

# Dirty Profits 6



Mining and Extractive Companies:  
Promises and Progress

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### Cover Photo:

Indonesian police stand guard at the open-pit mine of PT Freeport's Grasberg copper and gold mine complex near Timika, in the eastern province of Papua, Indonesia September 19, 2015.

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# Executive Summary

**T**he global extractives industry is heavily involved in some of the worst labour, environmental and human rights violations. The rights of communities, farmers and indigenous people are being trampled in the push for ever more extraction. Indeed all businesses must respect and contribute to the society where they operate, and investors too have a critical role to play, particularly in the current mining upturn.

**In Dirty Profits 6 Facing Finance shows how extractive companies have dealt with human rights and environmental violations shown in Dirty Profits reports since 2012, as well as how selected European banks have reacted to these violations in their provision of finance over time.**

The mining and extractive companies selected were all covered in previous editions of the Dirty Profits report and all have actual violations at their operations, in many cases these violations persist due to the failure of companies to provide remedy. The ten companies cover some of the largest global extractive companies: Anglo American, BHP, Barrick Gold, Eni, Gazprom, Glencore, Goldcorp, Grupo México, Rio Tinto and Vale. All of these companies are illustrated with specific cases of human rights and environmental violations that include for example pollution and harmful waste spills, labour violations and repression of indigenous communities. Five of these ten companies (Glencore, BHP, Rio Tinto, Barrick Gold and Anglo American) were in 2011 already classified as “Most Controversial Mining Companies” by Rep Risk. From a wider environmental standpoint, the extractives industry has a substantial impact on climate change and 7 of 10 companies investigated in this report are responsible for nearly 7,5 % of global industrial GHGs (1988-2015).\*

The ten banks selected cover the largest two banks in each of the following countries: the UK, Germany, France, the Netherlands and Switzerland.\*\*

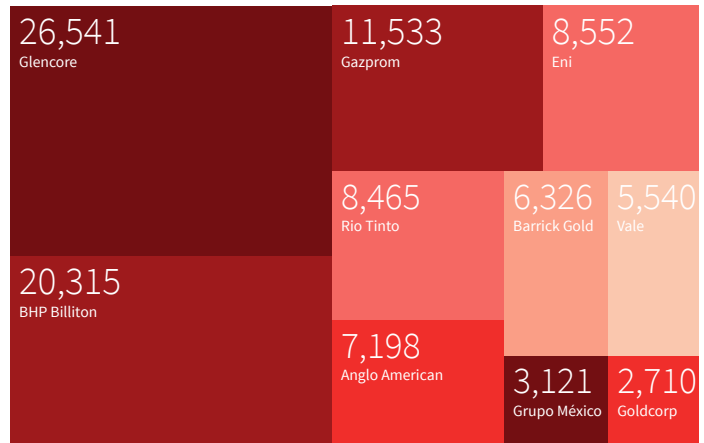
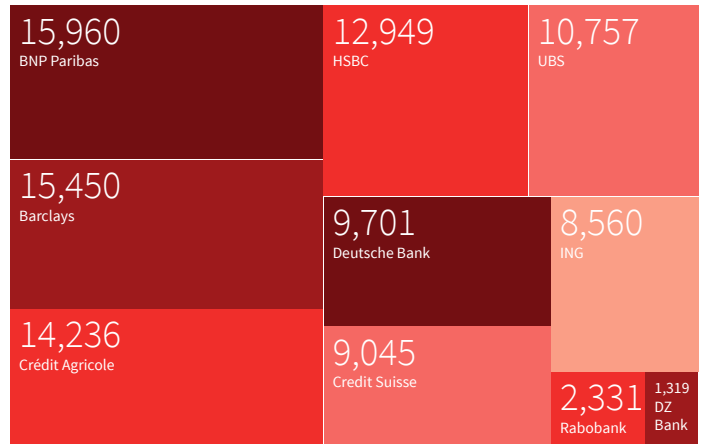
The results show that banks have continued to invest in destructive mining companies, despite knowledge of violations (as investigated by NGOs including Facing Finance). **Over €100 billion has been provided by the ten banks through capital provision (loans, equities and bonds) to the ten companies over the period 2010–2017 and nine banks have current shareholdings totalling €6.9 billion. In total BNP Paribas (€15.9 billion) and Barclays (€15.4 billion), closely followed by Crédit Agricole (€14.2 billion), were the largest providers of capital to the companies over the seven year period (See diagram 1 and 2). Rabobank and DZ have the lowest investments over time and Rabobank has no shareholdings in any of the extractive companies. UBS (€2.2 billion) and Deutsche Bank (€1.5 billion) have the highest current shareholdings in the companies.**

\* This information in the report has largely been gathered by NGOs in the countries of operation – including Russia, Guatemala, Nigeria, Mexico and Madagascar.

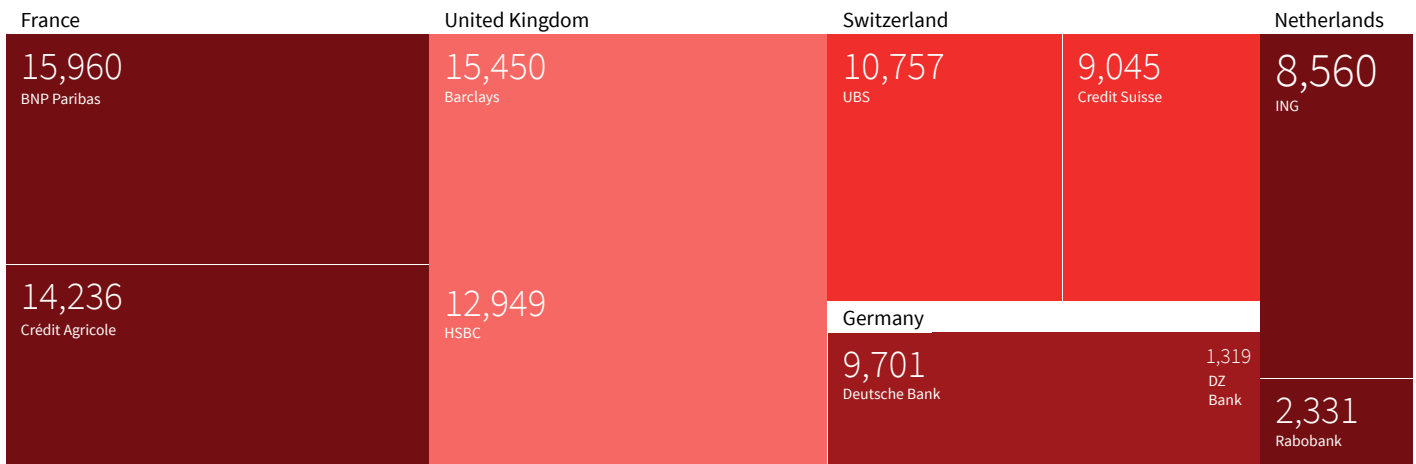
\*\* HSBC and Barclays, UBS and Credit Suisse, DZ Bank, Deutsche Bank, BNP Paribas and Crédit Agricole, ING and Rabobank.

**Diagram 1 and 2:**  
**Capital provided by banks to companies over the period 2010-2017 in € millions**  
**(by bank and by company, rounded to nearest million)**

When analysing by country: The research also shows that the top two French banks provided the highest amount of capital provision to harmful extractive companies over the period, with the UK banks coming in second. The Netherlands had the lowest amounts, particularly Rabobank.



**Diagram 3:**  
**Capital provision 2010-2017 in € millions by Country.**  
**(rounded to nearest million)**



The violations committed by companies covered in the report are varied, however, a significant issue emerging from previous cases is the lack of remedy provided by companies to those affected. Conflict over water and land rights too are significant. Additionally, companies seem to attempt to evade their responsibilities via the sale of troublesome mine assets, Rio Tinto for example has sold off at least two of the five mines that Facing Finance reported on in relation to human rights and environmental violations, without rectifying either the environmental damage or providing remedy for communities affected. Some examples of funding provided by the ten banks to the companies include:

- Since 2012 Facing Finance has reported on violations at Barrick Gold's operations (including environmental damage, riverine tailings disposal and use of excessive force by security personnel). Facing Finance directly notified the banks UBS, BNP Paribas, Deutsche Bank and HSBC of these concerns each year since 2014. Yet all four of these banks still hold shares in Barrick Gold to the value of €168 million. In addition HSBC, UBS and BNP Paribas have over the seven year period provided capital of over €1 billion each to the company. And since 2014 the three banks have each given €369 million Euro.
- Gazprom, despite being the third highest global carbon emitter, operating oil rigs in the Arctic, and being responsible for various oil spills in the Arctic tundra of Russia, has received capital every year since 2010 from Deutsche Bank – totalling over €2 billion Euros. Facing Finance has reported on violations by Gazprom since 2013 and there is increasing evidence that the company has violated the right to Free, Prior and Informed Consent of indigenous people.
- The company Samarco Mineração (jointly owned by BHP and Vale) was responsible for the worst environmental catastrophe in the history of Brazil when its tailings dam broke in Minas Gerais, Brazil in November 2015. General corporate finance was still provided directly to the company despite apparent evidence that the dam was not being well managed. BNP Paribas and HSBC provided loans to and issued bonds of Samarco Mineração SA (Samarco) between 2011 and 2014 totalling €537 million.
- In the case of Grupo México which Facing Finance reported on in 2016, mine waste flooded rivers and contaminated land and water in Sonora State, Mexico. At numerous mines serious labour violations have been reported. Since 2016 no banks have provided capital to the company, however, as most banks still have shareholdings in the company this is likely not a case where banks have taken an ethical stance.

This report shows that most European banks are not doing enough – on the whole they do not disclose how they are encouraging extractive companies to improve their human rights and environmental performance, nor are they willing to communicate their methods or specific red lines for exclusion. In our survey of the 10 banks covered in this report, BNP Paribas and HSBC are among the few banks that publish information on their engagement activities, but they do so only on an exemplary and anonymized level. In this case, Rabobank's reporting on engagement clearly constitutes the best example among the respondents, as the bank details the industry and region as well as a description of the issue, its type (social, environmental, governance) and the status of the engagement for all engagement processes, where the sustainability department was involved.<sup>1</sup> None of the banks covered in this report were willing to provide a detailed specific answer to the question of whether they had engaged with any of the extractive companies in this report. This results in banks continuing to pour funds into extractive companies with well documented human rights and environmental abuses. Investors are being protected, but human rights and the environment are not.

The Dirty Profits extractives report highlights that there is a crying lack of transparency about the finance industry's actual engagement and actions taken with regard to harmful companies, which means that we know practically nothing about the rationale for where monies are invested. This is a scandal and the finance industry is facing increasing calls to do something about it.

This report shows too, the long timescale and the significant effort it takes for the provision of remedy once violations have occurred. Victims of human rights abuses have the right to effective remedy, as specified for example in articles 2.3 and 14 of the International Covenant on Civil & Political Rights and pillar three of the UN Guiding Principles on Business and Human Rights. Both states and companies are responsible in ensuring that there are mechanisms in place which provide access to remedy. A sustainable future is possible in the mining and extractive industry, but the industry cannot move forward without remedying the sins of its past. This report comes at time when the mining industry is booming, the LME index is at its highest since 2014, with copper and iron ore seeing huge gains. Mining companies are increasing their profits but the communities impacted by mining remain subject to the contamination of their land, water and air, continue to be silenced by violence, threats and intimidation, and they still fight for just a small piece of the wealth.



Carajas iron ore mine in Brazil.  
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# Introduction to the Extractive Sector and Human Rights Violations

*“The extractive sector is unique because no other sector has as enormous and as intrusive a social and environmental footprint.”*

February 2006, Professor John Ruggie,  
UN Special Representative on Human Rights  
and Transnational Enterprises (TNCs)

The adjacent quote by John Ruggie in 2006 was made during the development of the UN Guiding Principles on Business and Human Rights adopted in 2011. He also noted that “The extractive industries also account for most allegations of the worst abuses, up to and including complicity in crimes against humanity. These are typically for acts committed by public and private security forces protecting company assets and property; large-scale corruption; violations of labour rights; and a broad array of abuses in relation to local communities, especially indigenous people.” Since 2011 a global framework for human rights has been implemented in the form of the UN Guiding Principles based on the three pillars of ‘Protect, Respect and Remedy’. In addition, a number of sector specific guidelines, commitments (See Appendix 1) and overarching international laws exist. The mining, metals and extractive sector has continued over the years to have one of the highest rates of severe human rights and environmental violations, in 2017 the sector ranked second highest (after banks) on the Vigeo Eiris industry ranking in number of controversies, this is also supported by current Sustainalytics research<sup>2</sup>. Investigations by Global Witness show that the mining and extractive sector was linked to the highest number of killings of environmental activists in 2017.<sup>3</sup> Additionally, a recent report by Misereor also shows that almost a third of all business related human rights complaints worldwide are associated with the raw material and energy sector. Large projects in particular often cause relocations, the destruction of livelihoods and the suppression of protests.<sup>4</sup> In preventing and remedying these violations, governments, corporations and investors have a role to play.

From a wider environmental standpoint, the extractive industry has a substantial impact on climate change through its carbon emissions. The fossil fuel industry and its products accounted for 91% of global industrial greenhouse gas emissions (GHGs) in 2015, and about 70% of all anthropogenic GHG emissions. 7 of 10 companies investigated in this report are responsible for nearly 75 % of these global industrial GHGs (1988–2015).<sup>5</sup>

**In this Dirty Profits 6 report Facing Finance has sought to illustrate how extractive companies have dealt with the evidence of violations shown in previous Dirty Profits reports since 2012, as well as how banks have reacted to these violations in the provision of finance.**

The products of mining are something that we all rely on for our daily lives, from our smartphone to our cars, to the whitening agent in our toothpaste. It is an undeniable fact that the world we live in relies on minerals and metals, but all too often these are linked to devastating environmental and human rights consequences, particularly in countries of the South. This report evidences case studies where the rights of indigenous peoples, their land rights and right to resettlement and compensation were disregarded; where access to water and fair water distribution was violated – the impact of water extraction and water pollution was a significant area of conflict between mines and communities in all regions and is expected to get worse<sup>6</sup>; and where communities face violent repression when speaking up against mining. In addition, oil spills in the extractive industry were significant, mine waste tailings and the risk posed by mine tailings dams and potential tailings spills has become increasingly concerning. A further concern was the mining of mineral resources, oil and gas in sensitive ecosystems for example in the Arctic or near fragile coral reef systems.

It is not just the large global mining companies covered in this report, but also small-scale mining, illegal mining, and state-owned entities that seek to profit from lucrative minerals, and in the process, are responsible for devastating the environment and trampling communities' rights. Mining can be undertaken responsibly, through increased transparency, better reporting, investing in communities in the long term and reducing waste as well as ensuring the host communities and countries benefit from the impacts of extraction<sup>7</sup>. Also, alternatives to large scale mining exist and can be set up in agreement with local populations. The actual costs of mitigating social and environmental risks is not expensive, and by one estimate from the Inter-American Development Bank, adds just 1% to a company's total costs.<sup>8</sup>

Banks too have an important role to play in this, the costs of implementing mitigation measures is not high, but the boom and bust cycles of the mining industry and the long-term nature of mining projects seemingly prevent mining companies from taking these steps. Banks and financial institutions can and should work to push sustainability measures forward in this sector. It is important to note that (in accordance also with what has always been applied in all Dirty Profits Reports) the UNGPs apply to all business enterprises, including commercial banks and other entities in the financial sector, regardless of "size, sector, operational context, ownership and structure". Equally, they apply to any company or commercial vehicle from any other sector that may be a client of, or enter into a business relationship with, a bank.<sup>9</sup> This firmly places banks in the role of applying the UNGPs and in order to achieve this, banks must have in place policies and practices to protect human rights and must apply these rigorously.

Mining needs to be done in a radically different way if it is to combat its negative image, provide for the green economy, including electric vehicles and renewable energy, and be an industry which survives the boom and bust cycles. According to the World Economic Forum the mining sector is "uniquely positioned to contribute to the transition to a sustainable world"<sup>10</sup> but to do this a substantial improvement in respecting human rights and environmental protections is required, and this report highlights where serious concerns arise.

***The role of investors cannot be underplayed in the extractive industry, they have a critical role in ensuring that the projects they invest in do not cause harm to society or the environment.***



# Methodology

## **E**xtractive company selection:

To select extractive companies for this “Dirty Profits revisited” edition, research was undertaken on all the mining and extractive companies and projects previously covered in the Dirty Profits Reports 1-5. Extractives are defined as “any processes that involve the extraction of raw materials from the earth to be used by consumers.”

## Project level:

The mines and projects were each investigated to evaluate progress on previous human rights, environmental and labour concerns. Where mines had been sold\* these were evaluated on a case by case basis; where mines had been closed, any previously covered issues were evaluated. For cases where no new evidence or information was available, it was not possible to evaluate whether this was due to the resolution of previous issues, or due to the lack of reporting. To eliminate uncertainties, these cases were removed from the analysis. In addition, companies that did not fit the profile in relation to the selected financiers and investors, were removed. This was for example the case for primarily state-owned companies such as Coal India. The remaining cases were included in the selection and further researched. Where information is available, updates are given on each of the previously covered cases in the company profile. A specific case study has also been highlighted which has been drafted in collaboration with organisations closely linked to the case to ensure first-hand and up-to-date information is presented wherever possible.

The methodology above sought to remove the cases that were resolved as they would no longer be considered “Dirty Profits”. Research was undertaken to evaluate whether any of the previously covered cases had been resolved. However, using our definition of resolved\*\*, few of the cases met these standards.

## Company level:

In a separate evaluation at the company level, all mining companies from previous Dirty Profits reports (excluding those that did not have sufficient financial links to the selected financiers) were evaluated based on their results in the Corporate Human Rights Benchmark, information provided by ratings agencies such as Arabesque and RepRisk, the number of exclusion lists the company appeared on, and the number of Dirty Profits reports the company had appeared in. Those companies with lower scores/appearances were then overlapped with the project list from the project assessment to finalize the selection to ten extractives companies.

All companies with links to the selected European banks were sent letters asking them to detail what progress had been made on existing cases. Responses were received from BHP, Cerréjon, Glencore and Vale.

All information related to company violations is sourced from NGO reports, news articles, investigative journalists, lawsuits as well as partner NGOs on the ground in the country of operation.

## **In Financial Institution Selection:**

For the selection of Financial Institutions, the Global Financial Centres Index 2016<sup>11</sup> was used. The top five European financial centres were selected (removing Ireland and Luxembourg as they have no large own banks). The top two banks of these five countries were selected resulting in the following list.

UK: HSBC and Barclays<sup>12</sup>

Switzerland: UBS and Credit Suisse<sup>13</sup>

Germany: DZ Bank, Deutsche Bank<sup>14</sup>

France: BNP Paribas and Crédit Agricole<sup>15</sup>

Netherlands: ING and Rabobank<sup>16</sup>

\* A note to sold mines: sold mines do not absolve the company of responsibility in relation to human rights and environmental violations. Violations are the responsibility of the company in charge at the time of the violations. However there are different approaches for spin offs, mergers, acquisitions and project sales as well as different approaches for actual or potential human rights violations. Sold mines were therefore on the whole not evaluated in this publication.

\*\* Definition of “resolved” : the communities have been compensated for any violation and any environmental damage caused has been rectified. Damages have been allocated by a court if necessary. A channel is available for any potential future complaints by victims or other stakeholders, for damages or health problems that have not yet materialized.

### **In undertaking the Financial Assessment:**

Data was extracted from the ThomsonEikon database in relation to loans, bond and share underwritings and shareholdings for the selected companies and banks over the period 2010 – September 2017. The period 2010 to 2017 was selected to show 2010 and 2011 as a baseline and to establish what banks did post publication in 2012. The financial data that is extracted is not all financial information, but only that which the database holds. Shareholdings are as at 27 September 2017.

Where a syndicate of banks provided financing, but a breakdown of each bank's contribution was not provided, the amount was divided evenly by the number of banks. Often underwritings of shares and bonds were also based on similar estimations due to a lack of detailed data.

#### Loans:

Where loans are provided for project finance, all loans allocated as general corporate purpose that are linked to the company are included. All other loans have been reviewed and investigated. Those loans that do not relate to the activity of the company being investigated in this report are excluded. Therefore project finance not related to the extraction, production, refining, and other activities related to oil, gas, and minerals, metals and mining are not included in this review. This has been applied where information and detail is provided on the destination of allocated funds.

Where two companies are involved in the same mining project and funds were provided directly to the project, and both these companies are included in this report, the funds have been divided equally for the participating companies. This is done to avoid double counting in the totals. For example, where funds are provided to Samarco Mineração, owned jointly by BHP and Vale, the funds provided are divided equally between BHP and Vale in the assessment tables. This means that also deals are included, where the company only owns a small share of the company financed (e.g. Eni's 10% ownership in Nigeria LNG)

This does not signify that all assets in relation to the activity have necessarily been directly involved in violating human rights but instead indirectly.

#### Policy Analysis:

In addition, a survey was conducted to give the above banks the possibility to present their policies and general approach to the extractive industry. Six of the ten selected banks responded to the survey. The survey aimed at evaluating changes in European banks' policies in response to violations of mining and extractive companies documented by Facing Finance and others. It covered the banks' processes in relation to the potential and actual environmental, social and governance (ESG) risks of the extractives industry in general, as well as measures taken concerning the concrete cases of the 10 mining companies detailed in this report. While the survey was designed to give banks the opportunity to provide as little or as much information as they were willing or able to provide – taking into account the often-mentioned constraints of client confidentiality – only 6 of the 10 banks responded.\* The survey questions can be viewed in Appendix 2. The results of the survey have been used variously throughout the report. Response rates to the survey were low and therefore the results of the survey should be viewed with some caution as the representative sample is incredibly small. Among the banks interviewed, BNP Paribas and Rabobank provided most information, closely followed by HSBC and Credit Suisse. The German banks DZ and Deutsche Bank however remain comparatively elusive regarding their ESG screening procedures and engagement processes with the extractives industries.

\* These are: HSBC (UK), Credit Suisse (Switzerland), BNP Paribas (France), Rabobank (Netherlands) and Deutsche

### What type of finance is covered and why?

#### 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 in the form of corporate loans or project financings. The proceeds of these corporate loans are usually declared for ‘general corporate purposes’ and can therefore be used for all activities of the company, thus also including potentially contentious business segments.

#### 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.

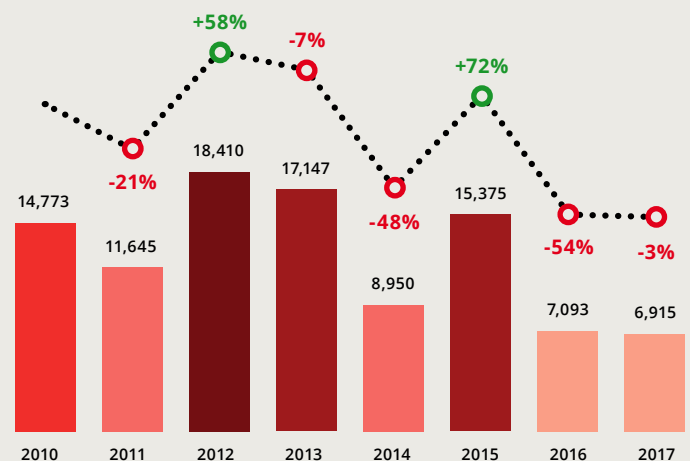
#### Management of shares (holdings)

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 benefit 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. Even more importantly, FIs (can) have a significant influence on companies as large-scale shareholders, granting them the right to vote and act as socially responsible investors.

#### A note to trends: Trends in capital provision over time

When evaluating the capital provision by all banks to all companies over the period it shows quite clearly the volatility of the extractives sector. The provision of loans, bonds and equities varies wildly over time. The results of the financial data shows the boom and bust cycles in the metals and mining commodities market. For example, coal prices plummeted in 2013 then “after a decade-long boom, other commodities—including gold, nickel, iron ore—followed thermal and coking coal down the shaft”.<sup>17</sup> This was predominantly due to the slowing Chinese economy and reduced demand. This last bust cycle was particularly extreme and began picking up again in late 2016. The mining industry is highly cyclical and has a history of large swings in price. Obviously as prices change miners become correspondingly more or less competitive and consequently banks willingness to provide capital fluctuates. Therefore the data for mining companies that this report shows over the last ten years cannot clearly identify the grounds on which banks increased or decreased their investments, and cannot therefore identify whether it is down to improved ESG policies.

It is also worth noting that the mining sector is now in a dramatic upswing with mining companies again making record profits. Rio Tinto, BHP, Glencore and Anglo American have all reported soaring profits in the first quarter of 2018.<sup>18</sup>



Graph showing provision of capital by all ten selected banks to all ten extractive companies by year, 2010-2017

# Digging Deeper: Mining Company Commitments

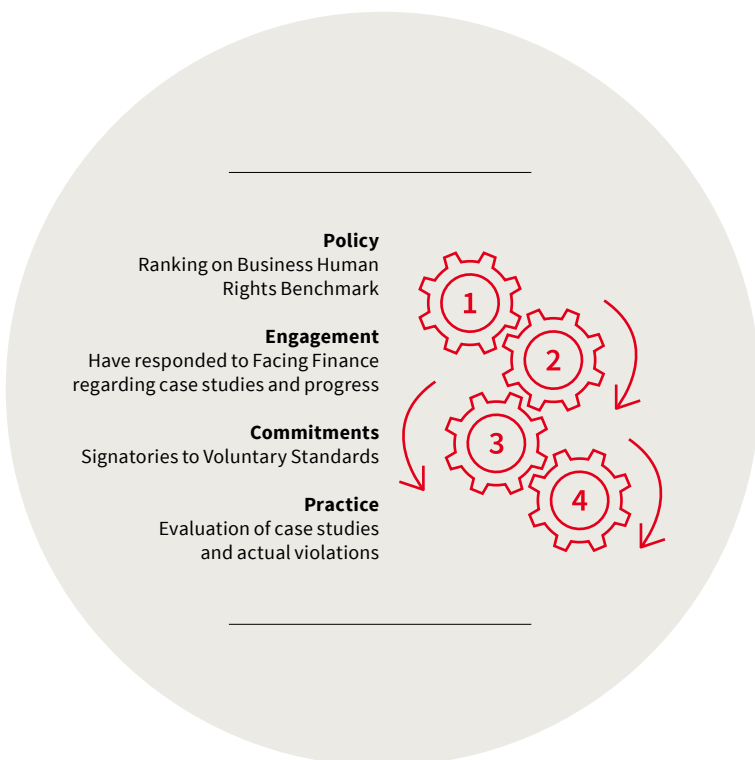
In addition to the direct evidence on the ground showing violations (covered in this document through the case studies) other factors also contribute to whether a company is seen to be committed to human rights and environmental concerns. Results from our survey of the selected international banks covered in this report (see Appendix 2), make it clear that the majority of banks also look at the sustainability policies of companies, as this goes hand in hand with outcomes on the ground. 83% of the banks that responded to our survey noted that they look at both policy and practice, although on the whole practice is given more consideration.

In this regard, this section looks at three further criteria, in addition to the company case studies, to further clarify companies' commitment to upholding human rights.

Performance on the criteria below is used to divide companies into three categories:

- ✗ **The Pits: Extremely poor performers**  
Both policies and practice are extremely poor, there has been no response to Facing Finance about allegations, limited commitment to voluntary agreements, and severe bad practice examples. Grupo México, Gazprom, Barrick Gold, Goldcorp, Eni.
- ✗ **Undermined: Bad all-rounders**  
fulfill some but not all of the requirements. Including for example: middle of the road policies, some commitments to voluntary standards, or no engagement as well as severe cases of violations. Rio Tinto (no response, average policies), Anglo American (no response), Glencore (poor human rights policies), Vale (limited commitments, poor policies)
- ✗ **Miner Threat: Poor in Practice**  
Good human rights policies, have made strong voluntary commitments, have engaged with Facing Finance. In practice have severe examples of violations. BHP Billiton.

This provides a clearer picture as how much the company has to rectify within its own operations. However, this does not diminish in any way the severity of the cases shown and the impacts of those companies on the ground.



**The Role of Banks:**

The results of the financial data as shown below indicate that banks have provided financings to companies in all the categories, including the lowest category, The Pits, where commitments to human rights and environment are exceptionally poor. Additionally this has continued to occur, including in this past year (Eni and Gazprom are two companies in the lowest category that have received funds in 2017).

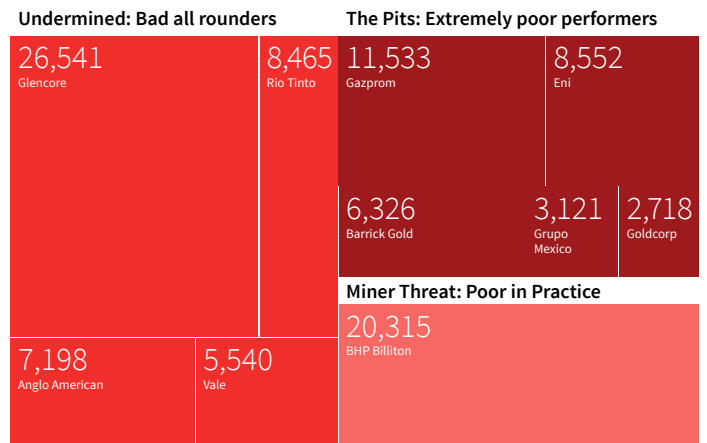
Over the full period of 7 years, the largest financiers of the lowest ranked companies were Crédit Agricole and HSBC. BNP Paribas was the largest financier of all the extractive companies over time. Rabobank was the lowest provider of capital to the category “The pits”.

In 2017 Credit Agricole gave the largest loans to the companies in the two lowest categories, followed by BNP Paribas and Deutsche Bank. In total since 2010 over €32 billion has been provided in capital to the companies in the lowest ranking group.

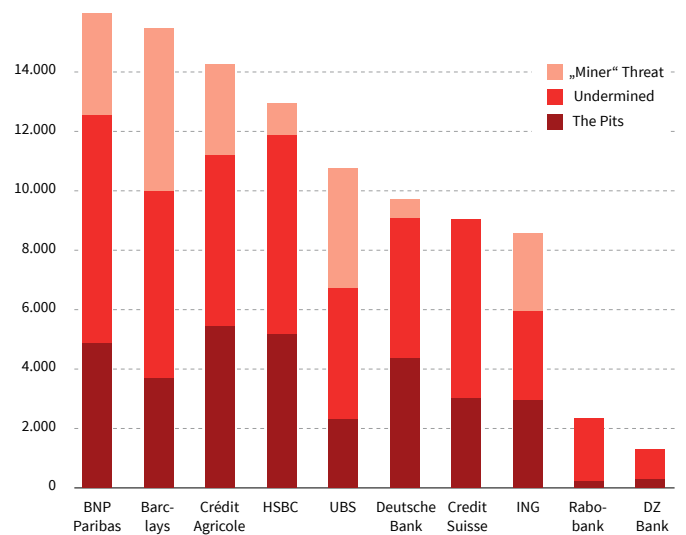
€47 billion has been provided to the middle group of companies, the majority of which was provided to the Swiss multinational, Glencore.

