

Case study: Assessing the response of insurance companies to severe human rights abuses in the extractives sector



Case study – Final report

Fair Insurance Guide

26 June 2018

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Assessing the response of insurance companies to severe human rights abuses in the extractives sector

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The Fair Insurance Guide is a coalition of the following organizations:

Amnesty International, FNV, Milieudefensie, Oxfam Novib, PAX, and World Animal Protection

26 June 2018

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Not all coalition members of the Fair Insurance Guide work on all themes and/or sectors on which the research of the Fair Insurance Guide focuses. Reports on specific themes therefore do not necessarily reflect the opinion of all coalition members of the Fair Insurance Guide.

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Samenvatting

Delfstofwinning is een risicosector vanwege mogelijke betrokkenheid bij mensenrechtenschendingen. Volgens de *UN Guiding Principles on Business and Human Rights*, dragen bedrijven alsmede de investeerders in deze bedrijven een verantwoordelijkheid voor naleving van universele mensenrechten. Daarom dienen bedrijven actief in delfstofwinning een signalerings- en risicomanagementsysteem te hebben om mensenrechtenschendingen te voorkomen, in te perken en op te heffen. Investeerders kunnen hun verantwoordelijkheid nemen als onderdeel van 'actief aandeelhouderschap', via engagementprocessen met de betreffende bedrijven of stemmen op aandeelhoudersvergaderingen.

Het praktijkonderzoek 'Delfstofwinnende bedrijven en mensenrechten: de reactie van verzekeringsgroepen op mensenrechtenschendingen bij delfstofwinning' evalueert de reactie van de zeven grootste verzekeringsgroepen actief in Nederland op een selectie van tien ernstige mensenrechtenschendingen door bedrijven in de delfstofwinnende sector. De verzekeringsgroepen investeren in deze bedrijven via beleggingen in aandelen en obligaties.

Het praktijkonderzoek beoordeelt of de verzekeringsgroepen hun invloed aanwenden om bedrijven die betrokken zijn bij mensenrechtenschendingen aan te sporen om de misstand op te heffen, genoegdoening te bieden aan slachtoffers, en herhaling in de toekomst te voorkomen door aanscherping van het mensenrechtenbeleid.

Dit onderzoek is uitgevoerd in opdracht van de Eerlijke Verzekeringswijzer, op initiatief van coalitiepartners Amnesty International Nederland en PAX. De Eerlijke Verzekeringswijzer is een initiatief van Amnesty International Nederland, FNV, Milieudefensie, OxfamNovib, Pax en World Animal Protection Nederland.

Dit praktijkonderzoek richt zich op de volgende in Nederland actieve verzekeringsgroepen:

- Achmea;
- Aegon;
- Allianz;
- APG;
- ASR;
- NN Group; en
- Vivat.

In het kader van dit praktijkonderzoek heeft Profundo een financieel onderzoek uitgevoerd en de geselecteerde verzekeringsmaatschappijen gevraagd om de gevonden investeringsrelaties te corrigeren en indien nodig aan te vullen. Voor alle verzekeringsgroepen konden investeringen worden gevonden, of werd informatie daarover (in het geval van ASR) verstrekt, die verband houden met één of meer van de tien voor het onderzoek geselecteerde delfstofwinnende bedrijven. Derhalve is het praktijkonderzoek relevant voor alle geselecteerde verzekeringsgroepen.

Het onderzoek richt zich op de verzekeraars in hun rol als belegger, en heeft betrekking op de beoordeling van de kwaliteit van engagementprocessen van de verzekeringsgroepen met bedrijven die betrokken zijn (geweest) bij mensenrechtenschendingen. Of het engagementproces succesvol is (geweest) en tot daadwerkelijke verbeteringen heeft geleid bij de getroffen werknemers of lokale gemeenschappen valt buiten het bestek van dit onderzoek. Dit is een belangrijk onderscheid bij lezing van het onderzoeksrapport.

De basis voor het onderzoek zijn de actuele investeringsrelaties tussen de verzekeraars en de bedrijven die zijn geselecteerd voor het onderzoek. Voor al deze bedrijven geldt dat de mensenrechtenschendingen of de gevolgen ervan nog niet volledig zijn opgelost. Het is belangrijk om dit in gedachten te houden bij de beoordeling van de resultaten van dit onderzoek: alle verzekeraars hebben investeringen in de geselecteerde bedrijven voortgezet, ondanks het feit dat de problemen ter plaatse voortduren.

De in het onderzoeksrapport opgenomen incidenten met betrekking tot mensenrechtenschendingen en de daaraan gerelateerde bedrijven zijn geselecteerd op basis van de volgende criteria:

- De mensenrechtenkwesitie kan bekend worden verondersteld bij de verzekeringsgroep, hetzij door het werk van de Eerlijke Verzekeringswijzer of door een van haar lidorganisaties, hetzij door berichtgeving in de media;
- Het gaat om een voortdurende kwestie (tot nu toe niet opgelost/verholpen).

Table 1 is een weergave van de investeringsrelaties tussen de verzekeringsmaatschappijen en de tien voor dit praktijkonderzoek geselecteerde bedrijven.

Table 1 Investeringsrelaties verzekeraars met tien bedrijven betrokken bij mensenrechtenschendingen

Bedrijf	Land	Achmea	Aegon	Allianz	APG	ASR	NN Group	Vivat	Totaal (in € mln)
Koninklijke Shell	Nederland	-	x	x	x	-	x	x	1.872
Rio Tinto	Verenigd Koninkrijk	-	x	x	x	x	x	x	722
Freeport-McMoRan	Verenigde Staten	x	x	x	-	-	x	-	454
Glencore	Canada	-	x	x	x	x	x	x	402
Goldcorp	Canada	-	x	x	x	-	x	x	216
CNPC	China	-	x	x	-	-	x	-	158
Trafigura	Nederland	-	x	x	-	-	-	-	39
Lundin Petroleum	Zweden	-	x	x	x	x	-	x	32
Vedanta Resources	Verenigd Koninkrijk	-	x	x	-	-	x	-	17
Coal India	India	-	-	x	x	-	x	-	16
Totaal									3.928

Bron: Thomson Reuters Eikon, 'EMAXX,' gezien in januari 2018; Thomson Reuters Eikon, 'Ownership structure, multiple securities,' gezien in januari 2018; Criado Larrea, R. (2018, May 16), *Correspondentie met Kanchan Mishra van Profundo*.

Amnesty Nederland en PAX hebben negen indicatoren ontwikkeld om te evalueren hoe verzekeringsgroepen hebben gereageerd op de betrokkenheid van de geselecteerde bedrijven bij mensenrechtenschendingen (zie paragraaf 2.5). De indicatoren meten de kwaliteit van de activiteiten van de verzekeringsgroepen met betrekking tot de volgende processen:

- Sectie A - Risicobeoordelingssysteem om de vermeende mensenrechtenschendingen te onderzoeken;
- Sectie B - Engagementproces met bedrijven waarin geïnvesteerd wordt, die betrokken zijn bij mensenrechtenschendingen;
- Sectie C - Toezicht houden op de voortgang van de beoogde doelen in het kader van engagement met het bedrijf waarin geïnvesteerd wordt, om de misstanden te verhelpen en gericht op genoegdoening; en
- Sectie D - Transparantie om ervoor te zorgen dat zowel de verzekeringsmaatschappij als de onderneming waarin wordt geïnvesteerd rapporteren over de voortgang met betrekking tot het tegengaan en oplossen van mensenrechtenschendingen.

De verzekeringsgroepen is gevraagd om aan te tonen dat zij de bedrijven waarin ze investeren hebben gescreend op betrokkenheid bij mensenrechtenschendingen, indien van toepassing nader onderzoek hebben verricht, een engagementproces zijn gestart met de onderneming en hebben gecontroleerd of de doelen van het engagementproces worden nageleefd en opgevolgd. In het kader van het onderzoek konden de verzekeraars, naast de tien geselecteerde casussen en bedrijven (zie paragraaf 2.3 voor meer informatie over de methodologie) ook bewijsstukken voorleggen over engagementprocessen in verband met mensenrechtenkwesties met betrekking tot andere bedrijven in de delfstofwinnende sector. Deze gevallen zijn toegevoegd aan de investeringsrelaties in het kader van het financiële onderzoek en zijn op dezelfde manier beoordeeld als de geselecteerde casussen voor dit praktijkonderzoek. Daarnaast heeft een aantal verzekeraars voorbeelden gegeven van engagementprocessen met voor dit onderzoek geselecteerde bedrijven ten aanzien van andere mensenrechtenkwesties dan de casussen die voor dit praktijkonderzoek zijn geselecteerd. Deze engagementprocessen zijn ook meegenomen in het onderzoek.

De verzekeringsgroepen hebben in verschillende mate deelgenomen aan dit praktijkonderzoek:

- Achmea, ASR en Vivat hebben zonder restricties informatie verstrekt;
- NN Group heeft informatie verstrekt met betrekking tot twee van de in totaal acht mensenrechtenkwesties die verband houden met bedrijven waarin het investeert. Daarnaast heeft NN Group zes andere engagementprocessen voorgelegd met delfstofwinnende bedrijven waarin het investeert;
- Tijdens een bezoek van Profundo aan het kantoor van Aegon en APG hebben beide verzekeraars beperkte informatie verstrekt, zonder die te onderbouwen door inzage in documenten; en
 - Allianz heeft aangegeven dat ze uit oogpunt van vertrouwelijkheid geen informatie kon delen. Tijdens het beoordelingsproces van dit rapport toonde Allianz zich evenwel bereid om in het komende jaar serieus te bekijken of de aanbevelingen van dit rapport kunnen worden gevolgd en het engagementproces kan worden verbeterd.

Een gebrek aan openheid beperkte de mate waarin de respons van verzekeraars op vermeende mensenrechtenschendingen kon worden beoordeeld, hetgeen wordt weerspiegeld in de scores.

Onderzoeksbevindingen

- Alle verzekeringsgroepen controleren bedrijven in hun beleggingsuniversum op naleving van internationale normen zoals de *UN Global Compact* (UNGC) en/of op basis van het eigen verantwoord beleggingsbeleid. Het beleid van de verzekeringsgroepen en de UNGC omvatten ook normen op het gebied van mensenrechten. Allianz screent bedrijven in hun beleggingsuniversum op basis van een integrale ESG-score en niet specifiek op mogelijke betrokkenheid bij mensenrechtenschendingen. Omdat deze ESG-scores gebaseerd zijn op verschillende indicatoren en niet alleen op indicatoren met betrekking tot mensenrechten, kunnen bedrijven die betrokken zijn bij mensenrechtenschendingen nog steeds goed scoren. Daardoor is het mogelijk dat bedrijven die mensenrechten schenden de screening doorstaan, zoals in het geval van Allianz.
- De meeste verzekeringsgroepen besteden de screening en monitoring van hun beleggingsuniversum uit aan externe serviceproviders. Dit betekent dat de geleverde informatie door serviceproviders een belangrijke rol speelt bij het besluit van verzekeringsgroepen om over te gaan tot engagement met een bedrijf. Verschillende serviceproviders kunnen dezelfde informatie verschillend beoordelen waardoor dezelfde mensenrechtenschending door de ene provider als ernstiger kan worden beoordeeld dan door de andere. Een andere bevinding van dit onderzoek is dat de serviceproviders hun ratings voor een bedrijf/casus upgraden als er sprake is van voortgang door het bedrijf, ook als de gesignaleerde mensenrechtenschendingen niet volledig zijn verholpen. Zo hebben de meeste serviceproviders de 'rode vlag' bij Lundin Petroleum gewist nadat het bedrijf zich heeft teruggetrokken uit Zuid-Soedan. Maar de mensenrechtenkwestie loopt nog steeds, wat betekent dat Lundin Petroleum daar nog steeds aansprakelijk voor kan worden gehouden.

- Het is de verantwoordelijkheid van de beleggingsteams binnen de verzekeringsgroepen om de rapportages van serviceproviders te verifiëren. Vervolgens is het aan de verzekeringsgroepen om te beslissen of de in de rapportage gesignaleerde misstanden ernstig genoeg zijn om in aanmerking te komen voor opvolging in de vorm van een engagementtraject. Een ander aspect dat meeweegt in het besluit om over te gaan tot engagement is de aandeelhouderswaarde cq. omvang van de beleggingen in een onderneming. Omdat bedrijven verschillende drempelwaarden hanteren voor een besluit tot engagement, kan het zijn dat dezelfde mensenrechtenkwestie door de ene verzekeraar wel verder wordt onderzocht en leidt tot een engagementtraject, en door een andere verzekeraar niet.
- Er lopen bij delfstofwinnende bedrijven vaak meerdere mensenrechtenkwesties tegelijkertijd, op verschillende locaties. Het besluit tot engagement is echter vaak gekoppeld aan een specifieke mensenrechtenschending waar de onderneming bij betrokken is en heeft geen betrekking op alle vermeende mensenrechtenschendingen ten tijde van het engagementproces. Zo heeft ASR een engagementtraject gevolgd met Rio Tinto en Glencore naar aanleiding van mensenrechtenkwesties in de Oyu Tolgoi-mijn in Mongolië en het Tampakan-project in de Filipijnen. Het engagementtraject had als doel om de misstanden die betrekking hebben op deze locaties te beëindigen. Het engagementproces was echter geen aanleiding om ook andere misstanden bij deze twee ondernemingen aan te kaarten, zoals de voor dit praktijkonderzoek geselecteerde mensenrechtenkwesties bij mijnbouwprojecten in Colombia en Myanmar.
- Sommige verzekeraars hanteren een zogenoemde thematische engagementbenadering met delfstofwinnende bedrijven, gericht op het proactief beheersen van het risico op mensenrechtenschendingen. Deze engagementprogramma's omvatten algemene doelen, zoals de ontwikkeling of aanscherping van het mensenrechtenbeleid van ondernemingen waarin wordt geïnvesteerd. Deze vorm van engagement richt zich meestal niet op het aankaarten van misstanden op specifieke mijnbouwlocaties en genoegdoening voor slachtoffers.
- Verzekeraars houden bij welke voortgang wordt geboekt met betrekking tot de doelen van het engagementtraject. Het besluit om een engagementproces voort te zetten of stop te zetten, hangt af van de beoordeling van de behaalde doelstellingen. Er wordt meestal een succesdrempel ingesteld om een engagement als succesvol te kwalificeren. Een engagementtraject kan bijvoorbeeld succesvol worden genoemd als drie van de vijf engagementdoelen zijn behaald. Daarom is het mogelijk dat een engagementproces wordt afgesloten en als succesvol wordt gekwalificeerd als de mensenrechtenkwestie nog niet (volledig) is opgelost en slachtoffers niet (volledig) schadeloos zijn gesteld.
- Een aantal verzekeraars heeft voorbeelden gegeven van engagementprocessen die niet zijn geslaagd. In dergelijke gevallen is besloten om het bedrijf uit te sluiten van investeringen. Het uitsluitingsbeleid is echter niet altijd even eenduidig over hoe er wordt omgegaan met de dochterondernemingen van de uitgesloten bedrijven. Bovendien is uitsluiting soms niet van toepassing op alle activa, en wordt er onderscheid gemaakt tussen uitsluiting van bedrijven voor beleggingen voor eigen rekening van de verzekeraar en voor beleggingen voor rekening van klanten. Deze leemten kunnen ertoe leiden dat er wel wordt geïnvesteerd in dochterondernemingen van een uitgesloten bedrijf via beleggingen voor rekening van klanten.
- De meeste verzekeraars zijn transparant over hun eigen mensenrechtenbeleid en de beheersing van risico's op betrokkenheid bij mensenrechtenschendingen via bedrijven in hun beleggingsportefeuille. Indien zij overgaan tot engagement, geven zij echter weinig details prijs over de gestelde of bereikte doelen. De verplichting tot rapportage over de aanpak van mensenrechtenschendingen door bedrijven waarin ze investeren is ook niet altijd opgenomen als een van de engagementdoelen.

Table 2 geeft een overzicht van de scores die zijn toegekend voor de verschillende beoordelingscategorieën, inclusief de totaalscore per verzekeringsgroep. De totaalscore kan worden beschouwd als een algehele kwalificatie van de respons van verzekeraars bij vermeende betrokkenheid bij mensenrechtenschendingen door bedrijven waarin zij investeren. Het maximum aantal punten dat mogelijk is per beoordelingscategorie wordt weergegeven in de eerste kolom.

Table 2 Score per verzekeringsgroep

	Maximum score	Achmea	Aegon	Allianz	APG	ASR	NN	Vivat
Risicobeoordeling	4,0	4,0	1,3	0,0	0,9	4,0	2,7	4,0
Engagement	2,0	2,9	1,0	0,0	0,3	2,1	1,9	2,6
Monitoring voortgang engagement	2,0	1,7	0,5	0,0	0,8	1,3	1,0	2,0
Transparantie	1,0	1,0	0,3	0,1	0,4	0,7	0,3	0,6
Totaal	10,0	9,6	3,1	0,1	2,4	8,1	5,9	9,2

Legenda: 1 = erg slecht; 2 = slecht; 3 = ruim onvoldoende; 4 = onvoldoende; 5 = twijfelachtig; 6 = voldoende; 7 = ruim voldoende; 8 = goed; 9 = zeer goed; 10 = uitstekend

• Risicobeoordeling

- Achmea, ASR en Vivat behalen de maximale score (4,0) voor "Risicobeoordeling" omdat ze gedocumenteerde informatie hebben verstrekt over intern onderzoek naar aanleiding van mensenrechtenkwesties in relatie tot de bedrijven waarin ze investeren;
- NN Group scoort 2,7 punten voor dit onderdeel, omdat de verzekeraar bewijsmateriaal heeft aangeleverd over onderzoek met betrekking tot meer dan de helft van de mensenrechtenkwesties die verband houden met de bedrijven waarin ze investeren;
- Aegon (score 1,3) en APG (score 0,9) scoren laag omdat ze hun onderzoek naar aanleiding van mensenrechtenkwesties in relatie tot bedrijven waarin ze investeren slechts beperkt hebben onderbouwd;
- Allianz scoort geen enkele punt, omdat de verzekeraar geen informatie heeft verstrekt over onderzoek naar aanleiding van vermeende mensenrechtenschendingen.

• Engagement

- Achmea (score 2,9) en Vivat (score 2,6) scoren hoog voor "Engagement" door het verstrekken van informatie over de gestelde engagementdoelen met betrekking tot elk van de bedrijven met wie ze een investeringsrelatie hebben;
- ASR scoort 2,1 voor de verstrekte informatie over engagement met twee van de drie bedrijven waarmee het een investeringsrelatie heeft;
- NN Group scoort 1,9 voor het vaststellen van engagementdoelen voor meer dan de helft van de bedrijven waarmee het investeringsrelaties heeft;
- Aegon (score 1,0), APG (score 0,3) en Allianz (score 0,0) scoren laag vanwege beperkte of geen informatie over de gestelde doelen.

- **Monitoring voortgang engagement**

- Vivat behaalt de maximale score van 2 punten voor "Monitoring voortgang van de engagement", gevolgd door Achmea (score 1,7). Beide verzekeraars hebben voor elk van de geselecteerde bedrijven waarin ze investeren gedocumenteerde informatie verstrekt over de voortgang van engagementprocessen;
- ASR krijgt 1,3 punten en NN Group 1,0 punt voor informatie over de voortgang van engagement voor meer dan de helft van de gevallen;
- APG (score 0,8) en Aegon (score 0,5) scoren laag omdat ze de voortgang van engagementprocessen onvoldoende hebben onderbouwd;
- Allianz scoort geen enkele punt omdat het geen informatie heeft verstrekt over engagement.

- **Transparantie**

- Achmea (score 1,0) is het meest transparant in vergelijking met de zes andere verzekeraars die zijn geselecteerd voor dit praktijkonderzoek, wat tot uiting komt in de maximale score voor "Transparantie". De verzekeraar publiceert het eigen mensenrechtenbeleid, geeft inzicht in risicobeheersingsprocessen en geeft voldoende informatie over engagementtrajecten met bedrijven actief in delfstofwinning waarin het investeert.

Ook de meeste andere verzekeraars hebben hun mensenrechtenbeleid en hun aanpak voor screening en monitoring van bedrijven gepubliceerd. Maar de verzekeraars verschillen aanzienlijk in de mate waarin ze inzage geven in de details van engagementprocessen:

- Bij Achmea en ASR is transparantie over mensenrechtenkwesties een systematisch onderdeel van engagementprocessen met bedrijven;
- Aegon, APG, NN Group en Vivat bepalen van geval tot geval of transparantie deel uitmaakt van de engagementdoelen.
- Allianz verstrekt geen informatie over engagement.

Op basis van bovenstaande kunnen per beoordelingscategorie de volgende conclusies worden getrokken:

- Achmea, ASR en Vivat krijgen de maximale score voor A: Risicobeoordeling;
- Achmea (2,9 punten) krijgt de hoogste score voor B: Engagement, gevolgd door Vivat (2,6 punten);
- Vivat (2,0 punten) krijgt de hoogste score voor C: Monitoring, gevolgd door Achmea (1,7 punten);
- Achmea krijgt de maximale score (1,0 punt) voor D: Transparantie.

- **Totaalscores**

Uit de scores die hierboven zijn weergegeven voor de verschillende onderdelen zijn de volgende totaalscores af te leiden:

- Achmea heeft de hoogste totaalscore (9,6 punten, leidt tot score 10) in dit praktijkonderzoek, gevolgd door Vivat (9,2 punten, leidt tot score 9) en ASR (8,1, leidt tot score 8).
- NN Group scoort 5,9 punten, dat leidt tot score 6.
- De laagste scores zijn voor Aegon (3,1 punten, leidt tot een 3), APG (2,4 punten, leidt tot een 2) en Allianz (0,1 punten, leidt tot een 1).

- **Aanbevelingen Eerlijke Verzekeringswijzer**

Delfstofwinning is een risicosector op het gebied van mensenrechten en milieu. Op basis van de onderzoeksbevindingen heeft de Eerlijke Verzekeringswijzer de volgende aanbevelingen geformuleerd voor verzekeringsgroepen die investeren in delfstofwinning:

1. Screening beleggingsportefeuille

Verzekeraars dienen bedrijven in hun beleggingsportefeuille te screenen op betrokkenheid bij mensenrechtenschendingen. Bij de beoordeling van bedrijven op *Environmental, Social, and Governance* (ESG) aspecten, is een hoge E-score (Environment) of een hoge G-score (Government) geen compensatie voor een lage score voor naleving van mensenrechten (S-score).

2. Vaststelling drempelwaardes

Als een verzekeraar de lat te hoog legt en pas overgaat tot engagement met een bedrijf als het beschuldigd wordt van zeer ernstige mensenrechtenschendingen, betekent dit dat minder ernstige mensenrechtenschendingen niet verder worden onderzocht of zelfs niet worden gemeld door de serviceproviders van verzekeraars. Daarom moeten verzekeringsgroepen lagere drempels hanteren, zodat bedrijven die mensenrechten schenden niet aan hun aandacht ontsnappen. De verzekeraar is als belegger uiteindelijk verantwoordelijk voor betrokkenheid bij mensenrechtenschendingen via hun beleggingsportefeuille.

3. Feedback aan service providers

Service providers spelen een belangrijke rol bij het signaleren van mogelijke betrokkenheid van bedrijven bij mensenrechtenschendingen. Verzekeraars kunnen hun service providers vragen om aanscherping van de evaluatiecriteria die zij hanteren. Een bedrijf zou pas een 'groene vlag' status mogen krijgen als de kwestie is opgelost en er genoegdoening heeft plaatsgevonden vanwege mensenrechtenschendingen.

4. Haalbaarheid van engagement

Aangezien delfstofwinning een risicosector is in verband met mensenrechtenschendingen, zouden financiële overwegingen geen doorslaggevende rol moeten spelen bij de beslissing om een engagementtraject te starten met een onderneming. In overeenstemming met de *UN Guiding Principles on Business and Human Rights*, dienen verzekeraars actie te ondernemen in het geval van saillante mensenrechtenschendingen, ongeacht de omvang van de investeringen.

5. Engagement op basis van een concrete casus - vanuit het perspectief van getroffen gemeenschappen

Het is belangrijk dat engagementtrajecten zich richten op concrete gevallen van mensenrechtenschendingen. Dit zorgt ervoor dat geen enkele casus onopgemerkt blijft en dat er sprake is van genoegdoening. Het is nuttig om casussen te bekijken vanuit het perspectief van de getroffen gemeenschappen: ze worden vaak niet erg geholpen door algemene verbeteringen op bedrijfsniveau; ze hebben het bedrijf nodig om de problemen op te lossen die het bedrijf heeft veroorzaakt of waar het indirect aan heeft bijgedragen en om genoegdoening te krijgen voor de schade die zij hebben ondervonden.

6. Genoegevoening opnemen als doel van engagement

In engagementprocessen met betrekking tot mensenrechtenschendingen is genoegdoening van groot belang. Bij het opstellen van engagementdoelen dient ervan te worden uitgegaan dat stakeholders worden geconsulteerd bij de vaststelling van een actieplan, de mensenrechtenschending wordt gestopt, genoegdoening wordt geregeld voor de getroffen gemeenschap en transparantie wordt betracht over de acties die het bedrijf heeft ondernomen. Uiteraard is ook aanscherping van het mensenrechtenbeleid een belangrijk doel van engagement, erop gericht om dergelijke schendingen in de toekomst te voorkomen.

7. Kritische evaluatie en verificatie van behaalde engagementdoelen

Verzekeringsgroepen dienen de voortgang van de engagementdoelen door betrokken bedrijven kritisch te evalueren. Het komt regelmatig voor dat wordt geoordeeld dat de doelen zijn gehaald zodra er een positieve reactie komt van het bedrijf en het de eerste stappen heeft gezet op weg naar verbetering. De acties van de bedrijven moeten echter zorgvuldig worden geëvalueerd voordat ze de kwalificatie krijgen dat het beoogde doel is bereikt. Ook dienen verzekeringsgroepen niet alleen af te gaan op de informatie van het bedrijf maar de voortgang ook te verifiëren door middel van contacten met lokale NGOs en vertegenwoordigers van lokale gemeenschappen.

8. De succesdrempel voor engagement verhogen

Enige positieve vooruitgang van bedrijven naar aanleiding van een engagementtraject is niet voldoende. Een engagementproces dient pas te worden afgerond als de situatie is opgelost en er sprake is van genoegdoening voor de getroffen gemeenschappen. Door een engagementproces af te sluiten op basis van een te lage succesdrempel, dreigen beleggers in plaats van 'betrokkenheid bij' een misstand 'bij te dragen aan' het voortduren van de misstand, door die te blijven faciliteren. Het verdient aanbeveling dat verzekeringsgroepen de succesdrempel voor engagement verhogen.

9. Uitbreiding van de reikwijdte van uitsluiting

Als een verzekeringsmaatschappij heeft besloten om een bedrijf actief in delfstofwinning uit te sluiten van het beleggingsuniversum vanwege ernstige mensenrechtenschendingen of een niet geslaagd engagementtraject, moet de verzekeringsgroep de uitsluiting doorvoeren tot ten minste de dochterondernemingen van het bedrijf waarin het moederbedrijf een meerderheidsbelang heeft. Als dit niet gebeurt, kan de verzekeraar nog steeds via zijn dochteronderneming in de onderneming beleggen en handelen in strijd met het eigen uitsluitingsbeleid. Verder dient met het oog op een geloofwaardige en consistente uitvoering van het mensenrechtenbeleid, de uitsluiting niet alleen te worden toegepast op beleggingen voor eigen rekening, maar ook op beleggingen voor rekening van klanten.

10. Verbetering van transparantie

Zowel verzekeraars als de bedrijven waarin ze investeren dienen verantwoording af te leggen aan hun stakeholders en de samenleving over de gevolgen van hun investeringen en hun bedrijfsvoering op de mensenrechten van werknemers en lokale gemeenschappen. Daarom is het van groot belang dat de verzekeraars en de ondernemingen waarin zij investeren transparant zijn over hun betrokkenheid bij mensenrechtenkwesaties en hun reactie daarop. De verzekeraars zouden transparantie over hun beleggingen kunnen verbeteren door te rapporteren over de details van engagementtrajecten (zie sectie 2.5, D), de geformuleerde en de bereikte doelen. Ze kunnen de transparantie binnen de bedrijven waarin ze beleggen bevorderen door van de bedrijven te eisen dat ze een mensenrechtenbeleid publiceren, aan te geven hoe het wordt geïmplementeerd, te rapporteren over de mensenrechtensituatie op productielocaties, en, indien sprake is van mensenrechtenschendingen, te rapporteren over door het bedrijf ondernomen acties, de tot nu toe geboekte vooruitgang om de kwestie op te lossen en genoegdoening aan slachtoffers.

Summary

The extractives sector is a risk sector for involvement in human rights abuses. Companies in this sector should have ongoing due diligence processes in place to prevent, mitigate, and remediate human rights abuses. International standards such as the United Nations Guiding Principles state that companies, as would be the case with investors in a company, have the responsibility to respect human rights. This responsibility is to prevent and mitigate abuses through their investees. The investors should also encourage the investees to provide remedy. These responsibilities in practice take shape in processes of engagement with the investees. This case study 'Assessing the response of insurance companies to severe human rights abuses in the extractives sector' evaluates the response of the seven largest insurance groups active in the Netherlands to a selection of ten cases with severe human rights abuses by companies in the extractives sector. Each of the insurance groups is linked with one or more of the selected extractive companies through their investments in shares and bonds of these companies. The case study assesses whether the insurance companies have used their leverage to mitigate the negative human rights impacts of the investees' activities and to persuade the investee companies to remediate the abuses.

On behalf of the Fair Insurance Guide, Amnesty International Netherlands and PAX initiated this case study. The following insurance groups active in the Netherlands were selected for this case study:

- Achmea;
- Aegon;
- Allianz;
- APG;
- ASR;
- NN Group; and
- Vivat.

Profundo carried out a financial research as part of this case study and asked the selected insurance companies to correct and complete the investment relations found. For all the insurance groups, investments could be found related to one or more of the ten selected extractive companies, except for ASR. However, ASR confirmed that it holds investments in three of the selected companies. Therefore, the case study is relevant for all the insurance companies.

This study examines the process the insurers (as investors) have in place to engage with companies that have been or are involved in human rights violations. It is outside of the scope of this study to examine whether the engagement was successful in terms of impact on the ground and improvement in the lives of negatively affected individuals and communities. This is an important distinction when reading this study. At the basis of this study are the financial links between insurers and companies involved in human rights violations. The financial links found are all current links, while the selected cases all revolve around companies that have remaining human rights impacts to resolve. It is important to bear this in mind while reviewing the results of this study: all insurers continued investments in the selected companies, while issues on the ground have not been solved sufficiently.

The incidents and related companies were selected based on the following criteria:

- The case is expected to be known to the insurance company, either through the work of the Fair Insurance Guide (FIG) or through one of its member organizations or via considerable media coverage;
- The case must be ongoing (so far not resolved/remediated).

Table 3 shows the financial relationships identified between the insurance companies and the ten selected companies for this case study.

