war and armed conflicts, migration and poverty, it is no longer feasible to let the financial sector do their “business as usual”. National and international legislators have to set up a series of regulations to stop harmful investments, the likes of which are given in the Recommendations and Demands section of this report.

Between January 2013 and November 2015, loans of the 12 commercial and public financial institutions for the 20 companies in this report totalled €8.3 billion, underwriting of shares and bonds around €25.4 billion and management of shares and bonds €233.5 billion.

Among the FIs analysed in this report, 6 of the 12 are signatories of the UN Global Compact and 5 have officially adopted the Equator Principles. In view of the Carbon Disclosure Project two of the selected FIs have chosen not to sign on as either investor or member signatories (see also table on page 89). CDP investor signatories are better able to meet the UNPRI requirements through access to corporate climate, forest, and water data.

In 2014, the companies analysed in this report earned combined revenues of at least €1,027.0 billion and net profits of more

than €83.3 billion. All of these companies have been cited for either human rights violations, labour rights violations, environmental destruction and/ or irresponsible business practices. Financial institutions (FIs) play a key role in supporting these companies and their activities by providing them with corporate loans, project finance as well as underwriting, and /or managing company shares and bonds. While many financial institutions’ policies, if available, prohibit direct financing of controversial products or projects (e.g., the production of cluster munitions), most do not restrict investment in or financing of the companies that are responsible for these violations. However, by not requiring companies to adhere to international standards in order to receive financial support, FIs quietly condone and benefit from business practices that are in conflict with or breach human and/ or labour rights and environmental regulations.

Among the 12 FIs³ analysed, Allianz, BlackRock, HSBC, State Street Global Advisors and Vanguard were financially connected to all 20 companies investigated in this report, BNP Paribas and Deutsche Bank to 19. This report shows that 11 of the 12 FIs have financial ties to at least one company in each of the following sectors: carbon majors,⁴ weapons,⁵ and pharmaceuticals⁶. One of the FIs, KfW, solely has ties with one weapons company.

Direct Finance (corporate loans and project finance)

The easiest way for companies to obtain capital is to borrow money. In most cases, money is borrowed from commercial banks. The proceeds of these corporate loans and project financings can be used for all activities of the company, thus also including potentially contentious business segments. The top lenders to the controversial companies in this study were HSBC (€2.2 billion), Crédit Agricole (€2.2 billion) and BNP Paribas (€2.1 billion). HSBC financed the ‘Carbon Majors’ with €723.0 million in loans, followed by BNP Paribas (€365.2 million) and Commerzbank (€336.5 million). Crédit Agricole was the top provider of loans to weapons companies with €585 million.

3 Allianz, BlackRock, BNP Paribas, Commerzbank, Crédit Agricole, Deka, Deutsche Bank, HSBC, KfW, State Street Global Advisors, Union Investment, and Vanguard.

4 These are AngloAmerican, ExxonMobil, HeidelbergCement and Total.

5 These are Airbus, Lockheed Martin, Rheinmetall and Rolls-Royce.

6 These are Pfizer and Sanofi.

1 FinanceWatch (2013): Annual Report 2013, p5. www.finance-watch.org

2 See Appendix A, Table 3 on p89

Underwriting of shares and bonds (issuances)

Selling shares and bonds to private and institutional investors is another important way for companies to increase their equity or loan capital. By offering underwriting services, banks ensure that there are sufficient buyers for those shares and bonds and that the companies receive the best possible return on investment. FIs initially take over (all or) part of the newly issued shares or bonds to sell them to other interested investors, thus acting as intermediaries. After the successful placement of the shares or bonds on the market, the FIs as market makers keep them tradable. This requires them to always hold a number of that particular share or bond in order to be able to react to market demands. Compared to other FIs in this analysis, HSBC leads in share and bond underwritings for the selected controversial companies (€9.9 billion), closely followed by Deutsche Bank (€7.9 billion). HSBC was the top underwriter of bonds for ‘Carbon Majors’ with €3.9 billion, Crédit Agricole was the top underwriter of shares and bonds in the weapons companies (€972.3 million) while Deutsche Bank (€1.3 billion) and HSBC (€1.1 billion) were the leading underwriters for the pharmaceutical companies.

Management of shares and bonds (holdings)

While FIs emphasise that it is important to differentiate between investments they make with their own capital versus holdings that are acquired on behalf of clients, they do not provide detailed numbers regarding these transactions, making it difficult to determine their exact level of financial benefit from harmful businesses and operations. Nevertheless, FIs profit from these investments alongside their clients, even if they don’t own the investments, (i.e. through client fees). Furthermore, they facilitate the availability of capital for the companies by keeping their shares and bonds liquid on the financial markets, hence making them more attractive to potential investors. Allianz, BlackRock, HSBC, State Street Global Advisors, and Vanguard managed shares or bonds of every company analysed in this study. Vanguard controls the highest value of combined share and bond holdings in controversial companies with €74.2 billion, closely followed by BlackRock (€73.9 billion) and, far behind, State Street Global Advisors (€50.2 billion). Vanguard is also the top holder of shares and bonds in the ‘Carbon Majors’ (€23.2 billion), while State Street Global Advisors is the top holder of shares and bonds in the weapons companies (€11.2 billion) and BlackRock the top holder in the pharmaceutical companies (€16.7 billion).

Where the money comes from: Financial ties with controversial companies (€ million)

Financial institution	Country	Bondholdings	Shareholdings	Share Issuances	Bond Issuances	Loans
Allianz	Germany	3,429.63	3,562.71			
BlackRock	USA	3,643.01	70,283.95			
BNP Paribas	France	140.74	1,682.01		4,334.16	2,129.34
Commerzbank	Germany	3.60	194.30		513.82	587.20
Crédit Agricole	France	794.29	3,871.66	760.00	1,983.70	2,154.55
Deka	Germany	162.81	1,556.20			
Deutsche Bank	Germany	877.77	9,093.66		7,871.76	1,135.73
HSBC	UK	174.57	2,339.24		9,915.09	2,198.95
KfW*	Germany		5,439.69			
State Street Global Advisors	USA	236.88	49,929.51			101.66
Union Investment	Germany	332.95	1,470.33			
Vanguard	USA	4,475.73	69,766.83			
Totals		14,271.96	219,190.08	760.00	24,618.53	8,307.43

The full data table is available here: www.facing-finance.org

* For the Federal Republic of Germany

Harmful Investments

Deutsche Bank AG

Financial Information (in € million):

	2014	2013
Net Revenue	34,667	34,488
Profit after Tax	1,691	681
Total Assets	1,708,703	1,611,400
Assets under Management	1,205,000	1,330,000

Date and currency of company report: 31.12.2014, EUR (data derived from Bloomberg)

Largest financial transactions (in € mln):

Loans:

Sanofi	250.00
Nestlé	233.43
Alstom	230.77
HeidelbergCement	157.89
Motorola Solutions	123.51

Underwritings of Bonds:

Verizon Communications	1,899.71
Coca-Cola	1,758.58
Total	1,680.17
Sanofi	672.69
Pfizer	623.52

Management of S/B:

Nestlé	1,822.03
Pfizer	1,338.12
Verizon Communications	1,233.08
Sanofi	900.32
ExxonMobil	899.21

Deutsche Bank is the largest German bank and offers a range of financial services including retail, corporate, and investment banking as well as asset and wealth management worldwide.¹ The bank is a participant of the UN Global Compact (UNGC) and, through its asset management subsidiary Deutsche Asset and Wealth Management (DeAWM) it is a member of the UN Principles for Responsible Investment. Both Deutsche Bank and DeAWM are members of the Carbon Disclosure Project (CDP).² The financial institution holds €1.2 trillion in assets under management which underlines not only its significant responsibility for the provision of finance through loans and underwritings, but also for its management of the shares and bonds of highly controversial companies.

Yet, despite its claim that “business initiatives with a potentially negative effect on the environment or society are subjected to painstaking scrutiny”³, Deutsche Bank is the top German provider of loans and bond underwritings for the companies investigated in this report, having financial affiliations with 19 of the 20 controversial companies presented herein. Deutsche Bank especially assists these companies through the underwriting of bonds.

- 1 Deutsche Bank (2015): Fact Sheet. www.db.com (Accessed 23.12.2015)
- 2 Deutsche Bank (2015): Corporate Responsibility Report 2014. www.db.com (Accessed 23.12.2015)
- 3 Deutsche Bank (2015): Corporate governance: Taking on responsibility in the banking business. www.db.com (Accessed 15.12.2015)

For instance, Deutsche Bank's massive investments in and financing provided for major carbon emitting companies clearly demonstrate that its commitment to the UNGC, its membership in the CDP and its claim to "take climate change very seriously"⁴ have no measurable impacts on its decision making for financing and investment. Between 2009 and 2014 Deutsche Bank provided 53 billion USD to fossil fuel producing companies and only 5 billion USD to renewable energy companies⁵, making Deutsche Bank the 7th largest financier of fossil fuel companies worldwide.⁶ Deutsche Bank itself claims to "use its market expertise to support the transition to a clean and energy-efficient global economy ... a segment in which Deutsche Bank has already taken a leading role"⁷.