Only one company falls into the higher group, BHP. Over €20 billion over 7 years was provided to the company, despite serious bad practice examples. BHP shows a concerning lack of due diligence – particularly as BHP has been involved in the Cerrejón coal mine for the entire period covered in this report.

**Diagram 5:**  
Capital provided by Facing Finance Category  
2010–2017 (in € millions)



**Diagram 6:**  
Finance provided 2010–2017 by banks to each category  
(in € millions)

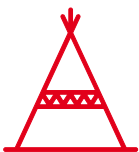


# International Norms and Standards and their relevance to extractives

**The extractive industry can have wide reaching negative implications for the surrounding environment and communities. There are therefore not only legal instruments available to ensure protection but also soft law or internationally agreed norms and standards.**

In our survey of banks (See Appendix 2) all of the banks that responded claim to have based their ESG policy for the extractive industry on the UN Guiding Principles on Business and Human Rights, closely followed by other standards and initiatives such as the OECD Guidelines for Multinational Enterprises, the International Council on Mining and Metals (ICMM), the Voluntary Principles on Security and Human Rights (VPs), and the Extractive Industries Transparency Initiative (EITI). Also very specific initiatives such as the Kimberley Process for diamonds and the International Cyanide Management Code regarding gold mining are frequently taken into account when selecting or engaging with clients.

The below details some specific issues of concern in the mining and extractives sector and some corresponding selected norms and international regulations.



## Indigenous Peoples' Rights:

Free, Prior and Informed Consent (FPIC) refers to the rights of indigenous peoples to have a say over what happens to their land and natural resources. Indigenous peoples are recognised to have a close relationship with the land that they reside on and the natural world. It is recognised that they may have wider areas where they hunt, fish and gather medicinal plants. Their land is also often

closely linked to spiritual and cultural identity. Oil extraction, mining and other infrastructure projects can result in forced resettlement or disturb the natural environment with often drastic impacts on indigenous peoples. Indigenous peoples have suffered disproportionately from natural resource extraction and this has been recognised at various levels such as the UN.

The UN Declaration on the Rights of Indigenous Peoples (UNDRIP), the International Labour Organisation's Convention on Indigenous and Tribal Peoples (ILO 169), and The Convention on Biological Diversity all include the right of indigenous peoples to Free, Prior and Informed Consent. These conventions are dependent on ratification by member countries. According to the World Resources Institute Landmark mapping project, countries like Peru, Colombia and the Philippines are all considered to have strong FPIC instruments.

The right to FPIC means that indigenous peoples have the right to adequate information, provided well in advance of commencement of operations. It must be free of manipulation and coercion and include all relevant specific details. The decisive element is consent. Without consent, the self-determination of indigenous peoples would be put into question and there would be no means for them to protect their land and resources. There are additional mechanisms which allow all communities impacted by development the right to be informed and consulted, for example the UN Committee for Economic, Social and Cultural Rights has endorsed public participation (not consent however) as a part of human rights law, which then also includes affected non-indigenous communities.

*"While they only make up less than five percent of the world's population, they account for 15 percent of the poorest people around the world. Indigenous peoples are also often among the first victims when human rights situations worsen".<sup>19</sup>*

Federica Mogherini,  
High Representative of the EU  
for Foreign Affairs and Security Policy



## Labour Rights:

Unfortunately, labour violations are still a widespread occurrence throughout the extractive industry. Child labour, forced labour, inadequate compensation and inadequate safety protection are just some of the myriad of daily violations in mines. Often due to poor employment opportunities and high-levels of poverty, workers in many areas feel they have no choice but to endure these violations. Of particular importance in relation to mining is the right to form unions and to collective organisation, which helps to improve working conditions and defend workers' rights.

The ILO Conventions are the most critical of the instruments to protect labour rights, some of these are grounded in international treaties making them binding by the ratified states. Others are non-binding recommendations. There are eight core conventions including principles on minimum age, equal remuneration and the abolition of forced and child labour. The OECD Guidelines for Multinational Enterprises also contain clauses on labour. With regards to international law, the International Covenant on Economic, Social and Cultural Rights also refers to labour

rights, including Art. 7 (a) for Just and Fair Payment, which is closely linked to Art. 11 (adequate standard of living), Art. 10 (protection of the family), Art. 9 (social security) and Art. 12 (right to health). The International Covenant on Civil and Political Rights also recognises the freedom of association in Art. 22.



**Environmental Protection:**

The link between environment and communities is hard to ignore, communities’ livelihoods and ability to farm or fish are all too often interlinked with land rights, water protection, soil quality and access to communal lands. Many states incorporate a right to a healthy environment in their constitutions, recognising this link. Mine tailings are increasingly a concern in relation to the environmental risks associated with the storage of often toxic waste and the potential risk of catastrophic tailings dam failure. Water protection is a significant concern and this is protected by Arts. 11 and 12 of the Covenant, CESC. In relation to the use of toxic chemicals in mining the UN Minamata Convention on Mercury and The International Cyanide Management Code for the gold mining industry are important. The UN Convention on Biological Diversity aims at protecting biodiversity not just on land but also the oceans – for mining this relates to existing seabed mining, proposed deepsea mining, and ongoing oil extraction as well as tailings pollution. Specific conventions such as the Ramsar Convention on Wetlands, the UNESCO Convention on Protection of the World Cultural and Natural Heritage, and the Rio Declaration on Environment and Development are also relevant.



**Safety and Security:**

Unfortunately clashes between communities and mining security forces are not a rare occurrence. The value of the resources being extracted drive companies to ensure they are secured, usually by private mine security personnel. There have been extremely serious examples in the past of mine security or government police forces harming or killing protesters, the most well-known recent example is probably the Marikana Massacre in South Africa in 2012 when 38 mine workers were killed and 78 injured at the platinum mining site of Lonmin.

The Voluntary Principles on Security and Human Rights provide a basis for companies to commit to and align their operations with human rights principles and protect their staff and communities. However, these are just guidelines and companies that are signatories to these Principles are not legally bound to implement them. An example to which the Voluntary Principles would apply is shown in page 19 of this publication in relation to the North Mara mine, owned by Barrick Gold. Conventions such as the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights also apply to safety as well as the right to peaceful assembly.

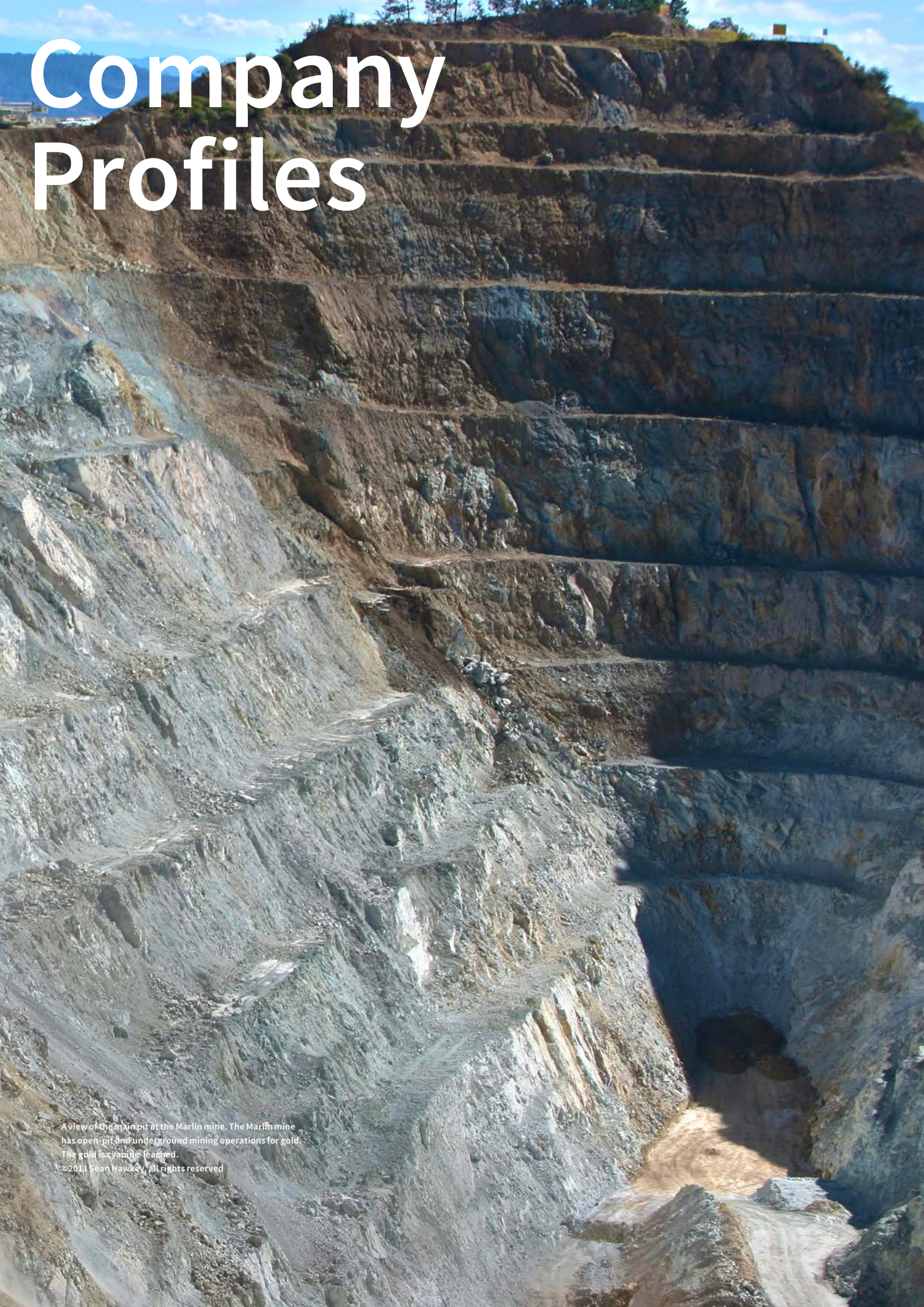


**Access to Remedy and right to remedy:**

The Right to Remedy is enshrined in both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, noting that every individual has the right to remedy for acts violating the fundamental rights granted them. The UN Guiding Principles are formed of three pillars, one of which is remedy, thus illustrating the critical importance of this and stressing that both governments and companies have roles to play in ensuring victims have access to remedy. The UN Guiding Principles state: “Where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes”. Extensive research by the OHCHR has shown, however, and many of the cases in this report support their findings, that in cases where business enterprises are involved in human rights abuses, victims often struggle to access remedy.

+ + + + + + + +

In addition to these norms and standards and international legal instruments, there are also voluntary agreements that companies can join such as the ICMM and the Voluntary Principles, mentioned above. Indeed, banks often check companies’ membership of these organisations to evaluate whether the company commits to ethical principles. These organisations and groups however, are only as strong as their enforcement of the principles and often only rely on self-reporting by companies.



# Company Profiles

A view of the main pit at the Marlin mine. The Marlin mine has open-pit and underground mining operations for gold. The gold is cyanide-leached.

©2011 Sean Hawkey, all rights reserved



Company Responded to Facing Finance regarding allegations	No
Significant concerns	Brazil: intimidation of community members. Tailings dam safety. Involvement in controversial deep-sea mining. Failure to compensate sick mineworkers.
Potential Norm Violations	UN Convention on the Law of the Sea, ICCPR. This includes: the right to effective remedy, freedom of expression and to respect the rights of indigenous people. Inflicting environmental damage
Company ranking on CHRB	40–49% (OK)
Voluntary Commitments	UN Global Compact, Voluntary Principles on Security and Human Rights, ICMM, EITI
Facing Finance Category	Undermined: Bad all-rounders

# Anglo American Plc

## Digging for Justice: Progress on previously reported cases

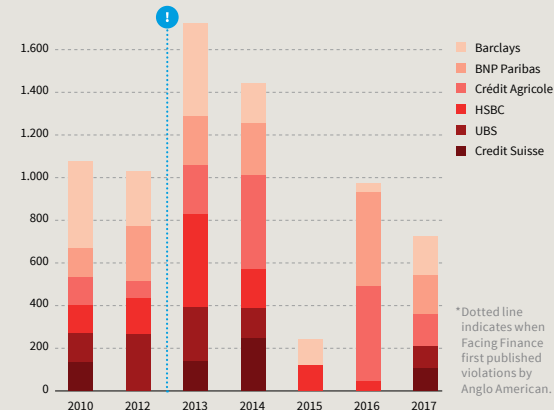
Anglo American has been covered in three previous editions of the Dirty Profits report, beginning in 2012 with the first Dirty Profits report. Issues of concern have included cases in Chile, South Africa, Colombia, Peru and Brazil. Anglo American is one of three shareholders in the Cerrejón coal mine in Colombia, which has faced concerns around the resettlement of communities since 2001 (more on this mine is covered under BHP Billiton, an equal shareholder in the project). Anglo American is currently going through a substantial boom time with record profits and dividends.<sup>20</sup>

In South Africa, Anglo American’s subsidiary Amplats runs the Mogalakwena mine. Studies on this mine have shown that the communities around it have suffered from the impacts of mining for at least a decade, in relation to access to water and land, the impacts of air pollution and damage to houses and communal areas.<sup>21</sup> In addition previous Dirty Profits reports covered the class action lawsuit in South Africa, in which Anglo American in 2016 settled a case brought forward by former mine workers suffering with silicosis and TB.<sup>22</sup> A further case is pending against the company, with Anglo American in August 2017 setting aside 101 million USD to compensate former mine workers. This litigation has taken nearly a decade to progress and is still not finalised, it affects as many as 100,000 former workers.<sup>23</sup>

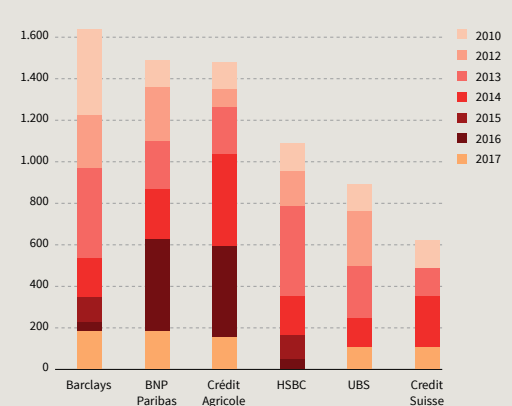
Anglo American has faced criticism in relation to its stake in the risky new venture of deep sea mining, through its involvement in the Solwara 1 project, which we reported on in Dirty Profits 4. This project continues to face opposition from communities in Papua New Guinea, due to concerns around environmental and social impacts.<sup>24</sup> The operating company Nautilus continues to move forward with the project despite its project violating the UN Convention on the Law of the Sea (“to achieve healthy and productive oceans”).<sup>25</sup>

Anglo American has committed to the UN Global Compact and the ICMM and has engaged in the past with Facing Finance. In addition, the company has focused on developing policies on environment and human rights as well as its SEAT engagement tool.<sup>26</sup> However, the policies are not sufficient to score well when compared to its peers in the Corporate Human Rights Benchmark<sup>27</sup>, nor have the policies been converted into strong action. The lack of action on previous cases, as well as the concerted effort to push forward mining without the consent of communities including putting environmental defenders at risk becomes obvious at Anglo American’s Minas Rio mine in Brazil. This, in addition to their lack of response to Facing Finance, has resulted in a categorisation of Anglo American as “Undermined: Bad all-rounder”.

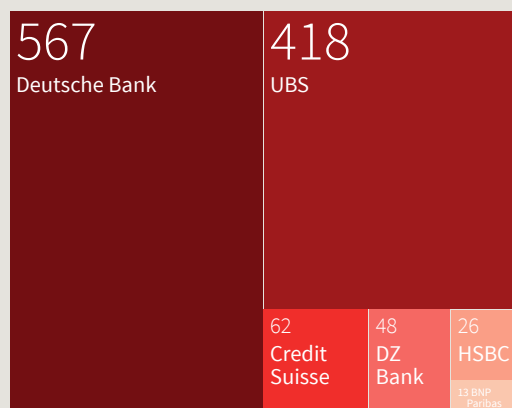
Capital provision by year — all loans and bond underwritings (€ Million)



Capital provision by bank — all loans and bond underwritings (€ Million)



Management of shares and bonds by top banks (in € Million):





◀ Aerial view of the vast expanse of the Minas Rio mine, Conceição do Mato Dentro, Minas Gerais, Brazil. Image from google earth.

### Anglo American's Minas Rio Iron ore mine and Açú Port project, Brazil: Death Threats to community members and deadly tailings storage.

Anglo American's Minas Rio iron ore project is a 12 km long open pit mine on the borders of two important ecosystems, crossing the states of Minas Gerais and Rio de Janeiro, Brazil. Energy is provided to the mine via a transmission line running through rare Atlantic forest.<sup>28</sup> The mine is connected to the Açú Port by a 525 km pipeline which also runs through an area of high environmental vulnerability.<sup>29</sup> The envisaged expansion of the mine as a whole and the tailings dam in particular is a source of anxiety for communities. The expansion of Minas Rio includes increasing the height of the tailings dam, which is already seven times larger than that of the Samarço tailings dam (the cause of immeasurable devastation in 2015). Some communities below the dam are considered to be in a defined "self-rescue" zone as emergency authorities would not have time to reach them in the event of an incident. Naturally communities living below the tailings dam are fearful of the consequences of a tailings dam break. However, the company has not offered to relocate or compensate communities under threat.<sup>30</sup>

Expansion of the mine has also reignited community opposition and resulted in divisions between community members, including concerns that Anglo American has pushed forward projects without providing communities with the required environmental impact assessments.<sup>31</sup> This is of particular concern to community members, as incidents of environmental pollution have reportedly occurred in the past<sup>32</sup> and

the mine and port are located in very sensitive environmental areas<sup>33</sup>. This, together with the tailings concerns, potentially violate the communities Right to Information enshrined in Art. 19, 25 of the ICCPR<sup>34</sup>. Environmental hearings have also been held in the presence of armed police which is intimidating to those in opposition to the mine. Despite the company being signatory to the Voluntary Principles on Security and Human Rights, the Federal Public Prosecutors office in Brazil has expressed concern about militarisation around peaceful mine demonstrations at the site,<sup>35</sup> which would be in violation of the Guiding Principles on Business and Human Rights and the Voluntary Principles on Security and Human Rights. Concerns by community members have been validated, when in March 2018 the pipeline broke and dumped an ore pulp into the spring supplying municipal water and the Santo Antonia River (part of the Rio Doce basin). Communities are now reliant on water trucks due to the pollution of the spring.<sup>36</sup>

Anglo American had to suspend a recent public hearing due to a Court injunction, as it had not provided the environmental studies required or given enough notice for communities. After the suspension of the public hearing, community representatives who signed the injunction began to be

physically threatened, including death threats. A criminal complaint was filed at the State Prosecutors Office in this regard.<sup>37</sup>

In addition, water use at the mine has left six communities dependent on pumped water and some are left without water for days due to aquifers drying up. Heavy use of freshwater in the transportation of the ore has reduced the availability for communities, for example for agriculture etc. Anglo American claims that their water extraction does not affect any other water consumption in the area and they are operating with the appropriate licences.<sup>38</sup> However, just to

transport the ore the company uses enough water to supply 400,000 people a day with basic necessities. The lack of access to water potentially infringes of the rights of communities including for example Article 14 of Convention on the Elimination of All Forms of Discrimination against

Women (CEDAW) and the Convention on the Rights of the Child (CRC).<sup>39</sup>

Anglo American has now received the expected licenses for the expansion of the operation which will allow the company to continue operating in the region for at least another 15 years.<sup>40</sup>

*"Public meetings to deal with Anglo American activities have been marked by the presence of heavily armed police and other forms of pressure."*

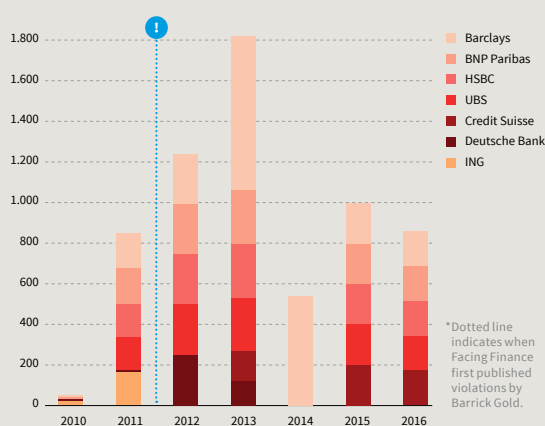
Roderigo Peret, from Brazil affected by the company's Minas-Rio Project<sup>41</sup>

→ Facing Finance with information provided by Churches and Mining Network via London Mining Network.

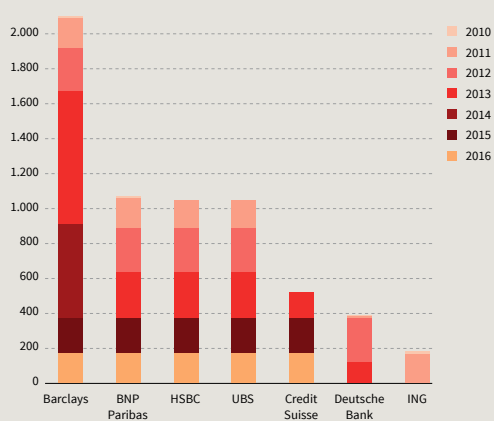
Company Responded to Facing Finance regarding allegations	No
Significant concerns	Environmental damage, riverine tailings disposal, human rights violations, excessive use of force by security personnel.
Potential Norm Violations	ICCPR, ICESCR, Voluntary Principles on Security and Human Rights, UN Guiding Principles on Business and Human Rights, OECD Guidelines for Multinational Enterprises, ICMM including the right to water and a clean environment, access to effective remedy and the elimination of discrimination against women.
Company ranking on CHRB	Not covered.
Voluntary Commitments	UN Global Compact, Voluntary Principles on Security and Human Rights, ICMM, EITI
Facing Finance Category	The Pits: Extremely poor performer

# Barrick Gold

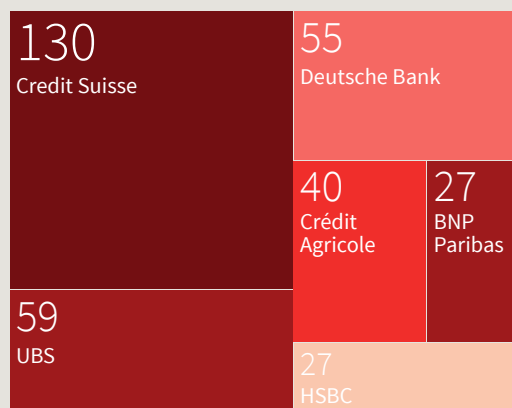
Capital provision by year — all loans, bond and equity underwritings (€ Million)



Capital provision by bank — all loans, bond and equity underwritings (€ Million)



Management of shares and bonds by top banks (in € Million):



## Digging for Justice: Progress on previously reported cases

Barrick Gold has been included in three Dirty Profits reports, starting with the first edition in 2012. Due to its continued poor commitment to human rights and environment the company has been excluded by numerous investors, including PGB, KLP and AP7 (see Appendix 1).<sup>42</sup> Violations have occurred at many of its global operations, we have covered some of these in our previous reports including Pascua Lama (Chile), Pueblo Viejo in the Dominican Republic, Porgera in Papua New Guinea as well as at Buzwagi, Bulyanhulu, and North Mara in Tanzania. In relation to the last three mines, community compensation for land has still not been adequate and there are still deep frustrations with the mine and its operations.<sup>43</sup>

Despite being a signatory to the UN Global Compact, the Voluntary Principles on Security and Human Rights, the ICMM, and the Extractive Industries Transparency Initiative, Barrick has not improved on its human rights or environmental performance since Facing Finance first reported in 2012.<sup>44</sup> Barrick Gold has not engaged with Facing Finance despite repeated attempts to contact the company. This has resulted in the categorisation of Barrick Gold as “The pits: extremely poor performer”.

In 2016 one of the shareholder lawsuits against Barrick, related to withholding information from shareholders about the company’s failure to comply with environmental regulations at the Pascua Lama mine, was resolved and the company had to pay \$140 million to settle.<sup>45</sup> This is not the only shareholder lawsuit in relation to this and another is still pending<sup>46</sup>. Barrick formed a partnership with Shandong to develop the mine, which has been suspended since 2013 due to serious environmental damage. In early 2018 the Chilean regulators ordered the closure of the Pascua Lama mine on the Chilean side, due to the serious environmental violations.<sup>47</sup>

In a new case, not previously covered in the Dirty Profits reports, Barrick and Shandong Gold spilled more than a million litres of toxic cyanide in September 2015 at the Veladero Mine in Argentina. The spill contaminated five rivers and the company was given a US\$9.3-million dollar fine. In 2016, only one year later, a second cyanide spill occurred at the mine. At the time of the first spill Barrick claimed it would strengthen controls and safeguards, however, the second spill indicates a lack of commitment to these claims.<sup>48</sup>

Barrick Gold’s global operations have potentially violated core human rights instruments, including but not limited to, the International Covenant on Civil and Political Rights (which includes



▲ Villagers in the shadow of Barrick's North Mara Gold Mine 2017 © Catherine Coumans, MiningWatch Canada

### From Africa to Papua New Guinea: violent security forces, sexual assault, and death at Barrick's mines.

in Art. 2 the right to remedy), the International Covenant on Economic, Social and Cultural rights, the International Convention on the Elimination of all Forms of Racial Discrimination<sup>49</sup> and the Convention on the Elimination of Discrimination Against Women.<sup>50</sup> The evidence also appears to show that Barrick Gold has violated environmental conventions and standards, such as the right to water and a clean environment for communities surrounding its mines. Barrick Gold is also in apparent violation of the voluntary agreements to which it is party, for example the Voluntary Principles on Security and Human Rights (including that private security should act with restraint and caution as detailed in Principle 3),<sup>51</sup> the ICCM (in particular Principle 3)<sup>52</sup>, and the OECD Guidelines for Multinational Enterprises.

The North Mara Gold Mine Ltd. underground and open pit gold mine, located in the Tarime district of the Mara region of Tanzania, is operated by the African subsidiary of the Barrick Gold majority-owned, Acacia Mining.<sup>53</sup> This mine continues to be plagued by violence by public and private security forces against local indigenous Kuria men and women who seek to eke out a living, primarily, on the mine's waste dumps.<sup>54</sup> Men and women are severely beaten, primarily men are shot, resulting in death and maiming and women have experienced rape and gang rape.<sup>55</sup> As a lawsuit by UK-based Leigh Day on behalf of claimants of excess use of force by mine security got underway in 2013, the company created an ad hoc and non-transparent remedy mechanism, which it used to persuade Leigh Day's clients<sup>56</sup> to drop their suit, accept a non-equitable remedy from the company, and sign legal waivers prohibiting them from seeking judicial remedy.

MiningWatch Canada has interviewed close to a hundred victims, family members of victims, and witnesses of excess use of force by the mine's private and public security forces in yearly visits to the site

since 2014. These interviews indicate that the violence is ongoing. The Tanzanian government has investigated the violence and reported on it in a 2013 report<sup>57</sup> and again in an investigation and report in 2016 that confirmed investigators had receiving claims that 65 people have been killed and 270 people injured by police responsible for mine security.<sup>58</sup> Local human rights defenders put the numbers much higher and the 2016 government report did not report on deaths and injuries resulting from altercations between villagers and private mine security. In 2017, MiningWatch Canada reported another local Kuria man was shot dead by mine security.<sup>59</sup>

Victims that accepted remedy from the mine's grievance mechanism commonly report a discrepancy between what they were promised orally and what they received and that the remedy they received does not compensate for the ongoing harm caused to them and their dependents by their assault.<sup>60</sup> Most of the victims interviewed by MiningWatch who launched claims with the mine since the Leigh Day suit was settled have had their claims rejected without a clear basis.<sup>61</sup> While the company says it is now revising its remedy

mechanism, this process remains opaque. This revision is taking place even as a new suit is being prepared on behalf of victims of violence by the mine's security.<sup>62</sup>

In addition to human rights concerns related to excess use of force by mine security, MiningWatch Canada has also documented four deaths in 2016 and 2017 as a result of drownings in a mined-out pit after the mine removed security walls,<sup>63</sup> and ongoing concerns regarding mine-related contamination of nearby rivers, and harm caused by excess dust along the main road that transports ore to the processing facilities.<sup>64</sup>

At the Porgera Joint Venture (PJV) gold mine, in Porgera, Papua New Guinea,<sup>65</sup> Barrick continues to dump its waste rock and tailings, containing mercury, arsenic, cadmium, copper, lead, zinc, as well as milling chemicals, including cyanide<sup>66</sup> directly into local river systems. This uncontained disposal of waste continues to erode away adjacent land in the steep mountain valleys putting village structures and people at risk and exacerbating an already dire and longstanding problem<sup>67</sup> of lack of land for subsistence farming and food security. In 2009 the Norwegian Pension Fund divested from Barrick over this unacceptable waste disposal practices at the PJV mine.<sup>68</sup>

Loss of land and sources of clean water due to the open pit, the mine's infrastructure and processing facilities, and the massive waste dumps have left indigenous Ipili villagers living in overcrowded and unhealthy conditions. As they now have to buy food and water, the community largely relies on panning for gold in the mine's polluted waste flows. This puts the men, women and children who participate in this means of livelihood at continuous risk from chemical contamination. In July of 2017, villagers reported to MiningWatch Canada that more than a hundred people had been burned by waste dumped into an area where they were panning for gold. Although Barrick acknowledged the release and resulting casualties in a brief statement on July 15,<sup>69</sup> and provided some further information in response to a letter from MiningWatch,<sup>70</sup> it

is still unclear how many people will need long-term treatment and whether the company will provide compensation for the injuries.