Table 3 Financial links of insurance groups with the ten selected human rights cases/companies

Selected company	Country	Achmea	Aegon	Allianz	APG	ASR	NN Group	Vivat	Total value (in € mln)
Royal Dutch Shell	Netherlands	-	x	x	x	-	x	x	1,872
Rio Tinto	United Kingdom	-	x	x	x	x	x	x	722
Freeport-McMoRan	United States	x	x	x	-	-	x	-	454
Glencore	Canada	-	x	x	x	x	x	x	402
Goldcorp	Canada	-	x	x	x	-	x	x	216
CNPC	China	-	x	x	-	-	x	-	158
Trafigura	Netherlands	-	x	x	-	-	-	-	39
Lundin Petroleum	Sweden	-	x	x	x	x	-	x	32
Vedanta Resources	United Kingdom	-	x	x	-	-	x	-	17
Coal India	India	-	-	x	x	-	x	-	16
Total									3,928

Source: Thomson Reuters Eikon, 'EMAXX,' viewed in January 2018; Thomson Reuters Eikon, 'Ownership structure, multiple securities,' viewed in January 2018; Criado Larrea, R. (2018, May 16), *Correspondence with Kanchan Mishra of Profundo*.

To evaluate the insurance groups' approach towards dealing with the human rights abuses in which the ten selected companies are involved, Amnesty Netherlands and PAX developed a set of nine indicators (see section 2.5). The indicators were designed to measure the quality of insurance companies' activities in the following processes:

- Section A - Issue and risk qualification to investigate alleged human rights abuses;
- Section B - Engagement with investee companies that have been causing or contributing to human rights abuses;
- Section C - Monitoring of the engagement progress to persuade the investee company to remediate the abuses, or to adopt other good practices for enabling remediation; and
- Section D - Transparency to ensure that both the insurance company and the investee company clearly report on the progress with respect to the human rights abuses.

The insurance groups were asked to provide evidence of screening and investigation, engagement, and monitoring of engagement for all the selected cases they have financial links with. The insurers could also provide evidence of engagements on human rights issues with other companies within the extractives sector, on top of the ten selected cases and companies (see section 2.3 for more details on the methodology). These cases were added to the financial links found as part of the financial research carried out in the context of this case study and scored in the same way as the selected cases for this case study. Additionally, some insurers also provided evidence of engagement with the selected companies but on another case/incident than the incident selected for this case study. These cases were also considered in the research.

The insurance groups participated in this case study in varying degrees:

- Achmea, ASR and Vivat made no restrictions as to providing information and evidence;
- NN Group provided information and evidence for two out of total eight selected cases it has financial links with and for six additional cases;
- Aegon and APG provided limited information with limited evidence during an office visit; and
- Allianz indicated that because of confidentiality concerns it could not share any evidence for engagements. However, during the review process of this report, Allianz showed willingness to follow the recommendations of this report and to consider improvement of the engagement processes with companies.

A lack of openness limited the extent to which actions of the insurers could be evaluated, this is reflected in the scores where appropriate.

Findings

- All the insurance groups conduct screening and monitoring of companies in their portfolios based on their own responsible investment (RI) policies and/or international standards such as the UN Global Compact (UNGC). The RI policies of the individual insurance companies and the UNGC include human rights standards. This screening should ensure that the human rights violations are identified during the screening process. However, Allianz screens its portfolio on the basis of an overall ESG score (companies scoring less than 10% ESG score) and not specifically on the basis of human rights controversies. Since these ESG scores are based on several indicators and not only on human rights indicators, companies that abuse or have abused human rights might not be overall the worst ESG performers within their industry. Therefore, certain human rights violating companies may pass Allianz's screening approach based on overall ESG scores.
- Mostly, the insurance groups rely on their service providers for their portfolio screening and monitoring on human rights controversies. Hence, service providers play an important role, as they provide input for the insurance groups to consider a company worth engaging. Different service providers rate controversies differently and hence a case can be rated more severe by one service provider and less by the other. Another finding of this research was that the service providers upgrade their ratings for a company/case based on positive progress made by the company even if the related incidents are not fully remediated. For example, Lundin Petroleum cleared the red flag at many service providers after the company exited South Sudan, however the case is still not remediated.
- The internal responsible investment teams of all of the insurance groups validate the controversy or non-compliance report provided by the service providers. It is then up to the insurance groups to decide if a case needs an engagement based on severity thresholds. Other aspects considered by the insurance companies could be their exposure to the company (portfolio holding). Therefore, a case marked severe may be investigated/engaged by one insurer and not by another insurer.
- Often, the extractive companies have multiple controversies going on at different sites at the same time. Since most of the engagements with the extractive companies are triggered due to a controversy, the goals focus on a specific incident and remediation and do not include goals on other incidents of human rights violations within the operations of that company. For example, ASR engaged with Rio Tinto and Glencore on human rights issues at the Oyu Tolgoi mine in Mongolia and at Tampakan project in The Philippines, respectively. The engagement objectives that were set with the two companies on these incidents included an expectation to terminate the ongoing human rights abuses. However, the goals set did not focus sufficiently on issues in Myanmar and Columbia for the two companies, respectively, the cases selected for this case study.

- Almost all of the insurers engage with extractive companies on human rights under a thematic engagement approach which could be to manage risks proactively. The goals set under these engagement programs again include general goals such as requiring the development of a human rights policy and process improvements at the investee companies. Site specific stakeholder engagement, finalizing an action plan on remediation and actual remediation of particular incidents often get neglected because of the generic objectives.
- Monitoring of engagement is a systematic process at most of the insurers. The decision to continue or conclude an engagement with positive progress depends on the assessment of the achieved objectives. However, most of the time, a success threshold is set to qualify an engagement successful. For example, an engagement can be considered successful, if the insurer achieves three out of five goals set during the engagement. Therefore, it is possible that an incident is still not (fully) remediated or resolved, but the engagement is closed and labelled 'successful' by the insurer. On that ground and since remediation is just one of the objectives, an engagement can be closed successfully if other objectives are met.
- Some insurers did provide examples of failed engagements with the selected companies of this case study as well as with other companies in the extractives sector because of involvement in human rights issues. In such cases, a decision to exclude the company from the investment universe was taken. However, sometimes the exclusion policy does not define how to deal with the subsidiaries of the excluded companies. Further, at times, exclusion doesn't apply on all assets e.g. investments on own account and on behalf of clients. These gaps can lead to investments by the insurance companies in the excluded companies by investing in their subsidiaries or investments in the same company through client's assets.
- Most of the insurers are transparent about their own human rights policies and the due diligence processes in place. Disclosing the details on engagements and the goals set or achieved is not a common practice within the insurance groups. Further, not all the insurance groups include improving transparency by the investee company on human rights violations as a goal in all their human rights related engagements.

Table 4 provides an overview of the scores granted for each specific section, including the total score per insurance group. The total score should be seen as an overall qualification of the quality of the entire process. The maximum of total points possible per section is shown in the first column.

Table 4 Score per insurance group

	Maximum score	Achmea	Aegon	Allianz	APG	ASR	NN	Vivat
Issue and risk qualification	4.0	4.0	1.3	0.0	0.9	4.0	2.7	4.0
Engagement with investee companies	3.0	2.9	1.0	0.0	0.3	2.1	1.9	2.6
Monitoring of the engagement progress	2.0	1.7	0.5	0.0	0.8	1.3	1.0	2.0
Transparency	1.0	1.0	0.3	0.1	0.4	0.7	0.3	0.6
Total	10.0	9.6	3.1	0.1	2.4	8.1	5.9	9.2

Legend: 1 = very poor; 2 = poor; 3 = very insufficient; 4 = insufficient; 5 = doubtful; 6 = sufficient; 7 = ample; 8 = good; 9 = very good; 10 = excellent

- **Issue and risk qualification**

Achmea, ASR, and Vivat got the maximum score (score 4.0) for “Issue and risk qualification” as they provided evidence of having investigated each of the selected cases of human rights abuses they are directly linked to. NN Group scored 2.7 points for this section, as it provided evidence of investigation for more than half of the cases they have financial links with. Aegon (score 1.3) and APG (score 0.9) scored low, due to providing limited evidence for having investigated the cases. Allianz did not score any point in the absence of any evidence.

- **Engagement with the investee company**

While Achmea (score 2.9) and Vivat (score 2.6) scored highest points for “Engagement with the investee company” for providing details on goals set with respect to each company they had financial links with, ASR scored 2.1 for engaging with two out of three companies it has financial links with. NN Group scored 1.9, for setting engagement goals with more than half of the companies they have financial links with, within this case study. Aegon (score 1.0), APG (0.3), and Allianz (score 0) scored low due to providing limited or no evidence of the goals set.

- **Monitoring of the engagement progress**

Vivat got the maximum score of 2 points for “Monitoring of the engagement progress”, followed by Achmea (score 1.7), as both the insurers provided evidence of monitoring of their engagement progress with each company they are linked with. ASR got 1.3 points and NN Group received 1 point for showing monitoring of engagements for more than half of the cases they were linked with. Other insurers such as APG (score 0.8) and Aegon (score 0.5) lost points due to limited evidence provided for the engagement cases. Allianz did not score any point as it did not provide any evidence of engagements.

- **Transparency**

Achmea (score 1) is the most transparent insurance company amongst the seven insurers selected for this case study, which is reflected in the maximum score for “Transparency”. It publishes its own human rights policy and processes and provides adequate details on engagements with companies in the extractives sector it invests in. Most of the other insurers have published a human rights policy and their approach for screening and monitoring. However, disclosure on engagements varies considerably between other insurers. Including a goal to improve transparency by the investee companies on human rights breaches is systematically part of the goals set by Achmea and ASR. Other insurers, Aegon, APG, NN Group en Vivat, include transparency as a goal on a case to case basis. Allianz does not provide information on engagement.

From the scores presented above, the following points stand out:

- Achmea, ASR, and Vivat scored full points (4.0 points) for section A: Issue and risk qualification;
- Achmea (2.9 points) scored highest for section B: Engagement with the investee company, followed by Vivat (2.6 points);
- Vivat (2.0 points) scored highest for section C: Monitoring of engagement, followed closely by Achmea (1.7 points);
- Achmea scored full points (1.0 point) for section D: Transparency.

Final scores

- Achmea has the highest total score (9.6 points, final score 10) in this case study, followed by Vivat (9.2 points, score 9) and ASR (8.1 points, score 8).
- NN Group scores 5.9 points, which leads to a final score of 6.
- The lowest scores are for Aegon (3.1 points, score 3), APG (2.4 points, score 2) and Allianz (0.1 points, final score 1).

Recommendations

The extractives sector has many environmental and human rights risks. Based on the analysis of the insights provided by the insurance groups into their screening, monitoring, and engagement practices, FIG has formulated the following recommendations for insurance groups that invest in the extractives sector.

1. Screening portfolio

Contrary to a practice found by this study that insurers in some cases screen their portfolio on the basis of a (too general) Environmental, Social, and Governance score (ESG score), insurers must screen their portfolio specifically on human rights violations as a good score on other E and G aspects does not compensate for human rights poor performance.

2. Setting thresholds

If an insurer sets a bar too high (engagement with only most severe cases) for a company, most of the cases would be rated below this threshold and would not be further investigated by the insurance groups. Therefore, insurance groups should set low thresholds so that companies violating human rights do not get unnoticed. The insurer, as investor, is in the end responsible for its investments and related controversies.

3. Feedback to service providers

Service providers' analysis of the case is very crucial. Insurers could ask their service providers to make their case evaluation criteria stronger and focus on remediation before granting a green flag to any company that is in breach of human rights principles.

4. Feasibility for engagement

Since the extractives sector is a high risk sector with regard to human rights abuses, financial viability of the engagements should not be the deciding factor for starting an engagement. Insurance companies must engage with the extractive companies when the companies violate responsible investment principles and/or breach human rights, irrespective of the holding size. The key concept leading such decisions should be 'salience', in line with the UN Guiding Principles.

5. Engaging on case basis - from the perspective of affected communities

It is important that the human rights engagements must be designed based on cases and not on companies. This will ensure that no incident is left unnoticed and remediation is ensured. It is helpful to look at cases from the perspective of the affected communities: they are often not helped very much by general improvements at the level of the company; they need the company to solve the problems it caused or contributed to on the ground and/or to provide adequate remedy.

6. Include remedy in case-specific goals

Adequate remedy is of high importance for human rights engagements with extractive companies. Therefore, stakeholder engagement before finalizing an action plan by the investee company, lifting of the breach, remediation for the affected community, and transparency on the case and actions taken by the company must be the goals for all the human rights engagements, systematically. Of course, goals to bring improvement in the human rights processes within the companies are equally important to avoid future occurrence of such incidents.

7. Critical evaluation and validation of goals achieved

Insurance companies must critically evaluate the progress made by the companies under engagement, especially for human rights incidents. Often, the goals are considered to be met if there is a positive response by the company or if the company has just started to move in the right direction. However, the companies' actions must be carefully evaluated before qualifying the goals as achieved. Insurance companies must also validate the progress through reports of local NGOs and representatives of local communities.

8. Raising engagement success threshold

Mere positive progress by the companies is not sufficient until they remediate the affected communities. By closing engagement based on a success threshold that is too low, investors risk moving from being 'directly linked to' towards 'contributing to' the abuses, by facilitating an environment for the negative impact to continue. It is recommended that insurance companies raise the engagement success threshold.

9. Extending scope of exclusion

If an insurance company has decided to exclude an extractive company from its investment universe due to severe human rights controversies or an unsuccessful engagement trajectory, the insurance group must extend the scope of exclusion to include at least the majority owned subsidiaries. If this is not done, the insurer will still be investing in the company through its subsidiary and be acting against its own exclusion policy. Further, the scope of exclusion should be applied to investments on own account as well as to the investments on behalf of clients to meet minimum standards of credibility and to be in line with a consistent, principle-based human rights policy.

10. Transparency must be improved

Insurance companies as well as their investees should be accountable to their stakeholders and to the society at large. Insurance companies as well as their investees need to be accountable. Therefore, it is very important that the insurers and the investee companies are transparent about the human rights cases and their reaction to it. The insurers could improve transparency by publishing the details of each engagement (see section 2.5, D) with the companies, goals formulated, and achieved. They can further promote transparency within the investee companies by requiring the companies to publish a human rights policy, how it is implemented, the state of affairs at the sites, actions taken by the company, and progress made thus far on remediation, in case of reported human rights breaches.

Introduction

This case study is commissioned by the Fair Insurance Guide (FIG). The study aims to assess the response of insurance companies (in their role as institutional investors) to selected incidents of severe human rights abuses that have taken place in conflict-affected and high-risk areas in the context of the extractives sector. The insurance companies are directly linked to one or more of the incidents through their investments in the companies involved in the human rights abuses.

This study examines the process the insurers (as investors) have in place to engage with companies that have been or are involved in human rights violations. It is outside of the scope of this study to examine whether the engagement was successful in terms of impact on the ground and improvement in the lives of negatively affected individuals and communities. This is an important distinction when reading this study. At the basis of this study are the financial links between insurers and companies involved in human rights violations. The financial links found are all current links, while the selected cases all revolve around companies that have remaining human rights impacts to resolve. It is important to bear this in mind while reviewing the results of this study: all insurers continued investments in the selected companies, while issues on the ground have not been solved sufficiently.

The report is structured as follows. [Chapter 1](#) provides a short background about the case study. [Chapter 2](#) elaborates the objective behind this case study, the methodology, research design, planning, limitations, indicators, and scoring that is used to evaluate the response of insurance companies. It also includes the selection of insurance companies, selection of cases of human right violations, and findings of the financial research. [Chapter 3](#) elaborates the ten selected cases of human rights breaches, an analysis of how the companies are involved, and gives recommendations for the companies to mitigate and/or remediate the negative human rights impacts.

[Chapter 4](#) gives a detailed analysis of the research results per insurance company. For all insurance companies the following information is presented:

- A brief profile;
- Investments in the selected extractive companies through shareholding and bondholding;
- Analysis of effectiveness of the insurers' responses to the human rights abuses including:
 - Issue and risk qualification;
 - Engagement with the investee company;
 - Monitoring of the engagement progress; and
 - Transparency.
- A scoring table.

In [Chapter 5](#) an overview of results and conclusions is provided for each of the four sections:

- Issue and risk qualification;
- Engagement with the investee company;
- Monitoring of the engagement progress; and
- Transparency.

[Chapter 6](#) concludes the report with recommendations of the FIG for the insurance groups.

A summary of the findings of this report can be found on the first pages of this report.

Chapter 1 Background information

Written by Jeanet van der Woude (Amnesty International Netherlands) and Cor Oudes (PAX)

The extractives sector comprises a range of businesses and activities, including exploration ventures and mining and extractives operators extracting metals, minerals, and aggregates from the earth. The companies make profits from a country's natural resources and have a huge impact on the local economies and (local) population. The sector on the one hand forms the backbone of our modern society and economic and technological development. On the other hand, the sector has serious environmental impact and imposes social and health risks on and impacts the livelihood of the local communities. This extends beyond the people working at the site to the communities living around the site of operations. Operations of extractive companies are often characterised by severe human rights risks and abuses. Large extractive companies usually operate in many different locations, regions, and countries, with different socio-economic and political circumstances, thus increasing the complexity to ensure human rights protection.

According to international standards, companies should, at a minimum, respect human rights across their operations and their supply chains. The responsibility of companies is laid out in the UN Guiding Principles on Business and Human Rights (UNGPs), which have also been integrated in the OECD Guidelines for Multinational Enterprises (OECD Guidelines).

In order to meet their responsibility to respect human rights, companies should have policies and processes in place appropriate to their size and circumstances, including:¹

- A policy statement to meet their responsibility to respect human rights;
- A human rights due diligence process to identify, prevent, mitigate, and account for how they address their impacts on human rights; and
- Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.

The responsibility to conduct due diligence to prevent or mitigate human rights abuses is applicable to all the companies including companies in the financial sector. However, it is recognised that financial institutions, like many large multinationals, may have hundreds to thousands of clients/investee relationships, and that it may not always be practical to conduct extensive due diligence on each of them. The OECD Guidelines instead expect companies, including financial institutions, to identify general areas where the risk of adverse impacts is most significant and to prioritise due diligence on their clients/investee relationships accordingly, through screening and monitoring when the risk is high, and/or when a risk is brought to the attention of the company (e.g. by an external stakeholder). In other words, the OECD Guidelines expect financial institutions to put in place due diligence systems, in addition to carrying out due diligence in response to a particular incident.² This case study focuses specifically on the response of insurance companies to particular incidents, related to the operations of a selected group of companies in the extractives sector.

In all the incidents selected for this case study, the insurance groups have not been causing or contributing to the abuses but are 'directly linked' because of their business relationships, as investors into these companies. As a result, under the UNGPs and OECD Guidelines, the insurance group would not be expected to provide remedy to the victims. However, they should take actions to encourage their investee companies to provide remedy as a component of their responsibility to prevent and mitigate the negative impact of their operations on human rights.³

Further, the corporate responsibility to respect all human rights includes respecting the right to an effective remedy for victims of human rights violations. This right is often neglected and/or not well understood. In order to fully implement the corporate responsibility to respect the right to remedy, it is important to understand its meaning.

The right to remedy lies at the very core of international human rights law. It encompasses the victim's right to:

- Equal and effective access to justice;
- Adequate, effective, and prompt reparation for harm suffered; and
- Access to relevant information concerning violations and reparation mechanisms.

Central to the right to effective remedy is the requirement of reparations or measures to repair the harm caused to victims of human rights violations. This can take many forms as the actual reparation that should be provided in a case will depend on the nature of the right violated, the harm suffered and the wishes of those affected. There are five recognized forms of reparation: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.⁴ This case study also evaluates, albeit superficially, how the selected insurance companies have engaged with their investee companies, that is to bring the topic of proper remediation of the cases they are linked with, under their attention.

Chapter 2 Methodology

This chapter describes the methodology for this case study. It provides information about:

- The objective of this case study (section 2.1);
- Selected insurance companies (section 2.2);
- Research design (section 2.3);
- Project planning (section 2.4);
- Indicators and assessment guidance (section 2.5);
- Scoring model (section 2.6); and
- Limitations of this case study (section 2.7).

2.1 Objective of the case study

This case study assesses whether and how the insurance groups selected for this case study have responded to the ten selected incidents of severe human rights abuses to which they are linked via their investments in these companies. The case study assesses whether the insurance companies have used their leverage to mitigate the negative impact of the companies' activities and to persuade the investee companies to remediate the abuses. To this end, a set of nine indicators have been formulated.

The conclusions of the assessment aim to provide practical recommendations regarding what insurance companies can do to effectively respond to severe human rights abuses to which they are directly linked via their investee companies.

2.2 The selected insurance companies

For this study, The Dutch Fair Insurance Guide (FIG) has selected seven insurance companies assessed in the FIG:

- Achmea;
- Aegon;
- Allianz;
- APG;
- ASR;
- NN Groupⁱ; and
- Vivat.

2.3 Research design

The following sections highlight the different phases of the case study.

2.3.1 Methodology development

Amnesty International Netherlands and PAX developed a set of nine indicators and assessment guidance. These indicators are an operationalisation of international (business and human rights) standards or fill gaps in these standards from the perspective of the NGOs.

Profundo provided feedback on the indicators and assessment guidance and developed the scoring model and assessment criteria.

ⁱ In 2017, NN Group acquired Delta Lloyd. All investments of Delta Lloyd are included in this study as linked to NN Group.

This sets the basis for the assessment and rating of the insurance companies. The indicators and the assessment guidance were shared with the insurance companies for their input. Moreover, Amnesty International Netherlands and PAX organized a meeting with the insurance companies to further explain the rationale of the methodology and to collect their feedback. Where possible, the feedback of the insurers was incorporated in the methodology.

2.3.2 Selected incidents

The establishment of financial links determined which insurance companies are connected to one or more of the initial set of twenty incidents via its investments. To limit the scope of further research, ten cases were selected from a long list based on the following criteria:

- The case is expected to be known to the insurance company, either through the work of the FIG, or through one of its member organizations or via considerable media coverage;
- The case must be ongoing (so far not resolved/remediated);
- Cases in which companies are involved which have more investment links with the selected insurance companies are preferred over cases/companies for which there is less or no link with the selected insurance companies.

A description for each of the selected cases is provided in [Chapter 3](#). Some of these cases are central to the campaigns of the FIG member organizations, some are not. The case descriptions should be read as summaries of the human rights violations, and not as an exhaustive report of all facts. Similarly, the list of 'recommendations' to the insurance companies should not be read as to represent the complete list of demands from all stakeholders, but rather as the direction in which the FIG believes the issue should be resolved. [Table 5](#) shows the ten selected cases for this study.

Table 5 Selected cases and companies involved

S. No.	Incident	Country	Company
1	Human rights violations in the Niger Delta	Nigeria	Royal Dutch Shell
2	Forced evictions, environmental damage	Myanmar	Rio Tinto
3	Surface water pollution / violence	Indonesia	Freeport-McMoRan
4	Human rights violations, land rights	Colombia	Glencore
5	Land grabbing	Guatemala	Goldcorp
6	Aiding and abetting war crimes	(South) Sudan	China National Petroleum Corporation
7	Toxic waste dumping	Ivory Coast	Trafigura
8	Aiding and abetting war crimes	(South) Sudan	Lundin Petroleum
9	Pollution of drinking water / livelihoods	India	Vedanta Resources
10	Land grabbing	India	Coal India

The establishment of financial links with the ten selected companies determined whether an insurance company is connected to one or more of the selected incidents via its investments, and therefore is assessed and scored according to the nine indicators (see section 2.5). In case an insurance company was not linked to any of the companies/cases, the total score of the insurance company would have been set to 'not applicable'. However, there was no such case and all the insurance companies were assessed.

In addition, the insurance companies could provide the researcher insight into the engagement processes in relation to other severe cases of human rights abuses that are part of their investments portfolios, either linked to one of the ten selected companies, or linked with another company in the extractives sector. The following criteria apply:

- The case must be ongoing (so far not resolved/remediated, or recently resolved/remediated);
- The investee company in question is active in the extractives sector;
- The number of cases provided does not exceed the number of cases the insurance company is linked to through the financial research of the case study.

For the purposes of scoring, cases submitted by the insurers and linked to the selected companies but a different incident were considered as engagement on the selected casesⁱⁱ while cases linked to a different company were considered as extra cases. The engagement in relation to these new cases was assessed with the same methodology as the other cases, and the insurance companies had to present a short description of each case.

2.3.3 Financial research

Profundo conducted financial research on all the insurance companies in this study to determine whether there are financial links between the insurance companies and the companies that are linked to human rights abuses in the selected incidents. To this end, Profundo collected data on investments by the insurance companies through shares and bonds, as of the most recent filing date identified for each insurance group. The identified holdings were reported respectively by the investors between December 2015 and December 2017.

Within the scope of this research, financial links to the selected incidents could be identified for all the insurance companies through their investments in related companies, except for ASR. However, ASR has confirmed that it holds investments in three of the selected companies. These holdings could not be identified directly within this research, as ASR is exempt from disclosure requirements

The data and assessments presented in this report have not been directly provided or authorized by any of the insurance companies or the investee companies concerned. While every attempt has been made to research and present data and assessments accurately and objectively, it is difficult to guarantee complete accuracy. This is not least because of the lack of consistency and transparency in how the insurance companies and investee companies record key financial and company information.

To limit the scope of this research, ten cases were selected from an initial long list of twenty companies based on criteria described in section 2.3.2. The financial links of the selected insurance companies with the final ten selected companies is presented in Table 6. As per the methodology, the insurers needed to provide evidence of investigation, engagement, and monitoring with the companies that they have financial links with (as shown in the table below).

Table 6 Financial links of the insurance groups with the ten selected companies

Selected company	Country	Achmea	Aegon	Allianz	APG/Loyalis	ASR	NN Group	Vivat	Total value (in € mln)
Royal Dutch Shell	Netherlands	-	x	x	x	-	x	x	1,872
Rio Tinto	United Kingdom	-	x	x	x	x	x	x	722
Freeport-McMoRan	United States	x	x	x	-	-	x	-	454

ⁱⁱ However, this does not reflect the position of the Fair Insurance Guide. The Fair Insurance Guide is of the opinion that engagement should be case based, and thus should integrate the perspective of the negatively affected individuals and communities. Engagement on one case with a company while other cases have not closed is a missed opportunity and a serious omission. In too many cases engagement is conducted on more or less general terms. The Fair Insurance Guide recommends to give more weight to the situation and the perspective of affected communities and to integrate those much more thoroughly in the engagement practice. This would command a case by case approach.

Selected company	Country	Achmea	Aegon	Allianz	APG/Loyalis	ASR	NN Group	Vivat	Total value (in € mln)
Glencore	Canada	-	x	x	x	x	x	x	402
Goldcorp	Canada	-	x	x	x	-	x	x	216
CNPC	China	-	x	x	-	-	x	-	158
Trafigura	Netherlands	-	x	x	-	-	-	-	39
Lundin Petroleum	Sweden	-	x	x	x	x	-	x	32
Vedanta Resources	United Kingdom	-	x	x	-	-	x	-	17
Coal India	India	-	-	x	x	-	x	-	16
Total									3,928

Source: Thomson Reuters Eikon; Thomson Reuters Eikon, 'Owners'EMAXX,' viewed in January 2018; Criado Larrea, R. (2018, May 16), *Correspondence with Kanchan Mishra of Profundo*.

2.3.4 Assessment and rating of insurance companies

To assess how the insurance companies have responded to the selected incidents of severe human rights abuses to which they are directly linked via investee companies, the insurance companies were asked to provide answers to a questionnaire. Together with the questionnaire, Profundo shared the results of the financial research with the insurance companies. The insurance companies were expected to fill in the questionnaire. The insurance companies' response to the questionnaire formed the basis for the assessment. In order to clarify the answers, Profundo organised meetings with each insurance company.

Subsequently, Profundo aggregated the information into scores and gave a final judgement or qualification to the results of each insurance company. After finalization of the draft assessments, Profundo shared with each insurance company the assessment for its feedback.

2.3.5 Writing the report

Once the activities above were completed, the findings of the research were written in a report. This report includes: the methodology, the results of the financial research, the results of the assessments, the scores, an analysis of the results of the assessment, and recommendations of the Fair Insurance Guide.

Profundo shared the report with the insurance companies to ensure that the report does not have any factual errors in the summary and conclusions.

2.4 Project planning

The table below summarizes the activities, expectations, and deadlines for this case study.

Table 7 Timelines

Project Milestone	Deadline
Start of the project	4 December 2017
Profundo submits methodology report to FIG and the insurances companies	8 January 2018
Meeting with insurance companies	17 January 2018
Insurance companies' and FIG deadline to submit questions on methodology report	29 January 2018
Profundo sends the questionnaire to insurance companies	8 February 2018

Project Milestone	Deadline
Insurance companies' deadline to reply to the questionnaire	1 March 2018
Profundo finalises the consultation with insurance companies	12 March 2018
Profundo submits the draft scores and profile to insurance companies	19 March 2018
Insurance companies' deadline to submit feedback on draft scores and profile	9 April 2018
Profundo submits the report to the insurance companies to provide feedback on factual errors	17 May 2018
Insurance companies' deadline to provide feedback on factual errors	24 May 2018
FIG publishes the case study	26 June 2018

2.5 Indicators and assessment guidance

This section presents the indicators that were used for the assessment. The indicators were designed to measure the quality of insurance companies' activities in the following processes:

- Investigation of the alleged human rights abuses;
- Engagement with investee companies that have been causing or contributing to human rights abuses;
- Efforts to persuade the investee company to remediate the abuses, or to adopt other good practices for enabling remediation.

Further, a culture of transparency is of thematic importance during these activities.

To measure the quality of these activities, a set of indicators has been developed. These indicators are written for insurance companies that have investments, on own accounts and on behalf of clients, in shares and bonds in the companies involved in severe human rights abuses.

The indicators are an operationalisation of international (business and human rights) standards or fill gaps in these standards from the perspective of the NGO's. For each indicator, an assessment guidance has been created, which includes the rationale behind the indicator. The indicators and assessment guidance are presented in [Table 8](#). Each section closes with 'scoring criteria'. These criteria indicate how the element will be assessed in the insurers' practice. Points are granted if the action required in the element was taken in less than half of the relevant cases (1 point), for half or more than half of the relevant cases (2 points), and in all cases (3 points). If the action required in the element could not be shown to have taken place, no points are granted. The idea is to measure the extent to which the different elements of a response by the insurer are incidental or part of a structured way of operating.

In case an insurer submits another company engagement in the extractives sector and on human rights abuse which was not selected for this case study, this case was considered valid for the insurer. The new case increases the number of companies that the insurer is linked with and was used to determine the score. Furthermore, in case an insurer engages with one of the companies selected for this study, but the engagement is focussed on another incident but not the one that is the focus of this case study, this case was considered valid for scoring the company (without increasing the financial links of the insurer) however it is noted in the report that the specific incident was not addressed in the engagements.

The indicators are divided in four sections:

- A – Qualification of issue and risk (section max score - 4);
- B – Engagement of insurance company with the investee company (section max score - 3);
- C – Monitoring progress (section max score - 2); and
- D – Transparency (section max score - 1).

The framework below provides a direction. For some sections, it is possible that an insurance company employs other ways than those described in the indicators below to reach the same goal. The assessment framework accounts for this option. Insurance companies are invited to describe in the questionnaire alternative actions towards the investee company, as far as it relates to the indicator.