In the run up to the COP21 in Paris, Deutsche Bank joined the "Paris Pledge for Action" for non-state actors which support the Paris agreement⁸, and it made the assertion that "there need to be ... investments in the areas of non-fossil (renewable) energy forms and energy efficiency".⁹ Nevertheless, at the same time Deutsche Bank argues that a "carbon bubble is an unlikely development"¹⁰ considering the lack of commitment by governments and regulators towards a complete divestment from fossil fuels. These contradictory and misleading statements

are complemented by the findings of this report, which show Deutsche Bank provides financial services to Total and ExxonMobil (combined: €1,764 million in underwritings of bonds and €1,599 million in managed shares and bonds) as major carbon emitters in the oil & gas sector, as well as being involved with controversial mining companies such as AngloAmerican (€339 million in managed shares and bonds).¹¹

Besides its involvement in climate damaging companies and their products, Deutsche Bank is also active in a variety of other controversial sectors. It is invested in Nestlé (€233 million in loans, €428 million in underwritings of bonds and €1,822 million in managed shares and bonds) without having an established environmental, social and risk assessment process in place to identify for example, labour issues. This lack of ESG assessment could account for its investment despite the serious issues related to this company, including among others environmental damage and human and labour rights abuses.¹² Notwithstanding, Deutsche Bank does not have publicly available policies for the agricultural and food sector apart from a requirement to "provide a plantation or mill certification plan in accordance with the criteria imposed by the Roundtable on Sustainable Palm Oil (RSPO)"¹³ in order to be eligible for finance. However, despite Nestlé's membership of the RSPO, one of its palm oil suppliers in Malaysia (itself member of the RSPO) has been criticized on the grounds of alleged human trafficking and the violation of basic labour rights. This is complemented by further findings showing Nestlé and its supply chain have been associated with slave labour in the seafood supply chain and child labour in the cocoa supply chain, standing

4 Deutsche Bank (2015): Our energy and climate strategy. www.deutsche-bank.de (Accessed on 23 December 2015)

5 Provision of finance through loans and underwritings.

6 Fair Finance Guide International (2015): Undermining our Future. www.fairfinanceguide.org (Accessed 14.12.2015)

7 Deutsche Bank (2015): Our energy and climate strategy. www.deutsche-bank.de (Accessed 23.12.2015)

8 CISL (2015): Who's joined. www.parispledgeforaction.org (Accessed 08.01.2016)

9 Heymann, E (2015): UN Climate Change Conference in Paris: Between optimism and realism, 26 November. www.dbresearch.de (Accessed 23.12.2015)

10 Heymann, E and Khademi, P (2015): Carbon bubble: Real risk or exaggerated fears?, 27 August. www.dbresearch.de (Accessed 12.12.2015)

11 See company profiles in this report.

12 See company profile for Nestlé on p. 32

13 Deutsche Bank (2015): Monocultural farming / Palm oil. www.db.com (Accessed 15.12.2015)

in stark contrast to Deutsche Bank's claim to "review if clients' actions and decisions have the potential to violate human rights and ... take appropriate action to manage potential risks."¹⁴

Furthermore, Deutsche Bank has provided financial services in significant amounts to the two big drug companies Pfizer and Sanofi since January 2013 (combined: €250 million in loans, 1,296 million in underwritings of bonds and €2,238 million in managed shares and bonds). Both have been in the media for impeding the access to affordable medicines in developing countries besides unethical testing and marketing practices.¹⁵ Furthermore, Sanofi and Pfizer have been involved in cases of widespread corruption and bribery. Even though Deutsche Bank has a policy stating that they "require monthly screening of existing clients against internal and external lists of adverse information, including matters related to ... corruption"¹⁶, there is no clear due diligence process set out which defines consequences for non-compliance with these principles, thus rendering it superfluous.

In addition to that, Deutsche Bank has been providing financial services to companies active in the Occupied Palestinian Territories (OPTs) through loans, bond underwritings and the management of share and bond holdings. Through its financial involvement in Alstom, Coca-Cola, HeidelbergCement and Motorola Solutions (combined €512 million in loans, €2,171 million in underwritings of bonds and €1,285 million in managed shares and bonds), Deutsche Bank financially assists companies breaching international humanitarian law by indirectly supporting the extraction of non-renewable resources in

the OPTs and limiting Palestinians' freedom of movement within their territory.¹⁷

These highly controversial company engagements are complemented by Deutsche Bank's investments in and provision of finance for defence companies such as Airbus, Lockheed Martin, and Rolls-Royce (combined €125 million in underwritings of bonds and €782 million in managed shares and bonds). These companies are supplying weapons to countries violating human rights and/or are involved in the development of Lethal Autonomous Weapons Systems (LAWS) which are the subject of a prohibition process within the United Nations framework.¹⁸ Despite the overwhelming evidence for the harm caused by weapons production and trade, Deutsche Bank has to date no policy regarding its investments in the defense sector. After Deutsche Bank excluded cluster munitions (which included a phase out period) from its financing and investment universe in 2011 due to increasing pressure from civil society organisations, it remains among the few German banks which have not issued limitations on business activities related to the production and trade of other conventional and controversial weapons.¹⁹

These cases demonstrate the urgent need for Deutsche Bank to implement policies regarding human rights, labour rights, environmental protection and other pressing issues. The existing policies are very limited in scope and have no real effect on the bank's financing and investment decisions, thus making Deutsche Bank one of the main laggards in terms of corporate social responsibility.

14 Deutsche Bank (2015): Corporate Responsibility Report 2014, p.34. www.db.com (Accessed 15.12.2015)

15 See company profiles in this report.

16 Deutsche Bank (2015): Corporate Responsibility Report 2014, p.21. www.db.com (Accessed 15.12.2015)

17 See company profiles of Alstom, Coca-Cola, HeidelbergCement, and Motorola Solutions in this report

18 See company profiles of Airbus, Lockheed Martin, Rolls-Royce and Rheinmetall in this report

19 Facing Finance (2016): Die Waffen meiner Bank.

Harmful Investments

HSBC Holdings plc

Financial Information (in € million):

	2014	2013
Net Revenue	48,558	51,456
Profit after Tax	11,655	12,871
Total Assets	2,176,974	1,937,282
Assets under Management	788,430	667,924

Date and currency of company report: 31.12.2014, USD (data derived from Bloomberg)

HSBBC is the world's fifth largest bank and is active in retail, commercial, and private banking as well as providing financial services to governments and multinationals.¹ As one of the few financial institutions presented in this report, HSBC has committed to all major voluntary undertakings of the financial industry, namely the UN Global Compact, the UN Principles for Responsible Investment, the UN Principles for Sustainable Insurance, and the Carbon Disclosure Project.²

HSBC claims to take into account a variety of ESG issues and to engage with customers on these. HSBC notes it will even "end banking relationships with customers when they are unwilling or unable to comply with our standards".³ While the bank was very active in advancing its sustainability policies in 2013 and 2014, there has been no further progress reported in 2015.⁴ Despite these accomplishments, the findings of this report clearly show that there is further need for advancing the scope and implementation of HSBC's existing sustainability policies. HSBC is the biggest financier⁵ of the controversial companies investigated in this report. HSBC is mainly assisting them through loans and underwritings, however, it also holds shares and bonds in all 20 companies investigated in this report, for which the sustainability policies do not apply, as they are not applied to management of shares.⁶

Largest financial transactions (in € mln):

Loans:	
Alstom	930.77
ExxonMobil	544.43
Sanofi	250.00
Nestlé	233.43
Anglo American	178.57

Underwritings of Bonds:	
Coca-Cola	3,513.86
Total	2,187.93
ExxonMobil	1,340.31
Sanofi	807.46
Anglo American	420.00

Management of S/B:	
ExxonMobil	483.48
Verizon Communications	388.56
Coca-Cola	373.83
Pfizer	314.97
Sanofi	229.29

¹ HSBC (2016): Structure and network. www.hsbc.com (Accessed 07.01.2016)

² HSBC (2015): Strategic Report 2014. www.hsbc.com (Accessed 07.01.2016)

³ HSBC (2016): Sustainability – Finance. www.hsbc.com (Accessed 07.01.2016)

⁴ Ibid.

⁵ Providing fresh capital through loans and underwritings.