Villagers who enter the waste flows to eke out a living are also vulnerable to attack by the mine's public and private security forces. There is a long history of men and women being severely beaten, men shot at and killed, and women and girls raped and gang raped.<sup>71</sup> After years of denial, Barrick implemented a severely flawed<sup>72</sup> remedy program, only accessible for victims of sexual assault by private security. In November 2016, all 119 women who had received remedy through this program, in return for signing legal waivers, filed a complaint<sup>73</sup> with the UN Working Group on Business and Human Rights critiquing both the process they had endured and the remedy they had received. Many other women who allege rape by mine security were unaware or unprepared to participate in the mechanism. They were represented by Joycelyn Mandi at Barrick's AGM in 2017, herself a teenager when she was raped by mine security.<sup>74</sup> These neglected victims of violent assault by mine security and the ongoing violence against local community members<sup>75</sup> poses a legal risk for Barrick. In March 2017, numerous houses in the village of Kewanja, inside the mine lease area, were

once again burnt down by the mine's public security forces leaving families homeless.<sup>76</sup>

The mine's ongoing waste disposal into the environment has a downstream footprint of hundreds of kilometres anticipated to maintain a deleterious impact for a hundred years or more<sup>77</sup>.

This poses a significant financial risk. Barrick has not made public a closure plan or projected costs associated with closure, but the expense must be anticipated as many times more than in the case of mines that contain their waste as per international standards, particularly as there are no precedents for closure of a mine such as PJV.

*"The company's guards raped us. The company ignored us for years. When the company finally created a remedy program, we 119 women went to it. But the remedy was not fair. We did not get everything that we were promised. We call for the support of the UN because Barrick Gold is ignoring our call to pay us equal compensation."<sup>78</sup>*

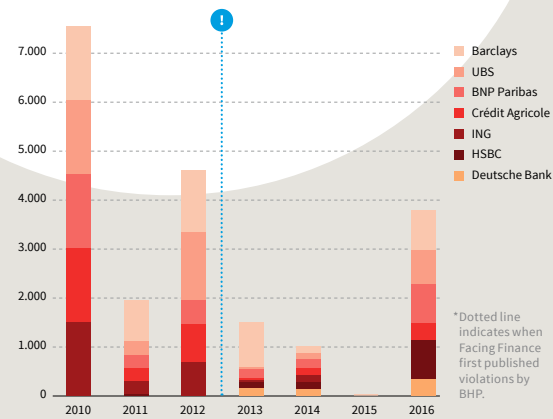
**Everlyn Gaupe, one of the women harmed by the company's actions and now seeking justice.**

→ MiningWatch Canada

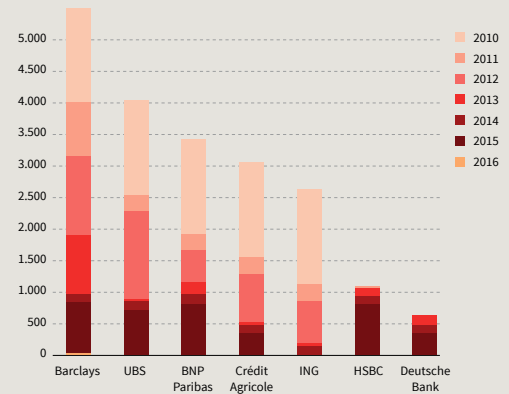
Company Responded to allegations	Yes (BHP and Cerréjon responded)
Significant concern	Social and environmental issues in projects where BHP holds a stake.
Potential Norm Violations	ILO, UN Declaration on the Rights of Indigenous Peoples (includes: Free, Prior and Informed Consent) and the UNFCCC. UNGC Principle 1
Company ranking on CHRB	60–69% (Good)
Voluntary Commitments	UN Global Compact, Voluntary Principles on Security and Human Rights, EITI, ICMM
Facing Finance Category	“Miner” Threat: Poor in Practice

# BHP

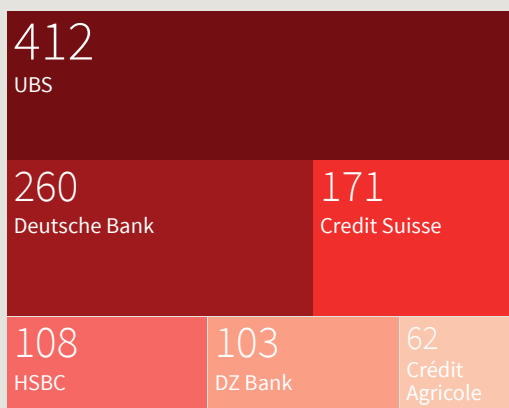
Capital provision by year — all loans and bond underwritings (€ Million)



Capital provision by bank — all loans and bond underwritings (€ Million)



Management of shares and bonds by top banks (in € Million):



## Digging for Justice: Progress on previously reported cases

BHP is a global commodities producer of oil, gas, coal, iron ore, copper and uranium, headquartered in Australia.<sup>79</sup> In Dirty Profits 1 in 2012 Facing Finance reported on problems around BHP smelters in Mozambique (which have now been sold) and in relation to fracking and deep-sea oil drilling. The company continues with deep sea drilling in the form of increased investment in the Mad Dog<sup>80</sup> oil platform as well as in the Gulf of Mexico.<sup>81</sup> Additionally BHP has purchased two oil blocks in 2013<sup>82</sup> and is exploring deep sea drilling in the Foz de Amazonas Basin. Companies exploring here, including BP and Total, have faced substantial opposition by civil society<sup>83</sup> due to the risk from potential oil spills for the extremely sensitive ecosystem of mangroves and coral reefs<sup>84</sup>, with the latest environmental impact assessment by Total having been rejected by Brazilian regulators as insufficient<sup>85</sup>.

The Escondida Copper mine in Chile’s Atacama Desert<sup>86</sup>, for which BHP is the controlling owner and operator, faced opposition from NGOs in relation to water use<sup>87</sup>. After years of complaints by the “Agrupación en Defensa del Salar de Punta Negra”, BHP has, in July 2017, begun resolving these issues by halting water extraction from Punta Negra.<sup>88</sup> Some of BHP’s mining projects, such as Cerrejón and Samarço (see Vale page x), are undertaken in cooperation with other companies (so-called non-operated joint ventures).<sup>89,90</sup> The dam tailings breach at Samarco has had substantial environmental impacts and can be seen as in violation of the UN Global Compact Principle 1.

BHP is a founding member of the ICMM and a participant of both the UN Global Compact and the Voluntary Principles on Security and Human Rights. Since 2012 BHP has improved its human rights policies, with a strong policy approach to sustainability regarding its host communities.<sup>91</sup> The policy embeds human rights concerns throughout the organisation, but BHP has only recently started to improve governance processes for its non-operated joint ventures<sup>92</sup>. This has resulted in an overall categorisation of BHP as “Miner” Threat: Poor in Practice”.



▲ On September 28, 2017, the anti-riot police squadron (ESMAD) destroyed the farm of Eneida Díaz de Barbosa in Patilla, La Guajira, Colombia.  
© Angelica Ortiz

### Coal Mine, Colombia: A decades long struggle by communities and indigenous peoples.

The Cerrejón coal mine is Latin America's largest coal mine is located in the southeast of the department of La Guajira, close to the border with Venezuela. A joint venture between Glencore (33%), BHP (33%) and Anglo American (33%), the integrated coal mining and transport complex is operated by the company Carbones del Cerrejón Limited in the northernmost region of Colombia, La Guajira, by 2002 these companies owned it outright.<sup>93</sup> The Cerrejón coal mine has had substantial environmental and human rights violations in its three decades of operation. Dirty Profits reports in 2013 and 2014 highlighted the problems around forced resettlements and the mine's high-water extraction rates in the dry region of La Guajira.

The La Guajira region is home to indigenous Wayuu and afro-descendent communities<sup>94</sup>, which have been victims of involuntary resettlements (forced relocation) by Latin America's largest coal mine. Since 2001, the communities of Tabaco, Roche, Chanqueta, Patilla, Tamaquito and most recently Las Casitas, have been resettled.<sup>95</sup> The 2001 eviction of 1,200 Tabaco residents was found by the Supreme Court of Colombia to be in violation of the community's rights. Cerrejón was ordered to pay compensation and the municipality to rebuild the infrastructure of the town.<sup>96</sup> Sixteen years

later, while Tabaco residents have received some compensation and the land has been bought, no permanent settlement has been established, as no buildings or infrastructure has been developed.<sup>97</sup>

According to Cerrejón, since 2008 all resettlements have been conducted in line with the guidelines of the IFC and World Bank<sup>98</sup> including participation and dialogue.<sup>99</sup> With the exception of the Tamaquito II communities, all the communities have been moved from rural village locations with large areas of communal land to semi-urban locations with small agricultural areas which lack communal land to graze cattle, collect their medicinal herbs, or practice their traditional way of life.<sup>100</sup> This has occurred despite continued requests during the participation process for arable land large enough for cattle and farming.<sup>101</sup> As a consequence, many of the community members are left without a livelihood to sustain their families. Throughout the consultation process, residents felt forced to accept these conditions due to a lack of alternatives.<sup>102</sup> Communities have also raised the issue of reduced access to water in their resettled areas. Several legal actions have been taken against Cerrejón

by resettled communities holding Cerrejón directly responsible for impacting their right to water and right to food.<sup>103</sup>

Members of the community of Las Casitas, the most recent community to be resettled, were reluctant to leave<sup>104</sup>, given the deep mistrust that relocation would provide for their livelihoods.<sup>105</sup> According to Cerrejón documents, all those eligible for resettlement have now been resettled.<sup>106</sup> In

early 2016, after two years of dissatisfaction with the new settlement and claims that Cerrejón had not complied with agreements, one of the families from Roche village returned home, only to be forcibly evicted by Colombian police.<sup>107</sup> In September 2017, a villager from the Patilla communi-

ty was evicted from her farm which she had previously rented from Cerrejón, without prior notice. The farm was destroyed by the Colombian riot police, and several of her animals that are essential to her livelihood are now missing.<sup>108</sup> As recently as January 2018 it has been reported that at least four community members speaking up against Cerrejón have faced threats and two community members have been killed for defending their territories.<sup>109</sup>

The resettlement of communities has

*"We should not have to live in poverty beside such a rich mine, where those who work there have everything... Our rights are ignored, but we cannot forget that arrived after we arrived."*

A citizen of Provincial,  
Luz Angela Uriana Epiayú, artist and human rights activist<sup>125</sup>

proved painful, but wider communities outside the mine area must contend with the loss of economic and social ties with communities that have been resettled, health issues from excessive and dangerous coal dust, as well as blasting from the mine. The air pollution has caused serious respiratory problems for children living in the indigenous community of Provincial, one of the last remaining communities in the immediate vicinity of the mine, which Cerrejón fails to address.<sup>110</sup>

In addition to the concerns about the lack of Free, Prior and Informed consent regarding the displacement of several indigenous communities, the mine's operations have aggravated water issues in an area of already high water stress. Industrial activities, including coal activities, have worsened water scarcity in the La Guajira region.<sup>111</sup> While Cerrejón reports extracting 7% of its water from the Rancheria River and working on preserving this river basin,<sup>112</sup> the river basin in the lower stretches is often dry.<sup>113</sup> In December 2015, the Inter-American Commission on Human Rights required the government to ensure access to water for Wayuu people of La Guajira, after 4,700 children allegedly died due to severe drought over the past eight years.<sup>114</sup>

Further, Cerrejón has recently diverted at least 3km of the Arroya Bruno, a tributary of the Rancheria river.<sup>115</sup> While Cerrejón claimed there was sufficient consultation with the only community impacted by the works,<sup>116</sup> at least five communities are critically dependent on this water and have requested prior consultation<sup>117</sup>. Given the serious water scarcity in the region, the communities are convinced that any diversion of the river will result in ecological damage and an inability to support their livelihoods.<sup>118</sup> A recent court decision has ordered the company to halt the diversion of the river.<sup>119</sup>

Facing Finance received a response from Carbones del Cerrejón Limited in relation to these issues. Cerrejón notes that involuntary resettlement is used as a last resort but has been necessary in these cases to protect residents from the negative impacts of the mine. In addition, they note that residents were involved in a participatory approach to resettlement and that sufficient water is available to all communities<sup>120</sup>.

The resettlements around Cerrejón have made it increasingly difficult for local people to hunt, fish, or raise livestock. The loss of community sovereignty over their territories also potentially violates their right to health, water, a healthy environment, and possibly even the right to life itself. Colombia is one of 22 countries which has ratified ILO Convention 169 which protects tribal people's right to land, consultation and consent<sup>121</sup> and requires governments to consult with native inhabitants before implementing extractive projects. However, the Convention still sets out the state as final decision maker, thus being able to overrule the disagreement of the affected indigenous communities.<sup>122</sup> Additionally, mining developments in rural Colombia have been marked by an absence of the state, leaving the extractives industry as a major player, while the Colombian government does not appear to investigate possible violations. Cerrejón has been at pains to note that it conforms to the IFC Performance Standards. Firstly, it is important to recognise that these standards are not as stringent as those of the UN Guiding Principles on Business and Human Rights or the "UN Declaration on Rights of Indigenous Peoples" and may still expose communities to human rights violations. Secondly, it can be argued that even these standards were not met, as the standards for instance include that indigenous people should have continued access to natural resources or culturally appropriate replacement forms of livelihood.<sup>123</sup> In contrast, the participation that occurred in La Guajira provided little options for negotiation outside of logistical issues. The consultations that were carried out have therefore arguably not been to the standard of qualifying as Free, Prior and Informed Consent under the UN Declaration on the Rights of Indigenous People.<sup>124</sup> BHP's involvement in the human rights violations at the non-operated joint ventures of both Cerrejón coal mine and Samarco Mineração (in relation to the tailings dam failure) interfere with BHP's self-created image as a responsible company. The Swedish Pension fund, AP4, has excluded BHP in relation to its role in the Samarco tragedy (see appendix).

→ With information provided by London Mining Network



Company responded to allegations	No
Significant concern	Arctic drilling operations, oil spills and corruption in Nigeria. Potential violations in the resettlement of communities in Mozambique.
Potential norm violations	ICCPR, UNGP, UDHR including the right to health, right to effective remedy, and the right to water livelihoods and food. UNFCCC on climate change. UN Convention against Corruption. Un Glo
Company ranking on CHRb	20–29% (Poor)
Voluntary commitments	UN Global Compact, EITI
Facing Finance category	The Pits: Extremely poor performer.

# Eni SpA

## Digging for Justice: Progress on previously reported cases

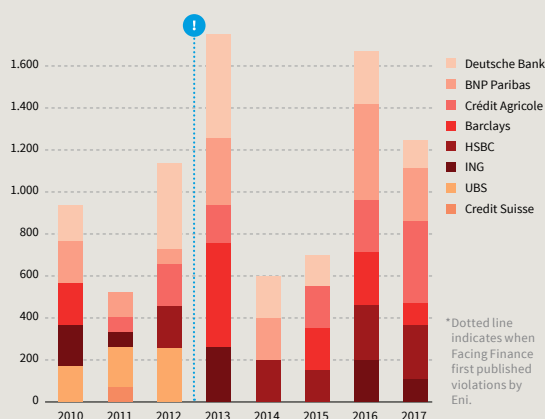
Eni, the Italian oil and gas company, was included in the Dirty Profits 1 report in 2012 in relation to gas exploration in the Rovumba basin, Mozambique and its operations in Nigeria. Eni is now moving ahead with the Mozambican Natural Gas project together with Anadarko (also covered in Dirty Profits 1 in 2012). An onshore Liquid Natural Gas- (LNG) plant is planned for the Afungi peninsula, this has brought concerns from communities about access to resources and land rights. About 5000 people will be affected.<sup>126</sup> Some villagers have received compensation, others have been removed from their land allegedly receiving no compensation, others have received as little as USD50, signing forms that they will not ask for more.<sup>127</sup> In addition fishermen are unable to continue fishing in the area, due to blasting and fishing restrictions. While Eni has implemented community projects none are directed at the fishermen.<sup>128</sup> Anadarko has implemented projects to diversify fishing activities.<sup>129</sup>

In addition to the above cases, Eni is expanding its exploration for oil and gas faster than most of its competitors, noticeably its operations in the Arctic, including in the Barents Sea. This is an incredibly sensitive environment and Eni has already had 34 technical incidents during the last year of operation.<sup>130</sup> Additionally Eni has been granted further Arctic drilling concessions off Prudhoe Bay in the Beaufort Sea North of Alaska.<sup>131</sup> These risky operations in the Arctic, along with an increase in deep sea drilling operations challenge climate commitments and legal cases have been brought against Eni in this regard.<sup>132</sup>

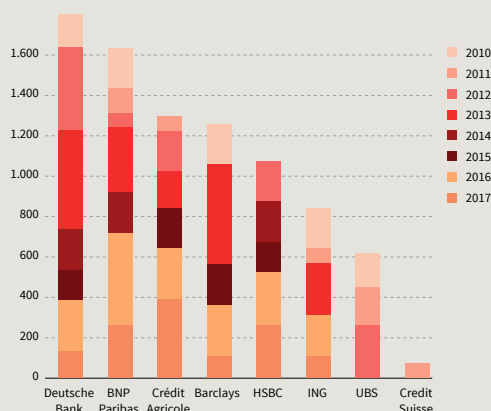
An OECD complaint has been filed against Eni by Egbema Voice of Freedom (EVF). It is alleged that for over four decades, Eni has been causing annual flooding in the Aggah village, Rivers State, Nigeria violating the Guidelines and devastating people's health, property and livelihoods due to the elevated roadways and embankments the company built in order to drill for oil, which block the natural streams that used to flow through the village and floods both residential areas and farmland.<sup>133</sup>

Eni is a member of the UN Global Compact and the Extractive Industries Transparency Initiative (EITI), but it does not perform well when ranked against its peers in terms of human rights policy and practice.<sup>134</sup> We sought repeatedly to engage with Eni on the company's Human Rights and environmental progress since our last report, specifically in relation to operations in Nigeria and Mozambique, but received no response. This has resulted in an overall categorisation of Eni as "The Pits: Extremely poor performers". In 2016 the GPF (Norwegian Government Pension Fund) placed Eni under observation due to corruption issues (for which there is a case in court) specifically related to Nigeria, as well as five other countries.<sup>135</sup> The cases involve the Nigeria Liquefied Natural Gas Project and oil block OPL 245.<sup>136</sup>

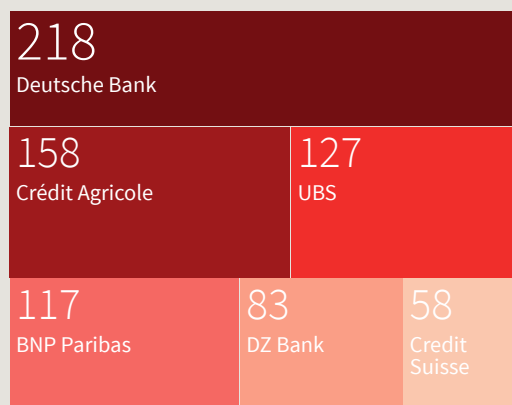
Capital provision by year — all loans, bond and equity underwritings (€ Million)



Capital provision by bank — all loans, bond and equity underwritings (€ Million)



Management of shares and bonds by top banks (in € Million):





◀  
Kegbara-dere community oil spill,  
Ogoniland, Nigeria  
Luka Tomac/Friends of the Earth International  
(CC BY-SA 2.0)

## Eni, Nigeria: Denying environmental destruction

Eni has been operational in Nigeria since 1962. Today Eni produces hydrocarbons from offshore operations and onshore in the Niger Delta as well as producing Liquefied Natural Gas (LNG). According to the company, they produced 117,000 barrels of oil equivalent per day in 2016. They operate in Nigeria through several subsidiaries, principally the Nigeria Agip Oil Company (NAOC). Eni operates the NAOC joint venture which includes a stake owned by the Nigerian government. This joint venture produces approximately 10% of Nigerian oil production.<sup>137</sup>

Today Eni's record in Nigeria is marked by widespread spills from its oil production, the death of employees and others at its operations, and ongoing criminal investigations into its activities linked to its operations in Nigeria. A recent study has also linked the oil pollution in Nigeria with increases in newborn and child mortality.<sup>138</sup>

In May of 2017 the King of the small community of Ikebiri in the Southern Ijaw Council of Bayelsa state in Nigeria launched legal proceedings in the Italian courts to obtain cleanup and compensation for an oil spill from an Eni pipeline in April 2010. This spill took place 250 metres from a local creek and just north of one of the community villages. The barrels of oil spilled have polluted trees, fish ponds and the creek, damaging the livelihoods of the local community many of whom rely on fishing. It is estimated that at least 17 hectares have been polluted by this single spill. This joint inspection report carried out by the company and the officials found that the cause of the spill was equipment failure.<sup>139</sup>

Eni are the main oil operator in Ikebiri. Of the 8 well heads in the community, 7 are operated by Eni/NAOC. This is not the first spill this community has experienced from the oil industry.

Since 2010 the community has sought clean-up and compensation for the spill, which the company claims to have cleaned. However, 7 years later the area remains polluted. According to the community the company's efforts to clean up the spill amounted to setting fire to the spill site without the community's consent. This is common practice, but is an inadequate, dangerous and polluting method for cleaning up oil.

The spill in 2010 is just one of many spills from Eni operations in Nigeria. In the 3 years to 2017 the company admits to 700 spills and according to the Eni website more than 4,500 spills have occurred in the last 10 years. It is not known how many spills have occurred over the full lifetime of the company's presence in Nigeria.<sup>140</sup>

Together with spills from other oil and gas companies operating in Nigeria, Eni's operations have contributed to the Niger Delta being one of the most polluted places on Earth<sup>141</sup>. Nine million barrels of oil have been spilt in the Niger Delta<sup>142</sup>, twice the amount that was spilled during the oil spill in the Gulf of Mexico. New spills still occur weekly.

In addition to the court case brought by the Ikebiri community in recent years Eni has also seen deaths at its operations from two significant explosions. One explosion, in July 2015, occurred as repair works were being carried out on a pipeline resulted in the deaths of 14 people.<sup>143</sup> A second explosion in March 2016, saw the further deaths of another 3 people.<sup>144</sup>

The company and several staff members are also under investigation regarding allegations of corruption. Another Nigerian subsidiary, Nigerian Agip Exploration

Limited, has been charged by Nigerian law enforcement with conspiracy to commit corruption<sup>145</sup>. Italian prosecutors have now also requested the trial of Eni, Eni's Chief Executive Officer Claudio Descalzi and Chief Operations Officer Roberto Casula and other individuals on international corruption charges.

Despite several attempts the small community of Ikebiri has failed to gain either adequate compensation or a willingness on behalf of the company to clean up the site. The community will now through the person of the King of the community be bringing their case to the Italian courts. The court in Milan began hearings in the case in January 2018.

By contributing to making the Niger delta one of the most polluted places on earth, Eni has infringed on the fundamental rights of communities specifically related to

access to water, food, and natural environment as contained in the UDHR.

The company through its actions has also potentially violated the UNGP on Business and Human Rights in relation to access to remedy, "Where business enterprises [...] have caused or contributed to adverse impacts,

they should provide for [...] remediation through legitimate processes". The International Covenant on Civil and Political Rights also protects the rights to remedy in Article 2 3(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy. Eni has not taken sufficient action to these incidents to protect human rights and the environment nor remediate its damage.

*"This fish in our fish ponds, in the swamps and bush too, have all been killed by crude oil. The vegetables we plant within the community, some of which are medicinal and we use in treating ourselves, are also affected by crude oil."*

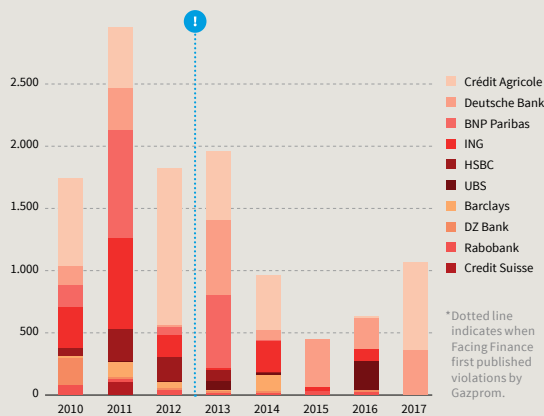
Emilia Matthew,  
a local resident and member of the  
Ikebiri community<sup>146</sup>

→ Friends of the Earth Europe in collaboration  
with the Ikebiri community

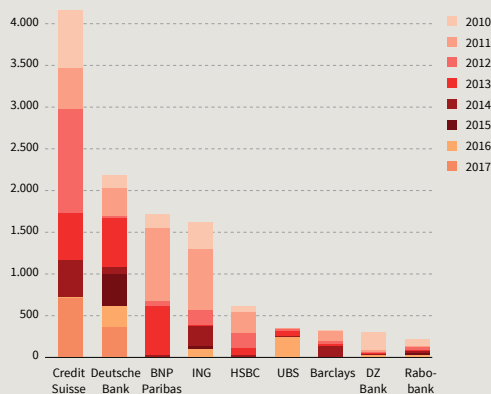
Company Responded to allegations	No
Significant concerns	Arctic Operations. Oil spills (Arctic tundra. Damaging livelihoods and natural resources of indigenous people.
Potential Norm Violations	UNDRIP specifically the Right to Free, Prior and Informed Consent. The Rio Declaration and UNFCCC re: environmental protection and climate change. UNGP on Business and Human Rights.
Company ranking on CHRB	20–29% (Poor)
Voluntary Commitments	none
Facing Finance Category	The Pits: Extremely poor performers

# Gazprom PJSC

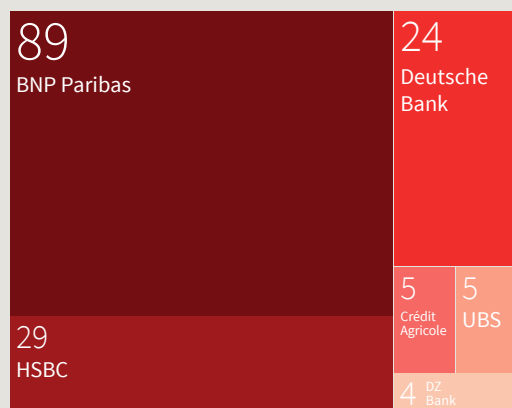
Capital provision by year — all loans and bond underwritings (€ Million)



Capital provision by bank— all loans and bond underwritings (€ Million)



Management of shares and bonds by top banks (in € Million):



## Digging for Justice: Progress on previously reported cases

Gazprom is a global oil and gas company headquartered in Russia and part owned by the Russian Federation (approx 50 %).<sup>147</sup> Gazprom is also the owner of Gazprom Neft.<sup>148</sup>

Gazprom has been featured in two previous Dirty Profits reports in 2013 and 2014 due to risky Arctic operations (Prirazlomnoye platform in the Barents Sea) and the environmentally destructive Altai gas pipeline (now called the Power of Siberia II). Gazprom still operates the Prirazlomnoye platform in the Arctic, despite serious concerns raised regarding the impacts of a spill. The Power of Siberia II pipeline has not yet been built<sup>149</sup>, but there has also been no commitment made by Gazprom to protect the UNESCO world heritage site, the Golden Mountains of Altai.<sup>150</sup> Additionally Gazprom has faced substantial criticism around its Sakhalin II project and resultant impacts on the sensitive environment- while some measures have been taken to protect the endangered western grey whales in the area (as a condition imposed by banks' lending to the project through civil society pressure)<sup>151</sup>, expansion plans for this Liquid Natural Gas plant is a substantial threat.<sup>152</sup>

Gazprom did not respond to our request for further information on these projects, or other projects previously covered in the Dirty Profits Report. However, an indication is given by its commitments: Gazprom is not a supporter of the Extractive Industries Transparency Initiative (EITI), nor has it signed the Voluntary Principles on Security and Human Rights. Gazprom is also not a participant of the UN Global Compact. Further demonstrating a lack of commitment, Gazprom does not have a human rights policy for its operations and organisations. It is clear the company fails in its responsibilities on environment, labour and human rights concerns. It is therefore also unsurprising that Gazprom ranks in the lowest percentile in the Corporate Human Rights Benchmark. This has resulted in an overall categorisation of Gazprom in the lowest category "The Pits: Extremely poor performers".



▲ Oil spill in the Yamal nenets district, as shown by Khanty reindeer herder.  
© Petr Shelomovsky / Greenpeace 2016

### Arctic oil spills: indigenous siberian reindeer herders fighting for their land.

Gazpromneft-Noyabrskneftegaz, a subsidiary of Gazprom (96% owned), is developing 13 oil and gas fields in the Yamalo-Nenets and Khanty-Mansi autonomous district in the Russian Federation.<sup>153</sup> This district is located in the Arctic zone of the west Siberian plain, home to indigenous reindeer herders who are increasingly losing land to drilling companies. This region is seeing heightened conflict between vulnerable native people and extraction companies.

In 2015 Greenpeace reported that Gazprom was granted oil and gas drilling rights to the oilfield 'Otdelnoe' on tribal lands, without the consent of these communities.<sup>154</sup> In January 2017 in preparation for oil exploration, Gazprom began the construction of a road through indigenous territories which was intended to be built directly over the reindeer calving site. The reindeer herders, already squeezed on all sides by oil companies, have refused to sign an agreement with Gazprom and continue to protest the drilling rights.<sup>155</sup>

Also in the same region, Western Siberia, in the Yamalo-Nenets autonomous area, there have been chronic oil spills on traditional lands by Gazprom operations.

The most recent spill was in 2016 spilling oil over nearly 5 hectares of tundra, this was, however, not the worst spill. In September 2014, 300 tonnes of oil spilled into the river Etyaha contaminating the entire length of the river.<sup>156</sup> Gazprom attempted unsuccessfully to clean the spill.<sup>157</sup> To date it has not been fully cleaned, nor has Gazprom been held liable.<sup>158</sup> Where oil spills occur in the region, Gazprom undertakes only temporary remedial work which is short-lived and oil easily reappears, harming reindeer and other wildlife. Since the 2014 oil spill, one family have lost 93 reindeer.

The above research indicates a potential violation of the UN Declaration on the Rights of Indigenous people, Article 10 of the Declaration notes that Free, Prior and Informed Consent is required and indigenous people cannot be forcibly removed from their lands. Article 26 highlights the rights of indigenous people to their lands and resources. The Guiding Principles on Business and Human Rights also note that

companies should ensure “meaningful consultation with potentially affected groups and other relevant stakeholders” as well as “Avoid causing or contributing to adverse human rights impacts [...], and

address such impacts when they occur;”.

In addition, the Rio Declaration Principle 3 seeks to to “equitably meet developmental and environmental needs of present and future generations.”<sup>159</sup>

Neither the Sakhalin II nor the Prirazlomnoye projects have adopted a precautionary approach – these

are environmentally risky endeavours not only to the immediate vicinity of the sensitive ecological areas but also in relation to climate risk. Additionally, to conform to the Framework Convention on Climate Change, the exploitation of Arctic oil and gas is high on the list of hydrocarbons that should be left in the ground. It is for this reason that several funds have divested from Gazprom (See Appendix).