Table 8 Indicators and assessment guidance

Section A - Issue and Risk: Qualification	Section max score – 4/10
A1 – The insurance company investigates facts and their human rights impacts	
<p>If through own screening processes or an external party, the insurance company has become aware of the (alleged) human rights abuse(s) to which it is directly linked via the investee company, the insurance company:</p> <ul style="list-style-type: none"> A. Starts an investigation into the allegations (alone or in cooperation with others); B. As part of the investigation, looks into the severity of the (alleged) human rights abuses, including the scale, scope and irremediable character; C. As part of the investigation, makes a qualification of how the investee company is involved in the abuse(s) – cause, contribute or directly linked. 	
<p>Rationale behind the issue to be assessed: This indicator sets up an expectation from insurance companies to conduct detailed investigations as part of their due diligence when an investee company is associated with severe human rights risks/abuses (UNGP 17, 18).</p> <p>Follow up and additional fact-finding may be done through the insurance company’s own desk-based research, using specialised research services, collaborative databases, and engagement techniques, as well as direct engagement with the investee company concerned, to obtain additional information on its approach to the human rights abuse(s) e.g. by requesting to provide certain information, questionnaires, site visits etc. Insurance companies can work collaboratively to approach investee companies in these situations or to collect more information about them. (OECD Responsible business conduct for institutional investors (2017), 2.2, p.26).</p> <p>Where (potential) severe adverse impacts are identified, insurance companies may consult additional sources to verify or triangulate claims, e.g. reports from national authorities, international organisations, NGOs, media coverage, industry literature, statements from National Contact Points. (OECD Responsible business conduct for institutional investors (2017), 2.2, p.28).</p> <p>The investigation needs to assess the severity of the abuse, as the more severe an abuse is, the quicker the insurance company will need to see action from the investee company (UNGP 19). To determine the severity, the insurance company needs to look at the ‘scale, scope and irremediable character’. Both the gravity of the impact and the number of individuals that are affected (for instance, from the delayed effects of environmental harm) are relevant considerations. Irremediability means any limits on the ability to restore those affected to a situation at least the same as, or equivalent to, their situation before the impact. It is often the case that the greater the scale or the scope of an impact, the less it can be remedied. (UNGP 14, OECD Responsible business conduct for institutional investors (2017), 1.3 p.18).</p> <p>It is important to assess how the investee company is involved in the human rights abuse(s). If the investee company is causing or contributing to the abuse(s), its responsibility to respect human rights requires active engagement in remediation, by itself or in cooperation with other actors. (UNGP 22).</p> <p>Consultation with stakeholders might be helpful in assessing harm and developing appropriate responses. Who the stakeholders are will depend on the adverse impact in question. (OECD Responsible business conduct for institutional investors (2017), 2.2, p.29).</p>	
Scoring criteria for indicator A1	
When investigating the facts and the human rights qualifications of these facts:	

a) The insurance company shows in records that an investigation has taken place.	<ul style="list-style-type: none"> • never: (0 points) • for less than half of the investigations (1 point) • for half or more than half of the investigations (2 points) • for all the investigations (3 points)
b) The investigation looks into the severity of the (alleged) human rights abuses, including the scale, scope and irremediable character.	<ul style="list-style-type: none"> • never: (0 points) • for less than half of the investigations (1 point) • for half or more than half of the investigations (2 points) • for all the investigations (3 points)
c) The investigation makes a qualification of how the investee company is involved in the abuse(s) – cause, contribute or directly linked.	<ul style="list-style-type: none"> • never: (0 points) • for less than half of the investigations (1 point) • for half or more than half of the investigations (2 points) • for all the investigations (3 points)
Score for A1: sum of points for a), b) and c). Maximum of 9 points.	
Section B – Engagement with the investee company	Section max score – 3/10
B1 – The insurance company takes a formal decision on engagement	
After the investigations, the insurance company:	
A. Takes an informed and reasoned decision whether to engage with the investee company.	
<p>Rationale behind the issue to be assessed: where an insurance company decides to take action to meet its responsibility to respect human rights, it is essential that these decisions are effectively embedded in the relevant departments of the insurance company. Since business relationships may be the responsibility of individuals within the insurance company who are not specialised on human rights, top management messaging via a formal decision is a useful means to ensure that there is ‘buy-in’ by the relevant departments for the engagement process. (Shift, ‘Using Leverage in Business Relationships to Reduce Human Rights Risks’ (2013)).</p> <p>A formal decision on how to proceed is important from two points of view: (1) For the insurance company to be effective in its engagement, a formal decision to act upon the findings of a detailed investigation strengthens its position; (2) From the viewpoint of transparency, a formal decision helps both the investee company and other stakeholders, including adversely impacted individuals and communities, to understand the insurance company’s position: knowing and showing.</p> <p>It is also important that the formal decision is well reasoned. This means that it is supported by arguments derived from the investigations into the (alleged) human rights abuses (A1), the insurance company’s assessment of its leverage (UNGP 19), and other relevant items.</p>	
Scoring criteria for indicator B1	
The insurance company takes a formal decision on engagement. After the investigations, the insurance company shows that:	
a) An informed and reasoned decision whether to engage with the investee company was taken.	<ul style="list-style-type: none"> • never: (0 points) • for less than half of the investigations (1 point) • for half or more than half of the investigations (2 points) • for all the investigations (3 points)
Score for B1: point for a). Maximum of 3 points.	
B2 - The insurance company sets goals, strategy, and timeline(s) for engagement	

<p>If the insurance company has decided to engage on this specific incident with the investee company, it sets (alone or in cooperation with others, for example an external asset manager):</p> <p>A. Specific goals to be achieved by its engagement;</p> <p>B. An engagement strategy;</p> <p>C. A timeline, including for intermediate assessments of the results of the engagement process.</p>	
<p>Rationale behind the issue to be assessed: This indicator is applicable where the insurance company has decided to start an engagement with the investee company. The formulation of specific goals, a strategy and timeline(s) is key as without specific and written goals, the engagement process runs a risk to become unguided, unrealistic, not measurable and unbound in time.</p> <p>Among the factors that will determine the appropriate strategy, are the insurance company's leverage over the entity concerned, how crucial the relationship is to the insurance company, the severity of the abuse, and whether terminating the relationship with the entity itself would have adverse human rights impact (UNGP 19). Other factors to be considered could be for example whether the engagement efforts are already underway by other investors or possible leverage limitations due to applicable corporate governance rules and practices in some countries and characteristics of an asset class (OECD Responsible business conduct for institutional investors (2017), 2.3, p.37).</p>	
<p>Scoring criteria for indicator B2</p>	
<p>The insurance company sets goals, strategy and timeline(s) for engagement:</p>	
<p>a) The insurance company shows in records that it has formulated written goals to be achieved.</p>	<ul style="list-style-type: none"> • never: (0 points) • the insurance company provides examples for less than half of the relevant cases (1 point) • the insurance company provides examples for half or more of the relevant cases (2 points) • the insurance company provides examples for all the relevant cases (3 points)
<p>b) The insurance company formulates a strategy for engagement.</p>	<ul style="list-style-type: none"> • never: (0 points) • the insurance company provides examples for less than half of the relevant cases (1 point) • the insurance company provides examples for half or more of the relevant cases (2 points) • the insurance company provides examples for all the relevant cases (3 points)
<p>c) The insurance company has set timelines for its engagement activities and goals to be achieved.</p>	<ul style="list-style-type: none"> • never: (0 points) • the insurance company provides examples for less than half of the relevant cases (1 point) • the insurance company provides examples for half or more of the relevant cases (2 points) • the insurance company provides examples for all the relevant cases (3 points)
<p>Score for B2: sum of points for a), b) and c). Maximum of 9 points.</p>	
<p>B3 - The insurance company requires a multi-stakeholder approach from the investee company</p>	
<p>The insurance company requires from the investee company that it:</p> <p>A. Includes a multi-stakeholder approach when formulating the concrete steps to address the human rights abuse(s).</p>	

<p>Rationale behind the issue to be assessed: Multi-stakeholder engagement is an important means of implementing due diligence. Stakeholders can provide important knowledge to help identify potential or actual impacts on themselves or their surroundings. The values and priorities of impacted stakeholders are vital considerations in evaluating impacts and identifying appropriate avoidance or mitigation steps. (OECD Responsible business conduct for institutional investors (2017), 1.4, p.19).</p> <p>Engagement needs to happen as a continuing, two-way process and be moulded by local context. [...] in particular, embedding grievance mechanisms in community engagement will help build relationships of trust with local stakeholders in the mechanism. (Principles for Responsible Investment. Human Rights and the Extractive Industry (2015), p.10).</p> <p>In situations where direct consultation with (potentially) affected stakeholders is not possible, business enterprises should consider reasonable alternatives such as consulting credible, independent expert resources, including human rights defenders and others from civil society. (UNGP 18)</p>	
<p>Scoring criteria for indicator B3</p>	
<p>The insurance company requires a multi-stakeholder approach from the investee company.</p>	
<p>a) The insurance company shows that it required that the company follows a multi-stakeholder approach before finalising the action plan.</p>	<ul style="list-style-type: none"> • never: (0 points) • the insurance company provides examples for less than half of the relevant cases (1 point) • the insurance company provides examples for half or more of the relevant cases (2 points) • the insurance company provides examples for all the relevant cases (3 points)
<p>Score for B3: points for a). Maximum of 3 points.</p>	
<p>B4 – The insurance company requires concrete steps from the investee company</p>	
<p>The insurance company requires concrete steps (for example in the form of an action plan) from the investee company in due time, aiming at:</p> <p>A. Terminating any ongoing human rights abuse(s);</p> <p>B. Mitigating the negative impact of the human rights abuse(s) by providing an effective remedy for those adversely impacted;</p> <p>C. And preventing new human rights abuses.</p>	
<p>Rationale behind the issue to be assessed: The insurance company is expected to build and exert its leverage to the extent possible in order to influence the investee company to take action to prevent and mitigate the human rights abuse(s). Concrete steps of the investee company will enable the insurance company to assess whether the goals the insurance company has set for the engagement process will actually be achieved. The investee company should be able to demonstrate to the insurance company that it is able to respond adequately and timely to the abuses, provide remediation and learn from mistakes. (OECD Responsible business conduct for institutional investors (2017), 2.3, p.32 – 42).</p> <p>When an investee company has caused or contributed to adverse impacts, it should provide for or cooperate in their remediation through legitimate processes. On the basis of the international business and human rights standards, the investee company should establish or participate in effective operational-level grievance mechanisms for individuals and communities adversely impacted to make it possible for grievances to be addressed early and remediated directly. In order to ensure their effectiveness, non-judicial grievance mechanisms should be: legitimate, accessible, predictable, equitable, transparent, rights-compatible, source of continuous learning and based on engagement and dialogue (consulting the stakeholder groups for whose use they are intended on their design and performance and focusing on dialogue as the means to address and resolve grievances). (UNGP 22, 29, 31)</p>	

The values and priorities of impacted stakeholders are vital considerations in evaluating impacts and identifying appropriate avoidance or mitigation steps. (OECD Responsible business conduct for institutional investors (2017), 1.4, p.19).		
Scoring criteria for indicator B4		
As a part of its engagement goals, the insurance company requires concrete steps from the investee company, detailing:		
a) The steps include measures that the company is taking to terminate the ongoing human rights abuse(s)	<ul style="list-style-type: none">• never: (0 points)• the insurance company provides examples for less than half of the relevant cases (1 point)• the insurance company provides examples for half or more of the relevant cases (2 points)• the insurance company provides examples for all the relevant cases (3 points)	
b) The steps include measures that the company is taking to mitigate the negative impact of the human rights abuse(s) by providing an effective remedy for those adversely impacted	<ul style="list-style-type: none">• never: (0 points)• the insurance company provides examples for less than half of the relevant cases (1 point)• the insurance company provides examples for half or more of the relevant cases (2 points)• the insurance company provides examples for all the relevant cases (3 points)	
c) The steps include measures that the company is taking to prevent new human rights abuses.	<ul style="list-style-type: none">• never: (0 points)• the insurance company provides examples for less than half of the relevant cases (1 point)• the insurance company provides examples for half or more of the relevant cases (2 points)• the insurance company provides examples for all the relevant cases (3 points)	
Score for B4: sum of points for a), b), and c). Maximum of 9 points.		
C – Monitoring of the engagement progress by the insurance company		Section max score – 2/10
C1 – The insurance company monitors the engagement progress		
The insurance company (alone or in cooperation with others):		
A. Actively monitors the engagement progress, including execution of the concrete steps the investee company has committed itself to.		
Rationale behind the issue to be assessed: The insurance company’s role as the monitor of the investee company’s concrete steps to address the human rights abuse(s) is central. Tracking is part of the “know” of “knowing and showing” how the investor is managing adverse human rights impacts throughout its operations and with its business relationships (OECD Responsible business conduct for institutional investors (2017), 2.4, p.43).		
Monitoring the ongoing processes signals to all stakeholders involved in the incident, including the adversely impacted communities, that the insurance company is committed to its resolution. Monitoring the activities taking place to address the abuse(s) will help the insurance company to manage expectations. When other stakeholders communicate about the incident, it is important that the insurance company is aware of the current status to be able to communicate in ways that restore trust.		

For the verification whether the human rights abuse(s) are addressed, the effectiveness of the response (concrete steps), should be tracked. Tracking should amongst others draw on feedback from both internal and external sources, including adversely impacted individuals or communities (UNGP 20).	
Scoring criteria for indicator C1	
The insurance company monitors engagement progress including execution of the company's action plan.	
a) The insurance company shows that it reviewed the company's progress on the implementation of the concrete steps the company has committed itself to.	<ul style="list-style-type: none"> • never: (0 points) • the insurance company provides examples for less than half of the relevant cases (1 point) • the insurance company provides examples for half or more of the relevant cases (2 points) • the insurance company provides examples for all the relevant cases (3 points)
Score for C1: points for a). Maximum of 3 points.	
C2 – The insurance company takes formal decisions on concluding or continuing the engagement	
The insurance company assesses the results of the engagement process (alone or in cooperation with others):	
A. Regularly (at least twice each year) takes informed and reasoned decisions whether to conclude or continue the engagement.	
<p>Rationale behind the issue to be assessed: A formal decision on how to proceed is important from two points of view. First, a formal decision on concluding or continuing the engagement and/or on follow up actions will strengthen the position of the insurance company. The following points of departure, derived from international standards, needs to be taken into consideration:</p> <ol style="list-style-type: none"> 1. If the insurance company remains in the relationship, it should be able to demonstrate its own ongoing efforts to mitigate the impact and be prepared to accept any consequences – reputational, financial, or legal – of the continuing connection; 2. When there is a lack of leverage, the insurance company should try to increase it; 3. If the situation is such that the insurance company lacks the leverage to mitigate adverse impacts and is unable to increase its leverage, it should consider ending the relationship, considering credible assessments of potential adverse human rights impacts of doing so. Generally, the more severe the impact is, the quicker the insurance company will need to see the change before it takes a decision on whether it should end the relationship. (UNGP 19) <p>Second, from the viewpoint of transparency, a formal decision helps the investee company, the adversely impacted individuals, and communities, as well as other stakeholders to understand the insurance company's position. Continuing to invest in a company which has been identified as causing or contributing to adverse impacts may pose reputational risks or potential financial risks to insurance companies. Thus, it should be also in the insurance company's interest to publicly explain its decision to stay invested, how this decision aligns with its responsible business conduct policy and priorities, what actions are being taken to attempt to apply leverage to mitigate the impacts, and how the investment will continue to be monitored in the future.</p> <p>It is important that the decision is informed and reasoned: informed means that it is based on sufficient understanding of the human rights abuse(s) and on verification to what extent the abuses have been addressed, reasoned means that it is supported by arguments derived from the actual changes taking place on the ground, the insurance company's assessment of its (actual and potential) leverage, and other relevant items (UNGP 20).</p>	
Scoring criteria for indicator C2	
The insurance company takes a formal decision on concluding or continuing the engagement.	

<p>a) The insurance company shows in records that a formal decision was taken. The decision for the engagement is based on the following premises:</p> <ul style="list-style-type: none"> • Continue – based on positive progress by the company. • Conclude – based on achieving goals within set period. • Exclusion – if there is no positive progress made by the company or it fails to increase leverage to influence. 	<ul style="list-style-type: none"> • never: (0 points) • the insurance company provides examples for less than half of the relevant cases (1 point) • the insurance company provides examples for half or more of the relevant cases (2 points) • the insurance company provides examples for all the relevant cases (3 points)
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Score for C2: points for a). Maximum of 3 points.

C3 – Additional (engagement) steps of the insurance company

If the engagement goals are not met, the insurance company:

A. exerts additional forms of leverage to mitigate the human rights abuse(s), for example:

- Attending and speaking at the Annual General Meetings to express views on the human rights abuse(s);
- Using voting rights to express views on the human rights abuse(s);
- Collaboration with other investors to increase leverage on the human rights abuse(s);
- Engagement with regulators and policymakers on the human rights abuse(s);
- Joining geographic or issue-specific initiatives that seek to prevent and mitigate the human rights abuse(s) in the areas identified;
- Reduction of the investment position and clearly communicating the reason for the reduction. Increase intensity of engagement actions if the company does not respond positively in the first instance;
- Temporary divestment while pursuing mitigation efforts;
- Divestment either after failed attempts at mitigation or where the investor deems mitigation not feasible, or due to the severity of the human rights abuse(s).

(UNGP 19, OECD Responsible business conduct for institutional investors (2017), 2.3, p.32,33).

Rationale behind the issue to be assessed: see indicator C2.

Scoring criteria for indicator C3

If the engagement goals are not met:

<p>a) The insurance company shows in records that it tries additional forms of leverage to address the human rights abuse(s), two or more ways, as described in the indicator explanation.</p>	<ul style="list-style-type: none"> • never: (0 points) • incidentally: ad-hoc examples (1 point) • structurally: shows sufficient evidence (2 points)
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Score for C3: point for a). Maximum of 2 points.

D – Transparency by the insurance company

Section max score – 1/10

D1 – The insurance company publishes relevant information, when available.

In order to account for how the insurance company has addressed the human rights abuse(s), including the incidents in this report, the insurance company publishes, when available:

A. Its human rights policy, including human rights due diligence approaches;

- B. Names of companies with which it has formally engaged;
- C. Formal (intermediate and final) decisions on concluding or continuing the engagement with specific companies, including the investee companies that form part of this research;
- D. Results of the (intermediate and final) engagement process with specific companies, including the investee companies that form part of this study.

The insurance company requires the investee company to publicly provide:

- E. Updates on the circumstances of the human rights abuse(s);
- F. Concrete steps taken to address the human rights abuse(s).

Rationale behind the issue to be assessed: Transparency is important for a number of reasons. First, it makes public accountability possible. Second, it helps adversely impacted individuals and communities to follow the actions of the insurance company and the investee company. And third, it makes it possible for investors and consumers of the insurance company (and the investee company) to follow its action towards a specific incident. As such, it is important that the insurance company publishes both its general procedures and as much relevant information regarding specific abuses as possible.

The UNGPs require business enterprises to be prepared to communicate externally how they address their human rights impacts, particularly when concerns are raised by or on behalf of affected stakeholders. In case, the operations or operating contexts pose risks of severe human rights impacts, formal reporting on how business enterprises address them is expected and should (a) be of a form and frequency that reflects the enterprise's impacts and be accessible to its intended audience, (b) provide sufficient information to evaluate the adequacy of the response to a particular impact and (c) not pose risks to affected stakeholders, personnel or to legitimate requirements of commercial confidentiality. (UNGP 21).

These expectations apply to both the insurance company and the investee company.

Domestic law may sometimes prevent certain disclosures or outline areas of protected commercial information for the insurance company. Nonetheless, the insurance company should do what is possible within the legal context to maximise transparency and act in the spirit of the UNGPs. (OECD Responsible business conduct for institutional investors (2017), 2.4, p.43, 44).

Scoring criteria for indicator D1

The insurance ensures transparency byⁱⁱⁱ:

a) Publishing its human rights policy and the due-diligence process.	<ul style="list-style-type: none"> • no reporting: (0 points) • only policy is published but not the due diligence process (1 point) • human rights policy and due-diligence processes are published (2 points)
b) Disclosing names of the companies it has formally engaged.	<ul style="list-style-type: none"> • no reporting: (0 points) • mentioning of less than half of the engagement cases (1 point) • mentioning of half or more of the engagement cases (2 points) • reporting of all the companies and engagements (3 points)
c) Publishing formal (intermediate and final) decisions on concluding or continuing the engagement with specific companies, including the investee companies that form part of this research.	<ul style="list-style-type: none"> • no reporting: (0 points) • mentioning of less than half of the engagement cases (1 point) • mentioning of half or more of the engagement cases (2 points)

ⁱⁱⁱ For all items, the insurer is expected to publish these when they become available, so not after the process of engagement has ended completely.

	<ul style="list-style-type: none"> reporting of all the companies and engagements (3 points)
d) Publishing results of the (intermediate and final) engagement process with specific companies, including the investee companies that form part of this study.	<ul style="list-style-type: none"> no reporting: (0 points), reporting for less than half of the engagement cases: (1 point) reporting on half or more of the engagement cases: (2 points) reporting on all engagement cases: (3 points)
e) By requiring investee company to publicly report on the circumstances of the human rights abuse(s).	<ul style="list-style-type: none"> never: (0 points) the insurance company requires some investee companies to publicly report (1 point) the insurance company requires all investee companies to publicly report (2 points)
f) By requiring investee company to publicly report on the concrete steps taken to address the human rights abuse(s).	<ul style="list-style-type: none"> never: (0 points) the insurance company requires some investee companies to publicly report (1 point) the insurance company requires all investee companies to publicly report (2 points)
Score for D1: point for a, b, c, d, e, and f. Maximum of 15 points.	

2.6 Scoring model

This section explains the scoring model of this case study:

- All the insurance companies are scored on a 10-point rating scale. Sections A, B, C, and D carry a section max score of 4, 3, 2, and 1, respectively;
- Within each section, there are indicators. An indicator can further have elements to evaluate the indicator. Each element has 0, 1, 2, and/or 3 points. All elements' points within an indicator, adds up to make an indicator score;
- A maximum of 56 points is possible for the nine indicators of this study;
- A section score is derived by adding up all the indicators' scores within that section, dividing it with the maximum indicator score of that section, and multiplying by section max score. For example: Score for section C = (score for C1 + score for C2 + score for C3)/8 * 2, where:
 - 8 is the maximum score from adding up all the element points, and
 - 2 is the section max score for section C.

The final score is the sum of all the section scores.

In case one of the insurance companies would not have been linked to any of the companies/cases, the total score of the insurance company would have been set to 'not applicable'. The extent to which the lack of a business relationship is a direct consequence of the Responsible Investment Policy of the respective organisation would not have been verified.

2.7 Limitations of this case study

This study examines the process the insurers (as investors) have in place to engage with the investee companies that have been or are involved in human rights violations. It is outside of the scope of this study to examine whether the engagement was successful in terms of impact on the ground and improvement in the lives of negatively affected individuals and communities. This is an important distinction when reading this study.

International standards prescribe certain actions for companies causing, contributing or being 'directly linked' to human rights violations. The aim of this study is to investigate to which extent insurers live up to these standards. International standards require two things regarding effectiveness: monitoring, and termination of the relation in case no progress is made.

This study does investigate whether activities are monitored, as this is clearly part of a process in accordance with the international standards. The second requirement of the international standards when it comes to effectiveness (termination of the relation if engagement is not successful) is not a part of this study, as it would require a full evaluation of the impact of specific engagement processes on the ground.

However, at the basis of this study are the financial links between insurers and companies involved in human rights violations. The financial links found are all current links, while the selected cases revolve around companies that have remaining human rights impacts to resolve. It is important to bear in mind while reviewing the results of this study that all the insurers continued investments in the selected companies, while issues on the ground have not been solved sufficiently.

Chapter 3 Selected incidents and related companies

Written by Jeanet van der Woude (Amnesty International Netherlands) and Cor Oudes (PAX)

This chapter elaborates the ten selected incidents and companies associated with them. It also highlights the main human rights breaches related to the incident and recommendations of the Fair Insurance Guide to the company involved in the incident through its operation.

All of the incidents are examples of severe human rights abuses in the extractives sector, which show a lack of progress in mitigating the negative impact and in providing remedy to the victims. All the incidents have taken place in conflict-affected and high-risk areas. Conflict-affected and high-risk areas are identified by the presence of armed conflict, widespread violence or other risks of harm to people. Armed conflict may take a variety of forms, such as a conflict of international or non-international character, which may involve two or more states, or may consist of wars of liberation, or insurgencies, civil wars, etc. High-risk areas may include areas of political instability or repression, institutional weakness, insecurity, collapse of civil infrastructure and widespread violence. Such areas are often characterized by widespread human rights abuses and violations of national or international law.⁵ Preventing such incidents would require enhanced human rights due diligence to address the adverse human rights impacts. See section 2.3.2 for more information on how cases are selected.

3.1 CNPC in Sudan

3.1.1 Short case description

China National Petroleum Corporation (CNPC) is the largest energy company of China and one of the largest oil firms in the world.

CNPC owns 41% of the jointly operated consortium Petrodar Operating Company Ltd, renamed Dar Petroleum Operating Company Ltd. in 2011, that exploits the oil deposits in Blocks 3 and 7 in Sudan, the so-called Melut basin. Oil-rich areas in the Melut Basin have suffered the same pattern of oil-related death, destruction, and displacement as the Muglad Basin fields in Western Upper Nile, though on a smaller scale. Well over a hundred villages have been emptied and the natural environment has been severely damaged, and the population never received any substantial benefits.

The oil fields have been developed against the background of a war in which the Petrodar consortium has not acted as a neutral party but as a loyal partner of one of the warring sides, the Government of Sudan. The Consortium has shown no due regard for the natural environment or concern for the rights of the population. Serious environmental damages have been reported and documented, that have not adequately been addressed by the Consortium.

Oil exploitation has coincided with a decline in the rural population in parts of Melut and Maban Counties. This is mostly due to violent forced displacement of the Dinka and Maban Populations between 1999 and 2002, and partially to the effects of cheap and environmentally harmful engineering. The total number of people that has been forcibly displaced can be safely estimated at well above 15.000 minimum; the true number could easily be double that figure. Several hundreds of people have reportedly been killed. In 2014, the Geneva-based Small Arms Survey project reported direct DPOC financing of Padang Dinka militia's, who have, according to UN reports, allegedly committed war crimes. Idem hiring of helicopter gunships by DPOC that are reported to have arbitrarily attacked civilian targets.

Petrodar and DPOC has never in any way accounted for its social and environmental impact and have never defended itself against the accusations of complicity in war crimes, falling short of the most elementary requirement to make an effort to know and show one's impact on society.

CNPC owns 40% the jointly operated consortium Greater Nile Petroleum Operating Company that stands credibly accused of complicity in war crimes committed between 1995 and 2003. In 1999, a civil law suit in the US against fellow consortium member Talisman Energy presented strong evidence of direct links between the Consortium and large-scale war crimes and forced displacements. The US District Court did not rule on the merit of the criminal dimension of the case but rejected the civil claim because it believed that 'intent' was required in civil war crimes proceedings in the US (contrary to the ICC Statute), and it was not shown that Talisman had intended to contribute to abuses.

In 2010, the War Crimes department of the Swedish public prosecutor's office started an investigation into Lundin Petroleum, a company that has operated under similar circumstances just South of GNPOC. The indictment is expected for 2018.

GNPOC engaged in the oil sector in Sudan in a time when the country was torn up by civil war. This war centred partly on control over the oil fields in CNPC's concession area. During this war, atrocities took place that qualify as human rights violations, including violations of International Humanitarian Law. Successive UN Rapporteurs reported killings, rape, child abduction, torture, looting, arson, destruction of schools, markets and clinics and deliberate destruction of food stocks, villages, and means to of existence. Many thousands of people died and tens of thousands were deliberately and violently displaced. There are reasons to believe that CNPC has knowingly contributed to the commissioning of at least some of these crimes.

CNPC never accounted for its role and impact in Sudan and South Sudan. The company is not known to have made any effort to know or show its impact on society.

3.1.2 Main human rights violations/abuses

- Aiding and abetting war crimes
- Use of child soldiers
- Destruction of livelihoods
- Arbitrary shelling
- Looting
- Torture
- Forcibly replacing individuals

3.1.3 Recommendations to the company

The major recommendations to the company are:

- To conduct a credible, independent assessment of the impacts of its Sudanese and South-Sudanese operations since 1995
- Contribute to effective remedy for the victims, including by putting aside money in a fund for the victims.

3.1.4 Information sources used

More information on this case can be found here:

- OIL DEVELOPMENT in northern Upper Nile, Sudan, European Coalition on Oil in Sudan, May 2006.
- Leonardo Franco, Commission on Human Rights, Fifty-fifth session, E/CN.4/1999/38/Add.1. May 1999, Situation of human rights in the Sudan
- Leonardo Franco, Commission on Human Rights, Fifty-fourth session, Agenda item 116 (c) A/54/467, October 1999, Special Report on the situation of human rights in the Sudan
- Leonardo Franco, Commission on Human Rights, Fifty-sixth session, E/CN.4/2000/36, April 2000, Situation of human rights in the Sudan
- Gerhart R. Baum, special Rapporteur on the situation of Human Rights in the Sudan, 57th session of the Commission on Human Rights, March 2001, Oral statement on the Human Rights in the Sudan

- Commission on Human Rights, April 2003
 - Statement by Mr. Gerhart Baum Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Sudan
 - John Harker et al., prepared for the Department of Foreign Affairs and International Trade, January 2000, Human Security in Sudan: The Report of a Canadian Assessment Mission
 - Amnesty International, 3 May 2000, Sudan: The Human Price of Oil
 - Christian Aid, 2001, The scorched earth. Oil and war in Sudan
 - Georgette Gagnon and John Ryle, October 2001, Report of an Investigation into Oil Development, Conflict and Displacement in Western Upper Nile, Sudan
 - Diane de Guzman, edited by Egbert G.Ch. Wesselink, for the European Coalition on Oil in Sudan, May 2002, Depopulating Sudan's oil regions
 - Nils Carstensen, DanChurchAid/Christian Aid, March 2002, Hiding between the streams. The war on civilians in the oil regions of Southern Sudan
 - Médecins Sans Frontières, April 2002, Violence, Health and Access to Aid in Unity State/ Western Upper Nile, Sudan
 - Human Rights Watch, 2003, Sudan, Oil and Human Rights
- International Crisis Group, February 2003, Sudan's oil fields burn again: Brinkmanship endangers the peace process
- Global IDP Database, March 2003, Profile of internal displacement: Sudan - A compilation of the information available in the Global IDP Database of the Norwegian Refugee Council.
 - Scott Lewis, 2004, Rejuvenating or Restraining Civil War. The role of external actors in the war economies of Sudan
 - Luke Anthony Patey, May 2007, State rules: Oil companies and armed conflict in Sudan
 - Analysis of the drivers of international oil companies' strategies in Sudan.

3.2 Coal India in India

3.2.1 Short case description

About 70 per cent of India's coal is located in the central and eastern states of Chhattisgarh, Jharkhand and Odisha, where over 26 million members of Adivasi (indigenous) communities live – nearly a quarter of India's Adivasi population. Coal India Limited (CIL) and its subsidiaries are estimated to have displaced at least 14,000 Adivasis from 1973 to 2014. In 2016-17 itself, Coal India subsidiaries acquired or took possession of over 21,000 hectares of land.