⁶ HSBC (2014): Introduction to HSBC's sustainability risk policies. www.hsbc.com (Accessed 07.01.2016)

In the run-up to the Paris Climate Conference 2015 (COP21), HSBC has joined around 80 companies declaring that “the private sector has a responsibility to engage actively in global efforts to reduce greenhouse gas emissions, and to help the world move to a low-carbon, climate-resilient economy”⁷. Yet, all commitments that have been made by HSBC merely refer to increasing the financing of renewable energies and sustainable solutions, whereas divestment from fossil fuel companies does not seem to be on the table.⁸ Besides being among the world’s TOP 20 financiers of coal⁹, this report found that HSBC has assisted ExxonMobil and Total, two of the world’s major carbon emitters¹⁰, in acquiring fresh capital through the underwriting of bonds amounting to a total of €3.5 billion (combined) since 2013. In light of this, HSBC’s pledge to commit \$1 billion to a green bond portfolio¹¹ or the amount of €4.9 billion it has been giving to finance renewable energy companies between 2009 and 2014¹² pales in comparison.

HSBC is also indirectly contributing to climate change and environmental destruction by having financial affiliations with the transport and infrastructure company Alstom (€931 million in loans) and the mining companies Anglo-American (€179 million in loans and €420 million in bond underwritings) and Grupo México

(€211 million in bond underwritings). Even though Alstom refocused its business on transport in 2015, moving away from a series of controversial power generation projects it has been involved in, the company still provides infrastructure for coal power stations, thus indirectly contributing to climate change.¹³ AngloAmerican and Grupo México on the other hand are involved in human and labour rights abuses as well as environmentally polluting mining practices.¹⁴ As already criticized in last year’s Dirty Profits Reports, HSBC’s sector policies are insufficient to address some of the most pressing environmental and social issues commonly associated with these sectors, as no clear assessment and monitoring criteria are defined.¹⁵ In its 2011 energy sector policy, which also covers oil and gas exploration and power generation, no limitations are set out regarding environmental and human rights issues other than defining weak limitations for coal-fired power plants, nuclear power plants, and activities regarding oil sands.¹⁶ Also the mining and metals policy fails to define concrete assessment criteria, only declaring that “HSBC has a restricted appetite for supporting individual operating sites where ... tailings storage facilities and waste rock dumps represent a material threat to human life or groundwater”¹⁷. This “restricted appetite”, however, only applies to specific mining projects, thus leaving room for general corporate credits that could ultimately be channelled to the very same projects.

7 World Economic Forum (2015): Open letter from CEOs to world leaders urging climate action, 23 November. <http://agenda.weforum.org> (Accessed 07.01.2016)

8 HSBC (2016): Sustainable Financing. www.hsbc.com (Accessed 07.01.2016)

9 Banktrack et al (2015): The coal test – Where banks stand on climate at COP21. www.banktrack.org (Accessed 07.01.2016)

10 Heede, R (2014): Tracing Anthropogenic Carbon dioxide and methane emissions to fossil fuel and cement producers; *Journal of Climatic change* (vol 122; pg 229-241) January 2014. www.springer.com (Accessed 07.01.2016)

11 HSBC (2015): HSBC commits USD 1 billion to green bond portfolio, 12 November. www.hsbc.com (Accessed 07.01.2016)

12 Fair Finance Guide International (2015): Undermining our Future. www.fairfinanceguide.org (Accessed 14.12.2015)

13 See company profile for Alstom p. 10.

14 See company profiles of AngloAmerican and Grupo México in this report.

15 See investor profile for HSBC in Dirty Profits 3, p. 84–85.

16 HSBC (2011): Energy Sector Policy. www.hsbc.com (Accessed 07.01.2016)

17 HSBC (2007): Mining and Metals Sector Policy. www.hsbc.com (Accessed 07.01.2016)

In general, HSBC's sustainability policies rely very strongly on their clients' membership in industry associations, arguing that "certification demonstrates that a company is taking sustainability concerns seriously"¹⁸. Conversely, Nestlé's RSPO certification could not prevent severe labour and human rights abuses on the palm oil plantations of its suppliers¹⁹, yet HSBC continues to finance the company (€233 million in loans and €227 million in bond underwritings). Also, in the defence sector, HSBC continues to stay active, underwriting bonds for Airbus (€225 million) and Rolls-Royce (€298 million), despite its 2010 commitment to "withdraw progressively from the financing of the manufacture and sale of weapons"²⁰. The Defence Sector policy exempts financial services for customers who are primarily active in the production and sale of arms, however, it does not prohibit financial services for conglomerates that undertake a "mix of weapons, weapon-related or other business"²¹. In reality this would apply to half of the top 100 arms producers, as their military share of sales is 50% or less.²² Indeed, Airbus is the 7th largest arms company by sales, among others contributing to the production of nuclear weapons, the development of unmanned aerial systems and is shareholder of MBDA, the world leader in missile systems with a military share of sales of 100%.²³ Yet, Airbus' defence sales only amount to 18% of its total sales, thus clearly falling under HSBC's threshold of "one third of

turnover"²⁴. The same applies to Rolls-Royce, the 16th largest weapons-producer worldwide, manufacturing engines for military and marine defence which make up 23% of their total sales.²⁵ What is more, the policy only applies to financial services and does not cover the management of shares or bonds. Thus, HSBC holds shares of the biggest arms producer Lockheed Martin and the highly controversial German defence company Rheinmetall worth €29 million and €16 million respectively. This engagement by HSBC with some of the major arms producers worldwide clearly demonstrates the weaknesses of its defence policy and emphasizes the need for further improvements, especially in the context of fast-moving technological progress in military services with the development of unmanned aerial and surveillance systems.

These examples show that HSBC's current policies and its membership of a number of voluntary undertakings clearly do not impact its financing and that the bank is still far from its commitment to actual implementation of responsible banking.

18 HSBC (2016): Forestry and agricultural commodities. www.hsbc.com (Accessed 07.01.2016)

19 See company profile for Nestlé p. 32

20 HSBC (2010): Defence equipment sector policy. www.hsbc.com (Accessed 07.01.2016)

21 HSBC (2010): Defence equipment sector policy. www.hsbc.com (Accessed 07.01.2016)

22 SIPRI (2015): The SIPRI TOP 100 arms-producing and military services companies, 2014. books.sipri.org (Accessed 07.01.2016)

23 See company profile for Airbus p. 9

24 HSBC (2010): Defence equipment sector policy. www.hsbc.com (Accessed 07.01.2016)

25 See company profile for Rolls-Royce p. 38

Harmful Investments

Allianz SE

Financial Information (in € million):

	2014	2013
Net Revenue	32,190	32,508
Profit after Tax	6,603	6,343
Total Assets	805,787	711,079
Assets under Management	1,801,178	1,769,551

Date and currency of company report: 31.12.2014, EUR

Allianz is an international financial services provider and the leading insurer in Germany.¹ It manages assets worth €1,800 billion (of which €1,3 billion are third-party assets) and constitutes (after Deutsche Asset & Wealth Management – Deutsche Bank) the biggest German asset manager presented in this report. The insurer has signed the UN Principles for Responsible Investment, the UN Principles for Sustainable Insurance, the UN Global Compact as well as being an investor member of the Carbon Disclosure Project.²

Allianz pledges that “sustainability is an inherent part of our insurance and asset management business” and that they “have not just discovered sustainability in recent years”.³ Yet, it only published its ESG policies for the management of third-party assets in 2013, finally extending this screening process also to the investment of its own assets in 2014.⁴ Despite these existing frameworks which are supposed to ensure the sustainability of Allianz’ activities as an investor, this report found that Allianz has financial ties with all of the 20 controversial companies investigated in this report, managing a total of €6,992 million in their shares and bonds.

At the end of 2015, Allianz announced it would phase out coal financing in the light of the Paris Climate Conference (COP21). It noted it would be excluding further business with mining companies or electric utilities which derive at least 30% of their revenue / generated

electricity from thermal coal.⁵ The phase-out affects a total of €4,115 million in shares and bonds which are currently invested in coal-based business models.⁶ This is a commendable step, however this only applies to Allianz’ own investments and thus covers a mere 1/3 of all its assets under management, roughly €600 billion. Furthermore, this statement is weakened by the disclaimer that “actual results, performance or events may differ materially”⁷ from these intentions. However, despite being among the first movers in the field of coal divestment, Allianz still counts on other carbon emitting industries such as oil and gas.

This report shows Allianz has significant financial links to some of the major carbon emitting companies such as Exxon and Total (combined: €1,043 million in managed shares and bonds). This remains even more incomprehensible considering that the investor’s ESG approach defines critical criteria such as “inappropriate spill management, response and remediation plans”⁸ as key issue for companies in the oil and gas sector, which are clearly not met by either Total or Exxon.⁹

1 Allianz (2016): At a glance. www.allianz.com (Accessed 06.01.2016)

2 Allianz (2015): Sustainability Report 2014. www.allianz.com (Accessed 06.01.2016)

3 Ibid.

4 Allianz (2016): Our ESG approach. www.allianz.com (Accessed 06.01.2016)

5 Allianz (2016): Sustainability in our own investments. www.allianz.com (Accessed 06.01.2016)

6 Allianz (2016): Climate Protection will become part of core business. www.allianz.com (Accessed 06.01.2016); Allianz claims to divest the concerned shares until March 2016 and not to renew expiring bonds after their maturities.