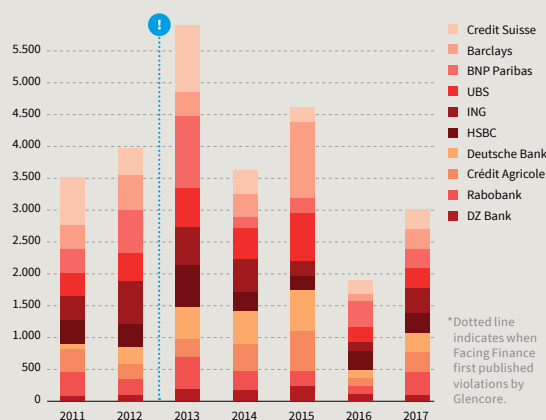
*“It’s classic colonialism, like at the end of the 19th and start of the 20th century,” Indigenous people can only negotiate “small compensation that doesn’t compare to the wealth the oil companies make on these territories”*

Mikhail Kreindlin of Greenpeace in an interview for the Guardian<sup>160</sup>

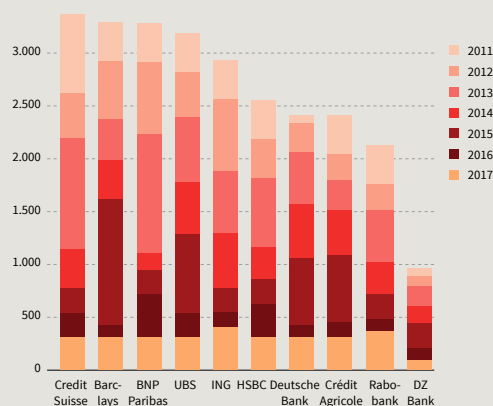
Company responded to Facing Finance regarding allegations	Yes
Significant concern	Air Pollution. Environmental damage. Harming the health of communities. Poor Worker Safety. Human rights violations in Colombia.
Potential norm violations	UNGP, ILO, ICESCR, ICMM, OECD Guidelines for Multinational Enterprises. Including: the Right to Health and the Right to Effective Remedy. UN Global Compact Principle 7 and 10.
Company ranking on CHR	30–39% (Bad)
Voluntary commitments	UN Global Compact, EITI, ICMM, Voluntary Principles on Security and Human Rights
Facing Finance category	Undermined: Bad all rounders

# Glencore

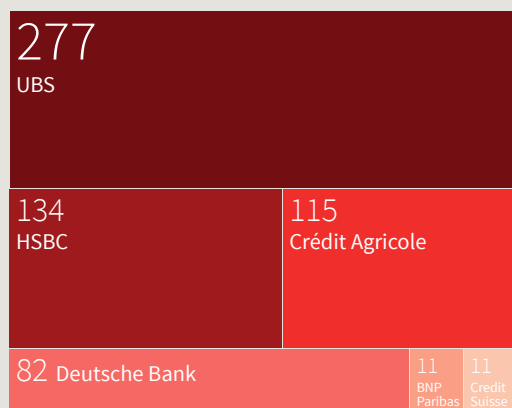
Capital provision by year — all loans, bond and equity underwritings (€ Million)



Capital provision by bank — all loans, bond and equity underwritings (€ Million)



Management of shares and bonds by top banks (in € Million):



## Digging for Justice: Progress on previously reported cases

Glencore is a global commodity producer covering over 90 commodities, including metal and minerals, energy products and agricultural products. Facing Finance has investigated Glencore in the context of extractives in three previous Dirty Profits reports between 2012 and 2014 in relation to previous violations at its operations in Peru, Zambia, the Philippines, and Colombia.

In Colombia, Glencore is a part owner of the Cerrejón coal mine (discussed under BHP page X in relation to human rights violations in resettlements). Additionally, Glencore also owns Grupo Prodeco in Colombia, where communities surrounding the company's mines have faced human rights violations including land rights issues, worsened living conditions due to resettlement, chronic poverty, violence by paramilitary, and death threats to community activists.<sup>161</sup> The communities in the region have also been protesting against pollution and environmental destruction caused by the coal mining companies. Glencore is also the world largest shipper of export quality coal<sup>162</sup> and has the tenth largest global coal reserves, which it shows no signs of reducing,<sup>163</sup> illustrating a clear lack of commitment to climate change objectives.

In Peru Glencore faces a court case in relation to claims it hired security forces to threaten and mistreat those protesting against their copper mine. The confrontations resulted in the death of two protestors and others were seriously injured. 22 Peruvians have now brought the claim against the company in London.<sup>164</sup>

In the DRC, Glencore operates the Mutanda mine located within the Basse-Kando reserve (covered in Dirty Profits 1 and 3).<sup>165</sup> According to local NGOs in the region, in April 2017 a pipeline allegedly burst releasing toxic acid.<sup>166</sup> Glencore has not confirmed this incident. Increased acquisitions by Glencore in both the Katanga and Mutanda mines have been mired in corruption allegations as outlined by Global Witness<sup>167</sup> and more detail has recently come to light in the "Paradise Papers", showing that Glencore was involved in bribery and is at serious risk of non-compliance with anti-corruption laws.<sup>168</sup> Glencore is a participant in the Extractive Industries Transparency Initiative, a global standard committed to the open and accountable management of extractive resources.<sup>169</sup> In light of the latest revelations, Glencore's membership of this organisation seems the height of hypocrisy. Glencore in mid-2016 had a significant industrial spill from one of its tailings dams in Ridder, Kazakhstan which turned the river the colour of cement.<sup>170</sup>



▲  
Mopani smelter at Glencore's Mopani Mine in Zambia with community in foreground. Taken 9 March 2017.  
© Henry Longbottom, SJ

Glencore does not perform well in the Corporate Human Rights Benchmark, ranking in the lower percentiles partly due to failing to extend human rights policies to business partners – critical in an industry where joint ventures and complex partnership structures exist. The company also does not have a strong grievance mechanism in place, which is critical to comply with UNGPs and ICMM Principle 9. This has resulted in Facing Finance categorising Glencore in the middle category “Undermined: Bad all rounders”.

### Glencore in Zambia: Toxic fumes and worker safety violations.

Since 2000, Glencore has been the majority owner of Mopani Copper Mines plc<sup>171</sup> operating the Nkana and Mufulira mines producing copper and cobalt. The Dirty Profits reports covered Glencore's operations in Zambia in 2012, 2013 and 2014 specifically in relation to sulphur pollution from the Mufulira mine and associated smelter. In 2014, there were additional reports of sulphur pollution harming children and communities around the mine, and scattered reports in 2015 that the pollution levels had not improved.<sup>172</sup> The emissions from the mine caused the death of a local politician and in 2016 the Zambian High Court made financial claims against the company related to this.<sup>173</sup> It was found that the politician had “acute respiratory failure due to inhalation of toxic fumes”. This could open the way for further claims by residents and community members affected by the operations.

NGOs working in the area have also found that women are most adversely affected by the pollution and impacts of the mines.<sup>174</sup> Glencore itself admits that for the last 60 years 100% of sulphur dioxide from the smelters were released into the atmosphere, however, since 2014 they have been capturing the majority of emissions.<sup>175</sup> There have been leaks even in the upgraded system, which have resulted in riots by local community members frustrated with Glencore's operations.<sup>176</sup> Glencore itself admits that there are excessive sulphur emissions when restart-

ing the smelters. The company has noted that it provides medical attention to those affected when the smelters are turned on and when there are excessive emissions. However, Glencore provides no medical care or access to remedy for those who have been affected by the smelter operations since its ownership, or for the last 16 years. Glencore notes in their response to us that there have been no complaints regarding the sulphur emissions since 2015. Sulphur dioxide is an air pollutant which when released into the atmosphere is associated with respiratory problems, and most dramatically affects children and the elderly as well as those suffering from respiratory problems. Despite the smelter upgrade and the emissions reduction, the impacts of decades of sulphur pollution have not been remedied by Glencore.<sup>177</sup>

Glencore's lack of commitment to the people of Zambia is also illustrated by its clear unwillingness to pay taxes. For instance, in October 2014 the Government of Zambia passed a law which increased the tax on copper and other minerals. As a consequence, a coalition of mine operators, including Glencore, threatened to stop operations and investments in Zambia. This led the government to withdraw the law, instead enforcing much lower taxation.<sup>178</sup> Glencore also participates in wider tax avoidance schemes such as transfer mispricing, which is not illegal, but deprives the country of resources to support development.<sup>179</sup> Glencore in their response

to Facing Finance stated that “Glencore pays substantial amounts of taxes and royalties in all the countries in which it operates.”<sup>180</sup> Recently, the Government of Zambia revised the low energy tariffs provided to mining companies in the copperbelt and while the majority of companies agreed to pay this,<sup>181</sup> Glencore initially refused threatening to lay off 4,700<sup>182</sup> workers. The increased power prices are predominantly due to low water levels at the country’s hydroelectric dams and companies in the copperbelt to date have had lower prices to encourage operations with power companies arguing the cost does not reflect the cost of supply.<sup>183</sup>

There have been reports of water pollution near the mines, particularly the Kafue River, although it is not possible to identify exactly which of the mines in the area is responsible.<sup>184</sup> The pollution, however, has been so severe that a ministerial statement was made regarding the need for treatment and future pollution prevention of copper effluent in the area.<sup>185</sup>

Glencore has a poor safety record at its mines in Zambia, with a serious incident occurring in August 2016 when three miners were electrocuted<sup>186</sup> and again in November 2016 when over 300 workers were accidentally gassed when a truck hit a powerline, although there were no fatalities.<sup>187</sup> Previously in July 2015, four miners died in a rock fall at Mopani mines.<sup>188</sup> Glencore also has a terrible safety record at its mine in the Democratic Republic of Congo<sup>189</sup>, where part of the open pit Katanga mine collapsed and seven workers died.<sup>190</sup> While Glencore claims to be addressing these problem and reviewing concerns, the severity of the incidents and Glencore’s poor safety record when compared to other global miners<sup>191</sup>, is

deplorable. Glencore has in this regard violated not only the UNGPs but also failed to live up to the expectations contained within Part III, Article 6 and 7, of the ILO Safety and Health in Mines Convention, which Zambia has ratified.<sup>192</sup> In addition to possible violations related to the Right to Just and Favorable Conditions of Work - Safe and healthy Working Conditions, Art. 7 (b) ICESCR.

Copper mining pollution in Zambia has severely affected public health and the environment. The impacts of this as well as the impacts of tax evasion have dealt a severe blow to the country’s development and therefore human rights. Operations by Glencore in Zambia have potentially infringed upon people’s rights, particularly with regard to access to remedy as enshrined in both the OECD guidelines for multinational companies and the UN Guiding Principles which state “Where business enterprises [...] have caused or contributed to adverse impacts, they should provide for

[...] remediation through legitimate processes.” This means that communities and individuals suffering from human rights violations should have somewhere to turn to for justice. It is clear within international law and the UNGPs that “Businesses also have a responsibility to provide and cooperate in remediation when they have caused or contributed to adverse human rights impacts”<sup>193</sup>.

Previous legal cases have revolved around the fact that companies have a “duty of care” where human rights concerns arise in their operations.<sup>194</sup> In their response to us, Glencore included no information in relation to their actions regarding access to remedy.<sup>195</sup>

*“Two years ago when I was coming from the market area around 11:00PM carrying a four month old baby boy when I reached near the mine area I experienced a heavy release of sulphur-dioxide which polluted the whole area. This affected my child who started coughing uncontrollably and had difficulties in breathing”<sup>196</sup>*

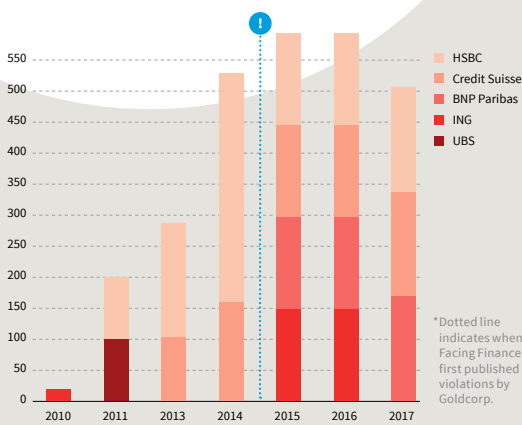
*Margaret Chisanga is a 40-year-old woman who has spent her life since birth in Kankoyo.*

→ Facing Finance

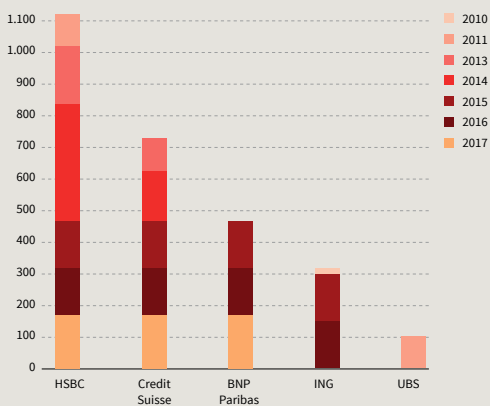
Company responded to Facing Finance regarding allegations	No
Significant concern	Mine closure procedures related to environmental rehabilitation, social and labour impacts. Operating without FPIC.
Potential norm violations	ILO, UN Declaration on the Rights of Indigenous Peoples, ICESCR
Company ranking on CHRB	20–29% (Poor)
Voluntary commitments	UN Global Compact, EITI, ICMM, Voluntary Principles on Security and Human Rights
Facing Finance category	The Pits: Extremely poor performers

# Goldcorp Inc

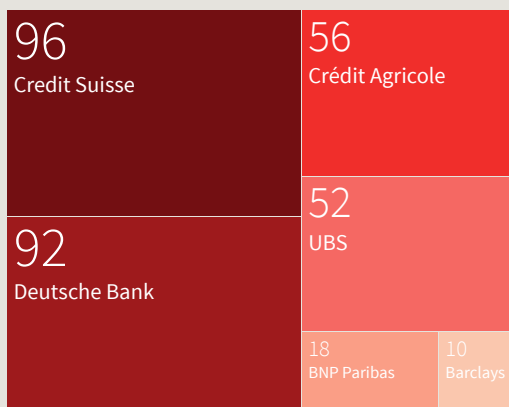
Capital provision by year — all loans and bond underwritings (€ Million)



Capital provision by bank — all loans and bond underwritings (€ Million)



Management of shares and bonds by top banks (in € Million):



## Digging for Justice: Progress on previously reported cases

Goldcorp is a gold mining company headquartered in Canada, with operations in Canada, Argentina, and Mexico as well as projects in Chile, the Dominican Republic, Guatemala, Honduras. Goldcorp was covered in 2014 in the Dirty Profits 3 report, in relation to El Morro in Chile (now NuevaUnion), Los Filos in Mexico (now owned by Leagold), San Martin in Honduras, and specifically the Marlin mine in Guatemala.

In addition to these cases, and not previously covered in our Dirty Profits reports, it was discovered by journalists in August 2016, that a Selenium spill<sup>197</sup> occurred at the Peñasquito mine in Mexico in 2013 and in 2014. In September 2016, there was a protest by landowners, truck drivers, and residents, protesting for compensation for environmental damage, including for air pollution, contaminated and reduced water sources, and the urgent need for clean water.<sup>198</sup> These protests resumed in September and early October 2017.<sup>199</sup> There is now a class action against Goldcorp by shareholders due to Goldcorp concealing this information about the selenium leak.<sup>200</sup> The class action suggests that the selenium spill was wider than just within the mine grounds.

Despite our requests to corroborate information directly from Goldcorp, the company failed to provide any response. Goldcorp performs very poorly in the Corporate Benchmark of extractive companies on human rights, falling in the lower percentiles. Particularly it has no policy on access to remedy, lacks strong grievance mechanisms and shows limited regard for Free, Prior and Informed Consent (FPIC) in practice.<sup>201</sup> Goldcorp is a signatory to the UN Global Compact, the ICMM, and the Voluntary Principles on Security and Human Rights and the World Gold Council's 'Conflict-Free Gold Standard' and claims to be committed to uphold these principles. This has resulted in an overall categorisation of Goldcorp in the worst category "The pits: Extremely poor performers".





Community members from San Miguel Ixtahuacan and Sipakapa peacefully blockade entrances to Goldcorp's Marlin mine in June 2017, including here occupying Goldcorp's landing strip.  
© Aniseto Lopez, FREDEMI.

### Marlin Mine, Guatemala: From exploration to mine closure; a decade of operation without consent

The Marlin gold mine is owned by Montana Exploradora de Guatemala, S.A (Montana), which is a subsidiary of Canadian company Goldcorp. The mine operated in the Guatemalan department of San Marcos for over a decade, closing at the end of May 2017 when the life of the mine came to an end. Previous issues at the mine related to deteriorating living conditions, environmental damage, water and health problems, violation of FPIC, lack of recognition of a locally-convened referendum on the mine, severe tensions, as well as criminalisation of opposition leaders. In 2016, a mine employee was killed in a work-related accident<sup>202</sup> and in 2005 another man was shot and killed, allegedly by mine security.<sup>203</sup>

The communities surrounding the mine, Indigenous Maya Mam and Maya Sipakapense people, have fought against the mine and been suppressed, even violently. Evidence has shown that proper consultation never occurred to obtain a social licence to operate for the mine, and no FPIC was obtained.<sup>204</sup> The latest cause for discomfort among the communities surrounding the mine is the mine closure.<sup>205</sup>

A 2010 Human Rights Assessment report acknowledged that the project aggravated conflict within the communities and could not ensure robust participation from affected communities as a result,<sup>206</sup> noting a “systematic failure to address grievances in the communities, allowing them to

accumulate and exacerbate”. Upon closure a progress report was produced, which also failed to engage external stakeholders or affected communities. The evaluation report notes that community members have concerns about environmental and social impacts of the closure including water quality, the underground tunnel, social impacts of job losses, and the electrical lines that run over the village. There is no evidence the company has listened to these concerns.<sup>207</sup>

In 2012, shareholders presented a resolution to Goldcorp that drew from the company's own assessment and the results of an independent study by a team of US-based engineers. The study calculated a \$49 million price tag for closure and post-closure costs of the Marlin mine but the company's surety bond was a mere \$1 million.<sup>208</sup> Recognising that this discrepancy risked exposing affected communities to significant long-term environmental damage, the resolution called on Goldcorp to set aside financial surety matching the independently-estimated costs as well as to ensure transparency and community consultation on its closure and post-closure plans.<sup>209</sup> Goldcorp advised shareholders to vote against the resolution.<sup>210</sup>

Community members have protested as recently as July 2017 for the mine to rectify the damage it has done to their houses and community, as well as the clear lack of commitment by the company to implement the closure plan.<sup>211</sup> Aniseto López, of the Miguelense Defense Front (Fredemi), said: “Some 400 homes are cracked from the walls and floor, we believe it was because of the explosions the mine made when it was looking for gold. What we are asking is that the company recognize the damages and pay the people who are very needy.” Communities have repeatedly tried to raise these issues with the mine, but report that to date nothing has been done.<sup>212</sup>

Previous studies have shown water contamination, including heavy metals in water and in the blood of residents near the mine<sup>213</sup> and a risk of tailings seepage and acid mine drainage.<sup>214</sup> The company has disputed these studies and results. Communities are now concerned about the possibility of cyanide and heavy metal contamination during and following the mine closure.<sup>215</sup> A local hospital initially supported by Goldcorp and touted as a “healthcare blessing for San Miguel Ixtahuacán”<sup>216</sup> is now in disrepair and services cannot be offered due to lack of finances, proving that long-term sustain-

*“Why do I continue with the struggle? Why do we continue the struggle? Because we love our water. We love our land, we love our natural resources. This is why we're in the struggle,” he said.*

*Alfredo Jacinto Pérez, a community spokesman and leader of the Sipakapense Council*<sup>226</sup>

ability in community health was never the goal - a major problem when mining companies endeavour to provide services which they do not have the capacity or desire to manage once they are no longer reaping profits from the community.

Goldcorp's defence for the last decade when questioned over the negative impacts of the mine was to claim that it was sharing its high revenues with the underprivileged local community, via jobs and economic development.<sup>217</sup> At one point 78% of the workforce at Marlin was local, however there has never been a union for these workers, and the 2010 human rights study showed that the company dismissed staff who attempted to form one. For workers who will now lose their jobs, skills such as heavy machinery operation, electrical and hydraulic systems operation and management skills have been taught. However, while these may be transferable skills, they are industrial jobs which would require relocation. Indirect effects of the mine such as the boom in canteens - which relied on disposable income from mine workers, as well as the loss of alternative sources of livelihood since the mine went into operation (and could be affected by future contamination) are of concern. Access to healthcare for mine employees will be also removed upon mine closure.<sup>218</sup>

*"We were invited to a presentation of the closure plan, but it was the only one. They never explained to us in detail what the actions will be to rebuild the area they used to explore and exploit, so we have requested that a government commission be formed to verify the closure of the company."*

**Ramiro Soto, mayor of San Miguel Ixtahuacán**<sup>225</sup>

The Goldcorp website claims that US\$130 million was spent on infrastructure for communities, listing these as "tailings filtration systems, an award-winning flood protection spillway, miles of paved roads."<sup>219</sup> It is quite clear that this infrastructure provision was for the mine, not the communities.

Goldcorp's exit strategy has been flawed due to substandard consultations with affected communities. Communities in resistance to Goldcorp's Marlin mine have denounced that Goldcorp has, after 13 years of operations, left a legacy of health and environmental harms, family and community divisions and violence against the collective rights and well-being of the Mayan Mam people of San Miguel Ixtahuacán and Mayan Sipakapense people of Sipakapa. The population fears that the company will leave without repairing the harms it caused. Mine closure, even with major investment, poses negative environmental and social risks for many years thereafter. In Honduras, Goldcorp's San Martin Mine closed in 2008, but still suffers from acid mine drainage and significant contamination, while Goldcorp says the mine is rehabilitated.<sup>220</sup> The Marlin mine's environmental legacy could be similar or even worse, particularly without an adequate bond for closure and post-closure that would finance water treatment

into the future, the most serious consequences being acid mine effluents, erosion and sedimentation that could further contaminate water and soil, and disturbed lands that cannot be returned to their prior use.<sup>221</sup> The right to remedy is critical in mine closure, but Goldcorp has not provided this, and has not adequately consulted with affected communities who will bear the brunt of ongoing and future impacts.<sup>222</sup>

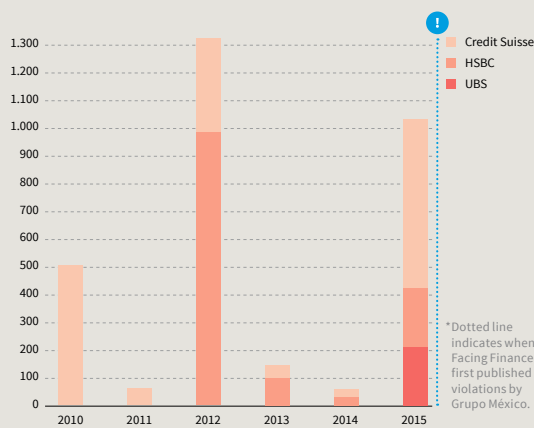
Throughout its operation at the Marlin mine, Goldcorp has continually infringed on the rights of indigenous people and potentially violated Indigenous rights enshrined in ILO Convention 169, the UN Declaration on the Rights of Indigenous Peoples and international jurisprudence, as well as communities' right to health, as land is an "underlying determinant of health," and<sup>223</sup> states are obligated to respect, protect, and fulfill its availability for indigenous peoples in accordance with paragraph 12(a) of General Comment 14 of the International Covenant on Economic, Social and Cultural Rights,<sup>224</sup> which also enshrines the Right to Housing, Art. 11 (1) ICESCR. Principle 6 of the ICMM commitments includes the commitment to "rehabilitate land disturbed or occupied by operations in accordance with appropriate post-mining land uses". This, among the many other issues raised, is something that Goldcorp appears to be struggling with in the absence of robust accountability tools.

→ Fredemi, United for Mining Justice and MiningWatch Canada

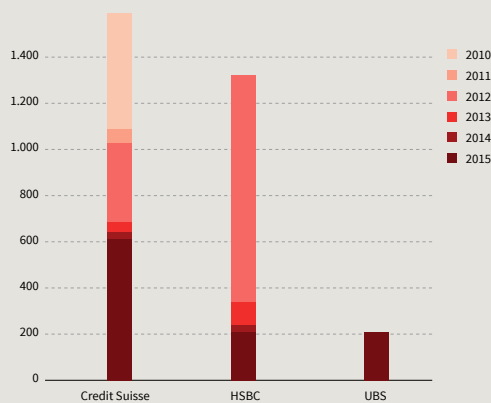
Company responded to allegations	No
Significant concern	Labour violations and severe toxic tailing spills.
Potential norm violations	OECD Guidelines on Multinational Companies, ILO, ICESCR, Guiding Principles on Business and Human Rights
Company ranking on CHRB	0–9% (Extremely Poor)
Voluntary commitments	None
Facing Finance category	The Pits: Extremely poor performers

# Grupo México SAB de C.V.

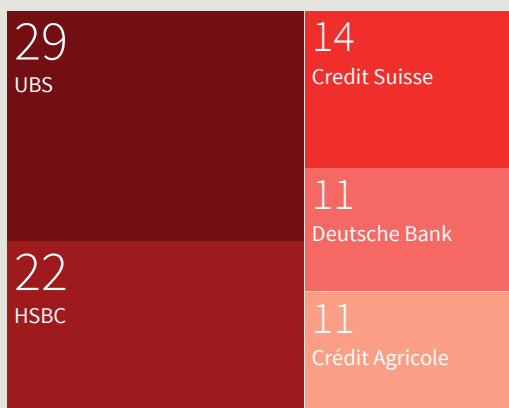
Capital provision by year — all loans and bond underwritings (€ Million)



Capital provision by bank— all loans and bond underwritings (€ Million)



Management of shares and bonds by top banks (in € Million):



## Digging for Justice: Progress on previously reported cases

Grupo México conducts its mining operations through a host of subsidiary companies, including the Southern Copper Corporation operating in the U.S.A, Mexico and Peru. In 2016, Grupo México was included in the Dirty Profits 4 report including the Tia Maria and Buenavista del Cobre mines. The Tia Maria mine, against which violent protests occurred in 2015, resulting in three civilian deaths, the suspension of the mine, and a state of emergency being declared in the region, is now reportedly expanding and reopening.<sup>227</sup> Construction licences are due to be issued, but there is still disagreement over whether they indeed have a social licence to operate.<sup>228</sup> Without a social licence there can be no FPIC for the project and moving forward would potentially violate human rights norms. Reportedly, protests by farmers in the region are continuing against the mine.<sup>229</sup>

Additionally, labour and freedom of association issues at Southern Copper operations in both Mexico and Peru have surfaced in the past, including anti-union behaviour. Disputes over wages, improved medical care, profit sharing and an end to the surveillance of mine workers continue to occur.<sup>230</sup> Labour violations and the violent suppression of protesters have also persisted at the Buenavista del Cobre mine (prev. Cananea mine) since 2007.<sup>231</sup> Most recently, after a month of protest to force the company to pay them what it has owed for ten years, striking workers and former workers who were blocking railway lines were brutally evicted by private security forces in August 2017.<sup>232</sup> Grupo México also refused to participate in an OECD remediation process in 2016 in relation to worker rights violations in the US.<sup>233</sup>

The Guiding Principles on Business and Human Rights include provisions committing businesses to incorporate a human rights policy and adhere to human rights norms and standards. Grupo México in its code of ethics mentions human rights, but it in no way embeds this in the organisation nor does it have an explicit human rights policy.<sup>234</sup> Grupo México is not a participant of the UN Global Compact nor the ICMM and scored the lowest possible ranking on the Corporate Human Rights Benchmark.<sup>235</sup> It has also been excluded by numerous investors, including Delta Lloyd and PGB, a Dutch Pension fund (See Appendix 1). While the Norwegian Govern-

ment Pension Fund has not divested, it has been pressured to do so due to Southern Copper's labour violations and, more recently, on the grounds of Grupo México and Southern Copper's carbon emissions.<sup>236</sup> The company not only fails to admit its responsibility with regard to human rights and environmental protection, and fails to develop policies and strategies to protect the rights of those impacted by mine activities, but actively seeks to evade its responsibilities and place the duty to respect and remedy firmly with national governments. Despite repeated attempts to contact both Grupo México and Southern Copper, no response was received. This has resulted in an overall categorisation of Grupo México in the worst category "The pits: Extremely poor performers".

### Buenavista del cobre: the worst ecological disaster in Mexico's history

On the 6th August 2014, the "worst ecological disaster in Mexico's history"<sup>237</sup> occurred at the Buenavista del Cobre mine when 40 million litres of acidified copper concentrate spilled into the Bacanuchi and Sonora rivers. The spill was found to be the result of negligence and the company and its subsidiary Southern Copper delayed reporting the spill and denied responsibility.<sup>238</sup> In October 2014 Grupo México claimed that it had completed the cleanup. However, three years after the spill, residents are still reliant on bottled water, river water still shows heavy metal pollution and there is severe economic hardship due to livestock loss and inability to sell produce from the region.<sup>239</sup> The polluted water also continues to affect the health of residents and livestock. In response, 11 legal procedures have been brought forward with the help of PODER by communities against the company and the government.<sup>240</sup> In particular, 10 local committees representing over 1000 affected individuals, have formed the group Comités de Cuenca Rio Sonora to push for social justice.

In July 2017, the UN Working Group on Business and Human Rights published its report on its visit to Mexico<sup>241</sup> and acknowledged the scale of the impacts showing Grupo México had not followed through on promised remediation. The remediation it had committed to in the wake of the catastrophe included the provision of 28 water treatment pumps with filtration technology and a clinic to treat those affected, among other commitments. The Working Group reported only one water pump, which was not functional, and that the clinic had never been completed. Since the spill, 381 residents to date have been treated for gastrointestinal and dermatological diseases in a temporary facility.<sup>242</sup> There is

evidence of new cases emerging. Grupo México also voluntarily contributed to a trust fund to assist those affected by the spill but there have been serious irregularities in distribution of the funds. When compared to the substantial profits made by Grupo México the paltry contributions and lack of delivery on remediation indicate an insufficient commitment to corporate responsibility.