Amnesty India researched how land acquisition and mining in three mines in three different Indian states run by three different CIL subsidiaries - which are all seeking to expand production - have breached Indian domestic laws, and India's obligations under international human rights law. The report published in 2016 demonstrated how CIL as a company has failed to meet its human rights responsibilities. The three coal mines profiled are South Eastern Coalfields Limited's Kusbunda mine in Chhattisgarh, Central Coalfields Limited's Tetariakhar mine in Jharkhand, and Mahanadi Coalfields Limited's Basundhara-West mine in Odisha. Adivasi communities in these areas complain that they have been routinely shut out from decision-making processes around their traditional lands, rights and resources. Many have had to wait for decades for the compensation and rehabilitation they were promised. The violations of their rights to consultation and consent - around land acquisition, environmental impacts, Indigenous self-governance, and the use of traditional lands - have led to serious impacts on their lives and livelihoods.

3.2.2 Main human rights violations/abuses

The main human rights violations/abuses in this case are:

- Violations of the right of Indigenous peoples to lands they traditionally occupy and violations of the right of Indigenous peoples to free, prior, and informed consent. The UN Declaration on the Rights of Indigenous Peoples includes amongst others an obligation for states to consult and cooperate in good faith with Indigenous peoples concerned to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources. Where land has been taken without consent, Indigenous peoples have the right to restitution, and where that is not possible, compensation.
- Natural resource extraction can affect a range of rights of Indigenous peoples, including their rights to health, physical well-being, a clean and healthy environment, rights to culture and religion, and to set priorities for development.
- Forced evictions: These constitute gross violations of a range of internationally recognised human rights, including the human rights to adequate housing, food, water, health, education, work, security of the person, security of the home, freedom from cruel, inhuman, and degrading treatment, and freedom of movement. Forced evictions may only be carried out as a last resort and only after all feasible alternatives to eviction have been explored in genuine consultation with affected people.

The government has used the CBA (Coal Bearing Areas) Act to acquire land for coal mining by Coal India Limited in contravention of both India's domestic laws and its international human rights obligations. The Act undermines communities' security of tenure and creates the legal basis for CIL to operate without regard for the impact of its operations on the rights of some of India's most vulnerable people. Laws such as the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, which criminalize the dispossession of Adivasi land without consent, are rarely enforced.

While the state and central governmental authorities bear significant responsibility for the violations and abuses, CIL and its subsidiaries have clearly breached their responsibility to respect human rights. It cannot point to the role of the government to defend the fact that it knowingly benefited from processes that violated the human rights of thousands of people. By continuing to acquire land through flawed processes that breach international law, CIL's failure to respect human rights is ongoing. There is evidence that CIL subsidiaries were directly involved in evictions. The companies and the governmental authorities were working together to remove people from land needed for coal mining.

Mahendra Singh Kavar, 45, a Kavar Adivasi man from the village of Padaniya, told Amnesty International India in April 2014: "We did not receive any notice about our land being acquired. We only heard recently that SECL now owns all our land.... We have had no discussion with SECL in our village. The land value is increasing in our villages, but we don't know how much it is worth or when we will receive any compensation. To SECL, we say that leave us alone, we are fine in this condition as we are. Please look for land elsewhere."

Nirabai, a 42-year old Adivasi woman from the same village, said: "The Collector announced in a place near the school two years ago that this is an SECL affected area. They said that we would be compensated for our land being acquired. But we have still not received any official notice about our land or when we will get our compensation."

Source: Amnesty International (2016, July), *When Land is Lost, Do we Eat Coal? Coal Mining and Violations of Adivasi Rights in India*, p. 38.

3.2.3 Recommendations to the company

The major recommendations to the company are:

- CIL must urgently address and remedy the existing negative environmental and human rights impacts of the expansions of the Kusmunda, Tetariakhar and Basundhara (West) mines, in full consultation with project-affected communities;
- It should ensure that these expansions do not go ahead until existing human rights concerns are resolved, and the free, prior, and informed consent of affected Adivasi communities is obtained;
- CIL should also conduct a comprehensive review of operations in all its coal mines across India to identify and assess human rights risks and abuses, and publicly disclose the steps taken to identify, assess and mitigate them; and
- It should also seek the free, prior, and informed consent of Adivasi communities, and consult all affected communities, prior to any land acquisition or mining, and respect their decisions.

Specific issues to take into consideration:

In August, Coal India Limited published a 'sustainability report' for 2016-17. The 'human rights' section of the report notes that the company respects human rights in its relations with its employees, suppliers, contractors and vendors. It states that Coal India's business partners comply fully with laws on minimum wages, contract labour and child labour and that the company has no reported case of human rights violations. Amnesty points out that Coal India's report fails to include in its list of stakeholders the people whose lands were acquired for its mines and whose rights have been violated/abused.

3.2.4 Information sources used

More information on this case can be found here:

"When land is lost, do we eat Coal?" Coal mining and violations of Adivasi rights in India (2017). Amnesty International, see: https://www.amnestyusa.org/files/report_final.pdf

3.3 Freeport McMoran in West Papua (Indonesia)

3.3.1 Short case description

Freeport-McMoRan Copper & Gold (Freeport-McMoRan) is an American mining company. The activities of the company mainly focus on copper mining in Chile and Indonesia, but the company is also active in North America and the Democratic Republic Congo.

The Freeport-McMoRan Grasberg copper and gold mine in the Indonesian province of West Papua (Indonesia) has caused significant environmental damage. Since the start of its operations in West Papua in 1967, Freeport-McMoRan dumped waste in the Otomina and Ajkwa Rivers. The dumping of toxic mining waste into rivers is extremely harmful to the river and surrounding ecosystems. In both valleys in the area the rivers are seriously polluted, which resulted in violations of various socio-economic rights: the right to an adequate standard of living, the right to food and the right to clean drinking water.

Freeport Mc Moran has tried to limit the spread of residues using dikes, but this has only reduced the problem in part. Complete recovery of the rivers after this kind of waste disposal, is not possible in most cases. Indonesia is one of the few countries in the world, along with Papua New Guinea, where there are no restrictions on the dumping of waste into the river.

Next to this, violations of civil and political rights are caused by security forces who are employed by the Indonesian government but paid by Freeport-McMoRan. Their behaviour often leads to violent and sometimes deadly confrontations with residents, employees, and rights groups. With respect to its relations with public security personnel the company does not succeed in securing adequate respect for the security and fundamental freedoms of workers and the local population.

The New Zealand's Public Pension Superfund decided, in September 2012, to continue to exclude Freeport-McMoRan from their investment "Because the human rights policy of Freeport-McMoRan does not provide sufficient guarantees." The Norwegian Pension Fund has decided to withdraw its investments in the company, based on its Ethical Council's recommendations.

3.3.2 Main human rights violations/abuses

The main human rights violations/abuses in this case are:

- Violations of the right to an adequate standard of living, including the right to food;
- Violations of the right to access to secure and clean water;
- Right to life and prohibition of arbitrary use of force;
- Right to demonstration and peaceful assembly;
- Right to collective action;
- Failure to ensure access to effective remedy for people whose human rights have been violated;

3.3.3 Recommendations to the company

The major recommendations to the company are:

- Stop the internationally unacceptable negative impact on the environment;
- Contribute to the restoration of the impacted areas;
- To use its influence to address the human rights violations of the security forces that secure its operations.

3.3.4 Information sources used

More information on this case can be found here:

- SOMO, July 2013, "Private Gain – Public Loss: Mailbox Companies, Tax Avoidance and Human Rights", p. 81-84.
- Earthworks and MiningWatch Canada, February 2012, "Troubled Waters: How mine Waste dumping is Poisoning our Oceans, Rivers, and Lakes
- Singapore Management University, June 2012: "Submission on Oil & Gas sector discussion paper"
- Norwegian Ministry of Finance, February 2006: "The recommendation from the Council on Ethics (Freeport)"

3.4 Glencore in Colombia

3.4.1 Short case description

In the early 1990's mining companies Prodeco/Glencore and Drummond started to operate in Cesar, Colombia, which was effectively a war zone. Between 1996 and 2006 paramilitaries waged systematic terror in this region, killing more than 3,100 people and displacing over 55,000 from their villages. The bodies of 240 persons are still missing. Community organizations and labour unions have been severely repressed.

The paramilitary group responsible for these atrocities arrived roughly at the same time that mining multinationals started their operations in the area. However, mining companies have so far failed to address the human rights impact in the mining zone, while at the same time they have benefited from the abuses, for example by obtaining land in zones where communities had previously been forcefully displaced. While victims have been waiting for recognition, truth and reparations for a long time, threats and assaults by paramilitary successor groups have recently increased again.

The victims of violence in the mining region suffer to date. They still do not know the truth behind what happened to their beloved ones, the land has not been restored back to displaced families, and the leaders continue to be targeted by unknown groups when they try to claim their rights.

3.4.2 Main human rights violations/abuses

- Murder;
- Assault;
- Rape;
- Forced displacement.

3.4.3 Recommendations to the company

- Take an active, cooperative role in ensuring access to effective remedy for the victims of gross human rights violations committed by the paramilitaries in Cesar between 1996 and 2006 such as entering into reconciliation dialogue with victim organizations.
- Agree to an action plan to improve actual human rights conduct.
- Cooperate fully in non-judicial truth-finding efforts relating to the events described above.
- Take adequate measures for the prevention of human rights violations against employees, members of communities, and other vulnerable stakeholders in the Cesar mining region. These violations include in particular recent threats against trade union leaders, members of the victims' movement, human rights lawyers, and participants in the land restitution movement.
- Do not profit, or seem to be profiting, from human rights violations by others. This relates particularly, but not exclusively, to the acquisition or use of lands that have been illegally or forcibly taken from the original owners (or holders).
- Promptly and without reservation comply with the spirit and letter of all court orders and decisions of legal authorities (e.g. the Attorney-General's Office) relating to issues listed above, including land restitution orders.

3.4.4 More information

- PAX online file: <https://www.paxforpeace.nl/stay-informed/in-depth/stop-blood-coal>
- Banktrack (2016) Human Rights Impact Briefing #2: Drummond and paramilitary violence in Colombia Online: www.banktrack.org/download/drummond_human_rights_impact_briefing_160525_pdf_pdf/160525_drummond_case_study_final.pdf

3.5 Goldcorp in Guatemala

3.5.1 Short case description

Goldcorp Inc. is a metal producer with headquarters in Toronto, Canada and offices in Reno, Nevada. Goldcorp operates 10 mines in North, Central and South America. Goldcorp is one of the world's largest gold producers. Goldcorp's Marlin gold mine in Guatemala is connected to reports of extensive human rights abuses. This mine is owned by the Goldcorp Group through its wholly-owned subsidiary Montana Exploradora.

Goldcorp exploited the Marlin mine, in Guatemala. The Marlin mine is now closed but was a gold mine in the department San Marcos. The mining activities were done by Goldcorp's subsidiary Montana Exploradora. Mining in Guatemala is marked by protest and controversy. Guatemala is still struggling with the legacy of past human rights violations by the internal armed conflict (1960-1996), when over 200,000 people were killed, including an estimated 40 000 people who disappeared. Indigenous communities remain economically and socially marginalized. Their loss of land is a particular problem.^{iv}

^{iv} This case description is an updated version of a case description published in 2015 by the Fair Finance Guide in Sweden

Goldcorp's gold mine in Guatemala is placed in a rural area in the department of San Marcos. The area has around 52,000 residents, a majority of whom are Mayan Indigenous peoples. Since the mine began operating in 2003 there have been on-going tensions around its presence. The root causes of the protest are described by community members and local NGOs as a lack of consultation before the mine began operating, disagreements over land acquisition and the failure of the company to address risks associated with the mine. Tensions have been exacerbated by the way in which the security forces have dealt with protests and by attacks, carried out by unknown persons, on anti-mining activists. One of the local activists, who opposed Goldcorp's mine, Diodora Hernández, was shot in her home on the evening of 7 July 2010. She survived but lost the sight in her right eye and the hearing in her right ear. She believes she was attacked for speaking out against the mine. In January 2005, Raúl Castro Bocel was fatally shot when police and soldiers broke up a protest against the transportation of heavy equipment to the mine site. Many more were injured. No one has been arrested or brought to justice for either of these events. The UN Special Rapporteur on the rights of Indigenous peoples reported in June 2011 that there had been no consultation process around the Marlin mine that was consistent with the United Nations Declaration on the Rights of Indigenous Peoples.

The company's own 2010 Human Rights Assessment concluded that consultation was largely inadequate and often confusing for community members. Protests erupted in December 2013 when local communities set up road blocks on a major highway to oppose new exploration activities in the nearby area of Sipacapa. Since 2011, Goldcorp says it has sought the approval of municipal mayors and councils, auxiliary Indigenous mayors, and local development councils in carrying out its operations. However, former UN Special Rapporteur on the rights of Indigenous Peoples, James Anaya, stated that this form of consultation is insufficient as it does not take sufficiently into account the complexity of internal indigenous organisation, including of their traditional leaders. He advised the State to enact a Consultation law that would bring the country in line with its international obligations regarding the right to consultation under ILO convention 169 and the UNDRIP.

A 2017 report by BSR (for Goldcorp), indicated Goldcorp had met a little over half of its commitments in the 2010 HRA fully, the rest partially or not. BSR's report contains the important caveat that to compose the report, no external stakeholders were consulted. BSR only interviewed Goldcorp employees and reviewed internal documentation.

3.5.2 Main human rights violations/abuses

The main human rights violations/abuses in this case are:

- The right to security of the person;
- The right to a safe environment;
- The rights of indigenous communities.

On July 7th, 2010, Deodora Hernandez was shot point blank in the face outside her home in the small community of San José Nueva Esperanza, in the municipality of San Miguel Ixtahuacan. She survived but lost the sight in her right eye and the hearing in her right ear. She believes she was attacked for speaking out against Goldcorp's Marlin mine. To date, no one has been arrested or brought to justice for her attack.

Source: Amnesty International (2014), *Mining in Guatemala: Rights at Risk*, p. 11.

3.5.3 Recommendations to the company

The major recommendations to the company are:

- Remediate any damage inflicted on communities and individuals that its mining activities contributed to or caused;
- Ensure a responsible long-term closure of the mining site.

3.5.4 Information sources used

More information on this case can be found here:

- Amnesty International (2014), Mining in Guatemala: Rights at risk. <https://www.amnesty.ca/sites/amnesty/files/mining-in-guatemala-rights-at-risk-eng.pdf>
- Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, Observations on the situation of the rights of the indigenous people of Guatemala with relation to the extraction projects, and other types of projects, in their traditional territories, 7 June 2011, A/HRC/18/35/Add.3, page 1 http://unsr.jamesanaya.org/docs/special/2011-special-guatemala-a-hrc-18-35-add3_en.pdf
- BSR (2017) Marlin Mine at Closure: A Review of Goldcorp Commitments to the 2010 Human Rights Assessment. https://csr.goldcorp.com/2016/_img/docs/BSR-Report-Marlin-Mine-at-Closure.pdf

3.6 Lundin in South Sudan

3.6.1 Short case description

The alleged abuses stem from the period between 1997 and 2003, when Lundin, along with three other companies, began oil exploration in what is now South Sudan. The oil exploration set off a spiral of violence as the Sudanese government and forces loyal to them set out to secure and take control of the oil fields.

Atrocities included killings, rape, child abduction, torture, the destruction of schools, markets and clinics and the burning of food, huts and animal shelters. Thousands died, and almost 200,000 people were violently displaced.

Lundin, an ECOS (the European Coalition on Oil in Sudan) report from 2010 says, 'should have been aware of the abuses committed by the armed groups that partly provided for their security needs. However, they continued to work with the Sudanese government, its agencies and its army'.

Currently, the Swedish government is conducting an investigation to determine whether or not to bring charges against the oil company. The CEO and Chairman of the board have been named as suspects by the prosecutor. They are suspected of aiding and abetting war crimes in Sudan between 1997 and 2003, but there is no indictment yet. Victims of the oil war hope that the court case in Sweden may help them get their right to effective remedy.

However, in the event of an indictment only about 40 to 50 individuals will be named by the court as victims. These people will have access to some sort of compensation if Lundin will be found guilty, but, there were thousands of people affected. Lundin should not be waiting to be convicted in a criminal court in order to remedy the victims, as the prosecutor is not assessing the company's adverse human rights impact but collecting evidence of criminal liability of its two most senior managers. Lundin should comply with its obligation under international standards to know and understand its impacts on the ground.

On January 17, 2018, police in Switzerland and Sweden searched offices of Lundin. Police declined to comment on the raids. Given the ongoing investigation taking place in Sweden, it can be considered likely that the police operations are related.

3.6.2 Main human rights violations/abuses (by third parties):

- Aiding and abetting war crimes
 - Use of child soldiers
 - Destruction of livelihoods
 - Arbitrary shelling
 - Looting
 - Torture
 - Forcibly replacing individuals

Testimony by Chief Thomas Malual Kap: “The first attack on Koch by Government of Sudan forces was in 1998 when they attacked with gunships, tanks and ground troops. We were chased away by the attack to Ngony. (...) Again, when it seemed safe, we went back to Koch, but there was another Government attack. This time we were displaced to Pultutni. From there we were displaced to Mirmir and from there we were displaced to Bieh. In each of these locations I built a shelter in which to live. Each time I was forced to leave by Government forces, these shelters were either destroyed or abandoned. (...) In 2001 I was in Ngony when it was attacked by Government of Sudan ground forces and helicopter gunships. I was shot in the foot by a Sudanese soldier. I still suffer the effects of this wound. All these places were near an all-weather road that was being built from Rubkona to Ler for the use of the oil companies.”

Source: European Coalition on Oil in Sudan (2010), *Unpaid Debt: The Legacy of Lundin, Petronas and OMV in Block 5A, Sudan 1997-2003*, p. 52.

3.6.3 Recommendations to the company

The major recommendations to the company are:

- Acknowledge that Lundin has contributed to the harms suffered by the victims;
- Contribute to effective remedy for the victims, including by putting aside money in a fund for the victims.

3.6.4 Information sources used

More information on this case can be found here:

- Pax for Peace online file: <https://www.paxforpeace.nl/stay-informed/in-depth/unpaid-debt>, ECOS (2014) Unpaid Debt.
- Unpaiddebt.org
- Recent developments (only in Swedish): <https://www.di.se/nyheter/polistillslag-mot-lundin/>.

3.7 Rio Tinto in Myanmar

3.7.1 Short case description

Rio Tinto is the majority shareholder of Turquoise Hill Resources. The latter was active in Myanmar under the name Ivanhoe Mines. Its activities in Myanmar are tainted by human rights abuses, which were detailed in the 2015 report ‘Open for Business?’, by Amnesty International. The case centres on copper mining activities in Myanmar. Rio Tinto is involved in the abuses surrounding these activities through its steering share in Turquoise Hill Resources. This case description focuses on the Monywa project specifically. This project consisted of two copper mining sites: Sabetaung and Kyisintaung (S&K) and Letpadaung. Ivanhoe mines became involved in these mines in 1996, for a share of 50%. The other half of the share was in the hands of a Myanmar government owned mining company.

The violations initially included forced evictions for the Sabetaung and Kyisintaung mines, mostly in 1996 and 1997, and later again between 2011 and 2014 for the Letpadaung mine. The evictions took place without compensation, and were based on legal procedures that are in violation of international laws to which Myanmar is party as well.

Pollution and waste dumping took place in 1995 and 1996 by the Sabetaung and Kyisintaung mine, with consequences long after. The government violently repressed peaceful protests the forced evictions. In one instance in 2012, the Myanmar police used white phosphorus to break up a protestors’ camp. The use of this type of incendiary munitions constitutes torture, and hence a crime under international law.

3.7.2 Main human rights violations/abuses

The main human rights violations/abuses in this case are:

- Forced evictions
- Murder
- Pollution of living environments

3.7.3 Recommendations to the company

The major recommendations to the company are:

It should be noted that Rio Tinto, as current majority shareholder of Turquoise Hill Resources, the successor of Ivanhoe Mining, has a responsibility to ensure compensation for the victims of Turquoise Hill Resources. The AI report contains this specific recommendation:

- Turquoise Hill Resources (Ivanhoe Mines) should disclose all the information it holds on pollution from the S&K mine and clean-up undertaken by MICCL. It is responsible for compensating people for environmental damage and forced evictions linked to its joint venture and should put aside funds for such compensation and engage with the government of Myanmar to ensure that compensation is paid.

3.7.4 Information sources used

More information on this case can be found here:

<https://www.amnesty.org/en/documents/asa16/0003/2015/en/>.

3.8 Shell and the Niger Delta

3.8.1 Short case description

The oil industry in the Niger Delta started commercial production in 1958 following the discovery of crude oil by Shell British Petroleum (now Royal Dutch Shell), in 1956. Today, the oil industry is highly visible in the Niger Delta and has control over a large amount of land. The oil industry comprises both the government of Nigeria and subsidiaries of multinational companies such as Shell, Eni, Chevron, Total and ExxonMobil, as well as some Nigerian companies. Oil exploration and production is undertaken in “joint ventures”, involving the state-owned Nigerian National Petroleum Corporation (NNPC) and one or more oil companies or within production sharing contracts. NNPC is the majority stakeholder in all joint ventures. One of the non-state companies is usually the operator, which means it is responsible for activity on the ground.

Shell Petroleum Development Company (SPDC), a subsidiary of Royal Dutch Shell, is the main operator on land. The SPDC joint venture involves NNPC, which holds 55 per cent, Shell 30 per cent, Elf Petroleum Nigeria Ltd., 10 percent and Agip, 5 percent. SPDC alone operates over 31,000 square kilometres. The area is crisscrossed by thousands of kilometres of pipeline, punctuated by wells and flow stations. Much of the oil infrastructure is located close to the homes, farms, and water sources of communities. The people of the Niger Delta are suffering from the harmful impact of decades of oil pollution. There are hundreds of oil spills every year.

3.8.2 Main human rights violations/abuses

The main human rights violations/abuses in this case are:

- Violations of the right to an adequate standard of living, including the right to food – as a consequence of damage on agriculture and fisheries;
- Violations of the right to water – oil spills pollute water used for drinking and other domestic purposes;
- Violations of the right to health – which arise from failure to secure the underlying determinants of health, including a healthy environment, and failure to enforce laws to protect the environment and prevent pollution;
- Failure to ensure access to effective remedy for people whose human rights have been violated;

- Failure to provide affected communities with information relating to oil spills and clean-up.^v

The government of Nigeria is failing to fulfil its duty to protect the human rights of people living in the Niger Delta, including by ensuring that they enjoy their human right to a remedy and proper clean-up. However, the fact of government failure to protect rights does not absolve the non-state actor from responsibility for their actions and the impact of them on human rights. Shell has a responsibility to ensure that its actions do not cause or contribute to human rights violations. People also have a right to know what kinds of pollutants they are exposed to.

In Nigeria the company that operates the pipeline or well from which the oil is spilled is responsible, under the law, to start the clean-up within 24 hours, whatever the cause. It must rehabilitate and restore the affected area as much as possible to its original state, a process known as remediation. SPDC fails in implementing this responsibility. In 2015, Amnesty and the Centre for Environment, Human Rights and Democracy (CEHRD) examined four locations that were included in the 2011 environmental assessment of Ogoniland of the United Nations Environmental Programme (UNEP).^{vi} Shell has publicly said that, since 2011, it has addressed the pollution documented by UNEP. The evidence gathered contradicts these claims. The main observations at the four sites were as follows:

- 45 years after a fire and spill at Shell's Bomu Well 11 at Boobanabe, researchers saw water-logged areas with an oily sheen, and soil was black and encrusted with oil. Shell said it had cleaned-up and remediated the site in 1975 and in 2012. According to Nigerian government regulations, there should be no oil in water 60 days after a spill;
- Outside the perimeter of the Bomu Manifold at Kegbara Dere (K. Dere) which Shell said it had cleaned in 2012, researchers saw soil soaked with crude oil. The pollution dates back at least to 2009 when a large fire and spill occurred at the Bomu Manifold, an area where several Shell pipelines meet;
- The Barabeedom swamp, south of the Bomu Manifold, is visibly contaminated with crude oil a year after the government regulator certified it as clean;
- At Okuluebu, Ogale, researchers saw patches of oil-blackened soil at several locations. The government regulator certified the area as clean in 2012.

Regina Porobari, 40, used to trade in fish. Her husband used to be a fisherman. they have six children. After the August 2008 oil spill, all the fish in the creek died, moved away or were too polluted to eat. Regina became a petty trader and her husband now tries to find work in the building sector. neither of them is able to make as much money as they used to. they used to grow vegetables and cassava on their plot of land. After the spill, their harvest is much smaller than before. Meanwhile, local food prices have increased substantially. "The price of fish has increased a lot in Bodo," Regina said. "Before the spill you could buy a fish for 50 naira (us\$0.35). Now you have to pay 300 to 500 naira (us\$1.95 to us\$3.25) for a fish." Many families can't afford to buy food with enough nutrients, she explained. "Everybody is struggling." Regina and her husband have not complained to anyone about the impact of the spill. "I think that for someone with a low voice as myself it is difficult to make a claim," she said. Her main wish for changing the current situation was for the pollution to be cleaned up so she could sell fish once again.

Source: Amnesty International (2011), *The True Tragedy: Delays and Failures in Tackling Oil Spills in the Niger Delta*, p. 11.

^v See: Amnesty International, *Petroleum, Pollution and Poverty in the Niger Delta*, June 2009 (Index: AFR/44/017/2009); and Amnesty International and CEHRD, *The True Tragedy: Delays and Failures in Tackling Oil Spills in the Niger Delta*, November 2011, AFR/44/018/2011, available at www.amnesty.org/en/documents/AFR44/018/2011/en/

^{vi} In 2011 UNEP published the most comprehensive study to date of the impact that oil pollution has had on the communities living in the Niger Delta. Focusing on just one region, Ogoniland, UNEP exposed an appalling level of pollution, including the contamination of agricultural land and fisheries, the contamination of drinking water, and the exposure of hundreds of thousands of people to serious health risks. See: <http://www.unep.org/Documents.Multilingual/Default.asp?DocumentID=2649&ArticleID=8827&l=en&t=long>

3.8.3 Recommendations to the company

The major recommendations to the company are:

- As a matter of urgency, carry out effective clean-up and remediation operations at oil spill sites, including Bomu Manifold, Barabeedom swamp, Okuluebu, and Boobanabe, in consultation with the local communities;
- Ensure that all communities affected by failed or delayed clean-up of oil spills receive adequate compensation for their losses;
- Prevent the occurrence of new oil spills;
- Overhaul Shell's remediation methodology in line with the recommendations of UNEP and publish details of how it has changed.^{vii}

Specific issues to take into consideration:

UNEP found that Shell's main technique for tackling land-based oil pollution, which Shell calls remediation by enhanced natural attenuation (RENA), or bio-remediation by land-farming, "has not proven effective" and should be overhauled. In response to these criticisms, Shell stated online that it had revised bio-remediation, but it has not explained what these revisions have been. It has said that this technique remains its main method for addressing oil pollution in the Niger Delta.

UNEP also raised concerns about the local contractor companies that Shell uses to do most of the clean-up and remediation work. Shell responded by re-training its contractors. However, evidence from the field demonstrates that contractors are still failing to adequately clean up oil pollution.

In responding to (public) criticism of its record in the Niger Delta, Shell frequently refers to the impact of illegal activity. Oil theft and illegal refining are genuine challenges but should not divert attention away from the company's failures to deal with old and leaking pipelines and failure to carry out proper clean-up and remediation. Moreover, illegal activity does not explain poorly executed clean-up. All oil companies are obliged to clean up oil spills, no matter what the cause.

3.8.4 Information sources used

More information on this case can be found here:

- Petroleum, Pollution and Poverty in the Niger Delta (2009), Amnesty International, <https://www.amnesty.org/en/documents/AFR44/017/2009/en/>.
- The True Tragedy: Delays and Failures in Tackling Oil Spills in the Niger Delta (2011), Amnesty International and CEHRD, www.amnesty.org/en/documents/AFR44/018/2011/en/.
- Environmental assessment of Ogoniland (2011), United Nations Environmental Programme, <http://www.unep.org/Documents.Multilingual/Default.asp?DocumentID=2649&ArticleID=8827&l=en&t=long>.

3.9 Trafigura in Ivory Coast

3.9.1 Short case description

In August 2006, the cargo ship Probo Koala reached the end of a four-month journey that resulted in toxic waste being dumped illegally in Côte d'Ivoire. Multinational oil trading company Trafigura produced the toxic waste on board of the ship as a result of refining a dirty petroleum product called coker naphtha to mix with gasoline and sell it on as petrol. Trafigura knew the waste was hazardous but hadn't figured out how to dispose of it safely.

^{vii} UNEP found that Shell's main technique for tackling land-based oil pollution, which Shell calls remediation by enhanced natural attenuation (RENA), or bio-remediation by land-farming, "has not proven effective" and should be overhauled.

Trafigura tried and failed to get rid of the waste in five countries: Malta, Italy, Gibraltar, The Netherlands, and Nigeria. Its attempt to dispose of the waste in Amsterdam sparked an environmental incident when residents complained of the overwhelming smell and experienced nausea, dizziness, and headaches after some of the waste was unloaded. Trafigura rejected an offer from a disposal company to deal with the waste safely in The Netherlands for the equivalent of US\$620,000.

Instead, the toxic waste was finally dumped illegally in Côte d'Ivoire by a local company that Trafigura hired to dispose of it for just US\$17,000 – a fraction of the price quoted in the Netherlands. Lorries dumped the toxic waste in at least 18 locations in and around the main city of Abidjan. On 20 August 2006, the people of Abidjan woke up to the appalling effects of the dumping. Tens of thousands of people experienced a range of similar health problems, including headaches, skin irritations and breathing problems. Over 100,000 people sought medical assistance and extensive clean-up and decontamination was required. Côte d'Ivoire authorities also recorded about 15 deaths.

More than eleven years on, victims of the dumping and other residents in Abidjan remain in the dark about the ongoing dangers to their health. They still do not even know what was in the toxic waste. Residents still complain of the smell from the waste when it rains heavily, as well as headaches, skin problems and respiratory issues that they believe are linked to the incident. Many victims have not received an adequate remedy for the harms caused by the incident and report that they have not been able to afford medical treatment notably after October 2006 when the relevant free medical treatment finished.

The dumping had a devastating impact on the health and environment of the people of Abidjan, violating their right to health and exposing them to health risks that have never been fully understood or addressed. Eleven years on from the disaster, people in Abidjan still live in fear of the impacts of the dumping on their health and the health of their children.

The failure to monitor the health of victims, and to fully identify and address any long-term health risks, has denied people a meaningful and vital aspect of their right to an effective remedy. The people of Abidjan have a right to know if exposure to the chemicals in the waste could cause long-term health issues and, if so, what they are and how they can be treated.

Trafigura has never been properly held to account for its role in the actual dumping of the waste. Moreover, many of those affected are still waiting for an adequate remedy and justice. In 2016, victims launched a new and yet unresolved compensation claim against Trafigura in the Netherlands.

3.9.2 Main human rights violations/abuses

The main human rights violations/abuses in this case are the exposure to hazardous wastes has impact on a range of human rights including the rights to food, water, health, and work. This can be due to direct contact with hazardous material or when soil, water, air, or the food chain are contaminated. Exposure to hazardous wastes can lead to a violation of the right to life. In this case, the authorities reported 15 deaths. The right to effective remedy of the victims has also seriously been violated/abused.

