Towards a just energy transition

Labour rights risks in the Latin American mining sector

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6 October 2022

About this report

This report has been commissioned by CNV Internationaal.

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Abbreviations

CSR	Corporate Social Responsibility
EITI	Extractive Industries Transparency Initiative
EU	European Union
EV	Electric vehicle
GDP	Gross Domestic Product
HRDD	Human Rights Due Diligence
ICMM	International Council on Mining & Metals
IRMA	Initiative for Responsible Mining Assurance
PV	Photovoltaic
RBC	Responsible Business Conduct
SMEs	Small and Medium-sized Enterprises
UNGPs	United Nations Guiding Principles on Business and Human Rights
USGS	United States Geological Survey
VPI	Voluntary Principles on Security and Human Rights

Background

CNV Internationaal aims at improving labour rights of low-wage workers in private sector supply chains, both in the formal and informal sector: to organise and bargain collectively, to secure decent wages, to ensure safe and respectful working conditions, to achieve gender equity and freedom from discrimination at the workplace.

Over the years, the emphasis on labour rights in supply chains has increased. In this context, CNV Internationaal has made strides in identifying and understanding the hidden risks in mining supply chains. This relates mainly to its labour observatory for a just transition as well as a comprehensive study of labour outsourcing in the Latin American mining sector.

Nonetheless, more profound insights into the sector are needed, including a more global view of the mineral supply chain. For this purpose, it is necessary to identify the main actors and supply chain and financial relations between Latin America and Europe. Moreover, an analysis is needed on how these actors' due diligence policies and practices impact labour rights and how market trends could potentially exacerbate these impacts in the future, especially in the energy transition context.

1

Introduction

Striving to become "the first climate-neutral continent", Europe is investing significantly into climate action and greening the post-pandemic recovery.[1] In this context, the decarbonisation of the energy sector is touted as a silver bullet. Yet, little attention is given to the global impacts of achieving this transition, especially in mining raw materials needed for the generation, transport, and storage of renewable energy. In the race to be the first climate-neutral continent, Europe could be compromising the ability of the countries where minerals are sourced (chiefly, Central and South America, Africa, and Asia) to champion their own climate goals. Most importantly, it could also exacerbate mining's impacts on human and labour rights and the environment.

Latin America is one of the Europe's most important trade partners for minerals. In 2019, Germany and Spain alone imported US$ 3,371 and US$ 2,145 billion in minerals from Latin America, respectively.[2] These figures are likely to be an underestimation as they do not account for the processed minerals used for automotive and electrical appliances manufacturing. At the same time, lithium mining in Bolivia is aggravating water conflicts, while copper mines in Peru threaten biodiversity, and in Colombia, mining companies profit from coal mining in lands where native communities are routinely subjected to the worst forms of violence.[3]

Against this backdrop, a comprehensive analysis of the relationships between Europe's energy transition and mining in Latin America is needed. This is all the more pressing in the current context of the energy crisis in Europe, which resulted from Europe's dependency on Russian gas and Russia's gas embargo. This situation is not only increasing Europe's demand for transition minerals, but it is also increasing its imports of coal to fuel the continent's power plants.[4] Phasing out coal is set to cause major impacts on coal miners' livelihoods,[5] but increasing its production can also exacerbate labour rights breaches such as those associated with labour outsourcing, which is rampant in the Latin American mining sector.[6]

1.1 Objective

The objective of the sector analysis is to map the mineral supply chain from Bolivia, Peru, and Colombia in terms of producers, traders, European buyers, and financiers, their Corporate Social Responsibility (CSR) policies and practices, as well as the potential impacts of market trends on labour rights.

1.2 Methodology

1.2.1 Supply chain analysis

Geographically, the scope of the study lies on Colombia, Peru, and Bolivia in the upstream mining countries, while the European Union (EU) and where relevant, the Netherlands are the focus of the downstream sector analysis.

In selecting the mining companies in Peru and Bolivia, key criteria included the role of the company in the local mining sector and the role of the mined minerals in the energy transition. Relevant minerals include copper, lead, zinc, tin, gold, and silver. Minerals are often recovered from multi-metal mines, for example, in copper-zinc mines. For Colombia, only coal was considered in the analysis.

The role of the countries in the global production of selected minerals relies predominantly on reports from the United States Geological Survey (USGS) as well as trade statistics. It should be noted that trade statistics for imports and exports do not always match (for example, there may be discrepancies in the volumes of mineral flows from Peru to a certain destination depending on whether Peruvian export statistics or import statistics from the destination country are used). For this research, the magnitude of the trade is sufficient, but the shares of certain destinations in the flow of the selected minerals should therefore be treated as approximates.

In identifying links between the mining companies and relevant downstream sectors in Europe, the complexity of the mineral supply chains with various processing stages between the mining and the use in end products is a limiting factor. A lack of supply chain monitoring, tracing and transparency hampers a mapping of the flows of minerals that play a role in the energy transition.

In the screening of such links, various sources were consulted, including importantly company publications of actors at the various stages of the supply chain as well as shipment data. For coal, shipment data available for the period January 2018 to February 2021 were partly linked to energy companies, partly to coal trading companies for which customers remain unclear. In combination with company information as well as media reports, energy companies with proven or likely links to coal from Colombia, predominantly supplied by Glencore, were selected for inclusion in the analysis.

The situation looks different for Peru and Bolivia. In most cases no relevant links could be identified after the minerals left the two countries. In exceptional cases a link with the processing and refining stages of exported ores and concentrates could be made, however, no connections to the following processing stages could be identified. Due to the importance of minerals like copper, zinc and lead for the energy transition sectors, the relative importance of Peru and Bolivia in the mining of these minerals, and the general lack of supply chain tracing and segregation, it can be assumed that the minerals mined and exported by the two countries are entering international supply chains and likely also those of key downstream companies active in the EU.

The analysis includes the following companies:

- A selection of ten key mining companies active in the three countries. These include national companies as well as groups incorporated in other countries that have subsidiaries operating in the focus countries. Most of these companies mine multi-mineral deposits, meaning that a relatively broad selection of minerals is covered in Peru and Bolivia, in addition to coal in Colombia.
- In relation to the transition away from fossil fuels for energy generation and transport, six EU-based companies producing photovoltaic (PV) panels, eight producers of on- and offshore wind turbines, and five companies producing electric vehicles (EV) were selected.
- Moreover, seven EU-based energy companies using coal from Colombia were included in the analysis.