7 Allianz (2015): Disclaimer – Forward-looking statements. www.allianz.com (Accessed 06.01.2016)

8 See supra note 4

9 See company profiles of Total and ExxonMobil in this report.

Also in the pharmaceuticals sector, Allianz seems to be unable to live up to its own standards. Despite its claim to consider clinical trials as a sensitive business area, where “insufficient evidence of willing consent”¹⁰ is defined as a key concern, Allianz manages shares and bonds for the two large drug companies Sanofi and Pfizer (combined: €1,289 million in managed shares and bonds). Both companies have been criticized and fined for unethical clinical testing practices in Kenya and Nigeria, as part of a bigger industry drive towards conducting contentious drug trials in Africa.¹¹

In the defence sector, Allianz considers arms exports to high-tension areas as controversial, where these are identified the planned investment transaction should be referred to the “appropriate ESG center of competence”¹² for further in-depth assessment according to its ESG screening process. Yet, this report found that Allianz is invested in the defence companies Airbus (including MBDA), Lockheed Martin, Rheinmetall, and Rolls-Royce (combined: €275 million in managed shares and bonds), all of whom are delivering arms to conflict regions, including countries like Saudi-Arabia, Iraq, and Lebanon or have production facilities in these countries forming part of Joint Ventures.¹³

These examples show that the existing ESG screening process is insufficient to ensure that controversial companies such as Total, Exxon, Sanofi, Pfizer and some of the world’s leading defence companies are excluded from the universe of Allianz’ own investments, its asset management for third parties as well as its underwriting activities. In addition to the insufficient enforcement of Allianz’ ESG approach, there are clear gaps which fail to address other sensitive business areas and controversial issues. As an example, Allianz manages shares and bonds of Coca-Cola (€352 million) and Verizon Communications (€3,098 million). Coca-Cola is known for its controversial water management and excessive water extraction¹⁴, yet these potential problems are not addressed by any of the published “Key ESG issues” of Allianz. In addition to that, Verizon Communications is under criticism for its repeated violation of the rights to privacy by providing information to intelligence agencies in the UK and the US.¹⁵ Despite highlighting that “data privacy is crucial”¹⁶ in its own business activities, Allianz holds shares and bonds in a significant amount of Verizon Communications, further highlighting the need for extended ESG screening criteria.

Even though Allianz made some first, very commendable steps to decrease its support for environmentally controversial companies by announcing to phase out of coal-based business models in 2015, this analysis shows that there is room and imperative for further improvements of its ESG policies.

**Largest financial transactions
(in € mln):**

Management of S/B:	
Verizon Communications	3,098.08
Pfizer	1,003.46
Total	564.67
ExxonMobil	478.66
Coca-Cola	352.74

¹⁰ See supra note 4

¹¹ See company profiles of Sanofi and Pfizer in this report.

¹² See supra note 4

¹³ See company profiles of Airbus, Lockheed Martin, Rolls-Royce, and Rheinmetall in this report.

¹⁴ See company profile for Coca-Cola p. 16

¹⁵ See company profile for Verizon Communications p. 46.

¹⁶ See supra note 2

Harmful Investments

Vanguard Group Inc.

Financial Information (in € million):

	2014	2013
Assets under Management	2,550,122.00	1,619,715.90

Date and currency of company report: 31.12.2014, USD (exchange rate as of 31.12.2014/2013, www.oanda.com)

The Vanguard Group offers mutual funds and index funds to approximately 20 million private and institutional investors worldwide.¹ With \$3.1 trillion in assets under management², it is the world's second largest asset manager after BlackRock.³ Unlike its competitor Allianz, Vanguard has not signed the UN Global Compact (see table on page 89). In not signing the UN Principles for Responsible Investment Managers until 2014, Vanguard claims that this step now formalizes its integration of "ESG issues into our existing investment analyses and portfolio ownership practices"⁴. Besides considering ESG factors in the investment analysis, Vanguard also commits to engaging with companies on environmental, social and governance criteria through proxy voting, recognising that its "voice carries considerable weight"⁵.

Apart from Vanguard's commitment to reduce the environmental impact of its direct business operations by reducing energy and water consumption as well as increasing recycling, there is little to no concrete information available on any sustainability criteria that are taken into account in its asset management business.⁶ Arguing that humanitarian, ethical, environmental and social concerns are somehow incompatible with their obligation to maximize returns on behalf of shareholders, Vanguard states that "there may be instances when it is appropriate

to assess, and possibly address, certain social issues"⁷. Yet, no information is available on the exact procedures at Vanguard, making this asset manager one of the least transparent investors investigated in this report. With €74 billion it is the biggest holder of controversial company holdings, holding shares and bonds of all 20 companies presented in this report.

Its largest holding is in ExxonMobil (€20.3 billion in managed shares and bonds), one of the major carbon emitters and climate deniers, who has also been responsible for human rights abuses in the development and operation of its production facilities besides cases of serious environmental contamination.⁸ Holding 6% of Exxon's shares, Vanguard does have a clear responsibility and also ability to influence the company's unethical and harmful business practices. However, Vanguard's 2015 proxy voting reports reveal that the asset manager voted against a shareholder proposal to "adopt quantitative GHG goals for products and operations"⁹ at Exxon. In addition to this, further, human and labour rights violations are associated with Vanguard's second largest holding, Verizon Communications (€13.0 billion in managed shares and bonds). Those are the rights to privacy as well as labour rights, as Verizon has been providing sensitive information to the UK intelligence agency GCHQ and has been tracking user behaviour without consent.¹⁰ Also its involvement in Pfizer (€11.4 billion in managed shares) has to be seen as controversial, as it is

1 Vanguard (2016): Fast facts about Vanguard. about.vanguard.com (Accessed 08.01.2016)

2 Vanguard (2015): 2014. The year in review. institutional.vanguard.com (Accessed 08.01.2016)

3 Kennedy, L (2015): Top 400 Asset Managers 2015 – Global assets top €50trn. www.ipe.com (Accessed 08.01.2016)

4 Vanguard (2015): Vanguard is a signatory to the Principles for Responsible Investment. www.vanguardfrance.fr (Accessed 08.01.2016)

5 Vanguard (2015): Our proxy voting and engagement efforts – an update. about.vanguard.com (Accessed 08.01.2016)

6 Vanguard (2016): Conserving resources. about.vanguard.com (Accessed 08.01.2016)

7 Vanguard (2016): Vanguard's view – social concerns and investing. about.vanguard.com (Accessed 08.01.2016)

8 See company profile for ExxonMobil p. 20

9 Vanguard (2015): Annual reports of proxy voting record of registered management investment companies – e.g., Vanguard 500 Index Fund, Vanguard Total Stock Market Index Fund, Vanguard Institutional Index Fund. about.vanguard.com (Accessed 08.01.2016)

10 See company profile for Verizon Communications p. 46

impeding access to affordable medicine and facing accusations of environmental contamination throughout its supply chain.¹¹ In addition Pfizer and others have been found guilty of off-label promotion and aggressive marketing.¹²

Vanguard's holdings of Inditex (€1.4 billion in managed shares) also profits from violations of human and labour rights. The multinational clothing company has been linked to instances of slave-like employment conditions in its supply chain and refusing to take legal accountability.¹³ Furthermore, the food and beverage companies Coca-Cola and Nestlé constitute considerable holdings of Vanguard (combined: €14.3 billion in managed shares and bonds). These companies are widely criticized due to excessive water extraction and severe human rights violations such as land grabbing and child labour in their supply chains.¹⁴ Added to the above, is the asset manager's involvement in Lockheed Martin (€3.9 billion in managed shares and bonds), the biggest arms-producers worldwide¹⁵. The company is involved in the production of nuclear weapons and in cases of fraudulent lobbying.¹⁶ In this context, Vanguard's vote against a proposed "report on lobbying payments and policy"¹⁷ at the latest Annual Meeting of Lockheed Martin has to be seen as highly controversial and ridicules its statement to "ensure that companies in which our funds invest are subject to the highest standards of corporate governance"¹⁸.