Jérôme Agoua, president of the toxic waste victims' association of the Abobo-Plaque 1 area: "In August 2006, everyone was contaminated, my family, my neighbours. I never want us to have a catastrophe like this one again... The waste was dumped around 8pm. We had breathing problems. First the smell suffocated us and then we couldn't breathe... I had very bad headaches, colds and when I blew my nose, there were blood clots coming out. I had to stop working on 2 September. I was bed-bound for a whole week and did not go back to work until 11 September. My children had very red eyes, they had a fever, they also had a cold and one of them had diarrhoea. They had a fever for at least two weeks. My family and I suffered from the toxic waste. I told my wife, who was pregnant, to leave the neighbourhood. She had diarrhoea, bloating, palpitations. She left with the children for Yopougon for at least one month.

The whole neighbourhood fell ill. The most common symptoms were headaches, colds, coughing, chest pains, respiratory problems, itching sensations, pimples, eye problems, vomiting and digestive problems. When you go to a place and you are responsible for a disaster, the least you can do is to visit the victims. No one from Trafigura ever approached me.”

Source: Amnesty International and Greenpeace Netherlands (2012), *The Toxic Truth: About a Company called Trafigura, a Ship called the Probo Koala, and the Dumping of Toxic Waste in Côte d'Ivoire*, p. 23.

3.9.3 Recommendations to the company

The major recommendations to the company are:

- Support the steps taken by the Government of Côte d'Ivoire to address the long-term health and environmental impacts of the incident, by disclosing all the information about the contents and nature of the waste dumped, and its likely ongoing health and environmental consequences;
- Contribute to the discovery of the full truth by cooperating fully in any judicial procedures or studies into the events described above.

Specific issues to take into consideration:

- While Trafigura claims that it has disclosed the contents of the waste in UK court proceedings, this was based on tests conducted by a government agency in Amsterdam six weeks before the waste was dumped and not been made public;
- Trafigura is rebranding itself as a leader in corporate responsibility in the commodities trading sector. Its move to join the Extractive Industry Transparency Initiative in 2014 reflected according to the organization's CEO its “commitment to transparency and accountability”. This is in stark contrast with its decision not to disclose all the information about the toxic waste dumped in Abidjan and its possible impacts on the people who live there. It continues to hamper medical treatment for people in Abidjan.

3.9.4 Information sources used

More information on this case can be found here:

- The toxic truth: About a company called Trafigura, a ship called the Probo Koala, and the dumping of toxic waste in Côte d'Ivoire (2012), Amnesty International and Greenpeace Netherlands, <https://www.amnesty.org/en/documents/afr31/002/2012/en/>.
- Ten years after toxic waste dumping, victims in the dark (2016), Amnesty International, <https://www.amnesty.org/en/latest/news/2016/08/Ten-years-after-dumping-victims-in-the-dark/http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20384&LangID=E>.
- Ten years on, the survivors of illegal toxic waste dumping in Côte d'Ivoire remain in the dark (2016) UN Special Procedures, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20384&LangID=E>.
- Recent report (2018): <https://www.amnesty.org/en/documents/afr45/7594/2018/en/>.

3.10 Vedanta in India

3.10.1 Short case description

Communities living in south-west Orissa in eastern India – already one of the poorest areas of the country – are at threat from the expansion of the Lanjigarh alumina refinery and plans for a bauxite mining project.

The refinery is operated by Vedanta Aluminium Limited, a company within the Vedanta Resources Plc group. Between 4,000 and 5,000 people who live in the 12 villages that surround the Lanjigarh refinery, including Majhi Kondh Adivasi (Indigenous), Dalit and other marginalized communities, have been affected by the refinery's operations, including its impact on water and air, which has compromised their access to water for drinking and domestic use and placed their health and livelihoods at risk. Vedanta's plans to expand its 700-hectare refinery involve the acquisition of an additional 888 hectares of land belonging to these communities. Local communities have also raised concerns over the risk posed by the refinery's red mud ponds, which contain hazardous waste materials. The ponds are situated only a kilometre away from streams that feed into the Vamsadhara river, which communities depend on for drinking water, personal use and for their livestock.

Despite widespread community concerns, Vedanta Aluminium applied for environmental clearance to expand the refinery. The Ministry of Environment and Forests rejected the plans both in 2009 and 2011, amongst others because the project violated India's environmental laws, had not fulfilled the conditions put forth and had continued to deny communities access to 26 hectares of village forest land within the refinery area. A public hearing held on the expansion in July 2014 breached national and international standards, according to Amnesty International. But the Ministry of Environment, Forests and Climate Change granted the expansion an environment clearance in November 2015, despite unanswered questions about where the bauxite for the refinery would come from, existing pollution and community forest land within the refinery's premises and rehabilitation. The refinery's expansion is being challenged in India's National Green Tribunal (next hearing April).

The alumina refinery is linked to plans by another Vedanta subsidiary to mine bauxite in the nearby Niyamgiri hills, traditional lands of the Adivasi (Indigenous) community Dongria Kondh. A joint venture, the South-west Orissa Bauxite Mining Corporation, was established for this purpose, involving Sterlite Industries India Limited (a subsidiary of London-based Vedanta Resources Plc) and the state-owned Odisha Mining Corporation. Following a historic referendum in 2013, in which 13 village councils voted against the company's mining plans, the plans to mine in Odisha's Niyamgiri hills were shelved. However, in March 2016 the Odisha Mining Corporation started challenging the referendum and the judgement of the Supreme Court which upheld the statutory powers of the tribal village councils to decide if they wish mining to take place in their traditional forestlands or not.

3.10.2 Main human rights risks, violations/abuses

The main human rights violations/abuses in this case are:

- Violations of rights to water, food, health, including a healthy environment, and an adequate standard of living;
- The rights to information and participation;
- Violations of the rights of Indigenous peoples, including land rights and the right to Free, Prior and Informed Consent;
- Communities protesting the expansion face harassment and arbitrary arrests as militarisation in the region is on the rise.

A group of women from Chhattarpur walked along the Vamsadhara river with Amnesty International researchers, describing the impact of the refinery on their lives. V. V., described how she sometimes found that after she had washed clothes in the river they had a fine white powder on them and her skin itched after putting on those clothes. "I am scared to bathe in the river but where else can I go?" she asked. "Vamsadhara is our life line," another woman said. "We used it for drinking, bathing, washing, but also it was a place for socializing with other women in the community. We have lost some sense of privacy, as there are workers from outside working in the factory who are often passing by or sometimes using water."

Source: Amnesty International (2010), *Don't Mine Us Out of Existence: Bauxite Mine and Refinery Devastate Lives in India*, p. 64.

3.10.3 Recommendations to the company

The major recommendations to the company are:

- Urgently and fully address the existing negative environmental, health, social and human rights impact of the Vedanta Aluminium refinery at Lanjigarh: this should be done in genuine and open consultation with the affected communities;
- Proactively disclose to the affected communities, information on the existing refinery, the proposed expansion and the mining project; ensure that this is done in a manner that is accessible to them and cooperate fully with any state process on such disclosure;
- Cooperate with an independent and impartial human rights and environmental impact assessment of the proposal for expansion of the refinery;
- Make a public commitment not to expand the refinery or begin mining until existing problems are addressed; full, impartial, and adequate assessments of the human rights implications of the proposed projects are carried out; and effective plans are developed, and action taken to ensure that human rights are respected and protected; and
- Respect the decision taken by the Dongria Kondh communities in July 2013 to not give consent to mining bauxite from their sacred lands; a decision taken after exercising their right to Free, Prior and informed Consent. It is clear that the Niyamgiri Hills are of vital importance to the Dongria Kondh, and essential to their survival as a distinct people, and maintenance of their livelihood, culture, and way of life.

3.10.4 Information sources used

More information on this case can be found here:

- Amnesty International, Don't mine us out of existence: bauxite mine and refinery devastate lives in India (2010), see: <https://www.amnesty.org/en/documents/ASA20/001/2010/en/>.
- Amnesty International, Landmark supreme court ruling a great victory for indigenous rights (2013), see: <https://www.amnesty.org/en/latest/news/2013/04/india-landmark-supreme-court-ruling-great-victory-indigenous-rights/>.
- Amnesty International, Defeat for Vedanta as indigenous community rejects mine plans (2013), see: [file:///C:/Users/HP/Downloads/asa200542013en%20\(3\).pdf](file:///C:/Users/HP/Downloads/asa200542013en%20(3).pdf).
- Norway's wealth fund blacklists Vedanta, other Indian firms over rights violations, climate impact (2017), see: <https://thewire.in/117267/norway-wealth-fund-blacklists-vedanta-indian-firms/>.

Chapter 4 Profile and assessment of insurance groups

In this chapter, the results of the research are presented per insurance group. For each insurance group, an overview is provided that includes company profile, shareholdings, bondholdings, and scores it has received in this case study. This chapter also provides an analysis of the answers and information provided by the insurance company to illustrate its approach to the investigation, decision making, engagement and outcomes, regarding human rights abuses, in relation to the extractive companies it invests in through shares and bonds.

4.1 Achmea

4.1.1 Profile

Achmea B.V. (Achmea) is a leading private insurance company based in the Netherlands.⁶ Achmea provides primarily insurance services, including health, life and non-life, as well as pension and asset management services.⁷ Its subsidiary Achmea Bank also provides retail banking services (including mortgage loans and savings) to private customers in the Netherlands.⁸ The insurance group is also active in Turkey, Greece, Slovakia and Ireland, and has a partnership with Rabobank in Australia.⁹ As on 31st December 2017, Achmea had € 120 billion assets under management (AuM) including proprietary and clients' assets.¹⁰

4.1.2 Shareholdings

As of September 2017, Achmea held total shares of € 0.5 million in Freeport-McMoRan, which accounted for less than 0.1% of Freeport-McMoRan's total shares outstanding. No other links could be identified with the selected companies. [Table 9](#) provides an overview of Achmea's shareholdings in Freeport-McMoRan, as of the most recent filing date.

Table 9 Overview of Achmea's shareholdings in Freeport-McMoRan

Group	Group country	Holding value (in € mln)	Filing date
Freeport-McMoRan	United States	0.5	Sep 2017
Total		0.5	

Source: Thomson Reuters Eikon, 'Shareholders report, multiple securities,' viewed in January 2018.

4.1.3 Bondholdings

As of the most recent filing date, Achmea did not hold bonds of the selected companies that could be identified within this research.

4.1.4 Assessment and score overview

This research identified one financial link between Achmea and Freeport-McMoRan. Achmea provided evidence for its engagement with Freeport-McMoRan on the relevant case selected for this study. On top of that, Achmea has provided information on its engagement with the mining company Anglo-American, even though this company was not selected for this case study. By sharing the two engagement cases, Achmea has provided insight into its engagement practices and how the responsible investment policies are applied to extractives sector investments. Based on the answers provided by Achmea and the supporting evidences, the following paragraphs provide an analysis of Achmea's engagement activities on the four assessment categories of this case study.

- **Issue and risk qualification**

During this case study, Achmea provided evidence that an investigation was conducted for Freeport-McMoRan and Anglo American on human rights issues. The investigations are conducted by two service providers and are evaluated by Achmea's internal responsible investment team. For Freeport-McMoRan, Achmea evaluated the company's poor management of human rights at the Grasberg copper and gold mine in Indonesia and noted concerns over its management of human rights risks at an early-stage mine development project in Tenke, in the Democratic Republic of Congo (DRC). Internal documents and reports shared by Achmea, show that these evaluations also took into account the human rights concerns that are highlighted in section 3.3: the operations of Freeport-McMoRan at the site of the Grasberg copper and gold mine in the Indonesian province of West Papua. The insurer noted that the company was criticised over its relationship with the Indonesian military and payments made to military units in exchange for security services. It also noted several allegations of human rights abuses at the Grasberg mine, including mismanagement of community relations, resulting in riots and deaths. The investigation for Anglo American focussed on social and environmental issues at multiple sites including Pebble Mine in Alaska and Cerrejon Coal Project in Colombia. Both the investigations evaluated the severity of the previously mentioned incidents and the companies' involvement.¹¹

- **Engagement with the investee company**

As part of its risk management process, Achmea discusses the investigation reports provided by the service providers internally to take a decision on whether to engage with a company. This has been verified for Freeport-McMoRan and Anglo American, through the supporting evidences provided by the insurer.¹² In both cases, Achmea decided to initiate an engagement process with the individual companies.

The evidences show that an action plan was outlined for engagements with Freeport-McMoRan and Anglo American. The action plan included meeting with company officials, exchanging emails to communicate expectations, providing guidance and monitoring progress. The action plan also included collaborating with NGOs to understand the company's standing better and verifying its corrective actions.¹³

At the start of an engagement program, Achmea develops goals that need to be achieved within a period of three years from the start of an engagement. Engagement with Freeport-McMoRan was on two incidents, i.e. the Grasberg mine in Indonesia and Tenke in The Democratic Republic of Congo. The engagement objectives were set for both the incidents. The goals specific to the Grasberg site were transparency in CSR reporting with respect to group level approach towards human rights risks, information on group-wide implementation of policies and systems for selecting, training and monitoring security forces hired at the mine sites. Furthermore, goals were set for continued reporting on the steps taken to improve community relations and security training at the Grasberg mine, which is the focus of this case study for Freeport-McMoRan. For the Grasberg site, Achmea did not expect any stakeholder discussions by the company before finalizing an action plan for remediation. This was done in case of the Tenke site in DR Congo of Freeport-McMoRan and also for Anglo American. Another goal at the Tenke site was asking for a public action programme including the company's plans for: community consultation; compensation for relocation; grievance procedures; initiatives to reduce the safety and social risks associated with artisanal mining; and the company's plans for community development. Goals were also set for Anglo American including elimination/prevention of breaches, improving management systems, stakeholder dialogue and transparency on verification of processes.¹⁴

In the evidence provided for Freeport-McMoRan and Anglo American, it is clear that apart from addressing immediate human rights breaches, the goals also focussed on a long-term improvement approach from the side of the company on human rights issues.¹⁵

The engagement with Freeport-McMoRan was conducted from 2008 to 2010 and with Anglo American between 2013 and 2016.¹⁶

- **Monitoring of the engagement progress**

The evidences provided by Achmea, show that the insurance company monitors the progress of its engagements on a regular basis. The progress reports highlight the company's progress with respect to the set goals and follow-up actions to be taken. This has been substantiated in the evidence for both the engagement cases i.e. Freeport-McMoRan and Anglo American. The engagement progress report for Freeport-McMoRan confirmed that the objective of recognising human rights risks and developing a companywide strategy and communicating it through the CSR report was achieved. Further, the objective set specifically for the Grasberg mine i.e. CSR reporting on group-wide implementation of security policies, and selecting, training, and monitoring security forces was considered to be partially met with the company on the basis of security related initiatives planned at the company (shared with Achmea on a confidential basis). Achmea considered it to be a step in the right direction even if the company did not publicly communicate these plans. Another goal was continued reporting by the company on its efforts to improve community relations and security training at the Grasberg mine in Indonesia, which, according to Achmea, was fully achieved.¹⁷ However, the incident at Grasberg mine is still not fully remediated and this raises serious questions whether meeting those objectives was sufficient to conclude the engagement successfully.

The decision to conclude engagement with Anglo American was also based on evaluation of objectives set for the engagements.

In case the engagement goals are not met in a given time frame, Achmea divests from that company. Achmea mentioned that it collaborated with the PRI engagement on the extractives sector, more in particular Anglo American to realize its goals further.

- **Transparency**

Achmea is highly transparent when it comes to publishing not only its policies but also the implementation process, ongoing monitoring and engagement outcomes. Achmea differentiates between proactive engagement and enhanced engagement. For its proactive engagements (not an outcome of a breach by the investee company but because the investee company operates in sensitive industries), every quarter it publishes the ongoing themes for engagement and a list of companies under engagement.¹⁸ For companies breaching the UN Global Compact (UNGC), Achmea has enhanced engagement in place. The goals of such engagements with investee companies, the result of these engagements and the decisions taken in the context of the engagement are also published on its website.¹⁹

Achmea lays special focus on transparency and reporting by its investee companies in the extractives sector. Its expectations towards investee companies under engagement with respect to transparency include publication of a human rights policy and risk management approach, disclosing community relation issues, and its strategy how to deal with human rights breaches. This has been verified in the evidences provided.²⁰

- **Conclusion**

The financial research identified a relatively small investment from Achmea in one company out of ten selected companies for this case study (Freeport-McMoRan). Nevertheless, Achmea was forthcoming in providing evidence of two engagement cases (Freeport-McMoRan and Anglo American) within the extractives sector related to human rights issues.

Achmea's investments are governed by the Principles for Responsible Investment (PRI).²¹ The company implements its investment principles through ESG integration, engagement, voting, and exclusion. Achmea evaluates its investments against the ten UNGC principles and uses the principles as guidelines for its engagement activities and for executing its exclusion policy.²² The company assesses its investment portfolio twice a year with the help of two external service providers, to evaluate if the investments comply with the principles of the UNGC.²³ In case companies are present on the watch lists of both service providers for more than two years and are complacent to serious violations of the UNGC, they are excluded from investments.²⁴ The screening process seems robust as Achmea has provided evidence for its engagement with two extractive companies on human rights.²⁵

An engagement typically runs for a period of three years. Goals are set for each engagement case to be achieved during the engagement period. Goals for extractive companies involved in human rights breaches include eliminating the breach, establishing remediation measures, compensation for displaced/affected communities, stakeholder discussions, management systems, and formulating/strengthening their human rights policy at the corporate level and its implementation at the site level. Special focus is given to improving transparency by the company through systematic reporting on human rights issues.²⁶ Looking through the evidences, the objectives set by Achmea were comprehensive, ambitious, and forward looking.

Progress with respect to the goals set is measured on a regular basis. An engagement is concluded either successfully or unsuccessfully based on a minimum threshold of goals achieved. An outcome of an unsuccessful engagement leads to exclusion of the company. It is important to note that although according to Achmea it concluded its engagement with Freeport-McMoRan successfully, the case is still ongoing and the environmental damages and the impact on the local communities are still not rehabilitated.²⁷ This raises question if Achmea's evaluation criteria and monitoring in place are sufficient to analyse the progress made by the company. The success threshold of the engagements does not seem sufficient and may conclude an engagement successful and decide to close an engagement case even if the cases are not completely remediated by the companies.

The insurer is highly transparent with respect to its responsible investment policies and their implementation process. All the engagements, names of the companies, and progress on engagements are published regularly on the corporate website. Achmea also promotes transparency by the companies while engaging with companies in the extractives sector.²⁸

Achmea scored 9.6 out of 10 points in this case study. [Table 10](#) shows the scores for Achmea based on the answers provided by the insurer to the questionnaire regarding the implementation of its responsible investment policies.

Table 10 Scoring table for Achmea

Assessment indicators	Scores
Section A: Issue and risk qualification	
<ul style="list-style-type: none"> Shows in records that an investigation has taken place. 	3
<ul style="list-style-type: none"> The investigation looks into the severity of the (alleged) human rights abuses, including the scale, scope and irremediable character. 	3
<ul style="list-style-type: none"> The investigation makes a qualification of how the investee company is involved in the abuse(s) – cause, contribute or directly linked. 	3
Total points	9
Score for section A (9/9*4)	4.0 out of 4
Section B: Engagement with the investee company	

Assessment indicators	Scores
<ul style="list-style-type: none"> An informed and reasoned decision whether to engage was taken. 	3
<ul style="list-style-type: none"> The insurance company formulated written goals to be achieved. 	3
<ul style="list-style-type: none"> The insurance company formulates a strategy for engagement. 	3
<ul style="list-style-type: none"> The insurance company has set timelines and goals for its engagement activities. 	3
<ul style="list-style-type: none"> The insurance company has required the investee company to follow a multi-stakeholder approach before finalising an action plan. 	2
<ul style="list-style-type: none"> The steps include measures that the company is taking to terminate the ongoing human rights abuse(s). 	3
<ul style="list-style-type: none"> The steps include measures that the company is taking to mitigate the negative impact of the human rights abuse(s) by providing an effective remedy. 	3
<ul style="list-style-type: none"> The steps include measures that the company is taking to prevent new human rights abuses. 	3
Total points	23
Score for section B (23/24*3)	2.9 out of 3
Section C: Monitoring of the engagement progress	
<ul style="list-style-type: none"> The insurance company shows that it reviewed the company's progress on the implementation of the concrete steps the company has committed itself to. 	3
<ul style="list-style-type: none"> Further decision for the engagement is based on the following premises: <ul style="list-style-type: none"> a. Continue – based on positive progress by the company. b. Conclude – based on achieving goals within set period. c. Exclusion – if there is no positive progress made by the company or it fails to increase leverage to influence. 	3
<ul style="list-style-type: none"> The insurance company tries additional forms of leverage to address the human rights abuse(s), two or more ways, as described in the indicator explanation. 	1
Total points	7
Score for section C (7/8*2)	1.7 out of 2
Section D: Transparency	
<ul style="list-style-type: none"> Publishing its human rights policy and the due-diligence process. 	2
<ul style="list-style-type: none"> Disclosing names of the companies it has formally engaged. 	3
<ul style="list-style-type: none"> Publishing formal (intermediate and final) decisions on concluding or continuing the engagement with specific companies. 	3
<ul style="list-style-type: none"> Publishing results of the (intermediate and final) engagement process with specific companies, including the investee companies that form part of this study. 	3
<ul style="list-style-type: none"> Requires investee companies to publicly report on the circumstances of the human rights abuse(s). 	2
<ul style="list-style-type: none"> Requires investee companies to publicly report on the concrete steps taken to address the human rights abuse(s). 	2
Total points	15
Score for section D (15/15*1)	1.0 out of 1
Total score	9.6 out of 10

4.2 Aegon

4.2.1 Profile

Aegon N.V. (Aegon) is a publicly-listed leading insurance and banking group based in the Netherlands.²⁹ Aegon has life insurance and pensions operations in in the Americas, Europe and Asia and is also active in savings and asset management operations, accident and health insurance, general insurance and banking operations.³⁰ The group serves customers in Europe, Asia, Australia and the Americas, including the Netherlands, United Kingdom, Singapore, Hong Kong, and the United States.³¹ Aegon had € 318 billion AuM as of 31st December 2017.³²

4.2.2 Shareholdings

As of the holdings' most recent filing date, Aegon held total shares of € 619 million in seven of the ten companies within the final selection. Largest holdings were in Royal Dutch Shell with € 320 million, more than double the investment in the next two companies, Rio Tinto (€ 153 million) and Glencore (€ 141 million). Table 11 provides an overview of Aegon's shareholdings in the selected companies, as of the most recent filing date.

Table 11 Overview of Aegon's shareholdings in the selected companies

Group	Group country	Holding value (in € mln)	Filing date
Royal Dutch Shell	Netherlands	319.8	Dec 2017
Rio Tinto	United Kingdom	152.7	Aug – Dec 2017
Glencore	Switzerland	141.0	Apr – Aug 2017
Freeport-McMoRan	United States	2.7	Aug – Sep 2017
CNPC	China	1.2	Aug 2017
Goldcorp	Canada	1.0	Aug 2017
Lundin Petroleum	Sweden	0.8	Aug 2017
Total		619.2	

Source: Thomson Reuters Eikon, 'Shareholders report, multiple securities,' viewed in January 2018.

4.2.3 Bondholdings

In addition to holding shares in the selected companies, Aegon held total bonds of € 402 million in seven of the ten companies within the final selection. Largest holdings were in Royal Dutch Shell with € 213 million, also significantly higher than Aegon's investments in Rio Tinto (€ 109 million) and Freeport-McMoRan (€ 50 million). Table 12 provides an overview of Aegon's bondholdings in the selected companies, as of the most recent filing date.

Table 12 Overview of Aegon's bondholdings in the selected companies

Group	Group country	Holding value (in € mln)	Filing date
Royal Dutch Shell	Netherlands	213	Dec 2015 – Oct 2017
Rio Tinto	United Kingdom	110	Dec 2015 – Sep 2017
Freeport-McMoRan	United States	50	Dec 2015 – Sep 2017
Trafigura	Netherlands	17	Aug – Sep 2017
Glencore	Switzerland	10	Sep 2017

Group	Group country	Holding value (in € mln)	Filing date
Vedanta Resources	United Kingdom	2	Aug 2017
CNPC	China	1	Dec 2015 – Oct 2017
Total		402	

Source: Thomson Reuters Eikon, 'EMAXX,' viewed in January 2018.

4.2.4 Assessment and score overview

Within the scope of this research, Aegon had financial links with nine out of ten selected companies for this case study, namely:

- China National Petroleum Corporation (CNPC);
- Freeport-McMoRan;
- Glencore;
- Goldcorp;
- Lundin Petroleum;
- Rio Tinto;
- Royal Dutch Shell;
- Trafigura; and
- Vedanta Resources.

Aegon responded to the questionnaire and Profundo accepted the offer to visit its offices to verify the information. Out of the nine companies it has financial links with, Aegon has carried out an engagement process with Freeport-McMoRan and Glencore. Aegon also mentioned that it had engaged with Goldcorp but did not provide further evidence. On top of that, the insurer mentioned that it engaged with Barrick Gold on human rights issues. Though this company is not one of the selected cases for this case study however as per the methodology, this case will be evaluated in the same way as other cases. The information shared by Aegon has been useful to get more insight in how Aegon's responsible investment policies are applied to extractives sector investments.

The following paragraphs evaluate its processes and engagement practices with respect to this case study.

- Issue and risk qualification

Aegon has a responsible investment policy that is based on the PRI principles. Besides incorporating ESG into the investment decisions, the company also engages with investee companies under three broad categories:³³

- Companies appear not to comply with standards as outlined in its RI policy;
- Companies show poor ESG performance; and
- Thematic engagement, focusing on strategic priorities and include critical subjects.

Aegon engages with all the companies that its ESG research provider (MSCI) has identified as being non-compliant with its applicable responsible investment policies. It engages with those companies through collaborative engagement forums. Aegon receives controversies reports from MSCI on various companies. This was verified for two cases selected for this case study related to the companies Freeport-McMoRan and Glencore. Aegon provided evidence of internal investigation on Freeport-McMoRan on issues related to the Grasberg mine in West Papua, Indonesia (focus of the study, see section 3.3). The investigation report on Glencore included investigation of issues at various sites including operations in Cesar in Colombia (focus of this case study, see section 3.4). Aegon also provided evidence of internal documents prepared for each of the two cases. Aegon did not provide evidence on investigating human rights controversies related to the operations of Goldcorp in Guatemala. On top of the companies selected for this case study, Aegon shared investigation reports on operations of Barrick Gold.³⁴

The controversy reports by MSCI and internal evaluation reports on Freeport-McMoRan and Glencore include a history of controversies of the company and evaluates each controversy based on severity and possibility of recurrence. The reports also include an evaluation of how the company is involved in the abuses of human rights. The internal investigation was also conducted for Barrick Gold, as an additional example provided by the insurer.³⁵

Aegon did not investigate the other six cases that are selected for this case study and Aegon has financial links with namely China National Petroleum Corporation (CNPC), Lundin Petroleum, Rio Tinto, Royal Dutch Shell, Trafigura; and Vedanta Resources.

- **Engagement with the investee company**

Aegon engages with companies which either have a very low ESG score or do not comply with its responsible investment policies. This screening is conducted by its service provider. The insurer showed evidence of taking an informed and formal decision to engage with three companies selected for this case study namely, Freeport-McMoRan, Glencore, and Goldcorp and additionally with Barrick Gold on human rights issues. In its response to this research, Aegon mentioned that the other six companies in the extractives sector, the insurer has financial links with, were not flagged by its service provider and therefore have not been put forward for a decision to engage with them.³⁶

The three engagements, namely Freeport-McMoRan, Glencore, and Barrick Gold, were conducted through the PRI collaborative engagement with the extractive companies on human rights. The strategy for the engagements was formed through the collaborative engagement platform and was based on two overarching objectives: to enhance implementation of the UN Guiding Principles on Business and Human Rights and enhance the level of disclosure and address the lack of consistent disclosure with regards to human rights.³⁷

The standard objectives set by the PRI in this engagement theme were: company's response towards the human rights incident; company's human rights commitment; governance and embedding respect for human rights; human rights risk assessment by the company; stakeholder engagement and grievance mechanism. Further, Aegon's internal evaluation of Freeport-McMoRan showed that the goals include commitment from the company to respect human rights, stakeholder engagement and setting up of a grievance mechanism with special focus on the Grasberg mine (one of the incidents of this case study). Focus areas for the engagement with Glencore were better governance for embedding respect human rights, stakeholder engagement and grievance mechanism for issues at other sites and not specifically for the Cesar operations (the selected incident for this study). Goals with Barrick Gold included evidence of management steps that it has undertaken to mitigate the controversial tailing method at the Porgera gold mine in Papua New Guinea; sign up to the voluntary principles on security and human rights; and discloses the outcomes of its human rights impact assessments, steps taken to prevent actual or potential human rights violations identified in these assessments, and steps taken to remedy any human rights-related abuses that may have occurred.³⁸

The engagements with extractive companies and human rights within PRI was conducted from 2015 to 2016 and was concluded in 2017.³⁹

- **Monitoring of the engagement progress**

The engagements conducted by the PRI with the extractive companies on human rights issues regularly evaluated company's response towards the set objectives. According to the PRI, it concluded all the three engagements i.e. Freeport-McMoRan, Glencore, and Barrick Gold successfully based on the objectives met. Further detail on objectives with respect to specific site (relevant for this case study), and improvements, could not be verified in the documents.⁴⁰

Aegon showed evidence on meetings conducted and companies' responses evaluated during the engagement process.

- **Transparency**

Aegon has published a human rights policy that governs its operations and relations with clients and business partners but doesn't cover its investments. However, Aegon follows PRI principles for its investments and human rights is elaborated in its responsible investment policy. It expects its investee companies to respect the freedoms and rights of human beings as enshrined in the Universal Declaration of Human Rights, the Guiding Principles on Business and Human Rights and the core standards of the International Labour Organization (ILO).⁴¹ Aegon does not publish any due diligence process for screening companies they invest in on their policies and performance regarding human rights.

In terms of transparency with respect to its engagements, Aegon does not regularly disclose names of the companies that it engages with. The insurer gives a break-down in the number of companies under different types of engagements and broad topics of engagement. Further, ad-hoc engagement cases with specific companies are discussed in its responsible investment report.⁴²

None of the engagements with the companies that are selected for this case study are published by Aegon.

- **Conclusion**

The financial research identified Aegon's financial links with nine out of in total ten cases selected for this case study.

Aegon has developed a responsible investment policy and conducts engagements with companies that either have a low ESG score or are in breach of the insurer's responsible investment principles. The insurer relies on its service provider to screen its own assets quarterly to evaluate alignment of companies with its responsible investment policy. This is not done for third party assets. Further, engagements are conducted on a particular theme that is of interest to Aegon. It confirmed that all of the engagements are done through collaborations with other investors, under the umbrella of the PRI. Through this research, it can be observed that the engagement process at Aegon, to a large extent, is dependent on its service provider's input. For example, Lundin was not flagged as a severe human rights case under the service provider's criteria. It could be possible that Aegon's threshold for the severity of cases is too low which can cause many controversies go unnoticed by the insurer, even though raised by the service provider.

Aegon joined the PRI engagement platform on extractives and human rights. PRI set comprehensive goals to be achieved with each company. While the goals and engagement activities conducted within the PRI group seem credible, the evaluation of the achievement of the targets set for each company doesn't seem to be critical enough. It is also observed during the research that the insurer relied on the collaborative engagements without substantiating the outcomes with additional internal knowledge and decision-making capabilities. Further, the collaborative engagement program at PRI set objectives that were broad and focussed on policy and process improvements. It did not target specific incidents of breaches and remediation for those incidents. Therefore, the PRI concluded all the engagements successfully while the specific incidents are still not fully remediated.