The pollution of the river has prevented 22,000 people directly and 250,000 people indirectly from accessing safe drinking water, unequivocally affecting their most fundamental human rights.<sup>243</sup> It is apparent from the reports that the company has taken no steps to secure the communities' long-term access to water. This affects not only the communities' right to water, but also to health, adequate livelihood, and work as well as potentially violating the UN Guiding Principles on Business and Human Rights to "Avoid causing or contributing to adverse human rights impacts [...], and

address such impacts when they occur".<sup>244</sup> In addition the company does not appear to have in place "Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute." as required by the UN Guiding Principles on Business and Human Rights. Health issues

stemming from the water pollution, such as those described above, also potentially violate the International Covenant on Economic, Social and Cultural Rights, specifically the underlying determinants of health.<sup>245</sup> Southern Copper in its labour disputes shows a lack of regard for the conventions in the ILO and Article 22 of the ICCPR, including those for freedom of association and collective bargaining.<sup>246</sup>

→ PODER and Comités de Cuenca Rio Sonora

*"This is Mexico's worst mining disaster in recent history. The contamination covered almost 200 miles of river. People and animals have gotten sick, animals have died, and crops have failed. The affected communities need answers about the responsible parties and they need the situation remedied."*

*Benjamin Cokelet, executive director of PODER, a Latin American non-governmental organization that has represented the communities in Mexican court.<sup>247</sup>*



▲ Image of the Sonora River  
© Arizona Centre Investigative Journalism  
via Sonora Government

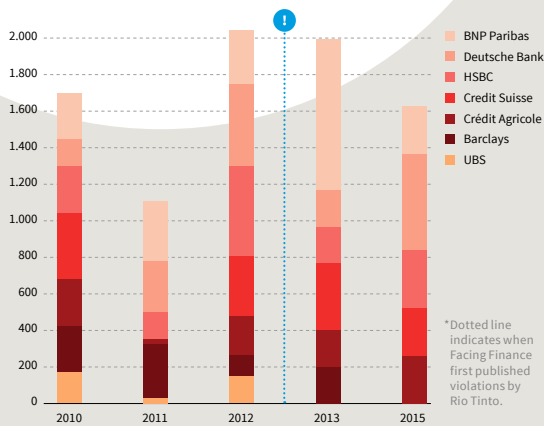


◀ Children and adults along the Rio Sonora have suffered numerous and serious health effects after the spill due to heavy metals and other toxins.  
© Richard Boren

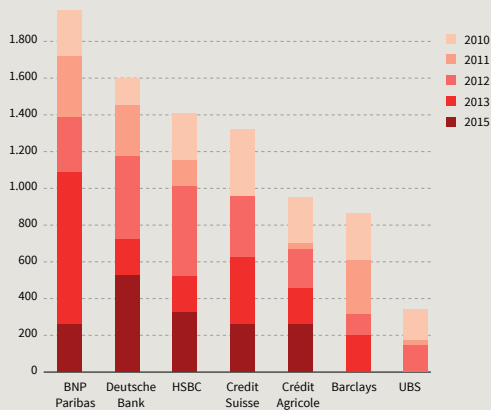
Company responded to allegations	No
Significant concern	Community Land Rights (livelihood destruction and lack of compensation). Preventing community access to natural resources. Controversial tailings disposal methods (riverine). Uranium Mining. Lack of access to remedy for sick mineworkers.
Potential norm violations	Convention on Biological Diversity, UNGP on Business and Human Rights, OECD Guidelines
Company ranking on CHRB	60–69% (Good)
Voluntary commitments	UN Global Compact, Voluntary Principles on Security and Human Rights, ICMM, EITI
Facing Finance category	Undermined: Bad all-rounders

# Rio Tinto Group

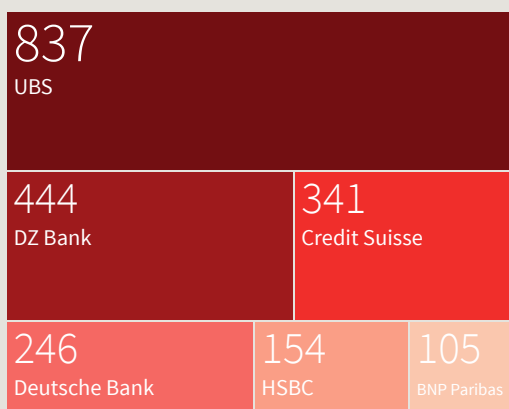
Capital provision by year — all loans, bond and equity underwritings (€ Million)



Capital provision by bank — all loans, bond and equity underwritings (€ Million)



Management of shares and bonds by top banks (in € Million):



## Digging for Justice: Progress on previously reported cases

Rio Tinto has faced significant opposition due to violations committed at the Grasberg mine in Indonesia<sup>248</sup>, which include human rights and environmental concerns stretching over decades. A major concern is the environmentally destructive riverine tailings disposal method used. On these grounds, many investors have excluded Rio Tinto (see Appendix). Facing Finance first reported on violations by Rio Tinto in 2012. While Rio Tinto's policies have improved over time, concerns remain over human rights violations and access to remedy. In particular a lack of response from Rio Tinto has resulted in it being categorised in the middle category "Undermined".

Rio Tinto is also one of the world's largest uranium producers<sup>249</sup> and in 2012 the Dirty Profits 1 report drew attention to Rio Tinto's Rössing mine in Namibia, the world's longest running open pit uranium mine, and the plight of its employees seeking remediation for health issues related to radiation exposure. While discussions have taken place about providing remediation to those affected through the pension fund for former employees, and a health study is being undertaken<sup>250</sup>, to date no remediation has been provided.

Facing Finance reported in Dirty Profits 2 in 2013 on the Panguna copper mine, located in the Autonomous Region of Bougainville in Papua New Guinea (PNG), in relation to serious environmental damage due to acid mine drainage and the company's complicity in war crimes.<sup>251</sup> Rio Tinto has since, in 2016, divested its stake in the mine to the Bougainville and PNG Governments. However, the mine's massive environmental legacy – for which Rio Tinto is directly responsible – remains unaddressed.<sup>252</sup> The company claims to have worked in its 17 years of active operation under the applicable local environmental standards and therefore accepts no further responsibility. This might force the local government to reopen the mining operation to cover the clean-up costs.<sup>253</sup>

Rio Tinto's coal mining interests in Mozambique's Tete province were also highlighted in 2013 in relation to land grabbing and human rights violations during resettlements. Although the mine was sold by Rio Tinto in 2014<sup>254</sup>, the largest phases of resettlement occurred under its ownership period.<sup>255</sup> Reports have shown that there has still been no agreed compensation for affected communities and that Rio Tinto was aware that they were resettling communities to land of lower quality and without the necessary resources, such as water.<sup>256</sup> In addition, Rio Tinto is currently being charged with fraud in relation to this sale, for attempting to cover up multibillion dollar losses.<sup>257</sup>



◀ Lemurs in the dwindling littoral forest of Madagascar  
© Impact Madagascar

### Taolagnaro mine, Fort Dauphin, Madagascar: double land grab?

There is a clear trend that emerges from these cases – the sale of troublesome mine assets to relieve the company of its human rights and environmental responsibilities. The question of who should be responsible for legacy issues in an industry where mergers, acquisitions and divestments are frequent extends to many multinational mining companies<sup>258</sup> and Rio Tinto is no exception. By selling their assets, many miners apparently consider their responsibilities absolved and the new owner responsible.

A recent study by SOMO and Oyu Tolgoi Watch also showed that Rio Tinto has avoided paying nearly USD 470 million through the use of tax havens, and how the company's abusive tax agreement has resulted in the loss of USD 230 million in tax revenue for Mongolia.<sup>259</sup>

The Tolagnaro mineral sands project mines ilmenite, used in paints and sunscreens. The operations indirectly impact more than 6,000<sup>260</sup> people living in the vicinity and resulted in the removal of some of the last remaining coastal littoral forest in the world, which is home to threatened species unique to the area.<sup>261</sup> QMM is 80% owned by Rio Tinto and 20% by the government of Madagascar. There have been criticisms in relation to dust pollution, flooding of agricultural lands and providing inadequate compensation to those displaced.<sup>262</sup> Of the 6,000 hectares of land owned by Rio Tinto for mining, 10% was set aside for conservation<sup>263</sup>, and an additional 6,000 hectares of forest outside the mining concessions were set aside for biodiversity offsetting.<sup>264</sup>

Rio Tinto, more than any other mining company, has embraced the use of biodiversity offsetting in many of its global mining projects, including mines in Mongolia, in Guinea and in Namibia.<sup>265</sup> Currently, the company is implementing 19 offsetting projects in areas of high and very high biodiversity, 17 of them as a require-

ment by lenders or regulators and 2 of them voluntarily.<sup>266</sup> In all of these cases biodiversity offsetting is used to allow the destruction of sensitive habitats, effectively blighting any discourse over whether these often unique places of biodiversity should be disturbed in the first place.<sup>267</sup>

In the specific case of the Bemangidy area in Madagascar, communities living around the newly protected reserve are now restricted from being able to gather fuel and medicinal plants or grow food.<sup>268</sup> A 2016 NGO study revealed that communities feel they were not adequately consulted and that restrictions were simply imposed upon them. Villagers have been provided with no alternative agricultural land where the ground is as fertile – the only available land is now sand dunes where productivity is low. No longer being permitted to use the forest as they once had, their food security as well as their way of life is threatened. According to one villager interviewed in 2015, “We understand the importance of protecting the forest. But they should have started the projects to help us grow food before stopping us from using the forest.



◀ The sandy fields where communities try to grow crops with limited success.  
© Jutta Kill

Otherwise we are left with no food and this is a problem.”<sup>269</sup> There is only sporadic employment and no projects have been developed to support the long-term livelihood of villagers, despite the fact that they now have to buy rather than cultivate food.

Rio Tinto has faced significant opposition from communities, particularly those dependent on fishing with protests occurring in 2013.<sup>270</sup> Rio Tinto has reduced access to fishing grounds due to the mine and associated port construction. Additionally, Rio Tinto acquired a nearby mountain, considered by locals to be “the land of the twelve ancestors”, to quarry rocks for port construction. By continuing to push a conservation mindset, Rio Tinto has attempted to legitimise mining in-situ despite the negative socio-environmental consequences for the Malagasy people.<sup>271</sup> It has managed to spin the destruction of some of the last littoral forest using strip mining into a project which is seen as primarily good for the environment, and downplayed the dramatic effects on those who were once resident in, and who are still dependent on the forest. Rio Tinto promised that there would be “no net loss of biodiversity”, however this has not been delivered.<sup>272</sup> The Biodiversity Committee

for the QMM mine have also recently stated that they are now deeply uncomfortable with “the fact that mention of the environment is totally absent from the five stated corporate priorities of Rio Tinto.” Moreover, they express a “lack of confidence that adequate long-term resourcing and capacity will be provided for the biodiversity program at QMM.” In addition, Rio Tinto has breached the buffers of the biodiversity area and there are concerns with rehabilitation due to radiation.<sup>273</sup>

Rio Tinto is a signatory of the UN Global Compact, the OECD Principles, and the Voluntary Principles for Security and Human Rights as well as a founding member of ICMM.<sup>274</sup> The ICMM advocates for biodiversity offsetting only as a last resort.<sup>275</sup> The narrow view of sustainable development taken by Rio Tinto in these biodiversity offsetting projects does not entirely comply with the recommendations of IFC Performance Standard 6 (PS6), which aligns itself with The Convention on Biological Diversity, 1992 (CBD). What has occurred in this case is a potential risk for all biodiversity offsetting projects - if communities are not

compensated or provided with alternative livelihoods before they lose access to forest resources this dramatically impacts poverty.<sup>276</sup> While the QMM Biodiversity Action Plan notes the importance of providing alternative livelihoods for communities and lists suggestions<sup>277</sup>, these have not been provided in the Bemangidy

case. Additionally, IFC PS6 para 24 states: “When Affected Communities are likely to be impacted, they should participate in the determination of priority ecosystem services in accordance with the stakeholder engagement process as defined in Performance Standard 1”.

*“We are really suffering now because we had to stop cultivating on the hills. We moved our cultivation into the dunes, but it’s so sandy there that growing anything is difficult. Plus they took our land and did not even compensate us. They said they would, but they never did.”*

Villager in Antsoto<sup>279</sup>

Also, the OECD Guidelines stress that companies must “engage with relevant stakeholders in order to provide meaningful opportunities for their views to be taken into account in relation to planning and decision making for projects or other activities that may significantly impact local communities.”<sup>278</sup> This appears not to have been adequately completed in this case.

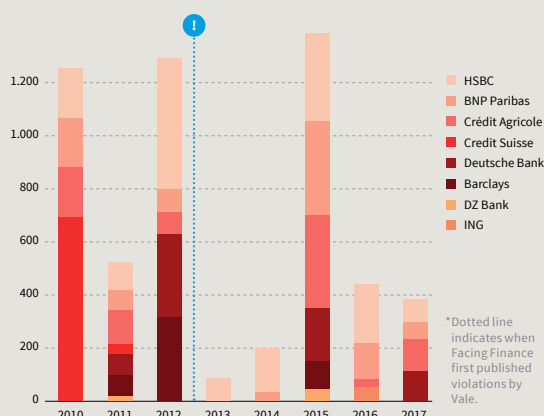
→ Facing Finance based on information published by CollectifTany, World Rainforest Movement and Re:Common



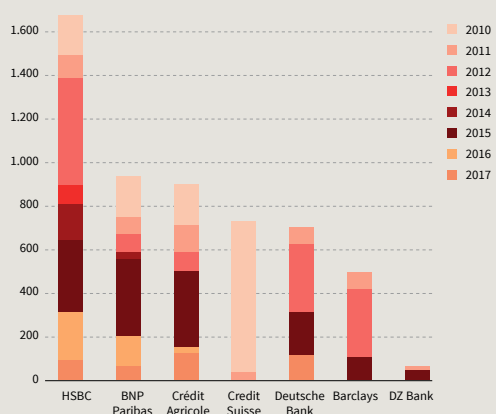
Company responded to Facing Finance regarding allegations	Yes
Significant concern	Brazil massive tailings dam failure. Environmental Destruction. Forced Labour. Human Rights violations in resettlements.
Potential violations	ICCPR, ICESCR, The Right to Information, Art. 19, UNGP on Business and Human Rights, UN Global Compact Principle 1
Company ranking on CHRb	30–39% (Bad)
Voluntary commitments	UN Global Compact, Voluntary Principles on Security and Human Rights, EITI, ICMM
Facing Finance category	Undermined: Bad all-rounders

# Vale SA

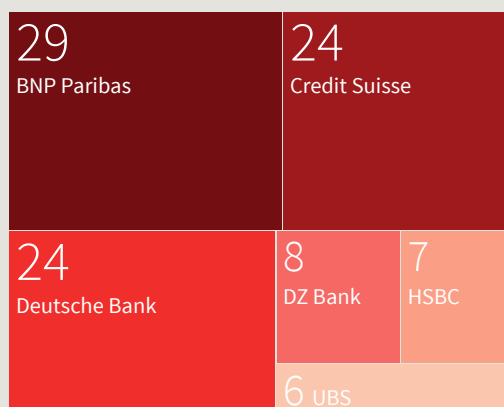
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Capital provision by bank — all loans and bond underwritings (€ Million)



Management of shares and bonds by top banks (in € Million):



## Digging for Justice: Progress on previously reported cases

Vale was included in Dirty Profits 1, 2 and 4 in relation to its coal mines in Mozambique, charcoal production in Brazil, its Carajas mine and railroad in northern Brazil, and La Morada in Northern Peru (now sold to the government of Peru) as well as the Samarco operations in Brazil. Vale is a member of the Global Compact but controversially quit the ICMM due to a dispute with Rio Tinto over the Simandou mine in Guinea and then rejoined late in 2017. Vale has been in contact with Facing Finance regarding the violations and what they have done to rectify these, and due to a lack of policy commitment Vale has been categorised in the middle category “Undermined”.

Vale still owns and operates the Moatize coal mine in Mozambique (covered in Dirty Profits 1 and 2) where large numbers of communities were resettled to make way for the vast coal mines. These families have been resettled to areas less suitable for farming and suffer from food and water insecurity. According to recent reports some families are still awaiting compensation for the resettlement.<sup>280</sup>

The expansion of the Carajas railroad in the Brazilian Amazon has resulted in conflict with the Awá tribe, who claim that the rail expansion will make it harder to hunt for food.<sup>281</sup> Reports from the company and NGOs<sup>282</sup> note that the company and Awá are engaging to ensure that impacts on the tribe are minimized. The Carajas mining complex, the largest iron ore mine in the world and the reason the railway exists, has recently been independently evaluated for air pollution, results showed those living in the area have up to six times higher risk of respiratory diseases.<sup>283</sup> The vast expansion of this project was completed in 2016, known as the S11D project it will be the largest iron ore mine in history.<sup>284</sup>

Recently in Brazil, Vale has been ordered to repair environmental damage it caused with its bauxite pipeline which damaged the ability of 788 families to provide their livelihoods. In addition, the federal prosecutors in Rio De Janeiro State suspended Vale’s dredging operations after 200 grey eared dolphins died.<sup>285</sup>

In Brazil at the Mina do Pica mine, inspections found that



◀ The rupture of the tailings dam of mining company Samarco, owned by Vale and BHP, caused a flood of mud that flooded several houses in the Bento Rodrigues district of Mariana, in the Central Region of Minas Gerais.  
© Rogério Alves/TV Senado

### Catastrophe at Samarco Mineração: two years on from the deadly tailings dam collapse.

workers at the mine were working in conditions analogous to slavery.<sup>286</sup> Inspectors accused a sub-contractor at Vale of subjecting 309 workers to slavelike conditions, forcing them to drive trucks for long hours with no breaks. In our engagement with Vale they have refuted these allegations and have noted that upon discovery of the violations they immediately took action to provide improvements. The contract has now been cancelled with the external contractor. Improvements have been made to oversight. However, the scale and impact of the slavery conditions mean that it is not sufficient to claim lack of knowledge in such a severe case as it shows a clear lack of oversight and policy compliance. This is in our opinion a violation of the Freedom from Forced and Compulsory Labor, Art. 8 ICCPR as well as the Right to Work, Art. 6 ICESCR.<sup>287</sup>

A dramatic chapter in Vale’s historic disregard for the environment and human rights was written on November 5, 2015, when two waste dams of the iron ore mine owned by Samarco S.A. - a joint venture between BHP (50%) and Vale (50%) - collapsed. A torrent of mud and iron-ore tailings<sup>288</sup> destroyed villages, including 349 houses, schools and churches, contaminated the Gualaxo do Norte, Carmo and Doce rivers and resulted in the immediate death of 19 people. Around 2,200 hectares of land were impacted along 650 kilometers of river. The destruction started in the City of Mariana and swept along the river, reaching the Atlantic mouth of the Doce 17 days after the dams collapsed. This mud destroyed the village of Bento Rodrigues and caused severe damage in the Paracatu de Baixo district and surrounds.<sup>289</sup> According to IBAMA’s (Brazilian Environmental Agency) preliminary technical report<sup>290</sup>, 40 municipalities were directly affected. This has affected, and continues to affect, communities’ abilities

to support their livelihoods, including at least 300 rural producers and 7,500 fishermen.<sup>291</sup> People’s way of life has been wiped out, their fishing, hunting, farming and sacred rituals on the river banks have been destroyed.

The water supply in 16 locations was also temporarily suspended due to water quality concerns affecting several communities reliant on the water of the Doce River. An analysis by the Serviço Autônomo de Água e Esgoto (SAAE) de

Baixa Gandu, undertaken just after the tragedy, detected the presence of metal particles such as lead, aluminium, iron, barium, copper, boron and mercury. Other statements by independent institutes<sup>292</sup> confirmed the contamination of the water with high levels of heavy metals, reaching the groundwater, water quality continues to be a concern for local communities. Further statements by diverse institutions<sup>293</sup> in Brazil stated that since 2013 the companies involved and the State of Minas Gerais (at a minimum) were aware of the risk of the

*“Vale killed our river, our culture, but will not be able to kill our spirit.”*  
Djukuna Shirley Krenak<sup>302</sup>

Fundão dam bursting, noting that there was the “possibility of destabilization [...] resulting in a collapse of the structure”. However, the company did nothing to avoid this.<sup>294</sup> The assessment report commissioned by BHP and Vale also admits the break was caused by design flaws.<sup>295</sup>

Since the moment the tragedy occurred Vale seriously mishandled the situation. The company took 22 days to respond and make public how they would react to the accident.<sup>296</sup> The company also initially denied that the dam collapse released heavy metals into the rivers.<sup>297</sup> Vale’s board of directors struggled to disassociate themselves from Samarco’s decision-making processes, and did not take their own strong measures to minimize the impacts.

In the two years following the event, several initiatives have been taken judicially and extrajudicially in order to hold to account those actors involved and to provide for reparation measures.

On November 30, 2015, the União Federal and the states of Minas Gerais and Espírito Santo, three actors that could also be considered complicit in the tragedy, filed a lawsuit against Samarco, Vale and BHP regarding reparation measures. On 2 March 2016 plaintiffs and defendants agreed a settlement.<sup>298</sup> This agreement established the creation of a private foundation for the purpose of adopting socioeconomic programs, infrastructure, environmental recovery, as well as measures in the areas of health, education, culture and leisure for the population affected by the tragedy. These processes should be completed within 15 years, but the agreement is renewable. As this was an agreement between the federal government and the companies which ignored the participation of victims and affected parties, the Superior Court<sup>299</sup> in Brazil suspended the decision. Despite the suspension the agreement

continues to be implemented, Samarco remains able to define the measures and those affected. In 2016 criminal charges were filed by the Federal Public Ministry against 22 individuals and the four companies related to the dam rupture- since the dam had clear signs that it could break and the companies were aware of this.<sup>300</sup>

Catastrophic tailings dam failures are one of the most damaging events and the biggest disaster threat that can occur in mining. They are likely to be an increasing threat due to climate change and linked extreme weather events. The devastating effects, such as those that occurred with the break of the tailings dam in Brazil, potentially violate the most fundamental human rights including for example the Right to Life, Art. 6 ICCPR, Right to Housing, Water, Food, Health and Work, Art. 6, 11, 12 ICESCR. The Right to Information, Art. 19, 25 ICCPR was also apparently violated as communities living below the dam had no knowledge of the risk of tailings dam failure or what to do in the event, indeed there was also no early warning system. An OECD complaint has been filed by IndustriALL claiming that the companies Vale and BHP violated the OECD Guidelines. The UNGPs were potentially violated as the company apparently did not assess the potential human rights impacts, nor did they “Avoid causing or contributing to adverse human rights impacts [...], and address such impacts when they occur;”.<sup>301</sup> The fact that the company was aware of the risk of a catastrophic tailings dam collapse but did nothing to prevent the tragedy is comparable to the case of BP Deepwater Horizon, an example of “gross negligence and willful misconduct” by the company and it should be treated as such in the accompanying legal cases.

→ Atingidos pela VALE

# Features on extractive industry



Impacts of tailings dam spill in Paracatu de Baixo, Brazil.  
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# Extracting Value: Banks, Mining and Biodiversity Protection

*Biodiversity was poised to become the future emerging issue of the global mining industry said the Rio Tinto CEO “That will be the case even more so in the future, so get used to it. It’s coming for the industry.”<sup>303</sup>*

Rio Tinto CEO Tom Albanese in 2008.

The island of Halmahera, Indonesia is in an internationally recognised biodiversity hotspot known as the Wallacea. Flora and fauna are so diverse here that every island needs individually tailored protection.<sup>304</sup> In 2010 the PT Weda Bay Nickel industrial and mining project<sup>305</sup>, was nevertheless granted mining concessions covering 54,000 hectares of this island, to be partially located in the forests that form a corridor between the two sections of the Aketajawe-Lolobata National Park.<sup>306</sup> In an effort to recognize the high biodiversity of the area, the company behind the Weda Bay project committed to achieve no net loss in biodiversity, although it currently has no plan on how to achieve this.<sup>307</sup> Apart from the questionable environmental aspects of the proposed project, an independent assessment of the mining project in 2013 also showed that the ethnic Sawai and Tobelo Dalam communities to be affected by the project did not give Free, Prior and Informed Consent, were not sufficiently compensated, and their customary rights over land were not respected.<sup>308</sup> While the mine has been on hold for three years (due to a downturn in nickel prices), a new agreement has been signed in 2017 to begin development.<sup>309</sup>

In Eastern Panama the Mesoamerican Biological Corridor is a critical area that acts as a land bridge between continents. It is home to about 10% of all known species<sup>310</sup> and has one of the highest concentrations of threatened species on Earth. In this unique biological corridor, First Quantum Minerals acquired the open pit copper mine, Cobre Panama, in 2013 and by 2018 it is expected to result in the destruction of approximately 5,900 hectares of forest<sup>311</sup>. To compensate for the biodiversity destruction associated with the mine, the company will contribute to the costs of managing two existing national parks (Santa Fe and Omar Torrijos), and establish a new protected area nearby, thereby expecting to achieve a net benefit for the affected natural habitats.<sup>312</sup>

In Madagascar, the QMM ilmenite mine has destroyed swathes of the last remaining littoral forest on earth (these forests have high plant diversity and are home to the endangered grey lemur) while committing to protect an equivalent sized site adjacent to the mine. At the same time, the mine has deprived communities of their access to traditional lands, removing them without adequate compensation and livelihood creation.

How could these projects be permitted in such ecologically sensitive regions? The answer is Biodiversity Offsetting. Biodiversity offsetting is defined as “ways to counterbalance, compensate, or make up for the disturbance of land, ecosystems and habitat,” and in effect constitutes protecting biodiversity in one place in order to allow its destruction in another. Mining companies have seen this as a way to “offset” the damage



▲  
 Boy with Boat, Twilight at  
 Halmahera Island, Indonesia.

to ecosystems and biodiversity caused by their operations. According to recent data, there is a clear correlation between mining dependent countries and biodiversity offsetting policies<sup>313</sup>. However the examples above (and others) show that this process only further contributes to causing extensive harm to communities and ecosystems, instead of being the solution to the problems caused by the mining sector. Evidence increasingly shows that biodiversity offsetting can in fact increase biodiversity loss, while at the same time undermining the abilities of communities to resist destructive projects.<sup>314</sup> Another critique is that offsetting schemes merely focus on the environmental effects, neglecting the negative impacts of extractive developments on the surrounding communities and disregarding the connection between communities and their natural environment, especially in terms of subsistence but also in terms of ancestral connections. Furthermore there are various technical issues in determining what has been lost, and what has been protected in the offsetting area, thus rendering the concept of 'no net loss' into an empty phrase. Besides this, there is insufficient oversight in terms of the long-term impacts of the offsetting project on protecting biodiversity.

It can never be a viable solution to destroy biodiversity areas which are home to endangered species and replacing them elsewhere, this is particularly the case where research about species movements and reproductive behaviours is inadequate. Attempting to value biodiversity areas, and attempting to value the economic benefits of the mine, is a flawed system, the complexities of which are not clearly understood and therefore based on flimsy science. Despite this they are being widely used and touted as a sustainable approach,<sup>315</sup> not only by mining companies but also by banks, which are increasingly asking for evidence of biodiversity offsetting in projects.

Financial institutions, including private banks and development banks, are increasingly following the lead of the IFC in relation to its Performance Standard 6<sup>316</sup>. The standard allows for biodiversity offsetting, but only as a final resort in the mitigation hierarchy, i.e. after applying appropriate avoidance, minimization, and restoration measures.<sup>317</sup> Banks which are members of the Equator Principles have also agreed to abide by the IFC PS6 and are more frequently requesting biodiversity offset plans, particularly for projects in the mining industry as a condition of lending requirements.<sup>318</sup> By these actions, the IFC PS6 has become the de facto standard for the industry. The financial institutions that have adopted the Equator Principles are responsible for about 70% of project finance in developing countries.<sup>319</sup> For this reason IFC PS6 is a major driver of the uptake of biodiversity offsetting by mining companies. This makes it all the more important that IFC PS6 is both comprehensive and well adhered to. A 2010 investigation into the application by banks of this standard, notes that banks often don't have the required knowledge to know whether a biodiversity offset plan is insufficient, or indeed where a biodiversity offset plan is an inappropriate solution.<sup>320</sup> In addition it was found that most banks understand the mitigation hierarchy but rarely apply it.

While the performance standard specifically notes that biodiversity offsetting is a last resort, only to be used after the exhaustion of all other options, it is increasingly apparent that the mining industry is adopting it as a go to solution. Therefore, financial institutions have to become increasingly aware of its shortcomings. Biodiversity offsetting cannot be the future solution to biodiversity protection that it was hailed to be ten years ago, as despite claims from mining companies it cannot undo the extensive harm done to nature and communities.

# Extracting Value: Banks, Mining and Climate Change

*“The potential large-scale roll-out of electric vehicles and energy storage systems looks set to unlock material new sources of demand for enabling underlying commodities, including copper, cobalt, zinc and nickel.”<sup>321</sup>*

Glencore CEO Ivan Glasenberg

The mining industry is a significant emitter of greenhouse gases (GHG), in 2014 mining and quarrying in Europe alone accounted for approx. 2% of GHG emissions<sup>322</sup> and globally, coal mining in 2012 was responsible for 2.7% of the GHG emissions worldwide<sup>323</sup>. The broader extractive industry has a substantial impact on carbon emissions, as the fossil fuel industry including oil, gas and coal accounted for 91% of global industrial greenhouse gas emissions (GHGs) in 2015, and about 70% of all anthropogenic GHG emissions. 7 of 10 companies investigated in this report are responsible for nearly 75 % of these global industrial GHGs (1988-2015).<sup>324</sup> Naturally the GHG emissions of mining companies depends on the nature of the mining and the mineral being mined, for example in a comparison of metals miners the platinum group metals and gold display the highest environmental burdens.<sup>325</sup>

The mining industry represents the start of the supply chain for many products supplying the wider economy, including inputs for renewable energy and electric vehicles. Indeed, the renewables market is expected to result in an increased demand for iron and copper as well as rare earth metals. According to Glencore CEO, Glasenberg “The potential large-scale roll-out of electric vehicles and energy storage systems looks set to unlock material new sources of demand for enabling underlying commodities, including copper, cobalt, zinc and nickel,”<sup>326</sup>. From the perspective of the wider extractive industry, fossil fuels are no longer a viable option in the face of climate change and companies must stop exploring and exploiting fossil fuels, however mining and minerals contribute to the development of renewable energy and therefore need to be managed in a more climate friendly way.

There are two main problems that the mining industry faces in regard to future GHG emissions: inevitably, the higher lying minerals are mined first, which means that once these are removed, more energy is needed to extract the deeper ones. The second challenge is linked to the quality of the minerals, especially in the case of metal mines, where deeper minerals are of lesser quality and thus more energy is needed to mine for the same quantity of quality minerals.<sup>327</sup> Various methods exist to reduce GHG emissions in specific parts of the mining sector, however, these include controversial aspects such as carbon offsetting and storage. In terms of reducing emissions from their operations, renewables provide a meaningful opportunity for mining companies to reduce their energy input.<sup>328</sup> Mines which introduce renewable energy infrastructure could not only benefit climate commitments, but given the usually remote nature of mines, investment in well thought through renewables can also provide energy for surrounding communities and improve mine legacy issues.