All these investments include, among others, serious human rights abuses, yet Vanguard claims to "have established a formal procedure for all Vanguard funds for identifying and monitoring portfolio companies whose direct involvement in crimes against humanity or patterns of egregious abuses of human rights would warrant engagement or potential divestment"¹⁹. This report clearly shows that the existing measures to ensure proper ESG risk assessment at Vanguard are insufficient to exclude such companies from the investment universe. In the light of several share holdings exceeding 5% of the company's shares, Vanguard should urgently implement and disclose effective ESG principles through an active and serious engagement process with companies classified as controversial. The asset manager has a clear responsibility due to the sheer volume of assets it holds under management, requiring it to stop profiting from unethical, unlawful and irresponsible business practices.

**Largest financial transactions
(in € mln):**

Management of S/B:

ExxonMobil	20,260.27
Verizon Communications	13,022.80
Pfizer	11,389.76
Coca-Cola	9,801.81
Nestlé	4,500.81

¹¹ See company profile for Pfizer p. 34

¹² Facing Finance (2014). Dirty Profits 3, p. 66, December 2014.

¹³ See company profile for Inditex p. 26

¹⁴ See company profiles in this report.

¹⁵ SIPRI (2015): The SIPRI TOP 100 arms-producing and military services companies, 2014. books.sipri.org (Accessed 07.01.2016)

¹⁶ See company profile for Lockheed Martin p. 28

¹⁷ Vanguard (2015): Annual report of proxy voting record of registered management investment companies – Vanguard 500 Index Fund, p.144. about.vanguard.com (Accessed 08.01.2016)

¹⁸ Vanguard (2016): Why character counts. about.vanguard.com (Accessed 08.01.2016)

¹⁹ Vanguard (2016): Vanguard's view – social concerns and investing. about.vanguard.com (Accessed 08.01.2016)

RECOMMEN- DATIONS AND DEMANDS



Blue Bank
© Andreas Wecker

Recommendations and Demands

Financial institutions (FIs) play a pivotal role in ensuring sustainable business not only in their own operations, but also within the varied sectors they choose to finance. By providing financial resources to companies, FIs can be seen to be supporting and encouraging their activities. Where these are harmful this reflects negatively not only on the company but also the financiers. It is clear that FIs through choosing not to support harmful or socially unjust companies can set a precedent for other sectors.¹

Although initiatives which integrate social and environmental sustainability aspects in the financial sector have grown substantially, this report shows that the sector continues to invest in companies that significantly violate environmental and human rights norms and standards. 15 of the 20 companies selected for this report don't even mention the UN Guiding Principles on Business and Human Rights in their corporate communications or CSR online publications.

Hence, this document advocates for binding regulations to eliminate these harmful investments through the application of rigorous policy and due diligence (risk management) processes, as well as strong transparency and accountability commitments within FIs. The following section looks at what governments, regulators and financial institutions can do to limit investments in harmful companies.

For Financial Institutions:

Financial Institutions have habitually been called upon by governments, the public, and investors to take responsibility, not only for the direct impact of their operations, but also for the indirect ones, linked to the projects and operations they finance. It can be seen that the majority of FIs examined in this document have committed to voluntary principles such as the UN Principles for Responsible Investments (PRI), UN Global Compact or Equator Principles. Many FIs also have specific ESG policies related to governance and environmental concerns. The most notable attempt to implement the UN Guiding Principles on Business and Human Rights into FIs own operations, policies, and reporting was undertaken by the "Thun Group". However, significant gaps in bank approaches to human rights remain and their efforts to implement the UN Guiding Principles are at an early stage. In addition to policies and voluntary agreements, there is a vast amount of guidance available on implementing and reporting on ESG in the financial sector, including the Global Reporting Initiative (GRI) Financial Services Sector Supplement, the UNEP FI Guidance as well as sector reports available for purchase through organisations and agencies such as Sustainalytics. Despite all of the available guidance, voluntary guidelines, and internal policies, the Dirty Profits series shows that many large European and other international financial institutions continue to invest in socially and environmentally destructive companies, showing not only a clear lack of implementation, due diligence and compliance, but a clear lack of impetus for change. It becomes increasingly apparent that the industry seeks to follow a "business as usual" approach. It is essential that FIs work with regulators and governments to develop strong human rights and environmental due diligence policies which extend throughout their portfolios, projects and services.

¹ Haskell, H and Berkowitz S (2013): 2013 Sustainability reporting of the Worlds Major Banks; Roberts Environmental Centre. www.claremontmckenna.edu (Accessed 27.01.2016)

Recommendations and Demands

Financial Institutions must:

- ▶ Work with regulators and governments to develop regulations and publicly advocate for more consistent, comprehensive rules governing environmental and human rights considerations in the financial sector.
- ▶ Take a proactive approach to identifying possible non-compliant companies. The new regulations on companies such as the EU directive² for non-financial disclosure³ as well as the voluntary UN Guiding Principles reporting framework for companies will make it easier for FIs to access environmental and human rights information.
- ▶ Apply ESG assessments to new financial decisions as well as existing portfolios. This means that FIs must evaluate, monitor, and regularly assess the companies, countries and projects they finance in relation to human rights and environmental concerns.
- ▶ Enhance transparency of ESG issues, including making public the specific criteria for risk assessment, product-based and conduct-based exclusion of companies.
- ▶ Undertake training initiatives for their staff with regard to human rights and environment, including specific sectoral concerns, related to investment decisions. Those employees with a strong focus on investments/ global business relations i.e 'critical areas' should be given more specific, regular, in-depth environmental and human rights training, including legal compliance. Develop strong leadership on environmental and human rights issues within the organisation.
- ▶ Have robust policies on human rights and environment, preferably showing clear acknowledgement of the UNGP and other relevant norms and standards. These policies must be embedded within the processes of the organisation. There must be a clear internal reporting structure on human rights and environmental issues. In order to address ESG concerns it is not sufficient to only refer to voluntary guidelines.
- ▶ Have clear sectoral policies taking into account the salient issues in each controversial sector as well as specific policies highlighting sectors in which they will not invest. Controversial sectors include but are not limited to: investments in fossil fuels, in particular coal fired energy, mining and the extractive industry, palm oil, and (controversial) weapons manufacture and trade (to conflict regions). FIs should not invest in the nuclear industry (including uranium mining) and should not engage in speculation in food commodities and related investments that affect the global food chain. Some critical areas are shown in the table below.
- ▶ FIs should establish an easy-accessible and effective grievance mechanism for individuals or communities who feel adversely affected.

Where ESG issues arise FIs must resolve not to invest in these companies, or if already invested immediately cease their investments in these companies. Where ESG concerns arise but are not a clear reason for divestment, FIs must engage with these companies and attach relevant conditions to companies operations. Hence, they ensure that the environmental and social concerns are addressed along with clear monitoring and follow up processes.

² A "directive" is a legislative act that sets out a goal that all EU countries must achieve. However, it is up to the individual countries to decide how.

³ European Commission (2014): Non-Financial Reporting; http://ec.europa.eu/finance/index_en.htm (Accessed 25.11.2015)

The following environmental and human rights violations are identified in the Dirty Profits reports as being supported by FIs and therefore merit particular concern:

Manufacture and trade of controversial weapons	<p>Exclude companies that:</p> <ul style="list-style-type: none">▶ Produce key components of weapons that violate fundamental humanitarian principles.▶ Are involved in Life Extension Programs (LEP) for nuclear warheads as they are contrary to government goals and pose a conflict with state obligations.▶ Engage in arms trades with countries in conflict or that do not recognise human rights.▶ Develop or produce LAWS (lethal autonomous weapon systems). <p>Be aware of companies:</p> <ul style="list-style-type: none">▶ Developing, producing, and exporting “riot-control weapons/agents”.
Environmental destruction	<p>Exclude companies that:</p> <ul style="list-style-type: none">▶ Participate in environmental destruction/or refusal to compensate for or restore resultant environmental destruction. This includes logging and deforestation in protected areas, vulnerable areas, or areas that carry High Conservation Value. Furthermore, highly destructive practices such as Mountain Top Removal, oil drilling in the Arctic, Deep Sea Mining and others should be excluded.▶ Massively contribute to climate change through extreme CO₂ and methane emissions
Disrespect for fundamental international labour and human rights	<p>Exclude companies that:</p> <ul style="list-style-type: none">▶ Evidently fail to prevent child labour, forced labour, and discrimination in their supply chains and own business operations.▶ Deny people’s freedom of association, right to collective bargaining, rights to safe and healthy workplace.▶ Violate fundamental humanitarian principles.
Corruption, illegal activities, investment in areas of conflict	<p>Exclude companies that:</p> <ul style="list-style-type: none">▶ Do not fully respect the relevant international laws and standards which provide an internationally accepted agreement for upholding human rights in view of business activities in Israeli settlements in the occupied Palestinian territory.
Tax non compliance	<ul style="list-style-type: none">▶ FIs must not assist companies in tax evasion or avoidance or engage in tax avoidance themselves.
Land rights	<p>Exclude companies that:</p> <ul style="list-style-type: none">▶ Have projects that lead to forced displacements, or that disregard the land or human rights of local communities and /or indigenous people.▶ This is especially relevant in relation to palm oil companies and their role in deforestation, failing to ensure Free Prior and Informed Consent and lack of legal compliance.▶ Specific examples of Land Tenure issues as given on p.58 of this Dirty Profits Report. This includes investments that do not guarantee Free, Prior and informed consent; developments on contested land; violation of human rights.