Aegon could be more transparent by publishing the screening criteria and due diligence process with respect to human rights prior to its investment decisions and provide more insights into its engagement activities with each company.

Aegon scored 3.1 out of 10 points in this case study.

In Table 13, the scores for Aegon are presented, based on the answers provided by the insurer to the questionnaire regarding the implementation of its responsible investment policies. The response has been verified through internal documents shared with Profundo during a visit at the Aegon office in The Hague.

Table 13 Scoring table for Aegon

Assessment indicators	Scores
Section A: Issue and risk qualification	
<ul style="list-style-type: none"> Shows in records that an investigation has taken place. 	1
<ul style="list-style-type: none"> The investigation looks into the severity of the (alleged) human rights abuses, including the scale, scope and irremediable character. 	1
<ul style="list-style-type: none"> The investigation makes a qualification of how the investee company is involved in the abuse(s) – cause, contribute or directly linked. 	1
Total points	3
Score for section A (3/9*4)	1.3 out of 4
Section B: Engagement with the investee company	
<ul style="list-style-type: none"> An informed and reasoned decision whether to engage was taken. 	1
<ul style="list-style-type: none"> The insurance company formulated written goals to be achieved. 	1
<ul style="list-style-type: none"> The insurance company formulates a strategy for engagement. 	1
<ul style="list-style-type: none"> The insurance company has set timelines and goals for its engagement activities. 	1
<ul style="list-style-type: none"> The insurance company has required the investee company to follow a multi-stakeholder approach before finalising an action plan. 	1
<ul style="list-style-type: none"> The steps include measures that the company is taking to terminate the ongoing human rights abuse(s). 	1
<ul style="list-style-type: none"> The steps include measures that the company is taking to mitigate the negative impact of the human rights abuse(s) by providing an effective remedy. 	1
<ul style="list-style-type: none"> The steps include measures that the company is taking to prevent new human rights abuses. 	1
Total points	8
Score for section B (8/24*3)	1.0 out of 3
Section C: Monitoring of the engagement progress	
<ul style="list-style-type: none"> The insurance company shows that it reviewed the company's progress on the implementation of the concrete steps the company has committed itself to. 	1
<ul style="list-style-type: none"> Further decision for the engagement is based on the following premises: <ul style="list-style-type: none"> a. Continue – based on positive progress by the company. b. Conclude – based on achieving goals within set period. c. Exclusion – if there is no positive progress made by the company or it fails to increase leverage to influence. 	1
<ul style="list-style-type: none"> The insurance company tries additional forms of leverage to address the human rights abuse(s), two or more ways, as described in the indicator explanation. 	0
Total points	2
Score for section C (2/9*2)	0.5 out of 2
Section D: Transparency	

• Publishing its human rights policy and the due-diligence process.	1
• Disclosing names of the companies it has formally engaged.	1
• Publishing formal (intermediate and final) decisions on concluding or continuing the engagement with specific companies.	0
• Publishing results of the (intermediate and final) engagement process with specific companies, including the investee companies that form part of this study.	0
• Requires investee companies to publicly report on the circumstances of the human rights abuse(s).	1
• Requires investee companies to publicly report on the concrete steps taken to address the human rights abuse(s).	1
Total points	4
Score for section D (4/15*1)	0.3 out of 1
Total score	3.1 out of 10

4.3 Allianz

4.3.1 Profile

Allianz SE (Allianz) is a global insurance and asset management group with headquarters in Germany that serves customers in Europe, Asia, America and Australia.⁴³ It provides a wide range of life and non-life insurance and asset management services to its retail and corporate clients.⁴⁴ The group's core markets are Germany, France, Italy and the United States. In addition, the United Kingdom and the Asia-Pacific region are crucial markets for the group's asset management services.⁴⁵ As of 31st December 2017, Allianz had € 1,960 billion AuM including proprietary and clients' assets.⁴⁶

4.3.1 Shareholdings

As of the most recent filing date, Allianz Group held total shares of € 925 million in seven of the ten companies within the final selection. The group's largest holdings were in Royal Dutch Shell with € 528 million, followed by Rio Tinto with € 113 million and CNPC with € 96 million. [Table 14](#) provides an overview of Allianz' shareholdings in the selected companies.

Table 14 Overview of Allianz' shareholdings in the selected companies

Group	Group country	Holding value (in € mln)	Filing date
Royal Dutch Shell	Netherlands	598	Jun 2016 - Nov 2017
Rio Tinto	United Kingdom	113	Dec 2016 – Nov 2017
CNPC	China	96	Sep 2016 – Aug 2017
Freeport-McMoRan	United States	48	Sep 2017
Glencore	Switzerland	36	Mar – Nov 2017
Goldcorp	Canada	18	Sep 2017
Coal India	India	8	March 2017
Vedanta Resources	United Kingdom	8	Jun - Sep 2017
Lundin Petroleum	Sweden	0	Jun - Sep 2017
Total		928	

Source: Thomson Reuters Eikon, 'Shareholders report, multiple securities,' viewed in January 2018.

4.3.2 Bondholdings

As of the most recent filing date, Allianz Group held total bonds of € 1.2 billion in eight of the ten companies within the final selection. Allianz' largest holdings were in Royal Dutch Shell with € 352 million, Freeport-McMoRan with € 317 million and Rio Tinto with € 243 million. Table 15 provides an overview of Allianz' bondholdings in the selected companies.

Table 15 Overview of Allianz' bondholdings in the selected companies

Group	Group country	Holding value (in € mln)	Filing date
Royal Dutch Shell	Netherlands	352	Feb 2016 – Nov 2017
Freeport-McMoRan	United States	317	Jun 2016 – Nov 2017
Rio Tinto	United Kingdom	243	Mar 2017 – Oct 2017
Goldcorp	Canada	140	Dec 2016 – Sep 2017
Glencore	Switzerland	91	Dec 2015 – Oct 2017
CNPC	China	49	Sep 2016 – Nov 2017
Trafigura	Netherlands	22	Sep 2017
Vedanta Resources	United Kingdom	5	Jun 2017 – Sep 2017
Total		1,220	

Source: Thomson Reuters Eikon, 'EMAXX,' viewed in January 2018.

4.3.3 Assessment and score overview

Allianz is linked to each of the ten selected companies, either through shares, bonds, or both (including investments on own account and investments on behalf of clients). In its response to our information request, Allianz mentioned the following:

We screen our portfolio currently not specifically for human rights violations, but for a low ESG performance overall, i.e. we focus on those companies with a low ESG Score (bottom 10%). From the selected cases, 4 companies are below our threshold and were therefore analysed by our ESG & investment team to decide for or against an engagement. This analysis is internally and confidential.⁴⁷

Allianz is a member of PRI and applies its principles into its investment decisions. The ESG Framework includes Allianz' approach towards human rights. The screening criteria on human rights include compliance with the UN Global Compact principles, International Labour Organization standards, and the UN Declaration of Human Rights. Further, sector specific guidelines are also developed with respect to sensitive sectors such as mining and oil and gas. The guidelines cover topics such as environment, biodiversity, community relations, resettlement, and workforce related risks. Allianz screens its portfolio on an ongoing basis to see if any company scores less than 10% in the ESG rating (based on MSCI ESG data and rating) threshold. Identified companies are further analysed to decide for an engagement with time bound engagement objectives.⁴⁸

Allianz mentioned that only four companies out of the ten selected companies it is linked with, were identified as below 10% threshold score. These cases were discussed internally for a decision on engagement. However, this information could not be verified as the insurer did not provide any evidence of this process.⁴⁹

In Table 16, the scores for Allianz are presented, based on the answers provided by the insurer to the questionnaire. Since Allianz did not provide any further information on its engagements, the company scored extremely low in this research. During the feedback round of this report Allianz made a commitment, stating:

“With our pilot engagement phase, we are still in a learning process and are open to suggestions and additional input from external stakeholders to further refine and strengthen our approach. Thus, we appreciate the FIG report on “Human rights abuses in the extractives industry” and will take their recommendations into consideration when reviewing and refining our engagement process in 2018.”

Table 16 Scoring table for Allianz

Assessment indicators	Scores
Section A: Issue and risk qualification	
• Shows in records that an investigation has taken place.	0
• The investigation looks into the severity of the (alleged) human rights abuses, including the scale, scope and irremediable character.	0
• The investigation makes a qualification of how the investee company is involved in the abuse(s) – cause, contribute or directly linked.	0
Total points	0
Score for section A (0/9*4)	0.0 out of 4
Section B: Engagement with the investee company	
• An informed and reasoned decision whether to engage was taken.	0
• The insurance company formulated written goals to be achieved.	0
• The insurance company formulates a strategy for engagement.	0
• The insurance company has set timelines and goals for its engagement activities.	0
• The insurance company required investee company to follow a multi-stakeholder approach before finalising an action plan.	0
• The steps include measures that the company is taking to terminate the ongoing human rights abuse(s).	0
• The steps include measures that the company is taking to mitigate the negative impact of the human rights abuse(s) by providing an effective remedy.	0
• The steps include measures that the company is taking to prevent new human rights abuses.	0
Total points	0
Score for section B (0/24*3)	0.0 out of 3
Section C: Monitoring of the engagement progress	
• The insurance company shows that it reviewed the company’s progress on the implementation of the concrete steps the company has committed itself to.	0
• Further decision for the engagement is based on the following premises: <ul style="list-style-type: none"> a. Continue – based on positive progress by the company. b. Conclude – based on achieving goals within set period. c. Exclusion – if there is no positive progress made by the company or it fails to increase leverage to influence. 	0
• The insurance company tries additional forms of leverage to address the human rights abuse(s), two or more ways, as described in the indicator explanation.	0
Total points	0
Score for section C (0/9*2)	0.0 out of 2

Assessment indicators	Scores
Section D: Transparency	
<ul style="list-style-type: none"> Publishing its human rights policy and the due-diligence process. 	2
<ul style="list-style-type: none"> Disclosing names of the companies it has formally engaged. 	0
<ul style="list-style-type: none"> Publishing formal (intermediate and final) decisions on concluding or continuing the engagement with specific companies. 	0
<ul style="list-style-type: none"> Publishing results of the (intermediate and final) engagement process with specific companies, including the investee companies that form part of this study. 	0
<ul style="list-style-type: none"> Requires investee company to publicly report on the circumstances of the human rights abuse(s). 	0
<ul style="list-style-type: none"> Requires investee company to publicly report on the concrete steps taken to address the human rights abuse(s). 	0
Total points	2
Score for section D (2/15*1)	0.1 out of 1
Total score	0.1 out of 10

4.4 APG Group

4.4.1 Profile

APG Groep N.V. (APG Group) is a financial services provider with headquarters in the Netherlands.⁵⁰ It specialises in collective pensions and administers the pensions in the Netherlands.⁵¹ APG provides asset management, pension administration, pension communication and executive consultancy services for pension funds in the public and private sectors.⁵² As of 31st December 2017, APG Group managed € 474 billion assets on behalf of its clients.⁵³

4.4.2 Shareholdings

As of the most recent filing date, APG held shares with a total value of € 428 million in six of the ten selected companies for this research. The group's largest holdings were in Royal Dutch Shell, amounting to € 182 million, Glencore, amounting to € 101 million, and Rio Tinto, amounting to € 85 million. [Table 17](#) provides an overview of APG's shareholdings identified within this research.

Table 17 Overview of APG's shareholdings in the selected companies

Group	Group country	Holding value (in € mln)	Filing date
Royal Dutch Shell	Netherlands	182	Aug 2017 - Nov 2017
Glencore	Switzerland	101	Mar 2017
Rio Tinto	United Kingdom	85	Aug 2017 – Sep 2017
Goldcorp	Canada	54	Sep 2017
Lundin Petroleum	Sweden	4	Mar 2017
Coal India	India	2	Mar 2017
Total		428	

Source: Thomson Reuters Eikon, 'Shareholders report, multiple securities,' viewed in January 2018.

4.4.3 Bondholdings

As of the most recent filing date, APG did not hold bonds of the selected companies that could be identified within this research.

4.4.4 Assessment and score overview

This research identified links between APG and six of the ten selected companies, namely:

- Coal India;
- Glencore;
- Goldcorp;
- Lundin Petroleum;
- Rio Tinto; and
- Royal Dutch Shell.

As per an email correspondence with Loyalis, it has transformed all of its equity portfolio (investments on own accounts) to meet its SRI criteria. As on the transition date 12 October 2017, Loyalis confirmed that the insurer does not hold any equity/bond in the selected companies. However, since this study focuses on group level, Loyalis is considered linked to these cases through its parent APG's holdings in these companies.

APG provided information on its engagement with four of the six companies it has financial links with. APG showed engagement with Coal India, Glencore, Goldcorp, and Royal Dutch Shell. The company had a brief dialogue with Lundin but was not a part of systematic engagement.

It further provided information on two other engagements with Freeport-McMoRan and ONGC on human rights issues. Even though, the financial research did not identify APG's links with Freeport-McMoRan (one of the companies selected for this case study), APG confirmed that they hold shares in the company on behalf of clients. ONGC is not selected for this case study. However, as per the methodology, these two cases (Freeport-McMoran and ONGC) will be considered and evaluated in the same way as the other selected cases.

APG provided information through the questionnaire and Profundo accepted an offer to visit its office for verifying the information. The following paragraphs provide an analysis of the company's practices on the four evaluation sections of this case study.

- **Issue and risk qualification**

APG has developed a responsible investment policy that is based on international standards on sustainability and governance such as the UNGC, the International Corporate Governance Network Statement on Global Corporate Governance Principles, and the OECD guidelines for multinational corporations and the OECD's Principles of Corporate Governance.⁵⁴

APG gets information on the performance of its portfolio companies with respect to ESG issues from multiple data providers. The research providers also provide an assessment into the severity of the (alleged) human rights abuses, including the scale, scope, and irremediable character. APG's portfolio is screened on a semi-annual basis on compliance with the UNGC principles, and in case of non-compliant companies in the portfolio, an internal research is conducted. ESG related research including UNGC (non-)compliance is fed into the in-house IT tool. During Profundo's visit to APG's office, APG provided evidence that an internal assessment of human rights risks was conducted for four out of six cases it has financial links with i.e. Coal India, Glencore, Goldcorp, and Royal Dutch Shell. The details of the investigation report could not be verified, however the reports from the ESG service providers usually include a history of all human rights abuses. Therefore, it can be inferred that the specific cases selected for the four companies for this case study were also evaluated in those reports.⁵⁵

Further, APG also provided evidence of its investigation on human rights issues at ONGC and Freeport-McMoRan.

- **Engagement with the investee company**

The companies that are in breach of the UNGC, identified through the service providers, are discussed with the portfolio managers and the investment committee at APG. The committee formally approves the start of an engagement trajectory with any company. A prioritization is made in decisions on allocation of engagement capacity, which includes considerations such as the severity of incidents and the importance of the company for portfolio management processes.

APG provided evidence of a formal decision taken for engagement with four out of six linked cases. To support its case, it further provided evidence for a decision on engagement with ONGC and Freeport-McMoRan. ONGC was not selected for this case study and APG does not have any financial links with Freeport-McMoRan (as per the financial research conducted by Profundo). APG mentioned that it had small holdings of Lundin and had a few dialogues in the past with the company following a separate process compared to the process described above.⁵⁶

APG sets time-bound engagement targets that need to be achieved by the investee companies during the engagement period. APG has developed an internal background paper on human rights that details standard goals that APG targets while engaging with the companies on human rights. The goals include developing a human rights policy, implementing human rights policy, integrating the policy into the risk management process, developing processes for monitoring human rights, integrating human rights into partner/suppliers' selection processes, stakeholder engagement, and establishing grievance mechanisms. The company confirmed that it selects relevant objectives from the comprehensive list on a case to case basis.⁵⁷

During the visit at the APG office, Profundo could not verify other details about the set goals.

In general, regarding the process described above, APG engages with companies with a default time line. The timelines can get extended or shortened based on the progress made by the company and internal decision. Details on timelines for the four engagement cases that APG is linked with could not be verified during the visit. Timelines of engagement could not be verified for ONGC and Freeport-McMoRan either.⁵⁸

- **Monitoring of engagement**

APG regularly monitors progress of the investee companies with respect to its engagement objectives. Based on the progress made by an investee company, the insurer decides whether to continue the engagement, or close successfully. For engagements that are an outcome of a major controversy, if objectives are not met, APG may exclude a company. Exclusion is not always followed for other types of engagements at APG. The engagement with ONGC was concluded based on one objective fully achieved and two objectives partially met. Evidence of deciding whether to continue an engagement based on progress made was also provided for Glencore and Goldcorp.⁵⁹ No further information could be obtained in terms of specific objectives related to the specific cases of this case study.

In its Responsible Investment Report 2016, APG mentions that it works with other investors to strengthen the integrity of financial markets, including collaborative initiatives such as the International Corporate Governance Network (ICGN), PRI and the Institutional Investors Group on Climate Change (IIGCC). APG also provided evidence of co-filing a shareholder resolution at Freeport-McMoRan.⁶⁰

- **Transparency**

APG does not have a human rights policy however the investments are monitored based on UNGC principles that include human rights, labour rights, environment, and corruption. The responsible investment report includes names of all the companies it is engaging with. The report also includes the topics for engagements with these companies. Further details on engagement progress, company's response and status are reported in the responsible investment report on an ad-hoc basis.⁶¹

In its response to our information request, APG mentioned that requiring more transparency from the companies under engagement is a part of a general set of engagement objectives designed for engagements on human rights issues. However, the objective on transparency is not always included in all human rights related engagements.

- **Conclusion**

APG is linked with six out of ten cases selected for this cases study.

APG's has set responsible investment policy based on international standards.⁶² APG monitors performance of its portfolio companies with respect to ESG issues with the help of many service providers. The service providers also provide an assessment into the severity of the (alleged) human rights abuses, including the scale, scope, and irremediable character. Further, APG's portfolio is screened on a semi-annual basis on compliance with the UNGC principles, and in case of non-compliant companies in the portfolio, an internal research is conducted to further investigate the alleged cases.⁶³ Out of six companies that APG has financial links with, APG had detailed investigation on only four companies. The screening process at APG can be fine-tuned further to ensure that no cases of human rights abuses go unnoticed.

APG confirmed that it engaged with four companies out of six companies it has financial links with. However, if the engagements with these four companies focussed on the specific incidents selected for this case study, could not be verified. APG also provided evidence of engagement with two other extractive companies, ONGC and Freeport-McMoRan, on human rights issues.

APG has developed a set of standard goals for engaging with the companies on human rights. The company confirmed that it selects relevant goals for each engagement on a case to case basis. The goals include developing a human rights policy, implementing human rights policy, integrating the policy into the risk management process, developing processes for monitoring human rights, integrating human rights into partner/suppliers' selection processes, stakeholder engagement, and establishing grievance mechanisms. Details on goals specific to the companies related to this case study could not be verified.⁶⁴ Nevertheless, the identified set of objectives seem inclusive and robust.

During the visit of Profundo at the APG office, it was clear that it monitors the cases of engagements and evaluates progress.

APG, the parent company of the insurance company Loyalis, publishes its investment principles and the names and topics of engagement with each company. Further details on objectives set and progress made is reported on an ad-hoc basis. Improving transparency within the companies on human rights incidents and actions taken is sometimes a part of the engagement objectives.

APG could improve its own transparency by publishing more information about its engagements activities and objectives. It can further encourage extractive companies to be more transparent on human rights incidents by setting transparency as one of the objectives with every human rights engagement case.

APG scored 2.4 out of 10 points in this case study.

Table 18 shows the scores for APG, based on the answers provided by the company to the questionnaire and Profundo's visit to APG office in Amsterdam.

Table 18 Scoring table for APG

Assessment indicators	Scores
Section A: Issue and risk qualification	
<ul style="list-style-type: none"> Shows in records that an investigation has taken place. 	2
<ul style="list-style-type: none"> The investigation looks into the severity of the (alleged) human rights abuses, including the scale, scope and irremediable character. 	0
<ul style="list-style-type: none"> The investigation makes a qualification of how the investee company is involved in the abuse(s) – cause, contribute or directly linked. 	0
Total points	2
Score for section A (2/9*4)	0.9 out of 4
Section B: Engagement with the investee company	
<ul style="list-style-type: none"> An informed and reasoned decision whether to engage was taken. 	2
<ul style="list-style-type: none"> The insurance company formulated written goals to be achieved. 	0
<ul style="list-style-type: none"> The insurance company formulates a strategy for engagement. 	0
<ul style="list-style-type: none"> The insurance company has set timelines and goals for its engagement activities. 	0
<ul style="list-style-type: none"> The insurance company has required the investee company to follow a multi-stakeholder approach before finalising an action plan. 	0
<ul style="list-style-type: none"> The steps include measures that the company is taking to terminate the ongoing human rights abuse(s). 	0
<ul style="list-style-type: none"> The steps include measures that the company is taking to mitigate the negative impact of the human rights abuse(s) by providing an effective remedy. 	0
<ul style="list-style-type: none"> The steps include measures that the company is taking to prevent new human rights abuses. 	0
Total points	2
Score for section B (2/24*3)	0.3 out of 3
Section C: Monitoring of the engagement progress	
<ul style="list-style-type: none"> The insurance company shows that it reviewed the company's progress on the implementation of the concrete steps the company has committed itself to. 	1
<ul style="list-style-type: none"> Further decision for the engagement is based on the following premises: <ul style="list-style-type: none"> a. Continue – based on positive progress by the company. b. Conclude – based on achieving goals within set period. c. Exclusion – if there is no positive progress made by the company or it fails to increase leverage to influence. 	1
<ul style="list-style-type: none"> The insurance company tries additional forms of leverage to address the human rights abuse(s), two or more ways, as described in the indicator explanation. 	1
Total points	3
Score for section C (3/8*2)	0.8 out of 2
Section D: Transparency	
<ul style="list-style-type: none"> Publishing its human rights policy and the due-diligence process. 	1
<ul style="list-style-type: none"> Disclosing names of the companies it has formally engaged. 	3

Assessment indicators	Scores
<ul style="list-style-type: none"> Publishing formal (intermediate and final) decisions on concluding or continuing the engagement with specific companies. 	1
<ul style="list-style-type: none"> Publishing results of the (intermediate and final) engagement process with specific companies, including the investee companies that form part of this study. 	1
<ul style="list-style-type: none"> Requires investee companies to publicly report on the circumstances of the human rights abuse(s). 	0
<ul style="list-style-type: none"> Requires investee companies to publicly report on the concrete steps taken to address the human rights abuse(s). 	0
Total points	6
Score for section D (6/15*1)	0.4 out of 1
Total score	2.4 out of 10

4.5 ASR

4.5.1 Profile

ASR Nederland N.V. (ASR) is a Dutch insurance group with operations exclusively in the Netherlands. ASR offers a wide range of financial products, including property & casualty insurance (all customer segments), occupational disability and health insurance, group and individual pensions, individual life (savings, term life and annuity) and banking products (mortgages, savings, and investments for retail clients).⁶⁵ ASR managed total € 55 billion assets (€ 15 billion on behalf of clients) as of 31st December 2017.⁶⁶

4.5.2 Investment holdings

In the financial research, no share- or bondholdings could be identified linking ASR to the ten selected companies. However, ASR provided the following holdings as of May 2018.

Table 19 Overview of ASR investment holdings

Group	Group country	Holding value (in € mln)
Rio Tinto	United Kingdom	3.6
Glencore	Switzerland	2.9
Lundin Petroleum	Sweden	1.7
Total		8.2

Source: Criado Larrea, R. (2018, May 16), *Correspondence with Kanchan Mishra of Profundo*.

4.5.3 Assessment and score overview

Within this research, no financial links could be identified between ASR and the selected companies. This is primarily because ASR is exempt from reporting obligations on their holdings. Nevertheless, ASR was forthcoming in disclosing its links with three of the selected companies: Rio Tinto, Glencore, and Lundin Petroleum. In its email to Profundo, ASR stated:⁶⁷

“Hereby, the confirmation that a.s.r. has (minor) financial links with Rio Tinto, Glencore and Lundin Petroleum. The financial links between a.s.r. and the selected companies is of a much lesser amount than the ones reflected in the FIG Case study, what might be the reason for omission. However, with this statement we intend to give an overview of a.s.r. policy regarding human rights with specific focus on the extractive industry and the measures in place for an appropriate implementation, including external audit certifications.”

All investments managed by a.s.r are screened on the basis of the socially responsible investment (SRI) policy. This policy includes explicit criteria with regards to human rights, both to engage/exclude countries or companies where there are systematic and gross violations of human rights as to favour those countries or companies delivering an above average performance in this area. The ESG assessment of the companies is based on Vigeo Eiris research, an independent agency accredited by the Arista standards, which sets the rules for assessing evidence of transparency and verifiability of the processes involved in responsible investing research. Vigeo Eiris uses a relative, sector-based ranking for six domains of analysis: Human Rights, Human Resources, Environment, Market Ethics, Good Governance and Social Impact. This sector-based ranking safeguards the right reflection of the issues’ materiality per sector. For example, human rights practices will receive a higher weight in the assessment of the extractive industry than in the telecom sector.

When systematic and/or gross violations of human rights are identified, a.s.r. will assess the potential to enter in engagement dialogue with the company. At first, a.s.r. performed the engagement dialogues only on bi-lateral basis. This was the case of the engagement dialogue with ENI SpA within the extractive industry, due to environment and human rights violations in the Niger Delta area. The engagement took place during a bit longer than 3 years, after which a.s.r. concluded that, despite the transparency increase from the company via a dedicated website, issues continued arising and a.s.r. de-invested all its positions in 2016.

In order to expand and enhance its engagement activities, a.s.r. embarked on a partnership with Robeco’s Governance & Active Ownership department in 2016. Since then, a.s.r. has engaged via Robeco with other companies in the extractive industry regarding Human Rights breaches as Rio Tinto and Glencore. All the engagement dialogues are set up and carried according to best engagement practices, covering the elements included in the assessment methodology as provided in the attached documentation. Regarding Lundin Petroleum, the alleged abuses are dated back between 1997 and 2003 and the company has exited the country. The events are duly identified on the screening however according to the ESG providers consulted, including some which are not a.s.r. providers, Lundin Petroleum is currently not (anymore/yet) being flagged as subject for engagement or exclusion.

Nonetheless, a.s.r. welcomes the input provided about the cases in this study and has referred it to its current ESG providers for discussion, which are currently taking place.

Furthermore, as additional evidence on the proper implementation for all the cases we would like to add a double means of external audit certification: the Forum Ethibel Audit and the Robeco ISAE 3402 assurance report, which certifies that engagement themes are addressed correctly and completely. This last audit report is being issued by KPMG.

ASR provided information through the questionnaire and supported its response with evidence for engagements with Rio Tinto and Glencore. However, ASR’s engagement with Rio Tinto was focussed on human rights issues at its Oyu Tolgoi mine in Mongolia. Its engagement with Glencore focussed on human rights issues at the Tampakan project in The Philippines. Even though these sites are not selected for this case study for the two companies, the engagement examples provided by ASR are accepted as per the methodology and points are granted. Based on the evidences provided by ASR, the following paragraphs provide an analysis of its approach towards the specific cases that it has links with.

- **Issue and risk qualification**

ASR screens its investments based on its investment principles and UNGC. The investment principles include explicit criteria with regards to human rights, both to engage/exclude countries or companies where there are systematic and gross violations of human rights. The screening is done by Vigeo Eiris and any company in breach of the principles is investigated further and engaged with. ASR has links with Rio Tinto, Glencore, and Lundin Petroleum. ASR provided evidence that an investigation report was provided by Vigeo Eiris detailing the history of human rights cases at Rio Tinto, Glencore, and Lundin. The investigation reports shared for Rio Tinto, Glencore, and Lundin include a history and the severity of incidents (including the ones chosen for this study) and an analysis of how the company is involved.⁶⁸

- **Engagement with the investee company**

On the basis of the investigation reports, ASR took a decision to engage with Rio Tinto (between 2014 and 2016) and Glencore (between 2015 and 2017) in the past. Rio Tinto was engaged on human rights issues related to its operations in the Oyu Tolgoi mine in Mongolia and not on the specific incident selected for this case study i.e. Myanmar. Glencore was engaged on its human rights violations in The Philippines while this study focussed on human rights issues at Glencore sites in Colombia. ASR has set broad objectives for both the engagements, such as elimination of the human rights breaches, more transparency, stakeholder engagement, improvement of risk management systems, and improvement of the human rights policy. The timelines for the engagements were set to three years.⁶⁹ For Lundin, since the abuses were dated back to 20 years ago, the fact that the company exited Sudan, and the company's improved performance on human rights since then, ASR decided not to engage with the company.

- **Monitoring of the engagement progress**

ASR showed evidences that the engagements are monitored regularly with respect to the engagement objectives. Even though ASR did not engage with the two companies on the specific sites selected for this case study, the engagements were monitored regularly for the set objectives. At the end of the engagement period a decision is taken whether the engagement was successful or not. In case the engagements are not successful, ASR divests from that company. For both, Rio Tinto, and Glencore, according to ASR, the engagement objectives were met, and the engagements were concluded successfully in 2016 and 2017 respectively.⁷⁰

ASR also provided evidence of excluding Royal Dutch Shell from ASR investable universe due to environmental and human rights breaches mainly in the Niger Delta area (Nigeria). Further, ENI was also excluded after three years of unsuccessful engagement on environmental and human rights breaches.

- **Transparency**

ASR is transparent in terms of publishing its human rights policy and human rights due diligence process. ASR has developed SRI principles that govern its investment decisions. The principles include human rights as one of the criteria. ASR has adopted the PRI principles and UNGC principles that further elaborates its expectations in terms of human rights issues related to its investee companies. The screening and due diligence process is also elaborated publicly.⁷¹

ASR publishes the names of the companies and the topic of engagement with the companies on a bi-annually basis. It also provides the results of the engagement in terms of ongoing or concluded. However, ASR does not publish the details of the dialogues, objectives set and achieved with the companies under engagements.⁷²

ASR also promotes transparency with the investee companies. In the internal confidential reports provided to ASR by its service provider Robeco, it was verified that one of the objectives in all the human rights related engagements was to increase transparency on the breach from the investee company.⁷³

- **Conclusion**

ASR is linked with three companies namely Rio Tinto, Glencore, and Lundin Petroleum from the selected ten companies of this case study.

ASR screens its investments based on its responsible investment policy and UNGC principles. The screening is done by its external service provider. In case a company is in breach of its investment principles and/or the UNGC, ASR conducts an engagement. The engagement activities for ASR are conducted by Robeco. ASR provided evidence for engaging with two companies, Glencore, and Rio Tinto, but for different sites/incidents than the sites selected for this case study.⁷⁴

The engagement with Glencore was done for its activities in The Philippines and the goals targeted the specific incident with expectation of lifting human rights breaches by the company, strengthening its risk management processes, stakeholder engagement, and increasing transparency. These objectives were also laid for the Rio Tinto human rights incident in Mongolia. Overall, the objectives were concrete and adequate to address the specific human rights incidents. Stakeholder engagement, lifting of breach, and improving transparency at the sites are systematically a part of the engagement goals for all the engagements that are triggered by UNGC breaches.⁷⁵

Progress on the engagements is regularly reported by Robeco to ASR and includes progress made by the companies under engagement. This is verified for Glencore and Rio Tinto. A decision to conclude an engagement is based on the objectives achieved. A failure to achieve the objectives lead to divestment. ASR mentioned the engagement case of ENI which did not see sufficient progress during the engagement and subsequently it divested its holdings from ENI. However, according to ASR, the two engagements were concluded successfully with the two companies despite the fact that the human rights related abuses were still ongoing within the two companies at other sites.⁷⁶

ASR maintains transparency in terms of its human rights policy, due diligence process, companies under engagement, topics for engagement, and a final decision on the engagement. The insurer could further improve transparency by disclosing the details of the objectives set and achieved on each engagement.⁷⁷

The information shared by ASR has given a general impression on its risk management policies and strategies and its engagement policies and the engagement thereof. The information also included information on its engagement processes with two out of three investee companies of ASR that were selected for this case study.