1.2.2 Financial analysis

Loans and underwritings were researched for closing/issue dates in the period July 2017 – March 2022. Bond- and shareholdings were researched at most recent filing dates in March 2022.

The loans and underwriting services provided by financial institutions were retrieved from financial databases Bloomberg and Refinitiv (formerly known as Thomson Reuters Eikon). Investments in bonds and shares by financial institutions were retrieved from financial database Refinitiv.

Project finance was gathered through project finance database IJGlobal. Additional information was searched in trade finance database TradeFinance Analytics, annual reports of the selected companies, company websites, and company registers, followed by a general media search.

Types of financing

The selected companies can be financed through two main types of financing: credit and investment. When financial institutions provide credit, it can be through loans or the underwriting of share and/or bond issuances. Investment, on the other hand, is when financial institutions invest in the equity and debt of a company by holding shares and/or bonds. A brief explanation of the different types of financing is provided, including a note on they are researched and the implications for the study.

- **Loans**

The easiest way to obtain debt is to borrow money. In most cases, money is borrowed from commercial banks. Loans can be either short-term or long-term in nature. Short-term loans (e.g., trade credits, current accounts, leasing agreements) have a maturity of less than a year. They are mostly used as working capital for day-to-day operations. Short-term debts are often provided by a single commercial bank, which does not ask for substantial guarantees from the company.

A long-term loan has a maturity of at least one year, but more often of three to ten years. Long-term corporate loans are particularly useful to finance expansion plans, which only generate rewards after a certain period. The proceeds of corporate loans can be used for all activities of the company. Long-term loans are frequently extended by a loan syndicate, which is a group of banks brought together by one or more arranging banks. The loan syndicate will only undersign the loan agreement if the company can provide certain guarantees that interest and repayments on the loan will be fulfilled. Corporate loans are often used as project finance (a loan that is earmarked for a specific project) or as general corporate purposes or working capital. Sometimes, a loan's use of proceeds is reported as general corporate purposes when it will be used for a certain project. This is difficult to ascertain.

Moreover, another type of loan is a revolving credit facility. A revolving credit facility provides a company with an option to take up a loan from a bank (or more often: a banking syndicate) when it has an urgent financing need. It is like a credit card. Companies can use the revolving facility up to a certain limit, but they don't have to. Revolving credits are often concluded for a five-year period and then renewed, but many companies renegotiate their revolving credit facility every year with the same banking syndicate. Amounts, interest rates, fees and participating banks can change slightly every year. As the financial press often reports these renegotiations for larger companies, this might raise the impression that banks are lending huge sums of money to the same company every year. But: this concerns renegotiations of basically the same facility and a revolving credit facility is hardly ever actually called upon for a loan. Within the scope of this research, revolving credit facilities are counted for every time that they are renewed.

Although revolving credit facilities are not always fully called upon, the syndicate of banks providing the facility do have the obligation to provide the entire amount of money when the company asks for it. Therefore, even if the company ends up never using the facility, the banks were still involved with the company during the period of the revolving credit facility and would have provided the company with the money when they asked for it.

- **Share issuances**

Issuing shares on the stock exchange gives a company the opportunity to increase its equity by attracting many new shareholders, or to increase the equity from its existing shareholders.

When a company offers its shares on the stock exchange for the first time, this is called an Initial Public Offering (IPO). When a company's shares are already traded on the stock exchange, this is called a secondary offering of additional shares. To arrange an IPO or a secondary offering, a company needs the assistance of one or more (investment) banks, which will promote the shares and find shareholders. The role of investment banks in this process is therefore very important.

The role of the investment bank is temporary. The investment bank purchases the shares initially and then promotes the shares and finds shareholders. When all issued shares that the financial institution has underwritten are sold, they are no longer included in the balance sheet or the portfolio of the financial institution. Nevertheless, the assistance provided by financial institutions to companies in share issuances is crucial. They provide the company with access to capital markets and provide a guarantee that shares will be bought at a pre-determined minimum price.

- **Bond issuances**

Issuing bonds can best be described as cutting a large loan into small pieces and selling each piece separately. Bonds are issued on a large scale by governments, but also by corporations. Like shares, bonds are traded on the stock exchange. To issue bonds, a company needs the assistance of one or more (investment) banks which underwrite a certain amount of the bonds. Underwriting is in effect buying with the intention of selling to investors. Still, in case the investment bank fails to sell all bonds it has underwritten, it will end up owning the bonds.

- **(Managing) shareholdings**

Institutional investors, such as banks, insurance companies, pension funds and asset managers, can, through the funds they are managing, buy shares of a certain company making them part-owners of the company. This gives the bank a direct influence on the company's strategy. The magnitude of this influence depends on the size of the shareholding.

As financial institutions actively decide in which sectors and companies to invest, and can influence the company's business strategy, this research will investigate the shareholdings of financial institutions on the selected companies. Shareholdings are only relevant for stock listed companies. Not all companies in the study are listed on a stock exchange.

Shareholdings have several peculiarities that have implications for the research strategy. Firstly, shares can be bought and sold on the stock exchange from one moment to the next. Financial databases keep track of shareholdings through snapshots, or filings. This means that when a particular shareholding is recorded in the financial database, the actual holding, or a portion of it, might have been sold, or more shares purchased. Secondly, share prices vary from one moment to the next.

- **(Managing) investments in bonds**

Institutional investors can also buy bonds of a certain company. The main difference between owning shares and bonds is that owner of a bond is not a co-owner of the issuing company; the owner is a creditor of the company. The buyer of each bond is entitled to repayment after a certain number of years, and to a certain interest during each of these years.

Similarly, to shares, bonds can be bought and sold from one moment to the next. Bondholdings are also reported by the holding investor through regular filings.

1.2.3 Policy analysis

The Social Corporate Responsibility (CSR) policies of the upstream and downstream companies identified through the supply chain analysis were assessed for their alignment with the human rights and labour rights provisions included in the United Nations' Guiding Principles on Business and Human Rights (UNGPs), the ILO Fundamental Conventions, and the OECD Guidelines for Multinational Enterprises.