An additional and certainly not trivial issue for the mining sector is deforestation. A recent study has shown that 10% of Amazon deforestation between 2005 and 2015 was caused by mining.<sup>329</sup> This is true in particular for large open pit mining projects. In 2017 Brazil attempted to open 18,000 sq miles of amazon forest to mining. While this decision was recalled it illustrates the immense pressure on forests from the mining industry.

So how have companies been approaching these changes, which of those are moving swiftly towards a low carbon future and which are seemingly stuck? According to an assessment of companies' carbon emissions management, carried out by the London School of Economics' Grantham Research Institute on Climate Change and the Environment supported by data from FTSE Russell, large mining companies such as Anglo American, BHP and Glencore acknowledge the issue of climate change but have variously failed to reduce emissions, set integrated targets, or show climate change's impact on business cost.<sup>330</sup> In comparing large diversified miners in terms of their readiness for the transition to a low-carbon economy, the 2017 CDP (Carbon Disclosure Project) report "Digging Deep" also shows that of the 12 largest publicly listed miners, Freeport McMoRan, First Quantum and Vedanta perform worst in relation to commitments and emissions reduction. Glencore has also been criticised in the report for its continued push towards acquisition of thermal coal assets.<sup>331</sup> Companies such as Norilsk Nickel and Southern Copper Corporation (parent Grupo México) provide no data at all on their carbon emissions, or carbon reduction targets – a significant problem to be addressed. Anglo American also scored poorly in the report due to its coal business providing a quarter of earnings and it opposing a carbon tax in South Africa.<sup>332</sup>

Shareholder resolutions have proved fruitful in the mining and extractive sector in the last year. Shareholder activists have put forward and been successful in the acceptance of resolutions at Glencore, Anglo American, and Rio Tinto AGMs, calling for increased transparency on climate change risks<sup>333</sup>. Large investors have also been backing these resolutions, in particular the scale of investor owned emissions means that investor engagement is essential. BHP was also recently pressured by investors to disclose and assess its membership of lobby groups in relation to climate policy positions.<sup>334</sup> Transparency is a necessary step but implementation of these commitments and actual carbon reduction strategies must also be followed up on.

While many U.S. and European banks have begun to put policies in place to curb financing for coal mining, according to a 2017 BankTrack report in the last three years major banks have financed coal mining to the tune of \$57.92 billion. At least 14 major international banks have ruled out direct financing for

new coal mines globally, including Credit Suisse, Rabobank and HSBC on climate grounds.<sup>335</sup> The reduction of investment in coal mining is a necessary step in curbing carbon emissions, however the wider mining and extractive sector must also be reviewed in relation to emissions, particularly when there are still mining companies that provide no publically available data on their actual carbon emissions.

The results of Facing Finance's survey of the banks covered in this report show that the majority of banks acknowledge the issue of climate change in relation to mining and extractive industries. While the survey was designed to give banks the opportunity to provide as little or as much information as they were willing or able to – taking into account the often mentioned constraints of client confidentiality – only 6 of the 10 banks responded.<sup>336</sup> In response to the question "Does the bank consider climate change commitments when reviewing companies in the extractive sector (for example climate disclosure?)" all responding European banks stated that they take this into account. All of these banks said they were applying climate criteria to project finance and corporate finance, however, only 60% apply it to asset management decisions. Yet investments in companies such as Glencore, well known to have large thermal coal assets, persist. Anglo American too has been provided with over €7 billion over the last ten years by the banks, despite its poor ranking in the above-mentioned CDP study due to its lack of policy and action on climate change. In 2017 Anglo American received capital from Barclays, UBS, BNP Paribas and Credit Suisse. Deutsche Bank also has the largest shareholdings in Anglo American to the value of €567 million.



# Artisanal mining, child labour, and the supply chains of multinational companies: Child Labour in the Supply Chain of LafargeHolcim in Uganda

*In a report released in May 2017, Twerwaneho Listeners' Club (TLC) and Bread for All (BFA) published the results of an investigation on child labour in the supply chain of Hima Cement Limited, the subsidiary of LafargeHolcim (LH) in Uganda. The investigation showed that approximately 150 children worked under hazardous conditions in the quarries that were supplying Pozzolana (used for cement) to Hima Cement Limited. LafargeHolcim must work with its suppliers to rectify damage by implementing programmes that enable former child labourers to return to school or to receive vocational training in order to generate another source of income.*

Statistics from UBOS indicate that about 2.75 million children in Uganda are engaged in child labour, 51% (1.4m) of whom are involved in hazardous work,<sup>337</sup> the country is classified as being at “extreme risk” of child labour. Artisanal mining is also an industry where child labour and human rights violations can be considerably high. Artisanal mining is informal, often illegal, but provides a source of income for those living in poverty.<sup>338</sup> The products of these artisanal mines can, and often do, find their way into the supply chains of larger companies, in this way associating them with some of the worst forms of labour violations and human rights concerns. Supporting these miners and enhancing working conditions in artisanal mines is essential to improve the livelihoods of communities in these regions. For more than 10 years, LafargeHolcim and its suppliers benefitted from child labour among artisanal miners who supplied raw materials (specifically pozzolana, a volcanic rock) to the company in Uganda. Following a public scandal, including the publication of an article in the newspaper *Le Monde* in April 2016, LafargeHolcim stopped buying from artisanal miners and decided to work only with mechanised mines.

The investigations undertaken by TLC (based in Fort Portugal, Uganda) and BFA interviewed 54 informants and found that up until September 2016, (according to several estimates) approximately 150 children worked in the quarries supplying Pozzolana to Hima Cement Limited, the subsidiary of LafargeHolcim in Uganda. Hima Cement started buying pozzolana from artisanal miners in 1992, and child labour in the quarries had been confirmed since the early 2000s. TLC and BFA interviewed 20 working children between the ages of 12 and 17. Many children who worked at the quarries dropped out of school and did not go on to secondary school. Working in pozzolana quarries is hazardous, most children interviewed reported having experienced injuries (leg, hand, foot). They also reported that working in quarries has a negative impact on their health and physical development. This type of work is classified by the International Labour Organization (ILO) as “hazardous child labour.”

From September 2016, the company decided to reduce the material it sourced from artisanal mines to 10%, with 90% to be purchased from mechanised mines. In January 2017, Hima Cement announced it would completely stop purchasing from artisanal miners and denied ever having had children in its supply chain. With this move, LafargeHolcim merely reduces its reputational risks without implementing measures to guarantee a decent future for children, who were working in the quarries.

Since Hima Cement stopped buying raw materials from artisanal miners, most of the children, who dropped out of school, lost their sources of income. The increased unemployment led to higher theft in the communities and also led to more school dropouts (as some parents entirely dependent on quarrying could not afford school fees).

In undertaking these changes with no consideration for the impacts and responsibilities of their operations, LafargeHolcim fails to meet the requirements of the UN Guiding Principles on Business and Human Rights (UNGPs) according to which, companies should use their leverage on their suppliers to provide remediation in the case of negative human rights impacts, like child labour.

LH constantly denied having child labour in its supply chain despite evidence gathered from the 54 interviews conducted by TLC and BFA. LH evidenced their stance based on a single audit report conducted by a firm called “ControlRisks” that was never published.

In September 2017, LH announced the launch of a CSR program in Harungongo together with SOS Children's Village. The CSR program aimed to educate the communities about health-related issues and provide training on revenue generating activities for selected community members. This CSR program, the first to be implemented by LH in its 20-year operations in the region, is welcomed, however, the investment of USD10,000 in this CSR program pales in comparison to the savings made by the company from 10 years of reduced input prices due to child labour.

In order to comply with the UNGPs, LafargeHolcim must work with its suppliers to implement programs that enable former child labourers to return to school or to receive vocational training in order to generate another source of income. After more than 10 years of benefitting from child labour in its supply chain, a company bears a huge responsibility and should take concrete actions. This case appears to illustrate that companies all too often seek to reduce reputational risks for themselves, while ignoring the need to actually rectify and provide remediation for victims of human rights violations, caused by companies' negligence.

→ Twerwaneho Listeners' Club (TLC) and Bread for All (BFA)

# Harmful investments



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. The majority of the banks examined in this document have indeed committed to voluntary principles such as the UN Principles for Responsible Investment (PRI), UN Global Compact or Equator Principles. An additional attempt to implement the UN Guiding Principles on Business and Human Rights into FIs own operations, policies and reporting has been undertaken by the Thun Group. However, this process has been significantly flawed, drawn-out and limited in scope. Significant gaps in bank approaches to human rights remain and their efforts to implement the UN Guiding Principles are progressing at a snails pace. But it remains very clear that the UN Guiding Principles on Business and Human Rights do apply to banks' activities. The Office of the High Commissioner on Human Rights (OHCHR) reaffirms that the UNGPs apply to all business enterprises, including commercial banks and other entities in the financial sector, regardless of "size, sector, operational context, ownership and structure. Equally, they apply to any company or commercial vehicle from any other sector that may be a client of, or enter into a business relationship with, a bank."<sup>339</sup>

For this reason, in this chapter we have looked at both bank financing in relation to a specific case (Samarco Mineração), as well as evaluating the policies and practices of the ten banks in the five selected countries in more general terms, related to the extractive sector.

Capital provision can be defined as loan, bond and equity underwritings. These deals make capital available to the company, that can be used for general corporate purposes or specific projects.

#### **Direct Finance for companies or projects:**

The case of Samarco Mineração refers strongly to the OHCHR guidance related to how banks can cause or contribute to human rights violations, as issued in their letter to BankTrack.<sup>340</sup> According to the UNGPs, the highest level of responsibility is given where businesses cause or contribute to human rights impacts, and lesser responsibility where business relationships are directly linked. However, in all these cases businesses should always ensure remedy.<sup>341</sup> While financial institutions are less likely to cause human rights violations, they are far more likely to contribute to or be directly linked to human rights violations through their business relationships. It is with this in mind, that

the Samarco case is represented here to investigate and assess how banks can be linked to or contribute to these violations. This case specifically references HSBC and BNP Paribas as direct funders of the company Samarco Mineração in the years before the accident.

#### **Banks Grievance mechanisms:**

It is also clearly noted in the OHCHR letter that "a bank cannot meet its responsibility to respect human rights if it fails to provide for or cooperate in remediation of harms which it has caused or contributed to. One of the most systematic ways to provide for remediation of such impacts is through an operational-level grievance mechanism."<sup>342</sup> Already in 2016, BankTrack's update of its "Banking with Principles" study showed, that all of the major international banks that had established grievance mechanisms, failed to set them up in a way that meets the effectiveness criteria postulated by the UN Guiding Principle 31.<sup>343</sup> For the banks that had established channels for complaints from stakeholders other than customers, it was often unclear how the banks dealt with these complaints. According to UNGP 29, business enterprises "should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted". An effective grievance mechanism has to be legitimate, accessible, predictable, equitable, transparent, rights-compatible and a source of continuous learning<sup>344</sup>.

The responsibility to remediate impacts applies where business enterprises identify "to have caused or contributed to," and is defined by UN Guiding Principle 22.<sup>345</sup> This is separate from the responsibility to establish a grievance mechanism. With regards to the European banks investigated in this report, Rabobank clearly represents the frontrunner with regards to applying the UN Guiding Principles on Business and Human Rights to its core business, i.e. its financing and investment activities. The bank's Sustainability Policy Framework applies to all its financing and investment activities and establishes that clients "are expected to provide for and cooperate in remediation"<sup>346</sup> for unavoidable adverse impacts, as well as asking clients "where appropriate" to adopt grievance mechanisms. As for the bank's adverse impacts itself, Rabobank commits to operate a grievance mechanism open to all stakeholders and to remedy or cooperate in the remediation of any adverse impacts it may have caused or contributed to.

# Samarco Mineração — Direct Finance for the company in the run up to the dam breach

Page 41 of this report illustrates the case of the Germano mine complex, operated by Samarco Mineração, a joint venture by two of the biggest mining companies in the world: BHP and Vale. On 5 November 2015, Samarco Mineração was responsible for the worst environmental catastrophe in Brazilian history. The devastating Fundão tailings dam collapse killed 19 people, destroyed entire villages – including 349 houses, schools and churches – contaminated the Gualaxo do Norte, Carmo and Doce rivers and impacted around 2,200 hectares of land along 650 km of river. Investigations have since taken place to evaluate the cause of the collapse. The direct human rights impacts of the tailings dam collapse are given on page 43.

## What financing did the selected banks provide?

Since 2011 there have been three bonds and one loan given directly to Samarco Mineração SA by the banks in this report:

- In 2011 a loan was provided to Samarco for refinancing purposes by five banks, to the value of an estimated €230 million. HSBC acted as an agent and contributed an estimated €46 million to the loan. The maturity date of the loan is August 2018.
- In 2012 a bond of €773 million was issued by a consortium of three banks, including HSBC, to Samarco Mineração SA for general corporate purposes. HSBC's estimated contribution as Joint Book Runner was €257 million. It matures in 2022.
- In 2013 a bond issuance was provided to Samarco for general corporate purposes by another consortium of three banks which matures in 2023. HSBC was a part of this bond issuance to the value of approx. €170 million.
- In 2014 six banks issued a bond to Samarco for general corporate purposes totalling €389 million. This included BNP Paribas as a Co-Manager who provided an estimated €64 million. The bond issuance matures in 2024.

## What information did banks have access to prior to the accident?

Samarco Mineração has stressed that it had all legal licences required by the government in relation to the operation of the mine and dam. It is well known, however, that the Brazilian National Department of Minerals Research is underfunded and understaffed and this organisation had not itself reviewed the safety of the dam since 2012<sup>347</sup>, thus relying on reports provided by Samarco. While all necessary licences were granted to the company, this was not without concerns raised on numerous occasions, for instance by the State Attorney General's office in 2007<sup>348</sup>, in 2012 by the Pristino Institute<sup>349</sup>, and in 2014 by a surveyor regarding a large crack in the dam wall<sup>350</sup>, but on each occasion the licenses were granted.<sup>351</sup>

Furthermore, the Brazilian government requires an Emergency Action Plan<sup>352</sup> for dams that are classified as high potential damage<sup>353</sup>, which the Fundão dam was. The emergency plan should specifically include tools to alert potentially affected communities and plan for their immediate evacuation in the case of a dam breach.<sup>354</sup> The post investigations however made abundantly clear, that the communities were not aware of any risk that the dam posed, had no knowledge of emergency procedures, and that there was no alert system to warn them of a potential breach.<sup>355</sup> Government regulators were aware of the lack of a warning system as far back as 2007, and made it a condition of licensing, however it appears this condition was never fulfilled.<sup>356</sup> A warning system could have prevented loss of life and that of livestock, although not the environmental damage. In addition, consultation with communities about the risks did not occur, despite being part of Brazilian legislation.<sup>357</sup> The new CEO of Samarco, who took charge of the company in February 2016, indicated that an emergency plan could have saved lives in Mariana.<sup>358</sup>

According to the UN Environment Programme report on tailings safety: “The final government report listed 36 factors that contributed to the dam failure and noted that the mining company did not have an emergency plan, or even warning lights and sirens that could be activated to alert employees or villages in the event of a disaster.”<sup>359</sup>

In addition to the numerous concerns raised about the stability of the dam, there were also several incidents including in 2009, 2011 and 2012 related to drainage problems with tailings storage, and a 30% reduction in budget for geotechnical services.<sup>360 361</sup> According to a recent Guardian report, “Seepage, saturation and cracking were seen at the dam in 2013, and again in August 2014”. In addition it has been reported that “According to minutes included in court documents, Samarco’s board of directors, which included representatives of Vale and BHP Billiton, was briefed several times between 2009 and 2014 on the dam’s construction problems and efforts to fix it.”<sup>362</sup>

### **Are the banks directly linked to these Human Rights violations?**

Among the 10 banks reviewed in this report, only BNP Paribas and HSBC were found to provide direct finance to Samarco Mineração SA (Samarco). As the iron ore operations in Minas Gerais (Germano Unit) are the sole operations of Samarco<sup>363</sup>, these general corporate purpose financings for Samarco were consequently directly supporting the mine’s operations. While it is unclear how much information was provided to the banks by Samarco in the course of these financing agreements, HSBC’s policy governing this period – the Metals and Mining Policy of 2007 – stated 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”<sup>364</sup>. As Samarco Mineração SA is the operating entity of the Fundão dam, this implies that HSBC would have employed enhanced due diligence processes for these deals in 2011, 2012 and 2013 to ensure that mine tailings did not represent a threat to life or environment. BNPs mining policy similarly notes they assess whether the tailings storage facility (or disposal

methodology) is designed according to good industry practices in terms of safety and containment over the long term.”<sup>365</sup> This also suggests that the bank would employ an enhanced due diligence to assess this in the case of their 2014 bond underwriting for Samarco.

It seems plausible to assume that in the bank’s human rights due diligence processes at least some of the issues outlined above would have come to light, in particular the lack of an Emergency Action Plan (or shortcomings of the plan). We understand that the banks therefore “*should have known that there is human rights risk associated with a particular client or project*”, as it is defined by the OHCHR. The OHCHR advice specifically states that “*where a bank has not undertaken appropriate human rights due diligence, it may miss risks and omit to take the steps necessary to prevent or mitigate that risk... The bank’s failure to act upon information that was or should have been available to it may create a facilitating environment for a client to more easily take actions that result in abuses.*”

It is unclear if and how HSBC and BNP Paribas addressed this issue. We don’t know if they used their leverage on Vale, BHP Billiton and Samarco to ensure the prevention of the dam collapse since there is no publicly available information and the banks are unwilling to provide us with information which would detail their actions in this regard. Therefore, we assume that they omitted to take any action to require, encourage or support the client to prevent or mitigate these risks. This would meet the OHCHR’s interpretation of a bank facilitating the harm, and HSBC and BNP Paribas can therefore be considered as having added “to conditions that make it possible for someone else to cause harm”, in this case by providing the financial means for Samarco to continue its operation of the

Fundão dam. Therefore, following our interpretation, BNP Paribas and HSBC have contributed to the adverse human rights impacts of the Samarco tailings dam failure.

Where banks are seen to be contributing to human rights violations they should also be involved in the process of remedy. In the case of Samarco there is ongoing legal action and therefore the banks involved should defer to that process in relation to remedy – this does not however limit their responsibility. Further the OHCHR states that “in all cases of deferring to other ongoing processes, the bank would nevertheless be expected to be prepared to cooperate in the remediation process, for example by providing relevant information or other measures that are necessary for the process.”

With the repeated provision of capital for Samarco in 2011, 2012 and 2013, HSBC in particular could have made the loan and bond underwritings conditional on stronger tailings management plans and additional monitoring. As far as we are aware, the bank missed this opportunity, with disastrous consequences. HSBC should now use its remaining leverage in the active loan to ensure that the environmental and human rights impacts are remediated. In their response to Facing Finance regarding this investment BNP noted that their mining sector policy was applied to the joint venture’s partner companies and that environmental and social due diligence was conducted at the corporate level for these companies. In addition, they note that they have not taken any financial commitment towards Samarco Mineração since the accident.<sup>366</sup> However neither BNP nor HSBC were willing to provide any information as to their engagement with the company.

# France: BNP Paribas and Crédit Agricole

## Loans, Bonds and Equities 2010–2017 in € million (Top 3):

### BNP Paribas

BHP Billiton	3,418.69
Glencore	3,283.99
Rio Tinto	1,970.85

### Crédit Agricole

Gazprom	4,159.76
BHP Billiton	3,047.85
Glencore	2,410.88

## Shareholdings\* in € million (Top 3):

### Crédit Agricole

Eni	158.07
Glencore	114.65
BHP Billiton	61.69

### BNP Paribas

Eni	116.97
Rio Tinto	104.80
Gazprom	89.10

\*as at 27 September 2017

BNP Paribas and Crédit Agricole are France's leading banks by assets.<sup>367</sup> Both banks have furthermore committed to the UN Global Compact, the Equator Principles and are signatory to the UN Principles for Responsible Investment via their asset management subsidiaries.

## Capital provision for Dirty Profits: provision of loans, bond and equity issuances

The top two French banks have provided the highest amounts of capital to the ten extractive companies of all ten European banks, reaching a staggering €30.2 billion since 2010. In 2016 and 2017 alone the two banks combined granted €5.3 billion in loans, bond and equity underwritings. While BNP Paribas leads the ten European banks analysed in this report over the time period, Crédit Agricole ranks third after the UK's Barclays. Whereas BNP Paribas' capital provision for the extractive companies has slightly decreased over time, for Crédit Agricole no similar trend can be recognized.

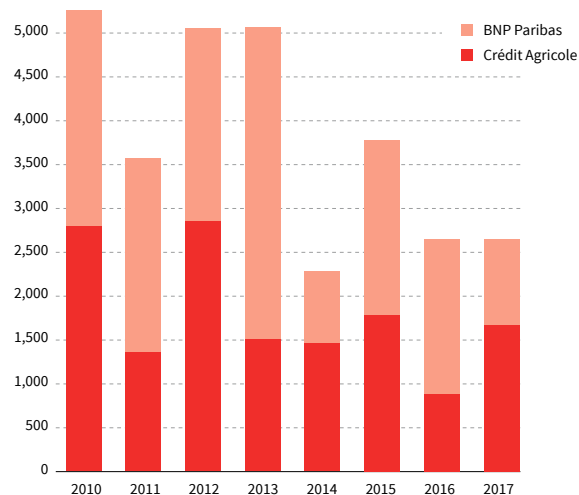


Diagram 7 : Capital provision (loans, bonds and underwritings) provided by Crédit Agricole and BNP Paribas over the period 2010–2017

## Shareholdings:

For investments however, French banks have less shareholdings in the harmful extractive companies than their international peers, both ranging around €500 million. While both banks have invested in shares of all the companies, for Crédit Agricole there is a clear preference for Eni and Glencore, whereas BNP holds most shares in Eni and Rio Tinto.

### Finance provided by category:

Almost one third of the total capital provision to companies considered as extremely poor performers (“The Pits”), i.e. €10.3 billion, were issued by BNP Paribas and Crédit Agricole. Also, the money provided to the bad all-rounders (“Undermined”) was provided to 1/3 by the French banks. This means that almost 80% of the total capital provision by the French banks went to the extremely poor performers and the bad all-rounders, €12.5 billion of BNP Paribas and €11.2 billion of Crédit Agricole.

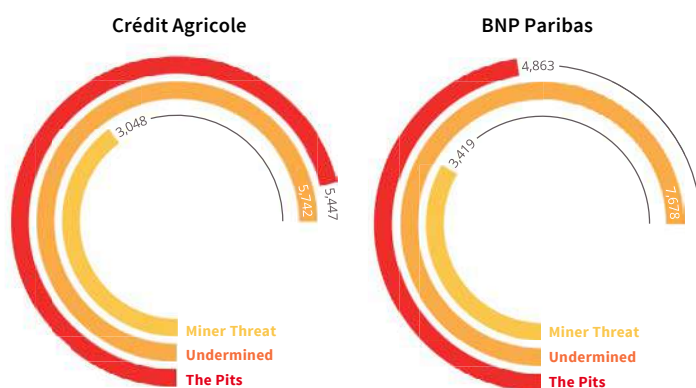


Diagram 8: Amount of capital provision in Euro million for each Category (\* note all numbers are rounded to nearest million)

Neither of the French banks has publicly blacklisted or excluded any of the harmful extractive companies presented in this report.

### Comparison of BNP Paribas and Crédit Agricole’s policy approach:

France’s biggest bank, BNP Paribas, coordinates its financing and investment activities with the help of policies on eight sensitive sectors such as defence and agriculture, but also mining and unconventional oil and gas.<sup>368</sup> The sector policies relevant for the purpose of this study detail certain ‘mandatory requirements’ for clients or projects that “have to be met without exception before BNP Paribas considers providing financial products and services”<sup>369</sup>, as well as ‘evaluation criteria’ for the due diligence process and ‘good industry practices’ which companies are encouraged to adhere to. Based on the mandatory criteria, BNP Paribas claims to establish its own internal blacklist of companies or projects that are in breach of these requirements, as well as a monitoring list for companies with which certain transactions will not be carried out. Furthermore, the bank has issued a statement on human rights, drawing on international human rights standards, which clients are expected to adhere to.<sup>370</sup>

Crédit Agricole seeks to integrate social and environmental criteria into its financing decisions with the help of specific sector policies. These group-wide policies are targeted to sectors with the greatest potential impacts, such as mining and metals as well as energy commodities.<sup>371</sup> For instance for transactions related to mining and metals, the bank is guided by several conventions and initiatives, such as the ICMM, the OECD Due Diligence Guidance for Responsible Supply Chains and the EITI, among others.<sup>372</sup> For the Oil & Gas sector, the Crédit Agricole Group published a policy as recently as December 2017<sup>373</sup>, which – like the mining policy – sets out analysis criteria related to the management of environmental and social risks as well as exclusion criteria for transactions directly related to certain types of projects. In comparison to its European peers, the lack of a cross-cutting policy on human rights for its financing business is striking. The Group’s asset management entity Amundi applies a best-in-class approach to ensure that “only the most advanced companies are selected”, as well as having a dedicated engagement policy and excluding the most controversial issuers in its active asset management business, such as those that “violate, repeatedly and seriously, one or more of the ten principles of the Global Compact”<sup>374</sup>.

BNP, in its survey response notes it has engaged with at least one of the companies mentioned in this report, and in its response to Facing Finance also noted that some companies are under monitoring. BNP does report on the processes and procedures around its engagement<sup>375</sup>, however, it does not provide any information as to the specifics of its engagement for example, the industry and region, a description of the issue, its type (social, environmental, governance) or the status of the engagement for all engagement processes. Crédit Agricole does partially report on its involvement in controversial projects, such as the Dakota Access Pipeline.<sup>376</sup> However, there is no systematic reporting on how the bank engages with clients that have violated its sector policies.

The French Fair Finance Guide noted in its assessment of Crédit Agricole, that the bank remains too vague about how it takes into account human rights in its financing and investment banking business.<sup>377</sup> The Guide’s assessment of BNP Paribas is slightly better, yet acknowledging that while the bank subscribes to the most important human rights conventions, it remains unclear in how far adherence to these standards is safeguarded in the bank’s financing and investment activities.

### Examples showing the financial links of the banks to Dirty Profits companies:

Over 40% of the capital provision (provided in the form of loans, bond and equity underwritings) to Anglo American was provided by the two biggest French banks BNP Paribas and Crédit Agricole. Of the almost €3 billion in total, €1.2 billion was provided in 2016 and 2017 alone, divided equally between the two French banks. Anglo American has been the subject of critique for its Minas Rio iron ore mine and associated port project in Brazil. Expansion plans for the mine have been met with local opposition, as affected communities would have to self-evacuate in case of a tailing dam breach. The company has also failed to provide communities with up to date environmental impact assessment and community meetings are often held in the presence of security and military. Additionally, the communities report death threats around opposition to the mine. BNP Paribas notes in its mining policy that it will evaluate the mining company's level of transparency towards stakeholders on "key environmental, social and governance issues" as well as the "Mining Company's policy regarding engagement with, and sustainable development of, local communities".<sup>378</sup> BNP also identifies communities' rights as a salient issue for investment requiring extra due diligence.<sup>379</sup> BNP has much more detailed and robust evaluation criteria towards project-specific transactions. But as the funds provided are primarily for general corporate purpose these do not apply. However, even the superficial criteria put forth by BNP for companies can be considered as not met, when looking back at Anglo American's track record with issues surrounding resettlement, access to land and community opposition across its global operations and joint ventures.

Crédit Agricole also seeks to exclude direct financing for projects lacking public consultation, but this commitment does not extend to capital allocated for 'general corporate purposes'<sup>380</sup>, such as that for Anglo American. In general, Crédit Agricole's strong reliance on voluntary standards and industry initiatives such as the ICMM and EITI when assessing client relationships<sup>381</sup> is clearly insufficient to take into account specific controversies arising in a clients operations. This becomes especially clear, considering that the companies Crédit Agricole provides almost half of its finance to, such as BHP, Glencore and Anglo American, are all participants of the UN Global Compact, the Voluntary Principles on Security and Human Rights, the International Council on Mining and Metals as well as the Extractives Industries Transparency Initiative. Nevertheless, this report details clearly and extensively countless occasions, where these companies have violated the exact same principles postulated by these initiatives.

Also for Crédit Agricole's shareholdings, there is a concern that the policy principles are not sufficiently applied. The bank's asset management subsidiary Amundi holds shares in Eni (€146 million), Glencore (€68 million) and BHP (€34 million), all of whom are considered to be at risk of breaching one or more of the UN Global Compact Principles. Amundi also holds €23 million in shares of Barrick Gold. While this is a comparatively small amount, the UN Global Compact Principle 7 requires a precautionary approach to environmental challenges, but due to its waste management practices at the Porgera mine in Papua New Guinea, Barrick can be seen to be violating this principle. Furthermore, the company's excessive use of force in its North Mara mines in Tanzania and in Porgera in PNG, place the company at risk of breaching the Compact's Principle 1 on human rights. This seems to stand directly in contrast with Amundi's claim to exclude issuers that "violate, repeatedly and seriously, one or more of the ten principles of the Global Compact"<sup>382</sup>.

Both French banks have a specific position on companies active in oil and gas exploration in the Arctic. Crédit Agricole merely excludes providing finance directed to specific oil projects in the Arctic<sup>383</sup>, whereas BNP Paribas goes further in its policy by additionally excluding diversified companies deriving a significant share of their total revenues from unconventional oil and gas exploration (including activities in the Arctic). Therefore, the two banks' policies would not cover the financing provided to Eni and Gazprom (despite their operations in the Arctic). BNP has provided €3.3 billion to the two companies and Crédit Agricole forked out a total of €5.5 billion since 2010, €1.4 billion of which since 2016. Crédit Agricole's financial relationship with Eni should be highlighted- for a bank that claims that "project financing is the activity where we have the greatest leverage for contributing to the correct management of the environmental and social impacts of the activities that we finance"<sup>384</sup>, the bank's project finance for the Eni LNG project in Nigeria is striking. The project has been criticized for the large-scale resettlements and insufficient consultation with local communities.

BNP Paribas made commitments to reduce financing for controversial oil and gas projects in October 2017. BNP has in particular committed to "not finance oil or gas exploration or production projects in the Arctic region."<sup>385</sup> However once again this only appears to apply to project finance and not to wider corporate financings. This policy also applies to the financing of shale gas<sup>386</sup>, however this is not covered in the Dirty Profits 6 report.