Advice to Regulators and Governments:

Because little to no information is available through traditional legal channels about negative social and environmental impacts, binding regulations are considered necessary. The binding regulations⁴ on FIs should include the following elements.

- ▶ **Require FIs to take into account ESG issues in their investment processes, active ownership, and all portfolios, products and services.**

ESG principles and assessments should be applied to all products and services throughout the organisation, in particular corporate credits, project finance, share and bond underwritings and asset management. These ESG issues should also be linked to the UN Guiding Principles as well as relevant norms and standards.

- ▶ **Recognise ESG issues as long-term factors contributing to investment returns and portfolio performance.**

Managing ESG risks is not simply about the mitigation of reputational risk but can also be beneficial in identifying threats, improving service and reputation, and increase long-term sustainability.⁵ Regulation and managing ESG risks also makes good commercial sense. Risk analysis incorporating ESG criteria has been proven to be beneficial in terms of long-term financial sustainability and investment returns.⁶ It also means that FIs have a better understanding of the companies they invest in. A methodological process that evaluates risk in relation to diminishing resources and takes into account major global considerations such as climate change, population growth, and human rights and labour issues in the developing world will allow for a more fiscally responsible banking industry and is in line with FIs fiduciary duty.⁷

- ▶ **Governments and Regulators should ensure that pension funds and other state investments are invested sustainably and do not further/profit from climate change or environmental harm.**

- ▶ **Report on how they take these ESG issues into account. BaFin as well as European regulators should strengthen disclosure requirements, requiring FIs to report publicly on how they take ESG into account.**

Directive 2014/95/EU of the European Parliament as regards disclosure of non-financial and diversity information by large public-interest entities will be in place in national law by 6 December 2016. This should be fully and methodically implemented by companies and FIs to ensure that disclosure is robust and fully takes into account significant issues.

- ▶ **Governments must develop national action plans to implement the UN Guiding Principles on Business and Human Rights**

Commercial confidentiality should no longer be a universal excuse to deny stakeholders the information they require. In order for civil society and others to really engage in this matter the first step is increased transparency and reporting of the process surrounding ESG compliance within the major FIs. As there is strong resistance to disclosure of risk management criteria⁸, regulation is critical. FIs should be required to report on for example, names of companies/projects/governments they finance and publish a breakdown of their portfolio by region/sector. The UNGP reporting framework will also apply to FIs but again as a voluntary measure this does not go far enough and the complex nature of FIs processes require specific transparency reporting structures. As the EU commission itself admits in relation to companies: “Transparency leads to better performance”⁹. This is remarkably true for FIs.

There must be clear regulatory oversight of how FIs address human rights and environmental issues in all business relationships. There should be clear performance indicators against which they can be assessed and clear audit process by an independent third party.

4 As a point of clarification: A ‘Regulation’ in EU terminology means that it is a binding legislative act. It must be applied in its entirety across the EU.

5 WWF (2014): Environmental, Social and Governance integration for banks; a guide to starting implementation; August p.14 and p.15: www.wwf.org (Accessed 08.11.2015)

6 Ibid.

7 Danish Institute of Human Rights (2010): Values Added: The challenge of integrating human rights into the financial sector; p.20

8 KPMG (2013): Human rights in the Banking Sector; KPMG Climate Change and Sustainability Services.

9 European Commission (2014): MEMO disclosure of non-financial information by large companies and groups –FAQ; 15 April: www.europa.eu (Accessed 08.11.2015)

Appendix A

Relevant International Norms and Standards

Frequently referenced Norms and Standards

Arms Trade Treaty (ATT)
CCPR General Comment No. 14: Nuclear weapons and the Right to Life
Convention on Cluster Munitions
Equator Principles III
Geneva Conventions (I-IV and additional protocols)
International Covenant on Civil and Political Rights (ICCPR)
International Covenant on Economic, Social and Cultural Rights (ICESCR)
International Labour Organization (ILO) Conventions
OECD Guidelines for Multinational Enterprises
Principles for Sustainable Insurance (PSI)
Report by the Federal Republic of Germany on its Policy on Exports of Conventional Military Equipment May 2015
Roundtable on Sustainable Palm Oil (RSPO) Principles and Criteria for the Production of Sustainable Palm Oil
UN Convention against Corruption (UNCAC)
UN Convention to Combat Desertification
UN Declaration on the Prohibition of the Use of Nuclear and Thermo-Nuclear Weapons
UN Declaration on the Rights of Indigenous Peoples (DRIPS)
UN Framework Convention on Climate Change
UN Global Compact
UN Guiding Principles on Business and Human Rights
UN Human Rights Guidelines for Pharmaceutical Companies in relation to Access to Medicines
UN Principles for Responsible Investment (PRI)
UN Sustainable Development Goals
Universal Declaration of Human Rights
Voluntary Principles on Security and Human Rights

Additional relevant Norms and Standards

Biological and Toxin Weapons Convention
CFS principles for Responsible Investments in Agriculture and Food Systems (CFS RAI)
Chemical Weapons Convention
Children's Rights and Business Principles
Code of Conduct for Business Taxation
Convention on Biological Diversity
Convention on the Elimination of All Forms of Discrimination Against Women
Convention on the Rights of the Child (CRC)
ECOFIN Council's "Code of Conduct for Business Taxation"
IFC Sustainability Framework
Montreal Protocol on Substances that Deplete the Ozone Layer
OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions
Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances 2000 (OPRC-HNC-Protocol)
The Principles for Responsible Agricultural Investment (PRAI)
UN Treaty on the Non-Proliferation of Nuclear Weapons
UNEP FI Principles for Sustainable Insurance
Vienna Convention on the Protection of the Ozone Layer
Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security
WMA Declaration of Helsinki – Ethical principles for medical research involving human subjects
World Commission on Dam's (WCD) report: "Dams and development: A New Framework for Decision-Making"

Descriptions and relevant clauses of these international initiatives are available in the „Norms and Standards“ database at www.facing-finance.org

Appendix A

Table 1

Divestment from Companies

Company	Divesting Entity	Reasons for Exclusion
Alstom SA	ABP**; KLP; Delta Lloyd Asset Management; FDC (Luxembourgian Pension Fund); Columbia University	Environmental issues; Human rights violations; Corruption, bribery; Human rights violations in hydroelectric project (Sudan); Involvement in Sudan
Alstom India Ltd. - Alstom T&D India Ltd.	Pero, Colorado (Colorado Pension Fund); Folksam (Swedish Insurance)	Human rights violations associated with Sudan dam project
Anglo American plc	Church of England**, ABP (Dutch Pension Fund)**; At least 26 educational institutions**; At least 80 faith based organisations**; At least 46 government offices**; At least 4 healthcare organisations including British Medical Association**; 121 philanthropic organisations including Rockefeller fund**; Bendigo Bank**; Hunter Hall Investment Management; NSRC Fund; Approx. 32 Australian Pension Funds**; Calpers; Calstrs	Social policy; Fossil fuels; Coal
Airbus Group SE	Nordea; SPOV; Danske Bank; Norges Bank; ACTIAM; Pension Funds PNO; PFA; PGGM	Nuclear weapons; Weapons
Airbus Group Netherlands	PFZW (Dutch Pension Fund); BPF Schilders	Nuclear weapons; Activities in Syria and Libya
Airbus Group Finance B.V. - Airbus Group N.V. (31 December 2005)	Norwegian Global Pension Fund; KLP (Norwegian Pension Fund); Pensioenfond Horeca & Catering; Ethias (Belgian Insurance Company); FDC (Luxembourgian Pension Fund); Spoorwegpensioenfond (the Netherlands)	Production of nuclear arms
Airbus Group NV	AP7 (Swedish Pension Fund); Achmea; TKP Investments; SPT; Swedbank	Nuclear weapons; Weapons
Coca-Cola Co.	UCA Funds (Coca-Cola Amatil Ltd); Triodos	Alcohol; Animal testing, genetic engineering, human rights
Daewoo International Corp.	PGB; Pensioenfond Horeca Catering; Delta Lloyd Asset Management; Ethias (Belgian Insurance Company); FDC (Luxembourgian Pension Fund); SPT; AP7 (Swedish Pension Fund); Norwegian Global Pension Fund; BPF Schilders; SPT; BPF Schilder	Activities in Burma; Human rights; Violation of human rights; Worst form of child and forced labour in Uzbekistan; Discrimination; Human rights violations in Uzbekistan; Severe environmental damage in Indonesia; Human rights violations in Uzbekistan; Freedom of trade unions and collective action; Violation of labour rights
ExxonMobil Corp.	ABP (Dutch Pension Fund) **; Ethias (Belgian Insurance Company); Stiftung EFZ; Adelaide Bank**; At least 26 educational institutions**; At least 80 faith based organisations**; At least 46 government offices**; At least 4 healthcare organisations including British Medical Association **; 121 philanthropic organisations including Rockefeller fund**; Bendigo Bank**; Hunter Hall Investment Management; NSRC Fund; Approx. 32 Australian Pension Funds**; Triodos	Violation of human rights; Fossil fuels
Grupo México SAB de CV	PGB (Pensiofond); Delta Lloyd Asset Management; Pensioenfond Vervoer (the Netherlands); SPT; BPF Schilder	Labour conflict in Mexico; Labour union conflict in Mexico; Violation of labour rights; Freedom of trade unions and collective action; Violation of labour rights
HeidelbergCement AG	KLP (Norwegian Pension Fund); AP7 (Swedish Pension Fund)	Natural resources in occupied territory on the West Bank; Human rights violations associated with mining in the occupied territory on the West Bank