CSR policies is used here to include all kinds of corporate regulatory frameworks and standards governing companies' sustainability efforts. This may include but is not limited to: (Supplier) Codes of Conduct, Human Rights Policies, Environmental and Human Rights Due Diligence Policies, and Sustainability Reports.

All publicly available CSR policies were retrieved from the companies' websites for the analysis. Profundo contacted companies that had not published CSR policies to request documentation that could be used for the analysis and to comment on the findings of the policy analysis. Their feedback is incorporated to the analysis too.

The policy frameworks we referred to for the CSR policy analyses are presented in the following subsections. A list of questions that we responded while analysing the CSR policies is provided in Appendix 1.

UN Guiding Principles on Human Rights

The United Nations defines "Human Rights" as rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination.[7]

The Corporate Responsibility to Respect Human Rights[8] is one of the three pillars of the United Nations Guiding Principles on Business and Human Rights (UNGPs). It provides outlines for businesses to implement the United Nations "Protect, Respect and Remedy" framework on the issue of human rights. This framework comprises a set of principles that provide guidelines for companies to act with due diligence to avoid infringing on the rights of others and addressing harms that do occur. It is a global standard of expected conduct acknowledged in virtually every voluntary and soft-law instrument related to corporate responsibility.[9]

The analysis will use the official Interpretive Guide issued by the UN Office of the High Commissioner for Human Rights for implementers of the UNGPs. The Interpretive Guide covers the substance of the UNGPs that address the corporate responsibility to respect human rights. These consist of five foundational principles and eleven operational principles:[10]

- Foundational Principles: (Guiding Principles 11; 12; 13; 14 and 15)
- Operational Principles:
- Policy Commitment (Guiding Principle 16)
- Human Rights Due Diligence (Guiding Principles 17; 18; 19; 20 and 21)
- Remediation (Guiding Principles 22; 29 and 31)
- Issues of Context (Guiding Principles 23 and 24)

To implement a systematic policy evaluation, the analysis will group the sixteen principles in four main categories and a total of 19 provisions, namely:

1. **Foundational Principles and Policy Commitment:**

- Have a policy that states commitment to respect HR (Guiding Principle 11; 15a; 16)
- Policy refers to international standards (Guiding Principle 12)
- Policy states responsibility to prevent and mitigate (Guiding Principle 13a; 13b)
- Policy applies to all stakeholders (Guiding Principle 14)

2. **Human Rights Due Diligence:**

- Human Rights Due Diligence process is in place to identify, prevent, mitigate, assess, and remediate impacts (Guiding Principle 15b; 17a)
- Human Rights Due Diligence process is on-going (Guiding Principle 17c)
- Human Rights Due Diligence process accounts for size of business and nature of risks (Guiding Principle 17b)
- Human Rights Due Diligence process applies to all stakeholders (Guiding Principle 18a)
- Human Rights Due Diligence process involves consultation with affected groups (Guiding Principle 18b)

- Findings from Human Rights Due Diligence process is integrated in planning (Guiding Principle 19)
- There is monitoring of the Human Rights Due Diligence process (Guiding Principle 20)
- Human Rights Due Diligence reports are published (Guiding Principle 21)

3. Remediation:

- Remediation takes place through a legitimate process in alignment with national, international or customary law (Guiding Principle 22; 31a)
- Establishes or participates in an effective operational-level grievance mechanism (Guiding Principle 29; 31)
- Grievance mechanism is based on dialogue/engagement (Guiding Principle 31h)
- Grievance mechanism is legitimate, accessible, clear, equitable, and transparent (Guiding Principle 31a; 31b; 31c; 31d, 31e)
- Grievance mechanism is a source of continuous learning (Guiding Principle 31g)

4. Context:

- Business activities comply with national law and international standards (Guiding Principle 23a; 23b;23c)
- Actions are prioritised to address the most severe Human Rights violations (Guiding Principle 24).

ILO Fundamental Conventions

The ILO Declaration on Fundamental Principles and Rights at Work , was adopted in 1998 and amended in 2022. The Declaration affirms the obligations and commitments of governments, employers' and workers' organisations to respect, promote, and realise basic human values, namely:[11]

- freedom of association and the effective recognition of the right to collective bargaining;
- the elimination of all forms of forced or compulsory labour;
- the effective abolition of child labour;
- the elimination of discrimination in respect of employment and occupation; and
- a safe and healthy working environment.

The five principles above and have been expressed and developed in the form of specific rights and obligations in eight Conventions recognised as fundamental both inside and outside the ILO. These are:[12]

1. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
2. Right to Organize and Collective Bargaining Convention, 1949 (No. 98)
3. Forced Labour Convention, 1930 (No. 29)
4. Abolition of Forced Labour Convention, 1957 (No. 105)
5. Minimum Age Convention, 1973 (No. 138)
6. Worst Forms of Child Labour Convention, 1999 (No. 182)
7. Equal Remuneration Convention, 1951 (No. 100)
8. Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

OECD Guidelines for Multinational Enterprises

The OECD Guidelines for Multinational Enterprises (OECD Guidelines) are recommendations developed by the OECD governments for multinational enterprises operating in or from adhering countries. The OECD Guidelines are voluntary and not legally enforceable. Nevertheless, some subjects covered may be regulated by national law or international commitments. Multinational Enterprises are expected to fulfil the recommendations set out in the Guidelines and the countries adhering to the Guidelines make a binding commitment to implement them.[13]

The research limits the analysis of the adherence of the policies to two chapters of the OECD Guidelines for Multinational Enterprises. The two chapters are: Human Rights (chapter IV); and Employment and Industrial Relations (chapter V).[14]

The contents of the OECD Guidelines chapters on Human Rights and on Employment and Industrial Relations are largely comparable to the UNGP and the ILO Fundamental Conventions, as shown in Table 1.