# Germany: Deutsche Bank and DZ Bank

## Loans, Bonds and Equities 2010–2017 in € million (Top 3):

### Deutsche Bank

Glencore	2,415.59
Gazprom	2,176.34
Eni	1,796.20

### DZ Bank

Glencore	963.56
Gazprom	293.00
Vale	61.96

## Shareholdings\* in € million (Top 3):

### Deutsche Bank

Anglo American	567.48
BHP Billiton	260.31
Rio Tinto	245.90

### DZ Bank

Rio Tinto	443.56
BHP Billiton	102.67
Eni	83.08

\*as at 27 September 2017

Deutsche Bank is by far Germany's largest bank, with nearly three times the assets of the second largest German bank, DZ Bank<sup>387</sup> which is the central bank of the cooperative banks. Both banks have committed to the UN Global Compact. DZ Bank is furthermore a member of the Equator Principles, Deutsche Bank is engaged in the Thun Group of banks and its asset management division is a signatory to the UN PRI.

## Capital provision for Dirty Profits: provision of loans, bond and equity issuances

Between 2010 and 2017, the top two German banks have provided more than €11 billion in capital to the ten extractive companies, €4.2 billion of this since 2015. In comparison with their international peers, the two biggest German banks have therefore provided far less capital to the controversial companies than the biggest French, UK and Swiss banks. However, with €9.7 billion in capital provision, Deutsche Bank ranks sixth of all ten European banks.

For DZ Bank, there is no clearly discernible trend over time, with the amount of loans provided to the extractive companies typically ranging between €100 and €200 million in total per year. Deutsche Bank's participation in loans, bond and equity underwritings on the other hand varies greatly over time, yet no clear decreasing trend is visible.

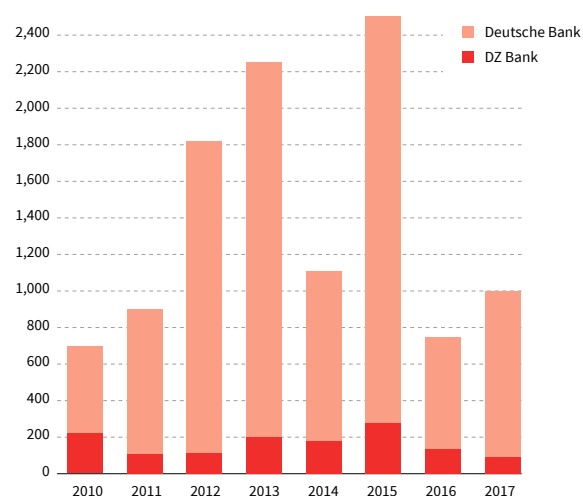


Diagram 9 : Capital provision (loans, bonds and underwritings) provided by DZ Bank and Deutsche Bank over the period 2010 -2017

**Shareholdings:**

Deutsche Bank has, after Swiss’ UBS, the second highest shareholdings of the ten European banks in the extractive companies contained in this report – amounting to a total of €1.6 billion. More than 80% of these shareholdings are in the four extractive companies, Anglo American, BHP Billiton, Rio Tinto and Eni. DZ Bank ranks fourth with €700 million invested in shares of all the ten extractive companies, more than half of this in Rio Tinto.

**Finance provided by category:**

Of the €9.7 billion in capital provision by the two biggest German banks, more than 40% of this money went to companies considered as extremely poor performers (“The Pits”), and half of the money was provided to bad all-rounders (“Undermined”). This result is clearly driven by Deutsche Bank’s high exposure to these controversial extractive companies, as the bank ranks fifth among all European banks providing capital to companies in these two categories.

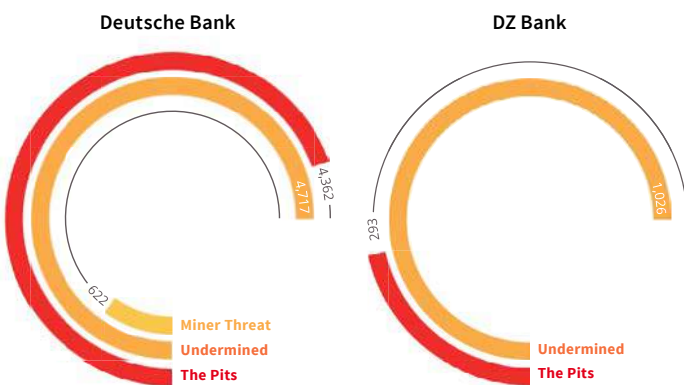


Diagram 10: Amount of capital provision in Euro million for each Category (\* note all number are rounded to nearest million)

Neither of the German banks has publicly blacklisted or excluded any of the harmful extractive companies presented in this report.

**Comparison of Deutsche Bank’s and DZ Bank’s policy approach:**

In 2016 Deutsche Bank published, for the first time, a comprehensive policy on its approach to social and environmental risks in its financing operations, the “Environmental and Social Policy Framework”. This policy has since been updated to include its partial exclusion for coal-related financings. The policy details the bank’s approach to cross-sectoral issues such as human rights and environmentally sensitive areas, it sets out further due diligence criteria for specific sectors and pledges to exclude certain “activities or relationships where there is clear evidence of severe human rights violations and/or damage to the environment”<sup>388</sup> from financing. With regards to mining, in its ES Policy Framework Deutsche Bank claims both to: address several sector-specific issues such as the application of best practices (ICMM, Voluntary Principles on Security and Human Rights) and to assess a client’s track record and management systems with regards to community consultation, waste management and impacts on local ecosystems.<sup>389</sup> According to the bank, there are further sectoral policies setting out more detailed assessment criteria which have not been published, and it claims to not only engage in dialogue with customers, but also to partly use contractual agreements to influence extractive companies.

DZ Bank’s “sustainability checklist” for financings is based on the UN Global Compact and the Equator Principles and takes into account issues such as respect for human rights, environmental protection and anti-corruption measures.<sup>390</sup> The bank also has internal sectoral rules for sensitive industries such as forestry and extractives, these sectoral policies include rejection criteria for lending, such as “significant environmental offences” and “significant human rights abuses”. The sustainability criteria applicable to the bank’s lending business are also valid for the bank’s own investments<sup>391</sup>, whereas the Group’s asset management division (Union Investment) applies different sustainability criteria to its investment decisions.<sup>392</sup>

Both banks claim to have a grievance mechanism in place through which rights holders can raise human rights impacts. While both banks have responded to our survey questions, responses on actual engagement activities with the companies presented in this report were not provided due to client confidentiality concerns. Only DZ Bank noted that they have only been made aware of the violations by the extractive companies during an ongoing client relationship. The bank further claims to have engaged with at least one of the ten companies presented in this report, but does abstain from naming the company.

**Examples showing the financial links of the banks to Dirty Profits companies:**

Between 2010 and 2017, the two German banks provided almost €3.4 billion to mining giant Glencore and €760 million to Vale, the world’s biggest iron ore producer. Glencore and Vale have consistently been criticised for issues related to human rights abuses, environmental destruction, as well as tax evasion and corruption – issues that were also covered in the Dirty Profits editions 1 to 4. This means that both Deutsche Bank and DZ Bank have been made aware of the controversies surrounding these clients since 2012. Yet, the German banks have participated in loans to Glencore every year since 2011. Vale too was granted a loan by a consortium of Deutsche Bank and others as recently as 2017, while DZ Bank’s last loan to the company was issued in 2015.

Deutsche Bank clearly commits to “focus on policies and procedures that protect the health and safety of affected communities”<sup>393</sup>. Yet, Glencore’s smelter operations in Zambia are believed to lead to respiratory diseases especially in children. The toxic fumes emitted by the smelter have been repeatedly criticized by local communities, yet the measures taken by Glencore to address the health concerns of the affected communities have been insufficient. A similar issue related to air pollution has also previously been reported at Vale’s Carajas mine in the Brazilian Amazonas, which resulted in a staggering increase in respiratory diseases in the nearby population. The two banks’ involvement in Vale, especially the company’s relationship to Samarco Mineração is of significant concern. The Samarco tailings dam breach in November 2015 destroyed the livelihoods of the local communities and has led to a long-term contamination of local waterways. This is particularly controversial, as safety concerns around the tailings dam were previously known, but not addressed by the joint venture or its owners.

Also, both Vale and Glencore have repeatedly been in the spotlight with regards to community resettlement issues around their mines. Glencore’s involvement in the Cerrejón coal mine has been internationally criticized for the delayed and inadequate resettlement process, which insufficiently takes into account community concerns. Despite Glencore being only a part-owner of the Cerrejón joint venture together with Anglo American and BHP, the company has so far failed to live up to its responsibility and provide adequate compensation and culturally appropriate resettlement opportunities, as defined by internationally accepted standards. Vale has similarly been criticized for its coal mining operations in Mozambique, as communities were resettled to areas unsuitable for farming, without adequate compensation. These cases are illustrative of the violation of the concept of Free, Prior and Informed Consent of affected communities and this stands in stark contrast to Deutsche Bank’s policy commitment to assess whether clients “address engagement with communities, including responding to community concerns”<sup>394</sup>. While DZ Bank affirms to “not lend to companies that contravene internationally accepted standards of human rights and labor”<sup>395</sup>.

€4 billion, i.e. almost half of the capital provision by Deutsche Bank, was in support of Gazprom’s and Eni’s operations. Both companies are involved in Arctic drilling, an activity “defined as having high potential for significant ES impacts”<sup>396</sup> at Deutsche Bank. Yet, the bank has not yet formulated a strong position on either refraining from financing clients that are active in oil and gas exploration, or on excluding Arctic drilling specifically due to its potentially devastating impacts on sensitive ecosystems.

The above-mentioned examples clearly show that the two biggest German banks have insufficient policies to prevent financial relationships with harmful extractive companies. The lack of clear policy commitments by DZ Bank and Deutsche Bank especially regarding the extractive sector is also evident in the two banks’ poor performance in the German Fair Finance Guide ranking.<sup>397</sup>

# Switzerland: UBS and Credit Suisse

## Loans, Bonds and Equities 2010–2017 in € million (Top 3):

### UBS

BHP Billiton	4,031.50
Glencore	3,188.28
Barrick Gold	1,040.61

### Credit Suisse

Glencore	3,374.26
Grupo México	1,591.51
Rio Tinto	1,322.60

## Shareholdings\* in € million (Top 3):

### UBS

Rio Tinto	836.93
Anglo American	417.64
BHP Billiton	412.19

### Credit Suisse

Rio Tinto	340.90
BHP Billiton	171.30
Barrick Gold	129.98

\*as at 27 September 2017

Both UBS and Credit Suisse are members of the Thun Group of banks working to apply the UN Guiding Principles on Business and Human Rights. Both Swiss banks are members of the UN Global Compact, however only Credit Suisse is an Equator Principles Bank.

The two biggest Swiss banks are in the mid-range in terms of funding provided to harmful companies over the period 2010–2017, with a combined €19.8 billion in comparison to the two biggest French banks that provided over €30 billion. Of the two banks, Credit Suisse provided €9 billion and UBS €10.7 billion over the period, with a slight decrease in the financing amounts over time.

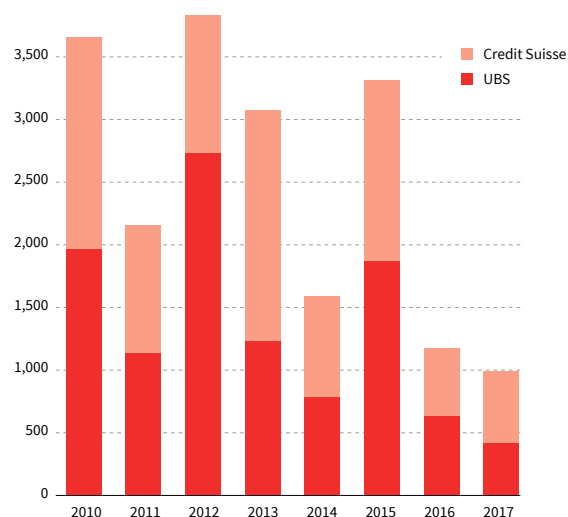


Diagram 11: Capital provision (loans, bonds and underwritings) provided by UBS and Credit Suisse over the period 2010–2017

## Shareholdings:

UBS has shareholding in all ten of the harmful companies totalling €2.2 billion. The highest shareholdings are in the three large diversified miners, Anglo, BHP and Rio Tinto. UBS was also the highest shareholder of all the banks in Grupo México. Credit Suisse has shareholdings in nine of the ten companies (with no shareholdings in Gazprom) totalling €907 million. Credit Suisse's largest shareholdings are similar to those of UBS and include Rio Tinto and BHP, but also Barrick Gold and Goldcorp.

**Categories:**

Since 2010 the biggest Swiss banks provided capital to the companies in the worst category “The Pits”, totalling approx. €3 billion for Credit Suisse and €2.3 billion for UBS. This also includes funds provided recently to the poor performing companies, as both banks provided loans to Barrick Gold in 2016.

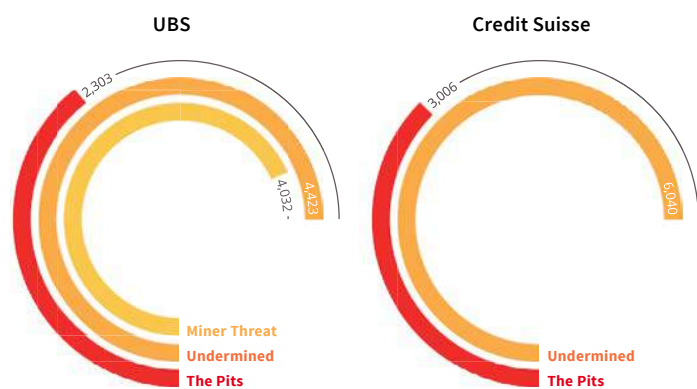


Diagram 12: Amount in Euro million for each Category (\* note all numbers are rounded to nearest million)

**Policy analysis:**

Both Credit Suisse and UBS have policies detailing how they approach Human Rights and Environmental concerns in their financial relationships. These set out the criteria for what activities and practices the banks will finance. Credit Suisse sets this out in its Risk Management and Sustainability Processes<sup>398</sup> and its Human Rights Statement, as well as providing summaries of its sector specific policies. This includes policies on Mining and Oil and Gas. The banks mining and oil and gas policies for financings detail similar concerns around resettlements, labour violations and mine rehabilitation. In addition, Credit Suisse defines Arctic oil and gas exploration and development as a sensitive activity requiring enhanced due diligence.<sup>399</sup> In their Corporate Responsibility Report Credit Suisse also notes that they do engage with clients on social and environmental concerns, however no information on actual engagement activities and their outcomes is provided because of client confidentiality concerns.<sup>400</sup>

For UBS, the Environmental and Sustainability Risk Policy Framework is the primary document detailing the bank’s approach to ESG risks<sup>401</sup>, which is applicable to loans, underwriting and investment banking advisory<sup>402</sup>. The bank also claims that “environmental and social risks are also considered in investment decision processes and when exercising ownership rights like proxy voting and engagement with the management of investee entities”<sup>403</sup>. As part of this process UBS also notes that they engage with clients to better understand their processes and policies and to explore how any environmental and social risks may be mitigated. These policies cover wider human rights and environmental issues as well as specific concerns around oil and gas and mining. UBS too, has a policy which allows Arctic drilling under specific circumstances.<sup>404</sup>

It should be noted that BNP has engaged well with us in terms of responding to the survey questions and providing feedback on requested information. We did not receive any feedback from UBS.

**Policy and Practice analysis:**

Two companies in this publication are engaged in Arctic operations: Eni and Gazprom. Credit Suisse claims in its policy to consider Arctic oil and gas exploration and development as a sensitive activity, that must be referred to Sustainability Affairs and may subsequently require escalation to the Reputational Risk Review Process”. Consequently, as it might appear, the bank has not provided capital to either of these companies after 2011. However, said policy is limited to financings and thus does not limit investments in companies active in Arctic drilling, such as the €58 million invested in shares of Eni. UBS’ policy related to Arctic operations similarly notes that “transactions involving oil and gas exploration and development in the Arctic are assessed against the company’s safety management capacity and track record as well as adequacy of the company’s spill response plans”.<sup>405</sup> Despite this policy, UBS has provided capital to Gazprom totalling €340 million since 2010, participating in two bond underwritings as recently as 2016. Gazprom has faced significant opposition to its Prirazlomnoye oil field in the Pechora Sea, additionally it has had substantial spills on indigenous land in the Arctic. Already in 2014, Facing Finance informed UBS and other banks in its Dirty Profits 3 report on the disastrous track-record of Gazprom with regards to oil spills, as well as its insufficient spill response plans. This business relationship therefore not only contravenes UBS’s policy on Arctic drilling, but also the policy stipulating that UBS “will not engage in commercial activities that ...infringe the rights of indigenous peoples”.

Credit Suisse also details in its policy that a clients reputation and management practices should demonstrate that it has adequately addressed the following issues: [...] Site decommissioning and remediation”<sup>406</sup>. Yet Credit Suisse has provided capital to Goldcorp every year since 2013, including 2017, totalling €488 million and holds shares in the company worth €92 million. Over the lifetime of the Marlin Mine in Guatemala, Goldcorp has operated without the consent of indigenous people and failed to address damages to the environment and local settlements that are believed to be a direct consequence of the mine’s operations. The company has allocated insufficient funds for mine closure and has not yet resolved these disputes with the local communities. As the mine is closed, the company considers its obligations complete – contrary to the expectations of the affected communities. This is however not the only case: In Honduras, Goldcorps San Martin Mine closed in 2008, but still suffers from acid mine drainage and significant contamination, while Goldcorp claims the mine is rehabilitated. This exemplifies the poor track-record of the company with regards to site decommissioning and remediation, which was already shown in the Dirty Profits 3 report, and shows that Credit Suisse does not sufficiently put its own policies into practice.

In 2015, both UBS and Credit Suisse provided funds to Southern Copper, the subsidiary of Grupo México responsible for the worst ecological disaster in Mexicos history.<sup>407</sup> This occurred in August 2014 at the Buenavista del Cobre mine when 40 million litres of acidified copper concentrate spilled into the Bacanuchi and Sonora rivers. UBS also has the highest shareholdings of all the banks in Grupo México, yet the bank has no specific policy around the risk of tailings and waste damage, which is a clear gap in its policy oversight. In general, UBS’ publicly available policy in relation to extractives is insufficient, as it focuses on certain minerals and extractive forms, but fails to take into account all relevant environmental, social and governance concerns across the whole sector. This is particularly evident with the bank’s reliance on voluntary standards such as the ICMM, which it only requests for activities related to diamonds and precious metals.

A loan provided by both UBS and Credit Suisse to Barrick Gold in 2016 further illustrate the deficiencies in the banks due diligence processes. For instance, Credit Suisse notes in its Mining policy that the bank: “will not finance or advise mining companies against which there is credible evidence of involvement in grave human rights abuses such as, e.g., forced labor, employment of children or the use of violence against local communities and indigenous groups.” MiningWatch Canada has interviewed close to a hundred victims, family members of victims, and witnesses of excessive use of force by the Acacia Mining North Mara Mine (64% owned by Barrick) private and public security forces in yearly visits to the site since 2014. These interviews indicate that the violence is ongoing and should qualify as credible evidence. Also at the Porgera Joint Venture in Papua New Guinea, victims of violent assault by mine security have insufficient access to remedy, while violence against local community members is still ongoing.

# The Netherlands: ING and Rabobank

## Loans, Bonds and Equities 2010–2017 in € million (Top 3):

### ING

Glencore	2,933.21
BHP Billiton	2,623.31
Gazprom	1,621.01

### Rabobank

Glencore	2,122.84
Gazprom	207.79

## Shareholdings\* in € million:

### ING

Rio Tinto	30.17
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\*as at 27 September 2017

ING and Rabobank are the two largest banks in the Netherlands, based on assets.<sup>408</sup> The Netherlands has a high degree of concentration in the banking sector with the top 3 banks controlling 81% of total banking assets. Rabobank and ING are both members of the UN Global Compact and subscribe to the Equator Principles. Both ING and Rabobank are also signatories to the Dutch DBA on Human Rights. This three-year agreement will focus on project finance and corporate lending. The DBA commits the banks to have human rights policies in place, and human rights requirements integrated in their due-diligence and engagement approaches for clients and transactions. DBA also commits the bank to report on their human rights performance in line with the UN GP Framework or equivalent. The DBA's Value-Chain Analysis working group also has three work-streams for commodities, ING is focused on the gold value chain and Rabobank on palm oil.<sup>409</sup>

The two Dutch banks have the lowest amounts invested in the ten extractive companies of all five countries with €10.8 billion over the seven years, compared to the two French banks' €30 billion. Contrary to other countries, where on the whole the top two banks from each country have similar sized investments in the ten Dirty Profits companies, the two Dutch banks differ markedly from each other. Over the full period ING has invested €8.5 billion, thereof €1.1 billion in 2016 and 2017, compared with Rabobank's €2.3 billion since 2010, thereof €498 million in the last two years. There is a notable decline visible in the funds provided to the controversial extractive companies by the top two Dutch banks, especially for ING.

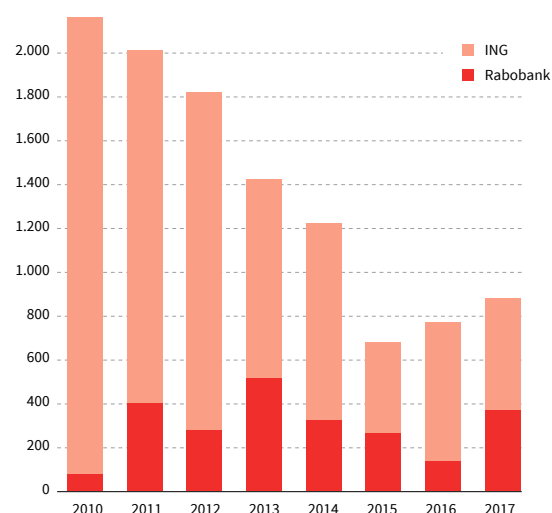


Diagram 13: Capital provision (loans, bonds and underwritings) provided by Rabobank and ING over the period 2010–2017

**Shareholdings:**

Shareholdings for both banks are reasonably low, particularly for Rabobank as no shareholdings in any of the extractive companies mentioned in this report were found during research. ING only has shareholdings of €30 million in Rio Tinto.

**Categories:**

The Dutch banks have the lowest amount and proportion of funds provided to companies in the worst category. Rabobank has provided loans to poorly performing Gazprom (The Pits) almost every year between 2010 and 2016, amounting to a total of €207 million. ING too has provided funds to the worst category of companies to the value of €2.5 billion, €1.6 billion of this to Gazprom. The bank has also recently provided funds for these poor performing companies, including recent loans and bond underwritings for Eni, Gazprom and Goldcorp.

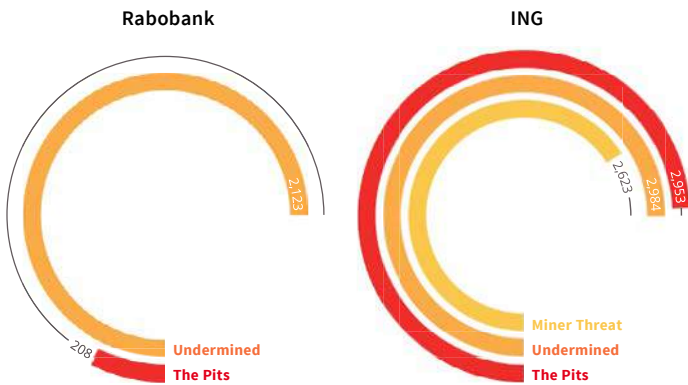


Diagram 14: Amount in Euro million for each Category (\* note all numbers are rounded to nearest million)

**Policy analysis:**

ING and Rabobank both have policies covering human rights and extractive industries. For ING their Environmental and Social Risk Framework and Human Rights Statement are relevant.<sup>410</sup> Rabobank has a number of policy documents covering sustainability, however the key document relevant here is their extractive industries policy.<sup>411</sup> Both ING and Rabobank were rated in 2016 on the Fair Finance Guide assessment of Dutch banks as given by Eerlijke Geldwijzer.<sup>412</sup> Rabobank has since updated its Extractive Industry policy, and overall has very limited exposure to the industry<sup>413</sup>. ING too has updated its policy since then. ING and Rabobank both have sufficient mining policies, however on oil and gas policies Rabobank far exceeds ING. The flaws in the ING oil and gas policy include that while it notes it will not fund Arctic drilling, this extends to project finance only.<sup>414</sup>

ING also only extends free, prior and informed consent to indigenous communities (based on IFC regulations). Rabobank’s policy extends voluntary, prior and informed consent (FPIC) to all land users involved, this commitment is made by Rabobank to encourage clients to deal responsibly with land governance, including the right to free, prior and informed consent (FPIC) of all stakeholders involved. Both banks have policies which cover aftercare of mines and environmental and health risks related to this. Rabobank has one of the best reporting structures of the banks in this report, in relation to engagement processes. They report on their engagement annually in their annual report (and have done since 2015), and clearly and closely monitor clients on material social and environmental topics.

**Policy and Practice analysis:**

The majority of the capital provision by Rabobank over the period went to Glencore, including loans in 2016 and 2017. While Rabobank has a policy that it will not directly finance thermal coal, the general corporate purpose loans issued to Glencore as one of the world’s largest thermal coal exporters does not contravene its policy.<sup>415</sup> In addition Rabobank also commits in its extractive policy to encourage clients to “adopt good practices through guidance documents, including securing sufficiently healthy and safe working conditions”.<sup>416</sup> However Glencore has a worse safety record than its peers and has had the most number of fatalities and recordable injuries across all ICMM members for 2015 and 2016.<sup>417</sup> ING too has provided capital to Glencore, totalling €2.9 billion between 2010 and 2017, while noting that air emissions from smelting activities – as in the case of Glencore’s operations in Zambia – can constitute a “key concern”.



ING also holds shares of €30 million in Rio Tinto. Rio Tinto owns and operates the sixth largest uranium mine in the world, the Rössing Uranium mine in Namibia, and has done so since 1976. Employees from the mine are currently legally seeking remediation for health issues related to radiation exposure. While uranium mining is widely regarded as controversial, ING's policy on mining and metals only excludes financing to support uranium mining, but does not extend this commitment to its investments.<sup>418</sup>

Furthermore, ING has provided loans totalling €2 billion, also in recent years, to Eni and Gazprom, both of whom operate drilling locations in the Arctic. Rabobank has also continuously participated in loans to Gazprom, even though it's to a much smaller degree than ING. There is no specific policy on arctic drilling by Rabobank, however they do note in their policy 'to avoid operations in national or international legally protected or preserved areas with high biodiversity values,' however this would not cover all Arctic areas, only those legally designated as protected areas (for example marine protected areas). Rabobank has very recently in the last weeks, updated its sustainability policy to strengthen their stance on Arctic drilling which should impact future investments. While Rabobank notes this indicates an implicit reference to avoid operations in high risk and highly sensitive environments, an explicit exclusion here by Rabobank would enhance the policy. ING's policy states that they "do not provide project finance services for Arctic offshore oil exploration"<sup>419</sup>. This only covers project finance and not wider corporate finance, they also note that all clients must conform to the ESR framework. ING state that they have not funded any of the Arctic drilling operations of these companies.

ING claims to encourage companies to move towards best practices such as those of the International Council on Mining and Metals (ICMM), which states that "responsible mine closure requires the active participation of local communities in planning and implementation of actions".<sup>420</sup> Goldcorp, to which ING provided loans amounting to almost €300 million in 2015 and 2016, has been a member of the ICMM since 2009 and is therefore committed to respond to the "key challenges" in mining, among those mine closure and land rehabilitation.<sup>421</sup> Yet, there are significant concerns around Goldcorp's mine closure procedure in Guatemala, which lacks the consent of the local communities and does not sufficiently address the damages caused by Goldcorp's mining operations in the area.

# The UK: Barclays and HSBC

## Loans, Bonds and Equities 2010–2017 in € million (Top 3):

### Barclays

BHP Billiton	5,491.57
Glencore	3,295.85
Barrick Gold	2,096.12

### HSBC

Glencore	2,552.65
Vale	1,673.94
Rio Tinto	1,411.36

## Shareholdings\* in € million (Top 3):

### HSBC

Rio Tinto	153.93
Glencore	133.57
BHP Billiton	107.86

### Barclays

Barrick Gold	15.78
Rio Tinto	12.43
Goldcorp	10.02

\*as at 27 September 2017

HSBC and Barclays are the two largest banks in the UK by assets.<sup>422</sup> Both HSBC and Barclays, have committed to voluntary human rights and environmental standards, including being signatory to the UN PRI and the Equator Principles. However, of the two banks only HSBC has committed to the UN Global Compact. Barclays is a founding member of the Thun Group of banks, a banking sector initiative seeking to define the applicability of the UN Guiding Principles on Business and Human Rights to the financial sector.

## Capital provision for Dirty Profits: provision of loans, bond and equity issuances:

When looking at capital provision to harmful extractive companies over the seven-year period between 2010 and 2017, the UK banks HSBC and Barclays rank among the top 5 European banks that have each provided more than €10 billion. The total amount of capital provision the top two UK banks provided to the 10 Dirty Profits companies in the period 2010–2017 was over €28 billion. Looking at more recent data, in 2016 and 2017 alone the UK banks were – after the French banks – again most active in providing capital to the selected companies, reaching a staggering €3.2 billion in capital via loan, bond and equity underwritings.

There is no clearly discernible trend over time in the provision of capital by Barclays and HSBC for the controversial extractive companies. In total over the selected seven-year period, Barclays has provided over €15 billion to the harmful companies and ranks second among all European banks analysed, closely followed by HSBC on rank 4 with over €12 billion.

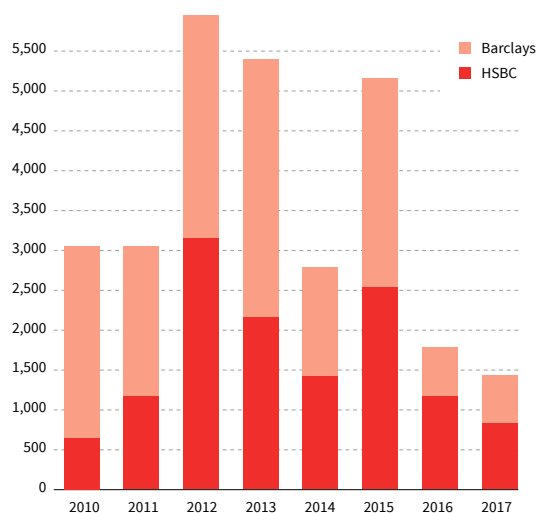


Diagram 15: Capital provision (loans, bonds and underwritings) provided by Barclays and HSBC over the period 2010–2017

**Shareholdings:**

HSBC has shareholdings in all the selected extractive companies, totalling €551 million.