Company	Divesting Entity	Reasons for Exclusion
Lockheed Martin Corp.	Norges Bank; SPOV; Presbyterian Church USA; Pensioenfond Horeca & Catering; TKP Investments; SPT; Kempen; Menzis; Pensioenfonds Gasunie; Swedbank; Achmea; UWV; BPF Schilders; ATP; PFA; PGGM; ACTIAM; New Zealand Superannuation Fund; Pension Funds PNO Media (Netherlands); GPF (Norwegian Pension Fund); National Pension Reserved Fund Ireland; Danske Bank; KLP (Norwegian Pension Fund); Ethias (Belgian Insurance Company); PKA (Danish Pension Fund); FDC (Luxembourgian Pension Fund); Nykredit (Denmark); Aviva (British Insurance Company); KBC (Belgian bank-insurance group); PME; Spoorwegpensioenfonds (the Netherlands); SEB; Nordea; AP2; AP7 (Swedish Pension Fund); SPMS (Dutch Pension Fund); SNS Asset Management; Royal Bank of Scotland (RBS); Scottish Widows; Fonds de Reserve; Folio Invest; Folksam (Swedish Insurance)	Production of nuclear arms, cluster munitions, nuclear explosive devices, and anti-personnel mines; Nuclear weapons; Weapons; Production of weapon systems used for dispensing cluster munitions and production of nuclear weapons; Cluster weapons; Nuclear weapons, anti-personnel mines, cluster munitions; Production of cluster munitions; Production of cluster munitions and anti-personnel mines; Prohibited weapons; Military Weapons and Firearms
Motorola Solutions Inc.	FDC (Luxembourgian Pension Fund); AP1; AP3; Presbyterian Church USA; AP4; AP2**	Human rights violations in occupied territories (State of Palestine); Surveillance equipment in West Bank; Occupied territories
Nestlé SA	Triodos	Animal testing, environmental damage, factory farming, genetic engineering, labour rights, WHO Code
Rheinmetall AG	Pension Funds PNO; Delta Lloyd; MN Huisfondsen; SPOV; Ethias (Belgian Insurance Company); Pensioenfond Horeca & Catering; PME; Spoorwegpensioenfonds (the Netherlands); ACTIAM; BPMT (Dutch Pension Fund); SPT	nuclear, chemical or biological weapons category; White phosphorus; Cluster munitions producer; Weapons
Rheinmetall Air Defence	Indian Defense Ministry; MN Investment Management; SPMS (Dutch Pension Fund); SNS Asset Management	Political issues / illegal gratifications; Production of white phosphorus; Cluster munitions and anti-personnel mines (F-C policy)
Rolls-Royce Holdings plc	Pension Funds PNO; Pensionfund Horeca & Catering; ACTIAM; Ethias (Belgian Insurance Company); Folio Invest; SNS Asset Management; Achmea; AP7 (Swedish Pension Fund); SPT	Nuclear, chemical or biological weapons category; Nuclear weapons; Weapons; Military Weapons and Firearms
Sanofi SA	Triodos	Animal testing, hazardous substances, genetic engineering
Syngenta AG	Ethos Fund; Triodos	GMOs; Genetic modification of food
Total SA	KLP (Norwegian Pension Fund); Approx. 32 Australian Pension Funds**; AP 1-4 **; ABP**; Adelaide Bank**; At least 26 educational institutions**; At least 80 faith based organisations**; At least 46 government offices**; At least 4 healthcare organisations including British Medical Association **; 121 philanthropic organisations including Rockefeller fund**; Bendigo Bank**; Hunter Hall Investment Management; NSRC Fund; Triodos	Involvement in Western Sahara; Western Sahara; Environmental issues; Fossil fuels

* as of 30.06.2015
** in dialogue
*** only coal mines
**** on monitoring list

A full version of this document including sources can be found online: www.facing-finance.org

Appendix A

Table 2

Company Commitments

	UN Global Compact	UN Guiding Principles on Business and Human Rights (UGPBHR)	Number of OECD Complaints
Airbus Group SE	✓	x	1
Alstom SA	✓	x	x
Anglo American plc	✓	x	2
China Gold International Resources Corp. Ltd.	x	x	1
Coca-Cola Co.	✓	a)	x
Daewoo International Corp.	x	x	3
ExxonMobil Corp.	x	x	1
Grupo México S.A.B de C.V.	x	x	x
HeidelbergCement AG	x	x	x
Industria de Diseño Textil SA	✓	b)	x
Lockheed Martin Corp.	x	x	x
Motorola Solutions Inc.	x	x	x
Nestlé SA	✓	c)	x
Pfizer Inc.	✓	x	x
Rheinmetall AG	x	x	x
Rolls-Royce Holdings plc	x	x	1
Sanofi SA	✓	d)	x
Syngenta AG	✓	e)	x
Total SA	✓	f)	1
Verizon Communications Inc.	x	x	1

a) „In 2011, The Coca-Cola Company formally endorsed the UN Guiding Principles on Business and Human Rights, adopted by UN Human Rights Council in 2011. We have and continue to implement all three of the components that must be put in place in a corporate context under the Principle“ Coca-Cola (nd): Human and Workplace rights. www.coca-cola.com (Accessed on 15.01.2016)

b) “Inditex’s policy for preventing and tackling child labour is integrated with the following international benchmark standards: [...] The United Nations’ Protect, Respect and Remedy Framework’s Governing Principles.” Inditex (nd): Sustainability-Suppliers-Plan for the Prevention and Remedy of Child Labour. www.inditex.com (Accessed on 15.01.2016)

c) “We recognize the human rights responsibilities of business provided by the „UN Guiding Principles for Business and Human Rights”, which are also included in our corporate principles.” Nestlé (nd): Unternehmen-Grundsätze-Soziale Verantwortung. www.nestle.de (Accessed on 15.01.2016)

d) “[...] This project reflects our commitment to the UN Guiding Principles on Business and Human Rights (the Ruggie Principles) and contributes to the duty of due diligence they set forth. It also reflects our full support for the Children’s Rights and Business Principles, which we incorporate into our actions.”

Sanofi (2013): CSR Report 2013, p.3, Gilles Lhernould – Senior Vice President of Corporate Social Responsibility. www.sanofi.de (Accessed on 15.01.2016)

e) “Syngenta is a member of the Global Business Initiative on Human Rights – a coalition of companies working together to develop good practices and sharing experiences as well as outreach in line with the UN Guiding Principles on Business and Human Rights.”

Syngenta (nd): Investor Relations – Business integrity. www.syngenta.com (Accessed on 15.01.2016)

f) „We firmly believe that these Guiding Principles will give businesses a better understanding of their role in the area of human rights.”