Table 1 Provisions in the OECD Guidelines which are comparable to the UNGP and ILO FC

OECD Guidelines	Comparable provisions in UNGP and ILO FC
Have policy commitment to respect HR	Have policy that states commitment to respect HR (UN CRHR; Foundational Principles and Policy Commitment)
Seek ways to avoid, prevent or mitigate HR violations that link to their business	Policy states responsibility to prevent and mitigate (UN CRHR Foundational Principles and Policy Commitment)
Address the HR violations when they occur	HR DD process is in place to identify, prevent, mitigate, assess and account for impacts (UN CRHR; Human Rights Due Diligence)
Conduct HR DD appropriate to their size and intensity of their risk	HR DD process accounts for size of business and nature of risks (UN CRHR; Human Rights Due Diligence)
Provide cooperation through legitimate process for remediation	Through legitimate process: (UN CRHR; Remediation)
Respect the right of workers to join trade union of their own choosing	Freedom of Association and Protection of the Right to Organise Conventions, 1948; (ILO Convention No. 87)
Contribute to the effective abolitions of child labour.	Worst Forms of Child Labour Convention, 1999; (ILO Convention No. 182)
Contribute to the elimination of all forms of forced labour	Forced Labour Convention, 1930; (ILO Convention No. 29); Abolition of Forced Labour Convention, 1957 (ILO Convention No. 105)
No discrimination against worker based on race, colour, sex, religion, political opinion, social origin etc.	Abolition of Forced Labour Convention, 1957 (ILO Convention No. 105)
Standards of employment and industrial relation not less favourable to comparable employer in the country, and when none exist provide the best possible wage, benefit and conditions relevant to the economic position of the company	Equal Remuneration Convention, 1951 (ILO Convention No. 100)
No intimidation caused by worker exercising a right to organise	Freedom of Association and Protection of the Right to Organise Conventions, 1948; (ILO Convention No. 87)

The OECD Guidelines chapter on Industrial Relations provides additional provisions that are not covered by the ILO Fundamental Conventions, which are on 'actively advanced exercise on freedom of association'. The OECD Guidelines' provisions on actively advanced exercise on freedom of association are:

- Engage with trade union or representative organisation for collective bargaining, negotiations for agreements

- Provide facilities for trade unions in the negotiation of a collective agreement (e.g., necessary assistance, fair information, etc.)
- Promote consultations between employers, workers, and representatives on matters of mutual concern
- Take adequate steps to ensure Occupational Safety and Health (OSH) in their operations; and
- Mitigate practicable adverse effects when considering changes in their operations, especially in closure of entity that involves collective layoffs

Meanwhile, the UNGP have more detailed provisions than the OECD Guideline chapter on Human Rights, for companies to conduct Due Diligence and remediations for human rights and/or rights of surrounding communities.

1.3 Structure of this report

This report begins with a description the objectives and research methods employed to analyse the mineral mining sector of Bolivia, Colombia, and Peru (Chapter 1).

It then provides a profile of the mineral mining sectors and presents a selection of mining companies in those countries, detailing their global importance, output, and main markets. Moreover, it zooms into Colombia's role as a supplier of coal for Europe, in the midst of a complex conjuncture: in an effort to meet its commitments under the Paris Agreement, Europe tries to move away from fossil fuels while also trying to desperately fill the supply gap that Russia's gas embargo created (Chapter 2).

The analysis of Europe's coal supply chain from Colombia sets the stage of a more thorough analysis of trends in mineral use in the context of Europe's energy transition. In this context, this report elaborates on the increasing demand for minerals and profiles energy companies in Europe that are sourcing Colombian coal as well as companies in the automotive and electrical appliances manufacturing segment that could be using minerals mined in Peru and Bolivia to make their products (Chapter 3)

Being a high-risk sector in terms of human and labour rights, investigating creditors and investors financing mining operations is crucial. The financial sector has a lot of leverage influencing mining companies to mitigate human and labour rights risks. Therefore, this report provides an overview of the investors funding the activities of mining companies in Bolivia, Peru, and Colombia, as well as European downstream companies that are likely using minerals from those countries in their operations (Chapter 4).

Society increasingly demands more responsibility from businesses. To meet these demands and to comply with the higher standards set by financiers, businesses are committing to preventing and mitigating human and labour rights risks. Despite the stated commitments of companies, their practices on the ground often fall short. This report evaluates the human rights due diligence policies and practices of mining companies in Bolivia, Colombia, and Peru and of the downstream companies with likely supply chain links (Chapter 5).

Finally, this report concludes with a brief discussion of the implications of its findings (Chapter 6).

2

Selected minerals and upstream supply chain actors

International mineral supply chains are often complex, including mining in various geographies, processing and manufacturing stages in Asia, before reaching producers of technical appliances, the utilities sector or the consumer market in a country like the Netherlands. The following sections briefly profile the mineral mining sectors in the three Latin American markets as well as the selected companies. These exemplary supply chains are all affected by the mineral needs of the energy transition, though in different ways. Chapter 3 then goes into more detail on the expected demand changes.

2.1 Peruvian mining sector and actors

Peru is placed among the top-10 mineral-wealthy countries in the world. These rich mineral deposits make it one of the largest producers of base and precious metals.[15] As shown in Table 2, Peru has the world's second largest output of copper and zinc, and the third largest output of silver and tin. It is also an important producer of molybdenum and lead.

Table 2 Peruvian production and exports of selected mineral ores and concentrates, 2021

Mineral	# world output	% world output	# world exports[a]	% world exports	Key export destinations[a]	% EU imports[b]
Silver	3	13%	1	56%	China-96%, S-Korea-2%, Japan-1%	6.4%
Copper	2	10%	2	17%	China-71%, Japan-8%, S-Korea-7%	9.1%
Zinc	2	10%	2	14%	China-30%, S-Korea-19%, Spain-14%	7.5%
Molybdenum	4	11%	3	14%	Chile-44%, US-32%, China-10%	3.3%
Lead	4	7%	2	11%	China-50%, S-Korea-32%, Belgium-7%	1.3%
Gold	10	3%	17	2%	Canada-36%, Switzerland-26%, US-24%	0.0%
Tin	3	10%	3	10%	US-47%, Netherlands-14%, Spain-9%	7.7%

Note: [a]World exports and key export destinations focussing on ores and concentrates, except for gold and tin (unwrought); [b]Share in NL/EU imports including ores and basic products (unrefined/refined metals, mattes, plates, bars etc.). Comparing Peruvian export and EU import data carries the risk of certain discrepancies in reporting.
Source: U.S. Geological Survey (2022 January), Mineral Commodity Summaries 2022, Virginia, United States: U.S. Geological Survey; Trademap (2022), Peruvian exports; Eurostat (2022), "EU trade since 1988 by HS2,4,6 and CN8", viewed in March 2022.