HSBC’s top three shareholdings were in the large diversified miners BHP, Glencore, and Rio Tinto, totalling €395 million. Barclays holds shares in 8 of the ten companies (with the exception of Glencore and Gazprom) totalling €48 million. Barclay’s top shareholdings were in Barrick Gold, Goldcorp and Rio Tinto.

While HSBC states that for its shareholdings, it is acting on behalf of clients and they do not make the investment decision. However, many of the funds covered in the report are curated by HSBC, where they are both the Portfolio Manager and Fund Manager, for example the HSBC Canadian Equity Pooled Fund.<sup>423</sup> This gives them an element of control over how funds are put together and which companies make up the funds.

**Finance provided by category:**

The two UK banks had the second highest exposure to the worst category of companies (those in “the Pits”) with no commitments to voluntary standards and scoring very poorly on the CBHR benchmark. Over the seven-year period the UK banks provided nearly €9 billion in capital to these companies, with HSBC’s provision of over €5 billion ranking second among all banks involved in this category.

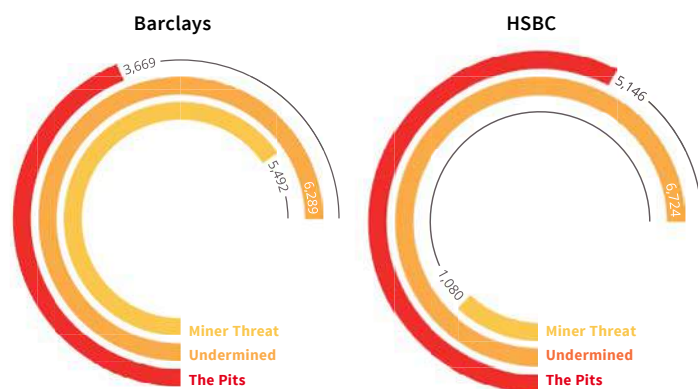


Diagram 16: Amount of capital provision in Euro million for each Category (\* note all numbers are rounded to nearest million)

Neither of the UK banks has publicly blacklisted or excluded any of the harmful extractive companies detailed in this report.

**Comparison of HSBC and Barclays policy approach:**

HSBC has publicly available policies, including specific policies related to sustainability risk such as the mining and metals and energy sectors, as well as further internal policy documents. Barclays on the other hand has no publically available policy documents detailing in which circumstances they will restrict or prevent the provision of finance. They have guidance documents which illustrate the human rights and environmental risks in sensitive sectors such as mining,<sup>424</sup> as well as an overarching Human Rights Statement which notes “In cases where we discover that we are associated with violations of human rights we will take appropriate mitigating action. This may include exiting a particular business relationship, or constructive engagement with others to promote good practice.”<sup>425</sup> Barclays has also published an “Environmental Risk in Lending” document in which they broadly claim to “undertake enhanced due diligence for agribusiness, forestry and forest products, infrastructure, oil and gas (conventional and unconventional), coal fired power, hydropower, nuclear power, and sensitive mining”.<sup>426</sup> However these policy documents are broad and non-committal, as clear indicators or practices where the bank would undertake enhanced due diligence or exclude financial relationships with a company or project are non-existent. Especially in comparison to other major European banks, there is a worrying lack of publicly available policies from Barclays related to ESG risks in general and those inherent to mining. In addition, there is also a distinct lack of engagement with NGOs by the bank.

HSBC on the other hand began publishing more detailed regular ESG updates in early 2017<sup>427</sup>, including information on their engagement with the palm oil sector. While HSBC is quick to highlight that their engagement with companies has proved successful, there is no demonstration of their engagement with any other sector, which is of course also critical. Barclays too would be well advised to disclose its engagement, if any, with their extractive customers.

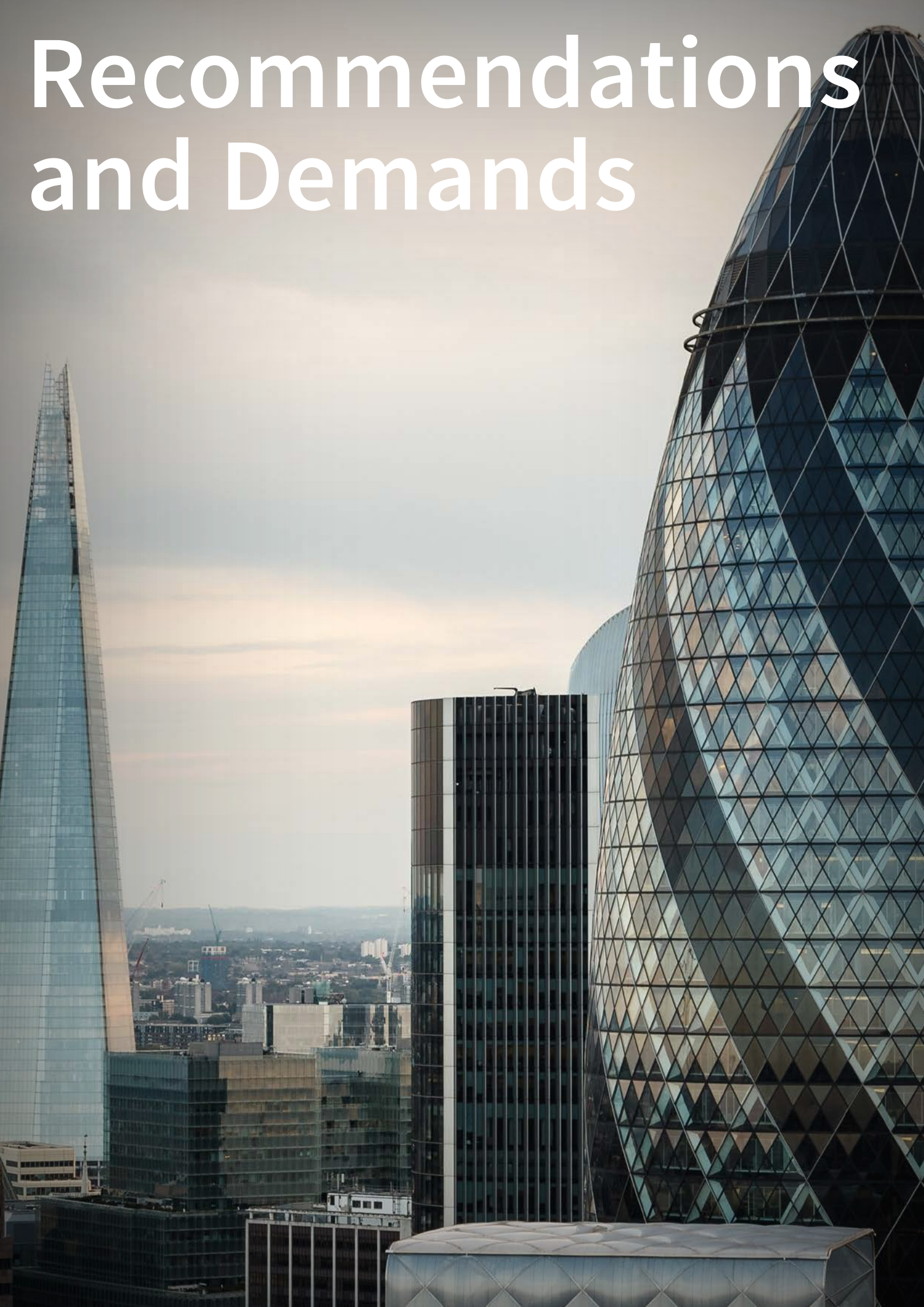
HSBC has engaged well with Facing Finance in the production of this publication, including in responding to the survey. Barclays has had no contact with Facing Finance and did not respond to the survey or to requests for information.

### Examples showing the financial links of the banks to Dirty Profits companies:

HSBC and Barclays both have shareholdings in and have provided capital to (in 2015 and 2016) Barrick Gold, despite both banks being directly notified by Facing Finance in 2014 of the ongoing violations by the company. As noted above, the Barclays Human Rights Statement claims that where they are associated with human rights violations they may decide to terminate relationships.<sup>428</sup> However, while being aware of these violations, Barclays has apparently taken no action and – on the contrary – even supported Barrick Gold by providing the company between 2010 and 2016 €2 billion in capital, almost half of that money since 2014. In the case of HSBC’s mining and metals policy, the bank prohibits any financial services for customers “commencing the disposal of tailings in rivers or shallow seawater in or since 2007”. Yet, customers who commenced with this internationally disputed technique before 2007 only fall under restricted business, and must therefore provide “evidence that alternative options are not feasible and that the benefits of the mine to local communities are significant”. Barrick Gold has been a co-owner of the Porgera Joint Venture since 2005 which uses riverine tailings disposal, with studies showing significant negative effects on local populations,<sup>429</sup> however, it is hard to estimate whether the “benefits to local communities are significant” as this is a broad and largely subjective indicator. According to Barrick Gold alternatives were assessed and are not possible, however the assessment document is not made available.<sup>430</sup> Despite this policy HSBC Canada provided loans to Barrick Gold in 2015 and 2016, totalling €370 million.

Grupo México’s subsidiary Southern Copper has had numerous labour violations and an extremely devastating waste spill in Mexico in 2015. The company has not received large amounts from European banks recently, but HSBC has shareholdings in the company to the value of €22 million. While HSBC’s mining policy restricts business in relation to: “Material accidents, spills or pollution. Material refers to occurrences serious enough to cause controversy or damage to the customer and, potentially, to HSBC.”; it only applies to its main financing products, but not to the bank’s asset management business.<sup>431</sup> HSBC also provided capital to Vale SA in 2015 and 2016. As this money was designated for general corporate purposes, it is unclear for which part of the company’s operations the money was used. Vale has been criticised for its iron ore and coal mining operations and is part-owner of the mine Samarco Mineração, which is responsible for the worst environmental damage in the history of Brazil.<sup>432</sup>

# Recommendations and Demands



# Recommendations and Demands

Financial institutions (FIs) play a pivotal role in the transformation to a sustainable economy, not only through their own operations, but also in relation to the companies they choose to finance. By providing financial resources to companies, FIs can be seen to be supporting by encouraging their activities and business models. Where these are harmful, as shown in this publication, 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 and competitors.<sup>433</sup>

Financial Institutions are clearly not taking strong action to ensure that mining and extractive companies respect human rights and environmental concerns. The trends over time show that for some European Banks, even when they have been made explicitly aware of violations by extractive companies, there has been insufficient evidence of clear steps being taken. One of the first steps that should be taken by banks is to look at a company's response to incidents and allegations. This document has sought to lay out whether companies' corporate performance has improved in relation to ESG issues, ie whether companies have adequately responded and remediated issues. Banks are also uniquely positioned to push companies towards improved disclosure. The results of our research into extractive companies shows that disclosure on their progress in relation to human rights incidents is severely lacking. This is supported by studies undertaken by the UNPRI of the top 50 mining and extractive companies, which shows that only about 50% of these companies report on key aspects of how they manage human rights and only 2% report on the effectiveness of their human rights practices.<sup>434</sup>

This document continues to advocate for binding regulations on financial institutions 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. One of the most substantial steps that has occurred over the past year is the release of the Final Report of the EU Commission's High-Level Expert Group on Sustainable Finance<sup>435</sup>. This is to date the most comprehensive plan to systematically integrate sustainability aspects into the financial system of the European Union (see box on HLEG).

The following section looks at what governments, regulators and financial institutions can do to limit investments in harmful companies, with some specific advice in relation to the existing approach taken by Germany.

For Financial Institutions:

FIs should:

**1** Improve transparency by making public all information related to engagement with and exclusion of extractive companies. All engagement processes should define specific agreed actions to be taken by the company as well as a timeline for implementation. Reporting on engagement should include:

- information pertaining to topic of discussion and outcomes of engagement with companies.
- criteria for exclusion of companies and list of companies excluded based on sustainability considerations.

This is the clearest way to express that violations by mining and extractive companies are being addressed by banks and engagement with companies has been demonstrably successful, as the disclosure of this information by banks such as Rabobank shows.

**2** Ensure that there is a clear distinction between engagement with companies and exclusion of companies and define a clear progression between the two – at what point does engagement end and exclusion occur. It is imperative that FIs publish exactly how this line is defined and what constitutes overstepping it.

**3** Ensure that ESG policies are transparent and valid for all business operations group-wide, i.e. investments of own assets and assets under management, underwriting services as well as all financings, as is also recommended by the HLEG report. Banks too often have far stronger policies related to project finance and less robust policies which apply to financings provided for “General Corporate Purposes”. Yet the vast majority of financing provided by banks to corporations is provided as broad finance. This is especially true for mining companies.

**4** Have a proactive approach in place to identify possible non-compliant companies, and assess companies based not only on their direct operations, but also their supply chain operations. For mining companies, violations in supply chains can be severe, for example child labour and forced labour in artisanal mines (as shown in the feature on page 49). Banks must apply robust checks to ensure that companies have the correct supply chain due diligence in place and where violations are identified, this should be a trigger for engagement and possible exclusion.

**5** Banks must have both cross cutting policies and sectoral policies. Cross Cutting policies apply broadly to defined ESG issues, for example Human Rights, Labour Rights, and Climate Change. In accordance with the OHCHR Guidance banks should identify high risk sectors – based on the high risk of human rights violations in the extractives and mining sector, it should fall in this high-risk category. Sectoral policies must take into account the salient issues in each controversial sector, in this case related to mining and extractives. These policies must show where the bank will focus particular attention, as well as including specific sectors where sector-wide exclusions apply or specific

actions meriting exclusion, for example Arctic drilling. These must be regularly updated to include new issues or recently discovered impacts.

**6** Establish an easily accessible and effective grievance mechanism for individuals or communities who feel adversely affected by the bank’s operations as defined within the UN Guiding Principles.

**7** Banks can and should where possible also work together to pool expertise and share resources. In our survey of the ten banks covered, cooperation with other financiers or investors to increase leverage on extractive companies seems to be more common than not, however typically through industry associations and not in particular financial deals. Collaborative action enables investors to reach more companies and to speak with one voice.

It is worth noting that many banks refer in their mining and extractive sector policies to corporate membership of external standards, for example the ICMM. While these standards are an important step to ensure that extractive companies voluntarily commit to industry standards, they are not a replacement for banks own due diligence into company operations and should not be used as a catch all.

The following environmental and human rights violations, related to the mining and extractive sector are identified in the Dirty Profits reports as being supported by FIs and therefore merit particular concern:

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**Environmental destruction**

**Exclude companies that violate norms and standards:**

- Participate in environmental destruction/or refuse to compensate for or restore resultant environmental destruction.<sup>436</sup>
- In particular companies that have not remediated or addressed environmental violations in their operations.

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**Exclude companies engaged in the following operations to prevent furthering the development of these businesses/activities:**

- Deep sea mining
- Arctic drilling<sup>437</sup>
- Mountaintop Removal mining.<sup>438</sup>

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**Disrespect for fundamental international labour and human rights**

**Exclude companies that violate norms and standards:**

- 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, right to a living wage, equal remuneration, working hours.<sup>439</sup>
- Violate fundamental humanitarian principles.<sup>440</sup>
- Have projects that lead to forced displacements, or that disregard the land or human rights of local communities and /or indigenous people.<sup>441</sup>

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**Financial Crimes**

- FIs must not engage in financial crimes or support companies which do. This includes but is not limited to corruption, tax avoidance or evasion, money laundering, bribery, price/financial manipulations, and embezzlement.
-



Advice to Regulators and Governments:

The UNGP on Business and Human Rights and other voluntary measures are not sufficient to assure that companies and FIs respect human rights in their business relations. There are processes in place to move towards binding human rights and environmental regulations on corporate entities. For example, the UN IGWG on transnational corporations is working towards a “legally binding instrument to control transnational corporations with respect to human rights”. Although these efforts have not yet led to an international agreement, ongoing actions in different countries are likely to lead to further change. Some European countries have initiated binding initiatives to protect human rights, for example the Modern Slavery Act in the UK, the child labour law in the Netherlands and the Responsible Business Initiative developed by Swiss NGOs (to be put to a referendum). The adoption of the French duty of vigilance law has come the furthest of these towards a comprehensive legislation to integrate human rights and the environment into businesses operations. It is likely that that this law in particular will have ripple effects to other countries.

The complex nature of FIs processes require specific transparency reporting structures. As the EU commission admits in relation to companies: “Transparency leads to better performance”<sup>442</sup>. This is remarkably true for FIs. In our discussions with banks in compilation of this report we were frequently faced with the “client confidentiality” response. This means that we are unable to glean valuable information that bank customers and the wider public have every right to know.

The binding regulations<sup>443</sup> to be put in place on FIs should include the following elements:

1 ESG criteria that are applicable to companies must also apply to all financial institutions and also to all their business relationships, i.e their investments in third party organisations. FIs wider operations and business relationships have a much larger impact than their direct business and should be treated accordingly. The requirements of these directives, such as the CSR Directive, put in place mechanisms to increase transparency and accountability in relation to the environmental and human rights impacts of businesses. Financial institutions have long since protected information in relation to their risk management process. As there is strong resistance to disclosure of risk management criteria<sup>444</sup>, regulation is critical. 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 FIs. The extension of existing directives to FIs business relationships is one way to achieve this. In addition to ESG issues such as environment and human rights, FIs should also be required to report on, for example, names of companies/projects/governments they finance, company exclusion lists, detailed company engagements and at a minimum at least publish a detailed breakdown of their portfolio by region/sector.

2 The regulations implemented in France in 2015 to introduce a legal requirement for climate change reporting by institutional investors should be seen as a baseline for German and European Regulators.<sup>445</sup> These regulations commit the government to undertake a climate stress test of the banks. Institutional investors and banks will need to report on the risks associated with climate change. Not only do institutional investors need to take climate change into account, the law also requires that they include in their annual report how they take ESG factors into account.<sup>446</sup> We suggest that this forms a good starting point for regulation on climate. We consider carbon footprinting as insufficient, but a clear carbon risk assessment should be implemented at a national and EU level.<sup>447</sup> German regulators should introduce a climate stress test for banks as part of the wider stress tests already implemented. This would be in line with the G7 commitment in 2015 to “continue to monitor financial market volatility in order to address any emerging systemic risk that could arise.”<sup>448</sup>

3 It is important that states encourage business to report on human rights, progressively integrating the human rights due diligence process. This can be successfully achieved through a government’s development of National Action Plans to implement the UN Guiding Principles on Business and Human Rights. This can also be achieved by following the significant legal step made by France. In February 2017, France adopted the “corporate duty of vigilance law”. The law marks a historic step towards improving corporate respect for human rights and the environment. With this law, multinational businesses headquartered in France, have to annually assess and address the adverse impacts of their activities on people and the planet. But the most important step forward, is that these plans must not only include an assessment of the impacts

of companies under their control, but also those of their suppliers and subcontractors. The proposed Swiss Responsible Business Initiative is similar. While the French law is not perfect it provides a strong impetus for business to consider and integrate human rights concerns. Germany has adopted a significantly flawed and unambitious NAP, undertaken the minimum regulations for the Non-Financial Reporting Directive, and has not made any steps towards a clear legislation compelling German companies to integrate respect for human rights and the environment.

*“There is strong evidence that Europe’s citizens overwhelmingly believe that social and environmental objectives are important for their savings and investments.”<sup>449</sup>*

The above quote contained in the report by the High-Level Expert Group on Sustainable Finance (HLEG) recognises the key role that citizens have in demanding a more equitable financial system. Throughout the final report emphasis is given to citizens and their engagement with sustainable finance. It is acknowledged that without better disclosure by financial institutions, citizens and civil society are unable to engage in the financial system and it is therefore not being held to account. Improving access to information on sustainability performance is critical – therefore *one of the priority recommendations of the report is “upgrading disclosures to make sustainability opportunities and risks transparent”*. The disclosure of information by banks is something that Facing Finance has long been working towards, and strongly supported throughout the HLEG consultation process.

However, this is just one thread in a substantial document. A further priority is that the fiduciary duties of institutional investors and asset managers explicitly integrate material ESG factors and long-term sustainability.

Other cross cutting recommendations given by the group are:

- to confront short-termism in financial markets so as to reduce its negative impact on long-term corporate investment and development
- to consider ways to empower citizens to engage with sustainable finance
- to monitor investment plans and delivery through a dedicated EU observatory on sustainable finance

- to improve financial market benchmark transparency and guidance
- to ensure that EU accounting rules do not unduly discourage long-term investment
- to establish a ‘Think Sustainability First’ principle at the heart of EU policy-making
- to drive sustainable finance at the global level.

**But to what extent will this work lead to real changes in financial policy?**

This report provides a framework for further action and the recommendations still need to be implemented, but the document provides a strong indication to European financial institutions that sustainable finance is a priority and defines exactly how. The ultimate test of the HLEG will not just be the degree to which its recommendations are adopted, but the extent to which sustainable finance becomes a permanent feature of European markets and policy-making.

It is critical that the German government considers and adopts the HLEG recommendations fully, and not in the weak manner that it has with previous EU Directives such as the Directive on Non-financial disclosure and its weak requirements in the National Action Plan on Business and Human Rights.

# Appendix 1: Exclusions

Company	Exclusion List	Examples of reasons provided for exclusion
Barrick Gold	AP7 KLP New Zealand Superannuation fund PGB Norwegian Government pension fund Global Danske Delta Lloyd Asset Manager ACTIAM FDC Caring Capital Group Achmea SEB AP2 TOBAM National Provident Fund New Zealand Storebrand Pensioenfonds Horeca & Catering DNB Bank ASA	Environmental impact in mining project (Papua New Guinea & Argentina). Violations of labour rights norms. Violates the Global Compact. Environmental standards associated with mining operations in Chile and Argentina.
BHP	AP7, FDC, BMO Global Asset Management, UCA Funds	Activities in uranium mining, Thermal coal, and shale gas. Violations of environmental standards and human rights in connection with a fatal accident in Brazil.
Eni	Ethias	
Gazprom	AP7 ACTIAM TOBAM	Company acts in violation of the Paris Agreement through the extraction of Arctic oil in Russia.
Glencore	KLP wespath Ethias EVZ Central Finance Board of the Methodist Church Storebrand Sydbank Folksam Öhman WSRW	Activities in the occupied Western Sahara and the related possible violations of human rights norms. Serious climate and environmental damage the company causes and for international law and human rights violations Company's „high exposure to coal“, which makes them „one of the worst emitters of greenhouse gases“.
Goldcorp	Ethias SEB EVZ	Failure to engage with the foundation on possible human rights violations
Grupo México SAB de CV	Delta Lloyd Asset Manager ACTIAM PGB Storebrand Pensioenfonds Horeca & Catering	Labour union conflicts
Rio Tinto	KLP ACTIAM Norwegian Government pension fund Global ACTIAM ACTIAM Norwegian Government pension fund Global FDC Caring Capital Group Ethias TOBAM TOBAM UCA Funds DNB Bank ASA	Due to its association to environmental impact caused by mining activities (Indonesia & Papua New Guinea). The company violates human rights and contributes to environmental damage.
Vale	AP7 FDC SEB	Due to its association to a deadly accident (Brazil).

# Appendix 2: Responses from Banks to survey

Note small response will affect validity of survey.

## ESG screening process for Mining, Metals and Extractives

### Where does your bank source investor information related to socially responsible investments in the extractive industry?

	Percent	Number of responses
Ratings Agency	83%	5
Own internal research	83%	5
Does not utilise ESG information for the extractive industry	0%	0
Other, for example NGO research and information	83%	5
Answered question		6
Skipped question		0

### Does the bank have a specific policy in relation to extractives which takes into account the environmental and human rights impacts and risks associated with the industry?

	%	#
Yes	100%	5
No	0%	0
Answered question		5
Skipped question		1

### If Yes (tick all that apply)

	%	#
The policy is publically available	100%	4
An internal policy sets out further standards	75%	3
Investments own accounts	50%	2
Asset management	50%	2
Answered question		4
Skipped question		2

### Which norms and standards has the bank taken into account in developing their extractive policy ?

	%	#
UN Guiding Principles for Business and Human Rights	100%	5
OECD Guidelines for Multinational Companies	80%	4
International Council on Mining and Metals	80%	4
Voluntary Principles on Security and Human Rights	80%	4
Other, please specify	80%	4
Answered question		5
Skipped question		1

### Does the bank set criteria for when they will not invest in an extractive company ie Exclusion Criteria. These can include such elements as violations related to indigenous peoples and Free, Prior and Informed Consent, operations in sensitive areas such as UNESCO World Heritage sites, serious pollution violations.

	%	#
Yes	100%	5
No	0%	0
Answered question		5
Skipped question		1

<b>Does the bank consider other published blacklists (exclusion lists) such as the Norwegian Government Pension Fund exclusion List?</b>	%	#
Yes	20%	1
No	80%	4
Answered question		5
Skipped question		1

<b>How often does the bank review corporate clients and financial relationships in terms of human rights and environmental concerns? (Please specify any details in the comment box below)</b>	%	#
On a regular basis	100%	5
Ad hoc	0%	0
Only reviews new clients	0%	0
Other	0%	0
Answered question		5
Skipped question		1

<b>Does the bank consider climate change commitments when reviewing companies in the extractive sector (for example rankings on climate disclosure?)</b>	%	#
Yes	100%	6
No	0%	0
Answered question		6
Skipped question		0

<b>If Yes, to which kinds of relationships does this apply? (tick all that apply)</b>	%	#
Corporate financing	100%	5
Project financing	100%	5
Investments (Own Accounts)	80%	4
Investments (Asset management)	60%	3
Answered question		5
Skipped question		1

<b>Does the bank consider water as a specific concern related to extractives and participate in measures to value and protect water, for example water bonds, or water scarcity assessments such as the Water Risk Monetizer, for extractive companies?</b>	%	#
Yes	83%	5
No	17%	1
Answered question		6
Skipped question		0

<b>If Yes, to which kinds of relationships does this apply? (tick all that apply)</b>	<b>%</b>	<b>#</b>
Corporate financing	100%	5
Project financing	100%	5
Investments (Own Accounts)	60%	3
Investments (Asset management)	40%	2
Answered question		5
Skipped question		1

<b>Does the bank take into account both the policies and the practice of extractive companies?</b>	<b>%</b>	<b>#</b>
No only evaluate policies	0%	0
No, only evaluates practices	17%	1
Yes investigate both policy and practice	83%	5
Answered question		6
Skipped question		0

<b>If Yes, to which kinds of relationships does this apply? (tick all that apply)</b>	<b>%</b>	<b>#</b>
Corporate financing	100%	5
Project financing	100%	5
Investments (Own Accounts)	60%	3
Investments (Asset management)	40%	2
Answered question		5
Skipped question		1
Answered question		6
Skipped question		0

Bank Engagement with extractive companies**When were you first made aware of the violations against the ten mining and extractive companies that have been included in the supporting summary document?**

	%	#
Prior to establishing a financial relationship with a potential customer?	0%	0
During an ongoing client relationship?	25%	1
The bank has no relationships with any of the companies in the report	0%	0
The bank was unaware of violations	0%	0
Answered question		4
Skipped question		2
Answered question		5
Skipped question		1

**Has the bank engaged with any of the companies listed in the summary document (that it has financial relations with) in relation to the violations mentioned?**

	%	#
Yes	100%	2
No	0%	0
Answered question		2
Skipped question		4
Answered question		1
Skipped question		5

**Does the bank use any other tools, other than dialogue, to influence extractive companies broadly, and the companies listed in the summary document specifically?**

	%	#
Yes	67%	2
No	33%	1
Answered question		3
Skipped question		3

**Does the bank cooperate with other financiers or investors fund managers to increase its leverage in relation to engaging with extractive companies on ESG issues?**

	%	#
No	25%	1
Yes	75%	3
Answered question		4
Skipped question		2

**Does the bank publish any information on its engagement process?**

	%	#
Yes	50%	3
No	50%	3
Answered question		6
Skipped question		0

<b>If Yes, is this published at: (tick all that apply)</b>	%	#
Aggregate level	0%	0
Company level	0%	0
Other	100%	1
Answered question		1
Skipped question		5
Answered question		6
Skipped question		0

<b>Has the bank blacklisted any extractive companies on environmental, social and governance grounds?</b>	%	#
Yes	100%	2
No	0%	0
Answered question		2
Skipped question		4

<b>If Yes, to which kinds of relationships does this apply? (tick all that apply)</b>	%	#
Corporate financing	100%	1
Project financing	100%	1
Investments own accounts	100%	1
Asset management	100%	1
Answered question		1
Skipped question		5

<b>Can the bank commit to engage, if it has not done so already, with the companies covered in the summary report provided (with which it has financial relationships), as a requirement of the company receiving further finance.</b>	%	#
Yes	0%	0
No	100%	1
Answered question		1
Skipped question		5



# Appendix 3: Abbreviations

AGM	Annual General Meeting
BFA	Bread for All
CBD	Convention on Biological Diversity
CDP	Carbon Disclosure Project
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEO	Chief Executive Officer
CHRB	Corporate Human Rights Benchmark
CRC	Convention on the Rights of the Child
CSR	Corporate Social Responsibility
DRC	Democratic Republic of Congo
EITI	Extractive Industries Transparency Initiative
EVF	Egbema Voice of Freedom
FPIC	Free, Prior and Informed Consent
FTSE	Financial Times Stock Exchange
GHG	Greenhouse Gases
GPF	Norwegian Government Pension Fund
HRDD	Human rights due diligence
IBAMA	Brazilian Environmental Agency
ICCPR	International Covenant on Civil and Political Rights
ICMM	International Council on Mining and Metals
ICESCR	International Covenant on Economic, Social and Cultural Rights
IFC	International Finance Corporation
ILO	International Labour Organisation
LH	LafargeHolcim
LNG	Liquid Natural Gas
NAOC	Nigeria Agip Oil Company
NGO	Non-Governmental Organization
OECD	Organisation for Economic Co-operation and Development
PNG	Papua New Guinea
PODER	People Organizing to Demand Environmental and Economic Rights
PJV	Porgera Joint Venture
QMM	QIT Madagascar Minerals
SAAE	Serviço Autônomo de Água e Esgoto
SEAT	Socio-Economic Assessment Toolbox
SOMO	Centre for Research on Multinational Corporations
TB	Tuberculosis
TLC	Twerwaneho Listeners' Club
UDHR	Universal Declaration of Human Rights
UN	United Nations
UBOS	Uganda Bureau of Statistics
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNEPFI	United Nations Environment Programme Finance Initiative
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFCCC	United Nations Framework Convention on Climate Change
UNGP	United Nations Guiding Principles on Business and Human Rights

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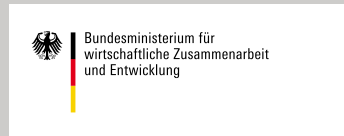
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