Peter Herbel (May 23,2011): Total’s Senior Vice President and General Counsel – Letter to John Ruggie, Our Commitment – Ethics and values – human rights. www.total.com (Accessed on 15.01.2016)

Table 3

Financial Institution Commitments

	UN Global Compact	PRI (Principles for Responsible Investment – Asset Owners)	PRI (Principles for Responsible Investment – Investment Managers)	Equator Principles	PSI (Principles for Sustainable Insurance)	CDP* (Carbon Disclosure Project) Investor Signatory (IS) Investor Member (IM)
Banks						
HSBC Holdings plc	✓	x	✓ (HSBC Global Asset Management)	✓	✓ (HSBC Insurance)	IM (HSBC Holdings plc) IS (HSBC global asset management GmbH and HSBC INKA)
BNP Paribas SA	✓	x	✓ (BNP Paribas Investment Partners and BNP Paribas Real Estate Investment Management France)	✓	x	IS (BNP Paribas investment partners)
Crédit Agricole SA	✓	✓ (Crédit Agricole Assurances)	x	✓ (Crédit Agricole Corporate and Investment Bank)	x	IS
Deutsche Bank AG	✓	x	✓ (Deutsche Asset and Wealth Management)	x	x	IS
Commerzbank AG	✓	x	x	x	x	IS
KfW	x	✓	x	✓ (KfW IPEX-Bank)	x	IS
Asset Managers						
BlackRock Inc.	x	x	✓	x	x	IS / IM
Vanguard Asset Management Ltd.	x	x	✓	x	x	x
State Street Global Advisors	x	x	✓	x	x	x
DekaBank (Asset Manager)	x	x	✓ (Deka Investment GmbH)	✓	x	IS (DekaBank Deutsche Girozentrale)
Allianz SE	✓	x	✓	x	✓	IM
Union Investment	x	x	✓	x	x	IS (Union Asset Management Holding AG)

* For CDP this means they have access to all companies information including forest, water and carbon data. Investor membership shows a greater commitment than Investor signatory due to the amount of access to data and involvement of investee companies. [<https://www.cdp.net/Documents/Brochures/investor-initiatives-brochure-2015.pdf>]

Appendix B

Table 4

Shares and bonds managed by selected financial institutions (€ million)

	Allianz		BlackRock		BNP Paribas		Commerzbank		Crédit Agricole	
	S	B	S	B	S	B	S	B	S	B
Airbus Group SE	197.58	6.85	1,224.23	19.78	71.26	1.05	0.63	3.60	476.82	
Alstom SA	2.87	24.20	105.64	47.50	9.54	25.78			82.26	30.39
Anglo American plc	9.86	109.91	478.33	126.65	177.31	14.20	6.09		5.11	55.97
China Gold International Resources		3.72	2.16	0.53						
The Coca-Cola Company	245.78	106.96	8,894.80	371.31	171.91	6.37	43.49		145.52	497.63
Daewoo International Corp.	0.01		16.36		0.03				2.12	
ExxonMobil Corp.	433.73	44.93	18,680.86	219.36	125.38	0.15	44.31		201.18	14.99
Grupo México S.A.B. de C.V.	0.34	32.56	276.38	29.76	1.45				12.59	0.05
HeidelbergCement AG	16.72	137.35	292.77	130.07	21.82	14.51	0.51		88.10	55.55
Inditex SA	282.33		1,250.88		46.89		0.62		96.32	
Lockheed Martin Corp.	34.33	0.88	3,770.37	109.50	15.06		1.90		30.58	
Motorola Solutions Inc	2.42	65.59	1,091.14	29.39	19.59		2.31		10.07	
Nestlé SA	194.05	16.26	3,869.66	42.02	202.30	4.73			122.15	14.25
Pfizer Inc	700.75	302.71	12,766.96	353.72	77.95	6.29	46.01		175.96	0.35
Rheinmetall AG	13.17	6.00	57.35	7.80	0.85				2.60	0.28
Rolls-Royce Holdings plc	12.06	4.38	702.02	25.95	120.47	0.10				
Sanofi SA	251.95	33.73	3,447.46	166.57	286.88	9.44	1.90		1,133.09	23.12
Syngenta AG	31.03	4.58	765.15	11.68	10.28	2.53			16.82	2.40
Total SA	441.85	122.82	1,938.90	428.48	168.78	24.94	1.82		1,129.83	28.62
Verizon Communications Inc	691.88	2,406.20	10,652.52	1,522.95	154.30	30.66	44.71		140.53	70.70
Number of companies	19	18	20	18	19	13	12	1	18	13
Total amount (€ million)	3,562.71	3,429.63	70,283.95	3,643.01	1,682.01	140.74	194.30	3.60	3,871.66	794.29

S Shares B Bonds

DEKA		Deutsche Bank		HSBC		KfW	State Street Global Advisors			Union Investments		Vanguard	
S	B	S	B	S	B	S	S	B	S	B	S	B	
276.04	5.55	386.97	18.29	27.18	1.85	5,439.69	120.41	4.66	151.20	2.60	781.48	23.31	
0.54	1.31	24.78	1.82	38.02	1.90		0.00	4.70	6.91	25.10	126.48	11.70	
1.82	26.09	115.55	223.22	38.38	10.76		221.48	11.35	0.87	77.82	229.99	25.91	
					1.89		0.15				3.16		
36.95	36.12	569.04	222.02	355.20	18.63		6,223.15	22.95	45.63		9,801.81		
		0.25		0.17			0.01		0.00		12.15		
89.02		896.45	2.77	483.48			13,833.72	22.72	0.59	2.70	19,862.81	397.46	
0.81	1.25	12.29	2.63	29.91	2.99		10.40	3.81	0.36	6.52	261.38	141.01	
114.21	28.60	347.19	48.81	38.92	75.16		15.74	14.73	129.48	56.83	291.77		
81.11		375.88		14.86			117.67		87.69		1,388.42		
0.74		168.43	0.03	29.78			10,582.49	2.97			3,507.33	423.34	
12.71		71.07	0.07	15.43	1.58		522.04	2.64		0.56	679.09	63.11	
217.86	1.20	1,797.18	24.84	142.94	4.40		206.25	4.55	248.75	33.23	4,491.54	9.27	
97.17	0.28	1,337.06	1.06	310.90	4.07		10,035.38		205.75		11,389.76		
36.26		26.47	0.10	16.80			1.14	0.80		23.50	10.06		
12.95		182.03		68.84			489.71	2.21	0.59		28.24	13.29	
264.91	30.57	839.99	60.33	217.53	11.76		397.68	16.87	316.57	6.60	3,812.20	267.64	
34.71	3.50	266.59	15.80	10.28			46.55	0.90	0.00	25.56	763.85	29.74	
193.55	16.83	561.93	137.41	136.83	14.82		383.70	41.67	275.00	29.99	2,372.44		
84.84	11.53	1,114.50	118.57	363.80	24.76		6,721.83	79.35	0.93	41.95	9,952.84	3,069.96	
18	12	19	16	19	13	1	20	16	16	13	20	12	
1,556.20	162.81	9,093.66	877.77	2,339.24	174.57	5,439.69	49,929.51	236.88	1,470.33	332.95	69,766.83	4,475.73	

Appendix B

Table 5

Underwritings of shares and bonds by selected financial institution (€ million)

	BNP Paribas B	Commerzbank B	S	Crédit Agricole B	Deutsche Bank B	HSBC B
Airbus Group SE	225.00	187.50	760.00	62.50	125.00	225.00
Alstom SA						62.50
Anglo American plc	356.50	300.00		450.00		420.00
The Coca-Cola Company	1,419.65			79.45	1,758.58	3,513.86
ExxonMobil Corp.	107.71			44.34	83.87	1,340.31
Grupo México S.A.B. de C.V.						211.03
HeidelbergCement AG	26.32	26.32			151.32	
Lockheed Martin Corp.				149.81		
Motorola Solutions Inc	74.16				261.53	165.88
Nestlé SA	211.50				427.87	226.93
Pfizer Inc	278.94				623.52	289.61
Rolls-Royce Holdings plc	297.92					297.92
Sanofi SA	429.10			486.06	672.69	807.46
Syngenta AG				166.67	187.50	166.67
Total SA	747.15			544.88	1,680.17	2,187.93
Verizon Communications Inc	160.21				1,899.71	
Number of companies	12	3	1	8	11	13
Total amount (€ million)*	4,334.16	513.82	760.00	1,983.70	7,871.76	9,915.09

S Shares B Bonds *Total amounts have been rounded

Table 6

Loans provided by selected financial institutions (€ million)

	BNP Paribas	Commerzbank	Crédit Agricole	Deutsche Bank	HSBC	State Street Global Advisors
Alstom SA	1,130.77	30.77	930.77	230.77	930.77	
Anglo American plc	178.57	178.57	178.57		178.57	
ExxonMobil Corp.					544.43	
HeidelbergCement AG	157.89	157.89		157.89		
Lockheed Martin Corp.			546.52			
Motorola Solutions Inc	61.76			123.51	61.76	
Nestlé SA	181.50	181.50	181.50	233.43	233.43	
Rheinmetall AG	38.46	38.46	38.46	38.46		
Sanofi SA	250.00		250.00	250.00	250.00	
Total SA	28.74		28.74			
Verizon Communications Inc	101.66			101.66		101.66
Number of companies	9	5	7	7	6	1
Total amount (€ million)*	2,129.34	587.20	2,154.55	1,135.73	2,198.95	101.66

*Total amounts have been rounded

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Wastewater in the Rio Doce Brazil, 29.11.2015
In the weeks following the Bento Rodrigues Dam failure, the Rio Doce has carried water contaminated with iron-mining waste 300 miles to its mouth in the Atlantic Ocean.
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