The large reserves and resulting output have made mining one of the most important sectors for Peru's economy. The mining sector received considerable additional investment during the last two decades, resulting in an increase in exploration and development activities. In the period from 2016 to 2021 alone, the Peruvian mining sector received investments of around US$ 28 billion. Some of the world's major mining companies have operations in the country, including Glencore, Freeport-McMoRan, Rio Tinto, and Anglo American, among others.[16] In 2021, mining accounted for 10% of Peru's Gross Domestic Product (GDP) and 58% of its exports, making it the country's top export sector.[17] Based on value, copper and gold are Peru's most important mineral exports.[18]

Unsurprisingly, China as the key supplier of electronic and industrial equipment globally takes the top spot as export destination for several of these minerals (Table 2). Other important destinations include South Korea, the United States, and Japan. For most of the selected minerals, Peru accounts for only a small share of direct imports to the EU and the Netherlands.[19]

2.1.1 Peruvian mining companies

Various large mining companies are active in the exploration and exploitation of mineral deposits in Peru, among them some of the world's largest mining groups. For this research, seven important actors in the mining sector have been selected for a more detailed analysis (Table 3). With Compañia de Minas Buenaventura and Empresa Minsur (Breca Group), these include two local actors, alongside five companies that are subsidiaries of corporate groups based in Brazil, the United States, Switzerland, and Singapore. The companies mine a variety of minerals, often in mixed ores.

Table 3 Selected companies in the Peruvian mining sector

Company	Parent	Country of incorporation	Minerals
Compañia de Minas Buenaventura	-	Peru	Silver, Lead, Zinc
Compañia Minera Antamina	Glencore / BHP Group[c]	Switzerland / Australia	Silver, Copper, Zinc, Molybdenum
Empresa Minsur	Breca Group	Peru	Tin
Empresa Nexa Resources Perú	Votorantim	Brazil	Zinc
Sociedad Minera Catalina Huanca	Trafigura	Singapore	Zinc
Sociedad Minera Cerro Verde	Freeport-McMoRan[a]	U.S.	Molybdenum, Copper
Volcan Compañia Minera	Glencore[b]	Switzerland	Silver, Zinc

Note: [a]Freeport McMoRan holds 53.56%, SMM Cerro Verde Netherlands (subsidiary of Sumitomo Metal Mining Company, 21%), Compañia de Minas Buenaventura 19.58%; [b]Glencore holds 55% of the Class A voting shares, 22% overall economic interest including Class B non-voting shares; [c]Glencore holds 33.75%, BHP Group 33.75%, Teck Resources 22.5%, Mitsubishi Corp 10%.

Compañia de Minas Buenaventura

Compañia de Minas Buenaventura (Buenaventura) is publicly listed on the Lima and New York stock exchange. Buenaventura is an important producer of silver, gold, copper, lead, and zinc, from both underground and open pit mining operations. It has eight production units that it operates itself, while one is operated by a third party. Moreover, it develops six projects (Figure 1). Wholly owned mining subsidiaries include El Molle Verde (Trapiche project) and Minera La Zanja (La Zanja). Moreover, it holds a 61.43% stake in Sociedad Minera El Brocal (Colquijirca and Marcapunta), a 40.10% stake in Compañía Minera Coimolache (Tantahuatay) and a 19.58% stake in Sociedad Minera Cerro Verde (Cerro Verde).

Figure 1 Location of Buenaventura's Peruvian mining operations

Source: Buenaventura (n.d.), "Operations & projects", viewed in June 2022.

Buenaventura's own reporting on mining production in 2021 is listed in Table 4. According to information from the Peruvian Ministry of Energy and Mining, the company was the seventh-largest producer of gold in 2021 (4% of national production), the fourth-largest producer of lead (6%), and the third-largest producer of silver (7%).[20]

Table 4 Buenaventura's mining production in 2021

Mineral	Mining operations	Production
Gold (ounces)	Tambomayo, Orcopampa, La Zanja, Colmolache	160,222
Silver (ounces)	Tambomayo, Uchucchuacua, Julcani, Marcapunta	14,398,043
Lead (tonnes)	Uchucchacua, Julcani, Tambomayo, El Brocal	24,717
Zinc (tonnes)	Tambomayo, Uchucchuacua, Tajo Norte	55,312
Copper (tonnes)	Marcapunta, Tajo Norte	37,914

Source: Buenaventura (2022, February 24), "Buenaventura announces fourth quarter and full year 2021 results".

According to shipment data for the period 2018 to 2021, silver ores and concentrates represented almost two-thirds of Buenaventura's exports by volume, lead accounted for almost one third. Zinc volumes were negligible.

By destination country, China was the key customer, accounting for around 95% of the company's silver exports, for 74% of lead and 100% of zinc exports. Other important markets for Buenaventura's lead exports were Belgium and South Korea with 11%, respectively.[21] No recipients of shipments could be identified.

Compañía Minera Antamina

Compañía Minera Antamina (Antamina) is the leading mining company in Peru. Its Antamina mine was the fifth largest copper mine globally in 2021.[22] Antamina is described as a "*large, low-cost copper and zinc mine*". Antamina's shareholders are BHP Billiton (33.75%), Glencore (33.75%) Teck (22.5%) and Mitsubishi (10%).[23] Antamina held the top position in the 2021 output of copper (20%

of total copper production), zinc (35%), and silver (15%). Moreover, it was the fourth largest producer of molybdenum (7%).[24]

According to shipment data for the period 2018 to 2021, copper and zinc ores and concentrates were the most important goods exported by Antamina, representing 66% and 33% of the company's total exports, respectively. Moreover, small amounts of molybdenum ores and concentrates were exported.[25]

China was by far the largest market for Antamina's copper exports in the analysed period (83%), followed by Germany (7%) and Bulgaria (3%). EU countries accounted for a combined 13% of the total. China was also the largest buyer of zinc from Antamina (56%), followed by Spain (11%) and South Korea (11%). In total, EU countries accounted for 15% of Antamina's zinc exports. Molybdenum was shipped to Chile (55%), followed by the United States (26%) and China (15%).[26]