ASR scored 8.1 out of 10 points in this case study, see [Table 20](#).

Table 20 Scoring table for ASR

Assessment indicators	Scores
Section A: Issue and risk qualification	
<ul style="list-style-type: none"> • Shows in records that an investigation has taken place. 	3
<ul style="list-style-type: none"> • The investigation looks into the severity of the (alleged) human rights abuses, including the scale, scope and irremediable character. 	3
<ul style="list-style-type: none"> • The investigation makes a qualification of how the investee company is involved in the abuse(s) – cause, contribute or directly linked. 	3

Assessment indicators	Scores
Total points	9
Score for section A (9/9*4)	4.0 out of 4
Section B: Engagement with the investee company	
<ul style="list-style-type: none"> An informed and reasoned decision whether to engage was taken. 	3
<ul style="list-style-type: none"> The insurance company formulated written goals to be achieved. 	2
<ul style="list-style-type: none"> The insurance company formulates a strategy for engagement. 	2
<ul style="list-style-type: none"> The insurance company has set timelines and goals for its engagement activities. 	2
<ul style="list-style-type: none"> It required investee company to follow a multi-stakeholder approach before finalising an action plan. 	2
<ul style="list-style-type: none"> The steps include measures that the company is taking to terminate the ongoing human rights abuse(s). 	2
<ul style="list-style-type: none"> The steps include measures that the company is taking to mitigate the negative impact of the human rights abuse(s) by providing an effective remedy. 	2
<ul style="list-style-type: none"> The steps include measures that the company is taking to prevent new human rights abuses. 	2
Total points	17
Score for section B (17/24*3)	2.1 out of 3
Section C: Monitoring of the engagement progress	
<ul style="list-style-type: none"> The insurance company shows that it reviewed the company's progress on the implementation of the concrete steps the company has committed itself to. 	2
<ul style="list-style-type: none"> Further decision for the engagement is based on the following premises: <ul style="list-style-type: none"> a. Continue – based on positive progress by the company. b. Conclude – based on achieving goals within set period. c. Exclusion – if there is no positive progress made by the company or it fails to increase leverage to influence. 	2
<ul style="list-style-type: none"> The insurance company tries additional forms of leverage to address the human rights abuse(s), two or more ways, as described in the indicator explanation. 	1
Total points	5
Score for section C (5/8*2)	1.3 out of 2
Section D: Transparency	
<ul style="list-style-type: none"> Publishing its human rights policy and the due-diligence process. 	2
<ul style="list-style-type: none"> Disclosing names of the companies it has formally engaged. 	3
<ul style="list-style-type: none"> Publishing formal (intermediate and final) decisions on concluding or continuing the engagement with specific companies. 	2
<ul style="list-style-type: none"> Publishing results of the (intermediate and final) engagement process with specific companies, including the investee companies that form part of this study. 	0
<ul style="list-style-type: none"> Requires investee company to publicly report on the circumstances of the human rights abuse(s). 	2
<ul style="list-style-type: none"> Requires investee company to publicly report on the concrete steps taken to address the human rights abuse(s). 	2
Total points	11

Assessment indicators	Scores
Score for section D (11/15*1)	0.7 out of 1
Total score	8.1 out of 10

4.6 NN Group

4.6.1 Profile

NN Group N.V. (NN Group) is an insurance and asset management group based in the Netherlands. NN Group is primarily active in Europe with additional activities in Japan and a number of other countries.⁷⁸ NN Group's services include: group and individual life insurance, property and casualty insurance, pension, and asset management services.⁷⁹ NN Group's asset manager NN Investment Partners (NNIP) managed approximately € 246 billion assets (including € 52 billion AuM of Delta Lloyd Asset Management) for institutions and individual investors globally.⁸⁰

4.6.2 Shareholdings

As of the most recent filing date, NN Group held shares with a total value of € 111 million in seven of the ten selected companies for this research. The group's largest holdings were in Royal Dutch Shell, amounting to € 182 million, Glencore, amounting to € 101 million, and Rio Tinto, amounting to € 85 million. [Table 21](#) provides an overview of NN Group's shareholdings identified within this research.

Table 21 Overview of NN Group's shareholdings in the selected companies

Group	Group country	Holding value (in € mln)	Filing date
Royal Dutch Shell	Netherlands	74	Jun 2016 – Sep 2017
Rio Tinto	United Kingdom	15	Mar 2017 - Sep 2017
CNPC	China	8	Sep 2017
Glencore	Switzerland	6	Sep 2017
Coal India	India	6	Sep 2017
Freeport-McMoRan	United States	1	Jun 2016
Goldcorp	Canada	1	Mar 2017 - Sep 2017
Total		111	

Source: Thomson Reuters Eikon, 'Shareholders report, multiple securities,' viewed in January 2018.

4.6.3 Bondholdings

As of the most recent filing date, NN Group held bonds with a total value of € 55 million in five of the ten selected companies for this research. The group's largest holdings were in Freeport-McMoRan with € 34 million, Glencore with € 10 million, and Royal Dutch Shell with € 6 million. [Table 22](#) provides an overview of NN Group's bondholdings identified within this research.

Table 22 Overview of NN Group's bondholdings in the selected companies

Group	Group country	Holding value (in € mln)	Filing date
Freeport-McMoRan	United States	34	Mar 2017
Glencore	Switzerland	10	Mar 2017
Royal Dutch Shell	Netherlands	6	Oct 2017

Vedanta Resources	United Kingdom	3	Mar 2017 - Aug 2017
CNPC	China	3	Mar 2017
Total		55	

Source: Thomson Reuters Eikon, 'EMAXX,' viewed in January 2018.

4.6.4 Assessment and score overview

NN Group has financial links with eight out of ten selected companies for this case study, namely:

1. China National Petroleum Corporation (CNPC);
2. Coal India;
3. Freeport-McMoRan;
4. Glencore;
5. Goldcorp;
6. Rio Tinto;
7. Royal Dutch Shell; and
8. Vedanta Resources.

Out of the above mentioned eight cases, NN Group provided evidence of engagement with Freeport-McMoRan and Royal Dutch Shell. To support its response and to provide further insight into its engagement process, NN Group provided six other engagement cases with extractive companies on the issue of human rights. As per the methodology, these six cases were evaluated in the same way as the selected cases of this study.

The following paragraphs highlight our analysis of NN Group's engagement practices with respect to extractive companies and more specifically human rights.

- **Issue and risk qualification**

The investments of NN Group are managed by its internal asset manager NN Investment Partners (NN IP) and are held for own account or on behalf of clients. NN Group has developed a responsible investment policy that is drawn on various standards and principles including UN Global Compact (UNGC), United Nations Environment Programme Finance Initiative (UNEP FI), Principles for Responsible Investment (PRI) and Principles for Sustainable Insurance (PSI).⁸¹ This policy is further supported by a guidance document on human rights that includes NN Group's expectations from companies on human rights. The document also includes a human rights risk matrix for key sectors that NN Group invests in.⁸²

NN Group implements its responsible investment policies into its investment decisions and on a regular basis monitors companies in the portfolio on compliance with these policies. At NN Group, an investigation into an alleged breach of its global responsible investment standards can be triggered in two ways. Firstly, while writing an investment case, the analyst also investigates various controversies associated with a company. Secondly, as a part of ongoing monitoring, analysts at NN Group get alerts from various service providers on major controversies. If deemed severe, the analysts further investigate the incident. In addition to analysts' research, NN Group's Corporate Citizenship team and Responsible Investment team also receive alerts from service providers on companies in its investment universe. When a controversy seems to breach any international standards or NN Group's own responsible investment standards, it is added to the existing cases of engagements or a new engagement is started.⁸³

NN Group provided evidence for an investigation into Rio Tinto. The investigation for Rio Tinto focussed on issues around the Grasberg mine (Grasberg mine is owned and operated by Freeport Indonesia (PTFI), a subsidiary of US-based Freeport-McMoRan Copper & Gold Inc.⁸⁴ Rio Tinto has a joint venture with FCX (for a 40 percent share of production above specific levels until 2021, and 40 per cent of all production after 2021).⁸⁵ Even though this case study for Rio Tinto focusses on the Monywa project in Myanmar, the Grasberg incident is accepted and scored as per the methodology. NN Group also evaluated Freeport-McMoRan for the Grasberg incident, which is one of the selected cases of this case study.⁸⁶

NN Group's investigation into Royal Dutch Shell noted issues around oil spills due to its operations in Nigeria and this controversy was considered to be critical. NN Group shared evidence of an ESG analysis for Glencore, but no further information on an investigation of the Colombia incident could be found in the evidences.⁸⁷

Besides the three cases that are the focus of this case study, NN Group also provided evidence of an investigation on six other extractives companies on human rights issues which were not selected for this case study. These companies (Barrick Gold, Chevron, Grupo Mexico, PEMEX, Southern Copper Corp and Zijin Mining Group) were investigated on environmental and social issues including human rights.⁸⁸

The investigations on Freeport-McMoRan, Rio Tinto, and Royal Dutch Shell included an analysis of human rights abuses on severity, scope and irremediable character and evaluated companies' involvement in the cases. This was also validated for the other five companies that the insurer provided evidence for.

However, it should be noted that NN Group could not provide any evidence for investigations with the other five companies selected for this case study that NN Group is linked with: CNPC, Coal India, Glencore, Goldcorp, and Vedanta Resources.

- **Engagement with the investee company**

NN Group strengthened its process for engagement by establishing a Controversy and Engagement council in 2017. This council advises the NN IP's ESG Committee in its decision-making process on whether companies are considered to be in violation of NN Group's norm-based criteria, as well as the key actions that should follow (engage or restrict/exclude investments in the company). The NN IP's ESG Committee, chaired by NN IP's Chief Investment Officer, decides on the proposed companies for engagement.⁸⁹

Out of eight companies selected for this case study that NN Group is linked with, NN Group provided evidence of a formal decision taken to engage with Freeport-McMoRan and Royal Dutch Shell. It did not provide any evidence for engagement with Rio Tinto. Further, it provided evidence of a decision taken to engage with six other extractive companies on human rights issues, namely Barrick Gold, Chevron, Grupo Mexico, Southern Copper Corp, PEMEX, and Zijin Mining Company. NN Group also joined the PRI collaborative engagement on human rights with the extractives companies Glencore, BHP, Vale, and ExxonMobil. However, NN Group did not provide any evidence of engagement with CNPC, Coal India, Glencore, Goldcorp, Rio Tinto, and Vedanta Resources, that it is linked with in this case study.⁹⁰

When the Controversy and Engagement council concludes that a company is in violation of NN Group's norm-based criteria, and advises the NN IP's ESG Committee positively on the feasibility of an engagement process, NN formulates the goals for engagement. NN Group formulated goals for two of the cases they are linked with: Freeport McMoran and Royal Dutch Shell. For example, NN Group set goals around the improvement of waste management practices and/or environmental pollution at their sites as well as transparency on steps taken to ensure that human rights are respected. It also expected one of the companies to work with communities to ensure proper support and remediation.

With Royal Dutch Shell, NN Group expected that the company should address the recommendations from an Environmental Assessment done by UNEP and communicate the progress made to the shareholders. NN Group also expected Royal Dutch Shell to work with communities to ensure proper support and remediation. It also expected the company to collaborate with other stakeholders to counter oil theft and related environmental and social issues.⁹¹

Besides the two cases mentioned above, NN Group provided evidence on goals set for engagement with Barrick Gold, Chevron, Grupo Mexico, Southern Copper Corporation, PEMEX, and Zijin Mining Group. The goals set with these companies included responsible management of tailings, the establishment of an adequate consultation process for communities, improving health and safety management, signing the Voluntary Principles on Security and Human Rights, remediation and transparency. For instance, NN Group expected one company to implement a systematic stakeholder management plan. NN Group expected two other companies to conduct continuous consultation with local communities to avoid any conflicts. Additionally, NN Group demanded one company to be more transparent on stakeholder dialogues.⁹²

Based on the details shared by the NN Group, it can be concluded that the goals set with the extractives companies on human rights were sufficiently ambitious and ensured remediation of the incident and avoidance of future incidents by strengthening policies and processes. The goals also included stakeholder engagement and improvement of transparency with few companies. It is noted that stakeholder engagement and transparency are not a part of goals in every engagement.

Engagements at NN Group typically continue for three years. For every company, the progress made on achieving the engagement targets is assessed and monitored during this period. In case the engagement term of three years is reached and the company is making positive progress, and there is further potential for ESG improvements, the engagement can last longer than three years.⁹³ However, for the relevant cases of this case study, timelines could not be verified.

- **Monitoring of the engagement progress**

NN Group provided evidence that the engagements are monitored on a regular basis to track progress with respect to the set goals. Based on the progress made, NN Group or its service provider decides on the next course of action, such as meeting with the company or sending a follow-up email on the next goals. Based on the progress made, NN Group decides whether the engagement will be continued or concluded successfully. In case of an unsuccessful engagement, NN Group can decide to divest from that company. Evidence of monitoring was provided for Freeport-McMoRan and Royal Dutch Shell. Besides these two cases, NN Group also provided evidence of monitoring six other cases of engagements on human rights within the extractives sector. The insurer also provided evidence to show that the Risk and Finance Committee took a decision to exclude one extractives company from its investment universe due to poor environmental and social performance, and unsuccessful dialogues.⁹⁴ It is important to note here is that the exclusion was for insurer's own assets. NN Group is still linked with that company through investments on behalf of clients. The company is one of the selected cases of this case study.

NN Group increases its leverage on the investee companies by voting in favour of shareholder resolutions related to human rights, seeking collaboration with other investors to increase leverage on the human rights abuse(s), and joining initiatives such as the UN Guiding Principles Reporting Framework Investor Statement (2017), the Investor Alliance on Human Rights (2018), and joins collaborative engagements carried out by PRI and Eumedion. However, no examples of collaboration was shown for the specific cases of this case study that NN Group is linked with.

- **Transparency**

NN Group has published its responsible investment policy that governs its investments for own account as well as investments on behalf of its clients. The ESG criteria include respecting human rights and referencing to UNGC and PRI principles. Further, NN Group has developed a guidance paper on Human Rights to better implement the responsible investment policy. The paper on human rights details international standards that NN Group adheres to, a human rights risk mapping of different sectors, and sub themes of human rights.⁹⁵

The NN Group Annual Report 2017 provides details such as the total number of company engagements and the topics addressed in the engagement. NN Group published its engagement dialogue with Barrick Gold, Zijin Mining, and Royal Dutch Shell. NN Group does not publish the names of all the companies that it engages with nor publishes intermediate or final decisions on specific engagements.⁹⁶

Transparency is also a part of the goals set for many companies at NN Group. In the evidences provided, It is clear that NN Group expects most of the companies that are involved in human rights violations to improve the level of transparency on the human rights incidents and action plans. For example, for one of the companies selected for the case study, NN Group evaluated the level of transparency in the sustainability report, specially on payments and logistical support to the military. It further encouraged the company to improve transparency of its grievance mechanism by reporting number of cases filed on various issues and number of cases resolved. Similarly, for another company selected for this case study, NN Group asked the company to provide transparency into the remediation actions taken to clean up the oil spill and publish a strategy for the implementation of UNEP's recommendations. Besides the two companies that are the focus of this case study, transparency was also a part of goals with two other extractive companies.⁹⁷

- **Conclusion**

NN Group has investments in eight out of ten selected companies: CNPC, Coal India, Freeport-McMoRan, Glencore, Goldcorp, Rio Tinto, Royal Dutch Shell, and Vedanta Resources. Out of these eight cases, NN Group has provided evidence for engagement with only two companies namely Freeport-McMoRan and Royal Dutch Shell.

NN Group's investments are managed by its internal asset manager NN IP, and are held for own account or on behalf of client. NN Group has developed a comprehensive responsible investment policy based on international standards⁹⁸ and is further supported by a guidance document on human rights.⁹⁹ NN Group confirmed that it monitors companies in its portfolio for compliance with these policies. NN Group provided evidence for an investigation into Rio Tinto, Freeport McMoRan, and Royal Dutch Shell. NN Group also shared evidence of an ESG analysis for Glencore, but no further information on an investigation of the Colombia incident could be found in the evidences.¹⁰⁰ Besides the three cases that are the focus of this case study, NN Group also provided evidence of an investigation on six other extractives companies on human rights issues which were not selected for this case study.¹⁰¹ The investigations on all the cases included an analysis of human rights abuses on severity, scope and irremediable character and evaluated companies' involvement in the cases. However, NN Group did not provide any evidence for investigations with the other five companies selected for this case study that NN Group is linked with: CNPC, Coal India, Glencore,

Goldcorp, and Vedanta Resources. Therefore, the screening process at NN Group seems to overlook severe cases of human rights breaches and could be improved further.

NN Group's engagement process seems to be systematic. NN Group provided evidence of a formal decision taken to engage with Freeport-McMoRan and Royal Dutch Shell. Further, it provided evidence of a decision taken to engage with six other extractive companies on human rights issues. NN Group also joined the PRI collaborative engagement on human rights with the extractives companies Glencore, BHP, Vale, and ExxonMobil. NN Group formulates comprehensive goals for engagement including lifting of human rights breaches, stakeholder engagement, improving community relations, and providing remediation to the affected communities. It is noted that stakeholder engagement and transparency are not always a part of the goals in every engagement on human rights. These two aspects are considered important while mitigating human rights abuses and therefore NN Group could include these objectives more systematically while setting goals for engagement on human rights.

Engagements at NN Group typically continue for three years. For every company, the progress made on achieving the engagement targets is assessed and monitored during this period. In case the engagement term of 3 years is reached and the company is making positive progress, and there is further potential for ESG improvements, the engagement can last longer than 3 years.

Monitoring of engagements is done on a regular basis to track progress with respect to the set goals. Based on the progress made, NN Group decides whether the engagement will be continued or concluded successfully. In case of an unsuccessful engagement, NN Group can decide to divest from that company. NN Group provided evidence of excluding one extractives company from its investment universe due to poor environmental and social performance, and unsuccessful dialogue with the companies. It is important to note here is that the exclusion was for insurer's own assets. NN Group is still linked with this company, one of the cases selected for this case study, through investments on behalf of clients. This shows that the exclusion policy is not aligned for all assets.

NN Group is transparent when it comes to its disclosure of human rights policy and due diligence process. NN Group's Annual Report 2017 provides details such as the total number of company engagements and the topics addressed in the engagement. NN Group published its engagement dialogue with Barrick Gold, Zijin Mining, and Royal Dutch Shell. NN Group does not publish the names of all the companies that it engages with nor the intermediate or final decisions on specific engagements. In future, NN Group could focus on improving its transparency further by publishing more details on the engagements.

In this case study NN Group scored 5.9 out of total 10 points.

In [Table 23](#), the scores for NN Group are presented, based on the answers provided by the insurer to the questionnaire regarding the implementation of its responsible investment policies.

Table 23 Scoring table for NN Group

Assessment indicators	Scores
Section A: Issue and risk qualification	
<ul style="list-style-type: none"> Shows in records that an investigation has taken place. 	2
<ul style="list-style-type: none"> The investigation looks into the severity of the (alleged) human rights abuses, including the scale, scope and irremediable character. 	2
<ul style="list-style-type: none"> The investigation makes a qualification of how the investee company is involved in the abuse(s) – cause, contribute or directly linked. 	2
Total points	6
Score for section A (6/9*4)	2.7 out of 4

Assessment indicators	Scores
Section B: Engagement with the investee company	
<ul style="list-style-type: none"> An informed and reasoned decision whether to engage was taken. 	2
<ul style="list-style-type: none"> The insurance company formulated written goals to be achieved. 	2
<ul style="list-style-type: none"> The insurance company formulates a strategy for engagement. 	2
<ul style="list-style-type: none"> The insurance company has set timelines and goals for its engagement activities. 	2
<ul style="list-style-type: none"> It required investee company to follow a multi-stakeholder approach before finalising an action plan. 	1
<ul style="list-style-type: none"> The steps include measures that the company is taking to terminate the ongoing human rights abuse(s). 	2
<ul style="list-style-type: none"> The steps include measures that the company is taking to mitigate the negative impact of the human rights abuse(s) by providing an effective remedy. 	2
<ul style="list-style-type: none"> The steps include measures that the company is taking to prevent new human rights abuses. 	2
Total points	15
Score for section B (15/24*3)	1.9 out of 3
Section C: Monitoring of the engagement progress	
<ul style="list-style-type: none"> The insurance company shows that it reviewed the company's progress on the implementation of the concrete steps the company has committed itself to. 	2
<ul style="list-style-type: none"> Further decision for the engagement is based on the following premises: <ol style="list-style-type: none"> Continue – based on positive progress by the company. Conclude – based on achieving goals within set period. Exclusion – if there is no positive progress made by the company or it fails to increase leverage to influence. 	1
<ul style="list-style-type: none"> The insurance company tries additional forms of leverage to address the human rights abuse(s), two or more ways, as described in the indicator explanation. 	1
Total points	4
Score for section C (4/8*1)	1.0 out of 2
Section D: Transparency	
<ul style="list-style-type: none"> Publishing its human rights policy and the due-diligence process. 	2
<ul style="list-style-type: none"> Disclosing names of the companies it has formally engaged. 	1
<ul style="list-style-type: none"> Publishing formal (intermediate and final) decisions on concluding or continuing the engagement with specific companies. 	0
<ul style="list-style-type: none"> Publishing results of the (intermediate and final) engagement process with specific companies, including the investee companies that form part of this study. 	0
<ul style="list-style-type: none"> Requires investee company to publicly report on the circumstances of the human rights abuse(s). 	1
<ul style="list-style-type: none"> Requires investee company to publicly report on the concrete steps taken to address the human rights abuse(s). 	1
Total points	5
Score for section D (5/15*1)	0.3 out of 1
Total score	5.9 out of 10

4.7 Vivat

4.7.1 Profile

Vivat N.V. (Vivat) is a large insurance and asset management group based in the Netherlands and part of Anbang Insurance Group.¹⁰² Vivat provides property and casualty insurance, individual life, pension, savings, and asset management services.¹⁰³ As of 31st December 2017, Vivat's internal asset manager Actiam had € 54 billion AuM including proprietary and clients' assets.¹⁰⁴

4.7.2 Shareholdings

As of the most recent filing date, Vivat held shares with a total value of € 148 million in seven of the ten selected companies for this research. The group's largest holdings were in Royal Dutch Shell with € 116 million, Lundin Petroleum with € 25 million and Glencore € 4 million. Table 24 provides an overview of Vivat's shareholdings identified within this research.

Table 24 Overview of Vivat's shareholdings in the selected companies

Group	Group country	Holding value (in € mln)	Filing date
Royal Dutch Shell	Netherlands	116	Apr 2017 – Nov 2017
Lundin Petroleum	Sweden	25	Nov 2017
Glencore	Switzerland	4	Oct 2017
Goldcorp	Canada	2*	Nov 2017
Rio Tinto ^{viii}	United Kingdom	1*	Nov 2017
Total		148	

* Actiam claims that the value of these holdings differs from Profundo's research. As Actiam was not forthcoming with evidence to demonstrate this difference, the figures from Thomson Reuters Eikon have remained in this analysis.

Source: Thomson Reuters Eikon, 'Shareholders report, multiple securities,' viewed in January 2018.

4.7.3 Bondholdings

As of the most recent filing date, Vivat held bonds of Royal Dutch Shell with a total value of € 11 million. Table 25 provides an overview of Vivat's bondholdings in Royal Dutch Shell, as of the most recent filing date.

Table 25 Overview of Vivat's holdings of Royal Dutch Shell's bonds

Group	Group country	Holding value (in € mln)	Filing date
Royal Dutch Shell	Netherlands	11	Jun 2017 - Oct 2017
Total		11	

Source: Thomson Reuters Eikon, 'EMAXX,' viewed in January 2018.

4.7.4 Assessment and score overview

Vivat has investments in five out of ten selected companies, namely:

- Glencore;
- Goldcorp;

^{viii} Vivat doesn't have direct investments in Rio Tinto but in Turquoise Hill Resources, which is a majority owned subsidiary of Rio Tinto.

- Lundin Petroleum;
- Rio Tinto (through investments in Turquoise Hill Resources); and
- Royal Dutch Shell.

It is important to note that Rio Tinto is under Vivat's exclusion list because the company has been in violation of Vivat's responsible investment standards on the environment and human rights.¹⁰⁵

Nevertheless, the financial research shows that Vivat is still linked to Rio Tinto through its investments in Rio Tinto's majority owned subsidiary Turquoise Hill Resources. Turquoise Hill Resources is involved in human rights violations in Myanmar and is one of the cases selected for this study (see section 3.7). Therefore, by investing in Turquoise Hill Resources, Vivat is indirectly investing in Rio Tinto.

Vivat shared a substantial amount of information with the researchers, which has provided detailed insight into how Vivat has dealt with the five cases of this study it is financially linked with.

Based on the answers provided by Vivat and the supporting evidences, the following paragraphs analyse Vivat's practices on the four assessment categories of this case study.

- **Issue and risk qualification**

Vivat's investments are managed by its internal asset manager Actiam. Actiam has developed Fundamental Investment Principles (FIPs) which guides all of its investments. The FIPs are a set of standards and criteria on human rights, fundamental labour rights, corruption, the environment, weapons, client and product integrity and animal welfare for Vivat's investments on own accounts as well as its investments on behalf of its clients.¹⁰⁶ These principles are further elaborated for the extractives sector.¹⁰⁷ To implement these investment principles the company integrates ESG standards into investment decision-making, and uses the following SRI instruments: engagement and voting, exclusion, and collaborating with other investors and organisations such as PRI.¹⁰⁸

The first step in the investment process is a quarterly screening of the investment portfolio. This screening is done for all existing investees, all used benchmarks, and any new investee company. The insurance company uses information on reported controversies from its research providers. Based on the inputs from the research providers, NGO reports, and internal research, every quarter Vivat drafts an explanation of the case to be presented to the selection committee. In case the controversy is considered substantial, the selection committee takes a decision whether to engage with or to exclude a company.¹⁰⁹

The evidences provided by Vivat show that an internal evaluation was done on all the five companies it has financial links with. Vivat's investigation on Royal Dutch Shell provided a history of company's breaches, including the focus of this case study: oil spills in Nigeria and the consequential environmental damages (see section 3.8). Another selection committee meeting report from Vivat confirmed the assessment of Lundin's human rights issues in Sudan (see section 3.6). The investigation report on Glencore evaluated company's fatalities and safety incidents at the Mopani Copper Mines in Zambia, Prodeco in Colombia, and Katanga in the Democratic Republic of Congo. Prodeco in Colombia is one of the selected cases for this study (see section 3.4). Vivat also provided evidence of an internal investigation for Goldcorp which evaluated company's issues at the Marlin Mine (Guatemala), see section 0. The investigation for Rio Tinto briefly mentioned controversies around its Myanmar operations (focus of this case study) besides other controversies. Rio Tinto investigations predominantly focussed on issues around Grasberg mine (Grasberg mine is owned and operated by Freeport Indonesia (PTFI), a subsidiary of US-based Freeport-McMoRan Copper & Gold Inc. (FCX). Rio Tinto has a joint venture with FCX for a 40 per cent share of production above specific levels until 2021, and 40 per cent of all production after 2021).¹¹⁰ Since the Grasberg mine is one of the selected incidents for this case study (see section 3.3), Vivat's investigation for Rio Tinto Grasberg mine is accepted for this case study. The insurer seems to have a systematic approach towards human rights screening in the extractives sector.

- **Engagement with the investee company**

As per Vivat, the selection committee takes a decision to engage with a company if the company systematically/repeatedly breaches the FIPs and shows lack of sufficient remedy. For the extractives sector, Vivat engages with companies on severe environmental issues, health and safety and human rights issues, and transparency and governance.

The company has provided evidence to show that a formal and informed decision was taken by the selection committee to engage with all the five companies selected for this case study that Vivat has financial links with. Vivat formulated specific goals to be achieved from every engagement with the five companies. However, its goals for engagement with Rio Tinto did not cover specific goals for the Myanmar incident but for Grasberg mine.¹¹¹

Vivat's active ownership policy has detailed an estimated time frame of its engagement activities. Typically, an engagement can continue for a period of two years; however, this timeline is flexible and can vary from case to case, depending on factors like positive progress made by the company.¹¹² From the five cases for Vivat in this case study, Vivat confirmed that a timeline was set for Glencore, Goldcorp, and Royal Dutch Shell. No timelines were defined for Lundin Petroleum and Rio Tinto.¹¹³

Vivat provided evidence, that in general, it expects investee companies to take steps to terminate the ongoing human rights abuses. With respect to specific human rights abuses by Royal Dutch Shell in Nigeria, Vivat set objectives expecting Shell to terminate the ongoing human rights abuses, to develop a comprehensive stakeholder engagement plan, to develop a policy on indigenous peoples and land rights, and to implement the framework of UN Special Representative John Ruggie aligned with the UN Guiding Principles on Business and Human Rights to prevent further human rights abuses. Vivat set expectations with Lundin to disclose the efforts taken to mitigate the social and environmental impacts of its operations in Sudan and to further its plan to cease operations in that region. With Goldcorp, Vivat's engagement focussed on its operations in Meso-American countries, which also include Guatemala (Marlin mine). The key objectives set were tailings and cyanine management on all sites as well as community engagement (Human Rights Impact Assessment) and paying taxes. For Rio Tinto, goals were set for environmental and social issues at various sites including Grasberg (focus of this case study for Freeport-McMoRan) and Myanmar (focus of this case study for Rio Tinto). Goals specific to Grasberg mine were getting information on mining in fragile area's and environmental production risks and into the implementation of policies that aim to respect the rights of workers and local communities. One of the engagement objective was to gain insight into Myanmar operations and cooperation/relationship with military junta (Monywa Mine). Vivat's engagement goals with Glencore did not specifically targeted the abuse in Colombia mentioned in section 3.4, however goals included implementation of a whistle blowing programs and strengthening of health and safety program at the company.¹¹⁴

In general, the evidences provided by Vivat show that it evaluates investee companies on their approach to prevent future occurrence of such abuses. It includes due diligence processes for decision making, transparency, and human rights considerations in selecting business partners. Avoidance of future human rights abuses was one of the engagement objectives for all the five cases.¹¹⁵ It can be inferred that the insurer has set ambitious goals for each of its engagement within the extractives sector.