It was not possible to establish direct supply chain links for any of Antamina's exports. In Spain, Asturiana de Zinc may be a customer for zinc ores and concentrates from Antamina, considering that the company is a fully owned subsidiary of Glencore, and being the only relevant company close to the port of unloading, Aviles. According to Glencore, Asturiana de Zinc sells a large portion of its production in the EU, however, no further details are disclosed.[27]

Empresa Minsur (Peru)

Empresa Minsur (Minsur) is the third largest producer of tin worldwide. Minsur is owned by the Breca Group, a Peruvian business conglomerate.[28]

Exports by Minsur are almost exclusively taking place in the form of not alloyed, unwrought. According to shipment data, tin represents 99% of Minsur's exports. The United States market is the largest (44%), followed by the Netherlands (17%) and Japan (10%).[29]

According to the Dodd-Frank Act, U.S listed companies are required to disclose their use of conflict minerals (tantalum, tin, gold or tungsten) if those minerals are "*necessary to the functionality or production of a product*" they manufacture. The Act indirectly impacts any company beyond U.S. borders which has directly or indirectly U.S. listed customers, including upstream companies (ie. mining companies, mineral refiners and smelters that are not listed but that deal with or have clients doing business with U.S. listed companies). Based on that reporting it can be established that Minsur supplies tin to General Electric[30] and Philips.[31]

Nexa Resources Perú (Peru)

Nexa Resources Perú (Nexa Resources Peru) produces zinc, copper, lead and silver, as well as other associated mineral ores. The company is a subsidiary of Nexa Resources (Luxembourg), who holds 80.06% through Nexa Resources Cajamarquilla (Peru). Nexa Resources' main shareholder is Votorantim (64.7%), a Brazilian business conglomerate.[32]

Zinc represents 45% of the exports of Nexa Resources Peru – most of the rest is accounted for by sulfuric acid. Zinc ores and concentrates are all exported to Brazil. The three most important destinations for the trade category of 'unwrought zinc, not alloyed' are the United States (17%), Taiwan (10%) and Thailand (9%).

In Brazil, zinc ores and concentrates are bought by Nexa Resources Minerais (82%) and Votorantim Metais Zinc (18%). In turn, Nexa Resources US is the main buyer (18.31%) of the zinc exports by Nexa Resources Minerais from Brazil. In the United States, unwrought zinc from Nexa Resources Peru is bought by Nexa Resources US (77%) and Votorantim US (13%), as well as by Trafigura (3%), Umicore (2%) and Arcelormittal (2%).[33] In December 2021, Volkswagen (Germany) and Umicore (Belgium) announced the creation of a European electric vehicle (EV) battery materials joint venture, which is planned to be operational in 2025.[34]

Sociedad Minera Catalina Huanca

Catalina Huanca Sociedad Minera (Catalina Huanca) is a wholly owned subsidiary of Trafigura Mining Group, which in turn is part of Trafigura, a leading global energy commodity trader and logistics business.[35] Trafigura Group is headquartered in Singapore, while the parent, employee owned Trafigura Beheer, is incorporated in the Netherlands.[36] Next to Peru, Trafigura Mining Group manages mining operations in Canada, Europe, Brazil and Cuba. Its operations under Catalina Huanca produce lead and zinc concentrates, as well as some gold and silver.[37]

According to information from the Peruvian Ministry for Mining and Energy, the company is the seventh-largest producer of zinc in Peru, with an output of 55,709 tonnes, or 4% of total Peruvian zinc production in 2021.[38]

Sociedad Minera Cerro Verde

Sociedad Minera Cerro Verde (Cerro Verde) is majority-owned by Freeport McMoRan (US) (53.56%), via its wholly owned subsidiary Cyprus Climax Metals Company. Compañía de Minas Buenaventura (19.58%), Sumitomo Metal Mining Cerro Verde Netherlands (21.00%, a subsidiary of Sumitomo (Japan)) and other minor shareholders (5.86%) account for the remainder.[39]

Cerro Verde was the sixth-largest copper mine globally based on production in 2021,[40] and the third largest Peruvian producer of copper concentrates, accounting for 19% of output in 2021. For Molybdenum it was the second largest mining company, with a share of 32.4%.[41] The company also operates a smelter in Peru that produces copper cathodes.[a]

According to shipment data for the period 2018 to 2021, copper ores and concentrates represented almost all exports of the company (98%) by volume, while molybdenum ores and concentrates accounted for around 1%. Based on value, the much smaller volumes of copper cathodes from the company's smelter account for only 1% of exports by the company, but for 5% of the value.[42]

By destination country, China was by far the largest market for Cerro Verde's copper ore exports (65%), followed by Japan (23%) and Spain (3%). Total EU destinations accounted for a share of 7%. For copper cathode exports, China accounted for 57%, followed by the United States with 25%, South Korea with 11% and Italy with 6%.[43]

Molybdenum ores and concentrates by Cerro Verde are predominantly exported to the US (93%), while China accounted of the remaining 7%. Shipments to the United States are mostly destined for Freeport McMoRan's molybdenum chemical conversion plants, operated by its subsidiary Climax Molybdenum Company. Freeport McMoRan also operates such a plant in the Netherlands, however, recorded shipments of molybdenum ore from Peru to the Netherlands were all linked to Southern Peru Copper Corporation (part of Grupo Mexico) in the analysed period.[44]

Copper ore exports from Cerro Verde to Japan are processed in the Toyo Smelter and Refinery, which is operated by Sumitomo Metals Mining.[45]

Volcan Compañía Minera

Volcan Compañía Minera (Volcan) is an important worldwide producer of zinc, lead, and silver. Volcan's main shareholders are Glencore International (55.03%) and Empresa Minera Paragsha (11.20%).[46]

Volcan operates five mining units in Peru: Yauli, Chungar, Alpamarca, Cerro de Pasco, and Óxidos de Pasco. These consist of nine underground mines, three open pits, seven concentrating plants, and one leaching plant (Table 5).

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[a] Molybdenum is often found as a by-product from copper mines.

Table 5 Volcan's mining production in 2020

Mineral	Mining operations	Production
Zinc (FMT)[a]	Yauli (San Cristobal, Andaychagua, Ticlio, Carahacra, Carahuacra Norte) Chungar (Animón) Alpamarca (Alpamarca, Rio Pallanga) Cerro de Pasco (Paragsha, Raúl Rojas, Vinchos)	166,000
Lead (FMT)	Yauli (San Cristobal, Andaychagua, Ticlio, Carahacra, Carahuacra Norte) Chungar (Animón) Alpamarca (Alpamarca, Rio Pallanga) Cerro de Pasco (Paragsha, Raúl Rojas, Vinchos)	41,000
Silver (ounces)	Yauli (San Cristobal, Andaychagua, Ticlio, Carahacra, Carahuacra Norte) Chungar (Animón) Alpamarca (Alpamarca, Rio Pallanga) Cerro de Pasco (Paragsha, Raúl Rojas, Vinchos)	9,200,000
Copper (FMT)	Yauli (San Cristobal, Andaychagua, Ticlio, Carahacra, Carahuacra Norte) Chungar (Animón)	4,000

Note: [a]FMT=Fine metric tonnes – to measure metal content in mineral concentrates.
Source: Volcan (n.d.), "Mining units", viewed in August 2022

According to shipment data, zinc ores and concentrates represents more than half of the company's Peruvian exports by volume (61%), while silver ores and concentrates only accounted for 3%.[47] By destination country, South Korea is the largest market for zinc ores and concentrates exports (86%), followed by Belgium (8%) and Mexico (4%). Silver ores and concentrates exports were all destined for China in the analysed period from 2018 to 2021.[48] No links with downstream companies could be identified.

2.2 Bolivian mining sector

2.2.1 Overview

Bolivia is another mineral-rich Latin American country. It is the sixth largest producer of zinc and tin globally, and the eighth largest producer of silver (Table 6). However, due to the dominant role of other countries in the mining of these minerals, the country's share in global output remains below 5% for all of them. Overall, the top destinations for the exports of these minerals are China, South Korea, Japan, and the United States. Bolivia accounts for a relatively significant share of EU imports of silver with 10.4%, as well as smaller shares of zinc (3.4%) and tin (2.6%).

Table 6 Bolivian mining production and exports of selected minerals, 2021

Mineral	# world output	% world output	# world exports[a]	% world exports	Key export destinations[a]	% EU imports[b]
Silver	8	4%	6	2%	China-39%, Japan-35%, Belgium-14%	10.4%
Zinc	7	4%	6	n/a[c]	Japan-49%, China-15%, S-Korea-11%	3.4%
Lead	8	2%	8	4%	China-41%, S-Korea-38%, Netherlands-7%	0.4%
Tin	6	6%	3	11%	China-99%	2.6%

Note: [a]World exports and key export destinations focussing on ores and concentrates, except for gold and tin (unwrought); [b]Share in NL/EU imports including ores and basic products (unrefined/refined metals, mattes, plates, bars etc.); [c]reported global export data for tin zinc ores and concentrates seem unreliable and should be seen as indications.
Source: U.S. Geological Survey (2022 January), Mineral Commodity Summaries 2022, Virginia, United States: U.S. Geological Survey; Trademap (2022), Bolivian exports; Eurostat (2022), "EU trade since 1988 by HS2,4,6 and CN8", viewed in March 2022.

Mining is an important sector for the economic development of Bolivia, contributing 5.5% of the gross domestic product and accounting for approximately 22% of the country's exports by value.[49] Despite a long mining tradition, only an estimated 10% of the mineral resources have been extracted to date.[50]

2.2.2 Bolivian mining companies

Similar as in Peru, some large multi-national mining companies have important operations in Bolivia. For this research, mining company Sinchi Wayra, a subsidiary of the Canadian company Santacruz Silver Mining as well as the logistical operations of Trafigura (Singapore) through its Impala Terminals subsidiary have been selected for a more detailed analysis (Table 7).

Table 7 Selected companies in the Bolivian mining sector

Company	Parent	Country incorporation	Metal
Sinchi Wayra	Santacruz Silver Mining[a]	Canada	Silver, lead, zinc
Impala Terminals	Trafigura Group[b]	Singapore / Netherlands	Silver, zinc, lead

Note: [b]Trafigura Group is incorporated in Singapore; its ultimate parent, Traifugar Beheer, is based in the Netherlands.

Sinchi Wayra

Sinchi Wayra produces zinc-silver and lead-silver concentrates. In October 2021, Glencore Plc. Bolivia, who had 100% equity ownership, reached an agreement with Santa Cruz Silver Mining to acquire Glencore's assets, consisting of Sinchi Wayra and Illapa. As part of the deal, Glencore retained offtake rights for life of mine relating to the output of the relevant mines.[51] The deal was closed in March 2022.[52]

According to older shipment data up to 2018, zinc-silver concentrates represented around 80% of the Sinchi Wayra's exports, while lead-silver concentrates represented the remaining 20%. Japan was the destination country for zinc-silver exports, while China received the lead-silver exports.[53]

Impala Terminals

Impala Terminals Bolivia engages in the commercialisation of minerals and offers one of the largest warehouse facilities of concentrates and minerals in Bolivia. Impala is a wholly owned subsidiary of Trafigura, one of the leading global energy trading companies.[54] No shipment records from Impala Terminals were identified.