- **Monitoring of the engagement progress**

Vivat shows through evidences that every engagement is monitored quarterly against the set objectives. The regular reviews help Vivat to take a decision on whether to continue the engagement due to satisfactory progress made by the company or to either end the engagement because the objectives are achieved. If the set objectives are not met, an engagement can also be concluded with a decision to exclude the company. Vivat's engagement with Royal Dutch Shell started in 2012 and is still ongoing based on positive progress by the company. The engagement is focused on various issues including the Nigeria (oil spill) case. Vivat is also engaging with Royal Dutch Shell through a collaborative engagement platform on human rights in the extractives sector.¹¹⁶

Vivat engaged with Lundin between 2008 and 2009 and based on the company's decision to exit Sudan, the engagement was closed. However, Vivat confirmed that it continuously monitored Lundin around the investigation by the International Prosecution Office (IPO) of the International Criminal Court on potential crimes against international humanitarian law in Sudan from 1997 to 2003. In March 2018, Vivat decided to start an engagement with Lundin again together with other investors.¹¹⁷

Vivat started the engagement with Glencore in 2012 which is continued through a collaborative engagement platform and through Vivat's service provider on various issues and not specifically for issues in the Columbia site, see section 3.4. Anyhow, for Vivat the decision to continue engagement is based on positive progress made by the company. Vivat started engaging Goldcorp on violations of indigenous peoples' rights in Guatemala from 2009 and concluded the engagement in 2014. Afterwards, it started engaging again with Goldcorp through a collaborative engagement platform.¹¹⁸

Vivat excluded Rio Tinto from its investment universe after it concluded an unsuccessful engagement primarily due to Grasberg mine environmental and human rights issues. Since Vivat's exclusion policy does not state its approach to deal with majority owned subsidiaries of excluded companies, Vivat has investments in Turquoise Hill Resources, a majority owned subsidiary of Rio Tinto, which is one of the cases selected for this case study for serious human rights abuses in Myanmar (see section 3.7). Hence, Vivat is still linked to Rio Tinto by owning shares in its subsidiary.

- **Transparency**

Vivat has published its Fundamental Investment Principles (FIP) which also include its expectations towards investee companies with respect to upholding human rights. Further, the *Investment Policy for the Natural Resources Industries* (2017) of its asset manager Actiam, guides Vivat on its investments in the extractives, forestry, and food and beverages sectors. The insurance company has also published its ESG screening process for the selection of its investment universe and regularly monitors its portfolio on human rights issues.¹¹⁹

Vivat publishes the names of the companies it engages with and the topics concerned every quarter, and selectively publishes its ongoing or concluded engagements on its website. However, not all the details of every engagement are provided.¹²⁰

On promoting transparency by the investee companies, it was verified that Vivat expects the investee company to report on human rights abuses and also publish the steps taken to address the issue. For example, for Royal Dutch Shell in Nigeria, Vivat expected that "the company should commit to the adoption of a resettlement policy, the regular reporting on the implementation of these policies, and align its risk management system to the framework of UN Special Representative John Ruggie".¹²¹

Vivat's expectations from Lundin for issues in Sudan included that the insurer "would like to learn more about what Lundin is doing to ensure that northern security forces are not operating on Block 5B. It also would like as much disclosure as possible on Lundin's and its partners' efforts to mitigate the social and environmental impacts of these operations."¹²²

Vivat's engagement with Glencore did not focus specifically on the Colombia operations; however, one of the objectives was to strengthen the whistleblowing program and to publicly disclose relevant information related to the process and outcomes.¹²³

For Goldcorp and Rio Tinto, transparency was not discussed as part of the engagement objectives.

- **Conclusion**

Vivat has investments in five out of ten selected companies: Glencore, Goldcorp, Lundin Petroleum, Rio Tinto (through investments in Turquoise Hill Resources), and Royal Dutch Shell.

On behalf of Vivat, its asset manager Actiam has developed investment principles for investments on own accounts as well as its investments on behalf of its clients.¹²⁴ These principles are further elaborated for the extractives sector.¹²⁵ To implement these investment principles the company integrates ESG standards into investment decision-making, and uses the following SRI instruments: engagement and voting, ESG scores, exclusion, and collaborating with other investors and organisations such as CDP and PRI.¹²⁶

Vivat conducts quarterly screening of the investment portfolio. This screening is done for all existing investees and any new investee company. Based on the inputs from the research providers, NGO reports, and internal research, every quarter Vivat drafts an explanation of the controversy cases to be presented to the selection committee. When a case is considered substantial, the selection committee takes a decision whether to engage with or to exclude a company.¹²⁷ The evidences provided by Vivat on all the five companies it has financial links with, show that an internal evaluation was done for all the five companies. All the investigations included a description of the selected cases for this study.¹²⁸ The screening process at Vivat seems comprehensive as it highlighted all the relevant cases for this study.

At Vivat's an engagement can go for a period of two years however this timeline is flexible depending on cases and progress by the company.¹²⁹ From the five cases for Vivat in this case study, Vivat confirmed that a timeline was set for Glencore, Goldcorp, and Royal Dutch Shell. No timelines were defined for Lundin Petroleum and Rio Tinto.¹³⁰ Vivat is flexible in terms of timelines and takes a decision on extension of the engagement based on the progress made by the company.

For every engagement, Vivat sets clear goals to be achieved with the company. Objectives may vary depending on the case and the remedy or actions as deemed fit by Vivat. Based on the evidences provided for this case study, the objectives set included terminating the ongoing human rights abuses, mitigating the negative impacts of the abuses, and encouraging company to take steps to prevent future occurrence of such incidents. However, stakeholder engagement and transparency are not always a part of the objectives and depends on a case to case basis.¹³¹ It can be inferred that the insurer has set ambitious goals for each of its engagement within the extractives sector.

Vivat monitors progress made by the company every quarter against the set objectives. The regular reviews help Vivat to take a decision on whether to continue engagement based on satisfactory progress by the company or to end engagement either based on its objectives achieved. An engagement can also be concluded, and the company is excluded if the set objectives are not met. Vivat's engagement with Royal Dutch Shell, Glencore, and Goldcorp is ongoing with its service provider and also via a collaborative engagement. It excluded Rio Tinto based on unresolved issues at Grasberg mine. For Lundin, the engagement was closed post the company's exit from Sudan however in Q1 2018, Vivat decided to start an engagement with Lundin again.¹³²

It is worth noting that Rio Tinto was put under exclusion post an unsuccessful engagement with the company. However, Vivat has continued investments in Rio Tinto's subsidiary Turquoise Hill Resources, the owner of the two copper mines that are part of the Monywa project (see section 3.7). There is no evidence that Vivat still has an active engagement with Turquoise Hill Resources and requests the company to compensate for the environmental damage and to compensate the victims of human rights violations.¹³³ Vivat's exclusion policy could be elaborated further to include its approach on how it deals with subsidiaries of excluded companies.

Vivat is transparent about its investment policies and has also published its ESG screening process for its universe construction.¹³⁴ It publishes the names of the companies it engages with and topics concerned every quarter and selectively publishes its ongoing or concluded engagements on its website. However, not all the details of every engagement are provided.¹³⁵ Vivat sets objectives for improving transparency by the investee companies on a case to case basis. This expectation is not always highlighted in the engagement objectives of the insurer. To further promote transparency, Vivat can include an objective for transparency on all the human rights cases.¹³⁶

Vivat scored 9.2 out of 10 points in this study. In Table 26, the scores for Vivat are presented, based on the answers and evidences provided by Vivat to the questionnaire and Profundo's assessment.

Table 26 Scoring table for Vivat

Assessment indicators	Scores
Section A: Issue and risk qualification	
<ul style="list-style-type: none"> Shows in records that an investigation has taken place. 	3
<ul style="list-style-type: none"> The investigation looks into the severity of the (alleged) human rights abuses, including the scale, scope and irremediable character. 	3
<ul style="list-style-type: none"> The investigation makes a qualification of how the investee company is involved in the abuse(s) – cause, contribute or directly linked. 	3
Total points	9
Score for section A (9/9*4)	4.0 out of 4
Section B: Engagement with the investee company	
<ul style="list-style-type: none"> An informed and reasoned decision whether to engage was taken. 	3
<ul style="list-style-type: none"> The insurance company formulated written goals to be achieved. 	3
<ul style="list-style-type: none"> The insurance company formulates a strategy for engagement. 	3
<ul style="list-style-type: none"> The insurance company has set timelines and goals for its engagement activities. 	2
<ul style="list-style-type: none"> It required investee company to follow a multi-stakeholder approach before finalising an action plan. 	1
<ul style="list-style-type: none"> The steps include measures that the company is taking to terminate the ongoing human rights abuse(s). 	3
<ul style="list-style-type: none"> The steps include measures that the company is taking to mitigate the negative impact of the human rights abuse(s) by providing an effective remedy. 	3
<ul style="list-style-type: none"> The steps include measures that the company is taking to prevent new human rights abuses. 	3
Total points	21
Score for section B (21/24*3)	2.6 out of 3
Section C: Monitoring of the engagement progress	

Assessment indicators	Scores
<ul style="list-style-type: none"> The insurance company shows that it reviewed the company's progress on the implementation of the concrete steps the company has committed itself to. 	3
<ul style="list-style-type: none"> Further decision for the engagement is based on the following premises: <ul style="list-style-type: none"> a. Continue – based on positive progress by the company. b. Conclude – based on achieving goals within set period. c. Exclusion – if there is no positive progress made by the company or it fails to increase leverage to influence. 	3
<ul style="list-style-type: none"> The insurance company tries additional forms of leverage to address the human rights abuse(s), two or more ways, as described in the indicator explanation. 	2
Total points	8
Score for section C (8/8*2)	2.0 out of 2
Section D: Transparency	
<ul style="list-style-type: none"> Publishing its human rights policy and the due-diligence process. 	2
<ul style="list-style-type: none"> Disclosing names of the companies it has formally engaged. 	3
<ul style="list-style-type: none"> Publishing formal (intermediate and final) decisions on concluding or continuing the engagement with specific companies. 	1
<ul style="list-style-type: none"> Publishing results of the (intermediate and final) engagement process with specific companies, including the investee companies that form part of this study. 	1
<ul style="list-style-type: none"> Requires investee company to publicly report on the circumstances of the human rights abuse(s). 	1
<ul style="list-style-type: none"> Requires investee company to publicly report on the concrete steps taken to address the human rights abuse(s). 	1
Total points	9
Score for section D (9/15*1)	0.6 out of 1
Total score	9.2 out of 10

Chapter 5 Overview of results and conclusions

This chapter presents an analysis of each evaluation section of this case study. The objective of the research conducted in this case study, is to determine whether the seven largest insurance groups active in the Netherlands are implementing their responsible investment and human rights policies with regard to investee companies in the extractives sector, a sector which entails many human rights risks. In more detail, the research evaluates if the screening and engagement processes of the insurance groups are adequate to identify and remediate severe human rights abuses by the investee companies in the extractives sector, selected for this case study.

The insurance groups participated in this case study in varying degrees. While Achmea and Vivat were the most forthcoming in filling up and providing evidence to all the cases they were linked with. ASR also willingly provided evidence to provide visibility into their engagement practices. NN Group provided sufficient information and evidences to evaluate their engagement practices but not on all cases/ companies the insurer invests in. Aegon and APG offered Profundo a visit to their offices to provide visibility into their engagement practices as they could not share much information through email. Allianz was the only insurer that did not provide any evidence for this case study and hence did not score well.

The following sections discuss and compare the insurance groups on their approach towards issue and risk qualification, engagement, monitoring, and transparency. The last section 5.6 presents the overall total score of each insurance group and summarises our findings.

5.1 Cases presented

For this case study, the insurance groups were expected to provide evidence of investigation, engagement, and monitoring of engagement for all the cases they have financial links with. The insurers could also provide evidence of other engagements on human rights with companies in the extractives sector. These cases were added to their financial links, thus increasing the number of incidents/companies they are linked with and scored in the same way as the selected cases for this case study. Additionally, some insurers also provided evidence of engagement with the selected companies they had financial links with but on another case/incident (and not on the selected incident of this case study). Nevertheless, these cases were considered the same as the case selected for the case study and did not increase the financial links of the insurers. Table 27 provides an overview of number of cases the insurance groups are linked with as identified through the financial research, evidences provided by the insurance groups including other cases, and the total number of financial links per insurance group that was used for score calculations due to evidences submitted for other cases.

Table 27 Details of evidences provided by the insurers

Name of insurer	Cases linked with	Evidence provided for	Total linked cases for scoring
Achmea	1	1 selected case + 1 additional case	2
Aegon	9	2 selected cases + 1 additional case	10
Allianz	10	No evidence	10
APG	6	4 selected cases + 2 additional cases	8
ASR	3	2 selected companies but different case	3
NN	8	2 selected cases + 6 additional cases	14
Vivat	5	5 selected cases	5

5.2 Issue and risk qualification

The insurance groups that responded to the survey questions and were able to illustrate if they have investigated the cases they are linked with, scored points for this criterion.

Mostly, the insurance groups rely on their service providers for their portfolio screening and monitoring on human rights controversies. The frequency of screening the portfolio varies among insurers from screening on a quarterly basis e.g. Vivat, to a semi-annual basis e.g. APG. The screening and monitoring is based on insurance groups' own responsible investment policies and/or international standards such as the UN Global Compact. Only Allianz screens its portfolio on the basis of a minimum ESG score (10% score) and not specifically on the basis of its responsible investment policy or human rights controversies. Since ESG scores are based on many indicators and not only on human rights indicators, companies that have severe human rights violations may not be identified by Allianz, due to good scores on other indicators. However, during the review round of this report, Allianz showed willingness to follow the recommendations of this report and refine its engagement processes.

The controversy or non-compliance reports provided by the service providers include a history of all the controversies and an evaluation of scale, scope, and irremediable character for every company. The reports also include an analysis of how the company is involved in the breach. Different service providers rate controversies differently and hence a case can be rated more severe by one service provider and less by the other. Another finding of this research was that the service providers upgrade their ratings for a company/case even if the related incidents are not fully remediated. For example, Lundin Petroleum cleared the red flag at many service providers after the company exited South Sudan, however the case is still ongoing, and Lundin is still responsible to ensure that proper remediation is provided. Therefore, service providers play an important role at this stage, as they provide input for the insurance groups to consider a company worth engaging.

The internal responsible investment teams of many of the insurance groups validate the controversy or non-compliance report provided by the service providers. It is then up to the insurance groups to decide if a case needs further evaluation and an engagement based on their own thresholds. Other aspects considered by the insurance companies besides the severity of the incident could be their exposure to the company (portfolio holding). Therefore, a case marked severe may be investigated by one insurer and not by another insurer.

Not all the cases highlighted in this case study were investigated by the insurance groups, even though they had financial links with those companies. This could be due to the fact that the insurance groups set different thresholds for a controversy to be considered as severe and deserving an investigation. Out of seven insurance groups, only Achmea and Vivat provided evidence of investigation for all the cases they were linked with.

Achmea, ASR, and Vivat scored full points for this section as they provided evidence of investigation into each of the cases they are linked to. NN Group scored 2.7 points, as it provided evidence of investigation for more than half of the cases they have financial links with. Aegon and APG scored low due to providing limited evidence for this study. Allianz did not score any point in the absence of evidence.

Table 28 shows the score on Issue and risk qualification for each insurer.

Table 28 Score for Issue and risk qualification

Assessment category	Maximum score	Achmea	Aegon	Allianz	APG	ASR	NN	Vivat
Issue and risk qualification	4.0	4.0	1.3	0.0	0.9	4.0	2.7	4.0

5.3 Engagement with the investee company

This section evaluates if the insurance groups took a formal decision to engage with the companies they have financial links with. It also evaluates if the engagements include time-bound targets to be achieved during the engagement trajectory. This criterion further assesses if the goals include the investee company to conduct a stakeholder engagement before finalizing a remediation plan for the incident, lifting of the breach, providing remediation for the affected communities, and further strengthening human rights processes to prevent future abuses.

All the insurance groups that provided evidence for a decision on engagement, setting up of engagement goals, and timelines for engagement with the companies they had financial links with, scored points for this criterion.

Only Achmea and Vivat took a decision to engage with all the companies they had financial links with. ASR took a decision to engage with two out of three companies it was linked with. APG also engaged with four out of six companies it has financial links with. Other insurers like Aegon and NN Group did not engage with more than half of the companies they had financial links with in this case study. Allianz did not provide any evidence of engagement with the selected companies of this case study. [Table 29](#) shows the financial links of each insurance group with the selected companies of this case study and if they conducted an engagement with these companies. This table does not include other cases presented by the insurance groups.

Table 29 Overview of financial links and engagements

Name of company	Evidence	Achmea	Aegon	Allianz	APG	ASR	NN	Vivat
Royal Dutch Shell	Investment	-	Yes	Yes	Yes	-	Yes	Yes
	Engagement	-	No	No	Yes	-	Yes	Yes
Rio Tinto	Investment	-	Yes	Yes	Yes	Yes	Yes	Yes
	Engagement	-	No	No	-	Yes	No	Yes
Freeport-McMoRan	Investment	Yes	Yes	Yes	-	-	Yes	-
	Engagement	Yes	Yes	No	-	-	Yes	-
Glencore	Investment	-	Yes	Yes	Yes	Yes	Yes	Yes
	Engagement	-	Yes	No	Yes	Yes	No	Yes
Goldcorp	Investment	-	Yes	Yes	Yes	-	Yes	Yes
	Engagement	-	No	No	Yes	-	No	Yes
CNPC	Investment	-	Yes	Yes	-	-	Yes	-
	Engagement	-	No	No	-	-	No	-
Trafigura	Investment	-	Yes	Yes	-	-	-	-
	Engagement	-	No	No	-	-	-	-
Lundin Petroleum	Investment	-	Yes	Yes	Yes	Yes	-	Yes
	Engagement	-	No	No	-	No	-	Yes
Vedanta Resources	Investment	-	Yes	Yes	-	-	Yes	-
	Engagement	-	No	No	-	-	No	-

Name of company	Evidence	Achmea	Aegon	Allianz	APG	ASR	NN	Vivat
Coal India	Investment	-	-	Yes	Yes	-	Yes	-
	Engagement	-	-	No	Yes	-	No	-

While taking a decision to engage, mostly insurers evaluate the controversy with respect to their own policy, UNGC breaches, and portfolio exposure. Therefore, the reason behind not engaging with these companies could be that the insurers did not consider the engagements viable based on their limited exposure or limited leverage.

The goals set by insurers on each engagement case varied considerably. Since most of the engagements with the extractive companies are triggered due to a controversy, the goals focus on a specific incident and remediation and do not include other incidents of human rights violations within the operations of that company. For example, ASR engaged with Rio Tinto and Glencore on human rights issues at the Oyu Tolgoi mine in Mongolia and at Tampakan project in The Philippines, respectively. The engagement objectives that were set with the two companies on these incidents included an expectation to terminate the ongoing human rights abuses. However, the engagement did not equally focus on issues in Myanmar and Columbia for the two companies, respectively.

Some of the insurers also engage with extractive companies on human rights under a thematic engagement approach which could be to manage risks proactively. The goals set under these engagement programs again include general goals such as human rights policy and process improvements at the investee companies. Site specific stakeholder engagement, finalizing an action plan on remediation and actual remediation of particular incidents often gets neglected because of the generic objectives.

Most of the insurers formulated comprehensive goals for each engagement that included stakeholder engagement by the company on the incident, lifting of the abuse, providing remediation to the affected community and future improvements in human rights processes. However, the goals may vary on a case to case basis. Not all of the goals mentioned above are systematically a part of all the engagements on human rights. Only Achmea and ASR systematically include goals such as lifting the breach, stakeholder engagement, and improving transparency within the investee company for all the human rights engagements.

Also, many insurers joined collaborative investor engagements such as the PRI. The goals set within the collaborative engagements may or may not focus on a specific incident and mostly include general human rights process improvements. Participants in such collaboration may include their own goals on specific sites remediation during the engagement, however, not all participants are actively involved in such collaborations.

While Achmea (score 2.9) and Vivat (score 2.6) got the highest scores in this section for providing details on goals set with respect to each company they had financial links with, ASR scored 2.1 for providing sufficient details on goals set for two out of three engagements. NN Group scored 1.9 for setting engagement goals with more than half of the companies they had financial links within this case study. Aegon (score 1.0), Allianz (score 0), and APG (score 0.3) scored low due to providing limited/no evidence of the goals set.

Table 30 gives an overview of the points scored by each insurer on section Engagement with the investee company.

Table 30 Points for Engagement with the investee company

Assessment category	Maximum score	Achmea	Aegon	Allianz	APG	ASR	NN	Vivat
Engagement with the investee company	3.0	2.9	1.0	0.0	0.3	2.1	1.9	2.6

5.4 Monitoring of the engagement progress

This section evaluates if the insurance groups monitored the engagement progress with respect to the selected cases of this case study and took a decision on continuing or concluding an engagement based on the progress made by the investee companies. In case the engagement objectives are not met by the investee company, this section also evaluates if the insurer decides to either exclude the company or tries other forms of leverage to achieve objectives or change behaviour.

Regular monitoring of engagement cases is done by Achmea and Vivat. Evidence of monitoring of cases was also provided by other insurers such as ASR, APG, Aegon, and NN, but not for all the cases they are linked to. In general, monitoring process is systematic and regular and the decision on concluding or continuing an engagement is also based on the progress made by a company by all the insurers. However, it is clear from the cases that the insurance group's evaluation of the outcomes achieved doesn't seem to be sufficiently critical. Further, almost all the insurers set a threshold for achieving minimum goals for an engagement to be classified as successful. Therefore, almost all of the engagements on the selected cases of this case study were closed successfully after the company met certain goals, even though the sites are not fully remediated.

Some insurers did provide examples of failed engagements with the selected companies of this case study as well as with other companies in the extractives sector because of involvement in human rights issues. In such cases, a decision to exclude the company from the investment universe was taken. For example, ASR excluded Royal Dutch Shell due to environmental and human rights breaches mainly in the Niger Delta area (Nigeria) and ENI SpA after three years of unsuccessful engagement on human rights. Similarly, APG excluded China National Petroleum Corporation (CNPC) due to human rights violations and failed engagements. However, sometimes the exclusion policy does not define the approach to deal with the subsidiaries of the excluded companies. Further, at times, exclusion doesn't apply on all assets e.g. investments on own account and on behalf of clients. These gaps can lead to investments by the insurance companies in the excluded companies by investing in their subsidiaries or investments in same company through client's assets. For example, Vivat has excluded Rio Tinto, but is still linked to the company by investing in its majority owned subsidiary (Turquoise Hill Resources). Similarly, NN Group excluded an extractive company from its investment universe however NN Group is still linked with this company by holding shares on behalf of its clients. This company is one of the selected cases of this case study.

On trying other forms of leverage, only Vivat provided sufficient cases of trying other means to increase its leverage such as joining collaborative engagement while simultaneously engaging with the companies itself. Some insurers also consider voting on shareholders proposals, collaborating with regulators, policy makers and other stakeholders and participating in various initiatives to promote human rights.

Vivat (score 2.0) scored full points for this section followed by Achmea (score 1.7), as both the insurers provided evidence of monitoring of their engagement progress with each company they are linked with. ASR also provided evidence of monitoring of engagements at two out of three cases. Other insurers scored low due to limited/no evidence provided for the engagement cases that they produced.

Table 31 shows points per insurance group for this section.

Table 31 Points for Monitoring progress

Assessment category	Maximum score	Achmea	Aegon	Allianz	APG	ASR	NN	Vivat
Monitoring of the engagement progress	2.0	1.7	0.5	0.0	0.8	1.3	1.0	2.0

5.5 Transparency

This section evaluates how transparent insurance groups are when it comes to publishing their human rights policy, due diligence processes, and details about the engagements. It also evaluates how the insurance groups promote transparency at their investee companies while engaging on human rights issues.

Achmea is the most transparent insurance company amongst all the seven insurers. The insurer publishes its human rights policy and due diligence processes. It provides names of all the companies under engagement, topics discussed, goals set and also progress with respect to every engagement. Most of the other insurers have published a human rights policy and also their approach for screening and monitoring.

Disclosure on engagements varies considerably between the insurers. Disclosing names of the companies under engagement and topics of engagement is done by APG and ASR. Other insurers such as NN Group and Aegon only publish the number of company engagements and the topics of engagements. Vivat publishes names of the companies under engagement and the topics discussed. Some insurers selectively publish details on ongoing or concluded engagements.

Including a goal to improve transparency by the investee companies on human rights breaches is systematically a part of goals set by Achmea and ASR. Other insurers, such as NN, Vivat, APG, and Aegon, include transparency as a goal on a case to case basis.

Table 32 shows points that each insurer scored under Transparency.

Table 32 Points for Transparency

Assessment category	Maximum score	Achmea	Aegon	Allianz	APG	ASR	NN	Vivat
Transparency	1.0	1.0	0.3	0.1	0.4	0.7	0.3	0.6

5.6 Conclusion

Table 33 provides an overview of all the scores granted for each specific section, including the total score per insurance group. The maximum of total points possible per section is shown in the first column.

Table 33 Scores per insurance group

Assessment category	Maximum score	Achmea	Aegon	Allianz	APG	ASR	NN	Vivat
Issue and risk qualification	4.0	4.0	1.3	0.0	0.9	4.0	2.7	4.0
Engagement with investee companies	3.0	2.9	1.0	0.0	0.3	2.1	1.9	2.6
Monitoring of the engagement progress	2.0	1.7	0.5	0.0	0.8	1.3	1.0	2.0
Transparency	1.0	1.0	0.3	0.1	0.4	0.7	0.3	0.6
Total	10.0	9.6	3.1	0.1	2.4	8.1	5.9	9.2

Legend: 1 = very poor; 2 = poor; 3 = very insufficient; 4 = insufficient; 5 = doubtful; 6 = sufficient; 7 = ample; 8 = good; 9 = very good; 10 = excellent

From the scores presented in [Table 33](#), the following points stand out:

- Achmea, ASR, and Vivat scored full points (4.0 points) for section A: Issue and risk qualification;
- Achmea (2.9 points) scored highest for section B: Engagement with the investee company, followed by Vivat (2.6 points);
- Vivat (2.0 points) scored highest for section C: Monitoring of engagement, followed closely by Achmea (1.7 points);
- Achmea scored full points (1.0 point) for section D: Transparency;
- Achmea scored highest (9.6 points) in the total score for this case study followed by Vivat (9.2 points), and ASR (8.1 points).

The scores reflect the fact that the two insurance groups Achmea and Vivat provided sufficient evidence for engagements with all the selected companies they had financial links with and hence scored well. ASR provided sufficient evidence for two out of three cases it had financial links with. NN Group provided sufficient evidence on the engagements they had but not for all the cases they have financial links with, and hence got a lower score. Aegon and APG scored low due to providing limited access to the evidences. Allianz did not score any point due to lack of any evidence.

Chapter 6 Fair Insurance Guide - Recommendations

In this chapter, recommendations are formulated for insurance groups that invest in extractives sector. The extractives sector has many environmental and human rights risks. Based on the analysis of the insights provided by the insurance groups into their screening, monitoring, and engagement practices, the following recommendations are formulated by the FIG for insurance groups that invest in the extractives sector.

1. Screening portfolio

Contrary to a practice found by this study that insurers in some cases screen their portfolio on the basis of a (too general) Environmental, Social, and Governance score (ESG score), insurers must screen their portfolio specifically on human rights violations as a good score on other E and G aspects does not compensate for human rights poor performance.

2. Setting thresholds

If an insurer sets a bar too high (engagement with only most severe cases) for a company, most of the cases would be rated below this threshold and would not be further investigated by the insurance groups. Therefore, insurance groups should set low thresholds so that companies violating human rights do not get unnoticed. The insurer, as investor, is in the end responsible for its investments and related controversies.

3. Feedback to service providers

Service providers' analysis of the case is very crucial. Insurers could ask their service providers to make their case evaluation criteria stronger and focus on remediation before granting a green flag to any company that is in breach of human rights principles.

4. Feasibility for engagement

Since the extractives sector is a high risk sector with regard to human rights abuses, financial viability of the engagements should not be the deciding factor for starting an engagement. Insurance companies must engage with the extractive companies when the companies violate responsible investment principles and/or breach human rights, irrespective of the holding size. The key concept leading such decisions should be 'salience', in line with the UN Guiding Principles.

5. Engaging on case basis - from the perspective of affected communities

It is important that the human rights engagements must be designed based on cases and not on companies. This will ensure that no incident is left unnoticed and remediation is ensured. It is helpful to look at cases from the perspective of the affected communities: they are often not helped very much by general improvements at the level of the company: they need the company to solve the problems it caused or contributed to on the ground and/or to provide adequate remedy.

6. Include remedy in case-specific goals

Adequate remedy is of high importance for human rights engagements with extractive companies. Therefore, goals such as stakeholder engagement by the investee company before finalizing an action plan, lifting of breach, remediation for the affected community, and transparency on the case and actions taken by the company must be the goals for all the human rights engagements, systematically. Of course, goals to bring improvement in the human rights processes within the companies are equally important to avoid future occurrence of such incidents.

7. Critical evaluation and validation of goals achieved

Insurance companies must critically evaluate the progress made by the companies under engagement, especially for human rights incidents. Often, the goals are considered to be met if there is a positive response by the company or if the company has just started to move in the right direction. However, the companies' actions must be carefully evaluated before qualifying the goals as achieved. Insurance companies must also validate the progress through local NGO reports and representatives.

8. Raising engagement success threshold

Mere positive progress by the companies is not sufficient until they remediate the affected communities. By closing engagement based on a success threshold that is too low, investors risk moving from being 'directly linked to' towards 'contributing to' the abuses, by facilitating an environment for the negative impact to continue. It is recommended that insurance companies raise the engagement success threshold.

9. Extending scope of exclusion

If an insurance company has decided to exclude an extractive company from its investment universe due to severe human rights controversies or an unsuccessful engagement trajectory, the insurance group must extend the scope of exclusion to include at least the majority owned subsidiaries. If this is not done, the insurer will still be investing in the company through its subsidiary and be acting against its own exclusion policy. Further, the scope of exclusion should be applied to investments on own account as well as to the investments on behalf of clients to meet minimum standards of credibility and to be in line with a consistent, principle-based human rights policy.

10. Transparency must be improved

Transparency increases accountability of both the parties towards their stakeholders and society. Therefore, it is very important that the insurers and the investee companies are transparent about the human rights cases and their reaction to it. The insurers could improve transparency by publishing the details of each engagement (see 2.5, section D) with the companies, goals formulated, and achieved. They can further promote transparency within the investee companies by requiring the companies to publish a human rights policy, how it is implemented, the state of affairs at the sites, actions taken by the company, and progress made thus far on remediation, in case of reported human rights breaches.

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About this report

This report has been commissioned by the Fair Insurance Guide (Eerlijke Verzekeringswijzer) which is a coalition of the following organisations: Amnesty International, FNV, Milieudefensie, Oxfam Novib, PAX, and World Animal Protection. It lays out the methodology for a case study planned in the first half of 2018. This case study focuses on the response of seven insurance companies (in their role as investor) to severe human rights abuses in the extractives sector. The aim of the Fair Insurance Guide is to encourage corporate social responsibility by insurance groups.

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Authorship

The methodology of this case study was written by Jeanet van der Woude (Amnesty International Netherlands) and Cor Oudes (PAX). Kanchan Mishra (Profundo) has developed the scoring and has carried out the research, analysis, and reporting of the case study. Anya Marcelis (Profundo) has carried out the financial research.

Acknowledgements

The authors would like to thank Margreet Simons for her advice and review with regard to this research.

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Eerlijke Verzekeringswijzer

The Fair Insurance Guide is a coalition of organisations that consists of: Amnesty International, FNV, Milieudefensie, Oxfam Novib, PAX and World Animal Protection.