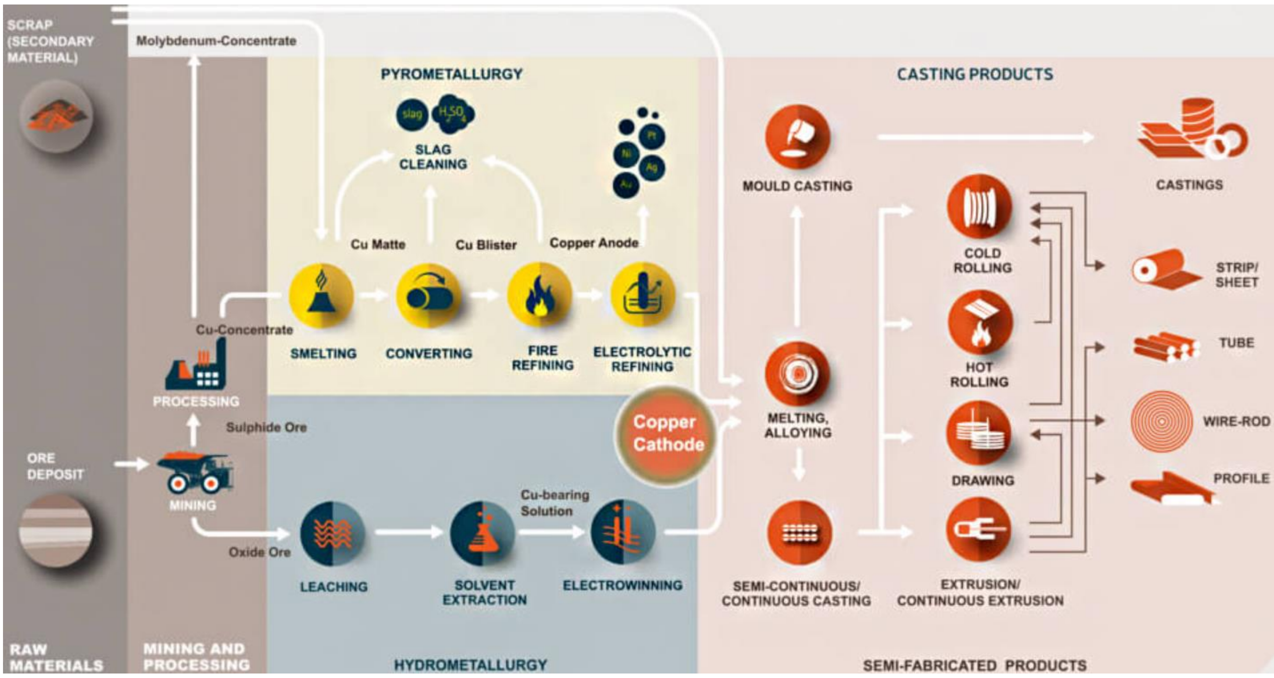
2.3 Potential trading partners of Peruvian and Bolivian mining companies

As introduced in sections 2.1 and 2.2, a large share of the minerals mined in Peru and Bolivia by the selected companies is exported to world markets in the form of ores and concentrates, where they are further processed in smelters and refineries to extract base minerals. The resulting metals are further processed into various semi-fabricated products that are then used to manufacture a variety of products. Figure 2 gives an exemplary overview of the various stages of the copper production chain to visualise the complexity of the supply chain relationships.

Disclosure on company level would be required to map the flow of minerals. However, across the different supply chain stages, there is a dearth of supply chain information and data disclosure by corporate actors. The limited data available from shipment records allows only in few cases to link upstream mining companies directly to midstream processors at export destinations.

To give an idea of likely actors that may be involved in the further processing of the analysed minerals, the following sections focus on the three most important minerals exported by the selected companies – copper, zinc, and lead – and provide an overview of the ten largest smelters and refineries in key export countries. It was not possible to make further links from these smelters and refiners to downstream companies in Europe.

Figure 2 Up- and midstream copper production stages



Source: European Copper Institute (n.d.), "Copper production chain", online: https://energyindustryreview.com/metals-mining/copper-contribution-to-the-global-circular-economy-and-a-sustainable-future/, viewed in April 2022.

2.3.1 Copper

In 2020, China accounted for almost 50% of world copper smelter production, followed by Japan (8%) and Chile (6%).[55] As shown in Table 8, the country is home to many of the largest copper smelters worldwide. No information on suppliers of Chinese smelters and refiners was found.

Table 8 Leading copper smelters in key export countries, by capacity (1,000 tonnes)

Smelter name	Country	Main operator/owner	Capacity
Guixi (smelter)	China	Jiangxi Copper Corp.	600
Jinchuan (Fangchenggarg smelter)	China	Jinchuan Non-Ferrous Metal	450
Hamburg (smelter)	Germany	Aurubis	450
Besshi / Ehime - Toyo (smelter & refinery)	Japan	Sumitomo Metal Mining	450
Saganoseki Ooita (smelter)	Japan	JX Nippon Mining & Metals	450
Chifeng (smelter)	China	Tongling Non-ferrous Metals Group	400
Chinalco (smelter)	China	China Copper Southeast Copper	400
Tongling Jinguan (smelter)	China	Tongling Non-Ferrous Metals Group	400
Xiangguang copper (smelter)	China	Yanggu Xlangguang Copper Co.	400
Ilo (smelter)	Peru	Southern Copper Corp.[a]	360

Note: [a]Grupo Mexico 88.9%.
Source: International Copper Study Group (2022), *The World Copper Factbook*, p. 21.

In Europe, only Germany competes in the international market, with a production facility in Hamburg owned by Aurubis. Aurubis reports that 16% of their copper concentrates in 2020 originated from Peru, but no direct links with Antamina could be identified.[56] Copper ore exports from Cerro Verde to Japan are processed in the Toyo Smelter and Refinery in Japan, according to Sumitomo's website.[57]

2.3.2 Zinc

China also dominates the global zinc metal production with a 46% share, followed by South Korea (6%), India (5%), Canada (4%), and Japan (3%).[58] By production capacity, South Korea and Spain host the largest smelters and refineries, followed by China and Brazil (see Table 9). No information on suppliers was found for South Korean and Chinese smelters and refiners. The Spanish company Asturiana de Zinc may receive zinc ores and concentrates from Antamina due to the common link with Glencore, while Nexa Resources Minerais is known to purchase from Nexa Resources Peru (see subsection 2.1.1).

Table 9 Leading zinc smelters in key export countries, by capacity (1,000 tonnes)

Smelter name	Country	Main operator/owner	Capacity
Korea Zinc (smelter)	S-Korea	Youngpoong Corp (27%)	700
Asturiana de Zinc (smelter and refinery)	Spain	Glencore (100%)	511
Zhuzhou (smelter)	China	Zhuzhou Smelter Group	500
Young Poong (smelter)	S-Korea	Young Poong Corp (27%)	400
Huludao Zinc Smelting (smelter)	China	Huludao Nonferrous Metals Group	390
Shaoguan (smelter)	China	Shenzhen Nonfemet Co.	270
Dongling Zinc Industry (smelter)	China	Dongling Group	250
Zijin Bayannur (smelter)	China	Zijin Mining Group	220
Três Marias (smelter)	Brazil	Nexa Resources Minerais	204
Juiz de For a (smelter)	Brazil	Nexa Resources Minerais	79

Source: U.S. Geological Survey (2019), *USGS Minerals Yearbook 2017–2018, volume III, Area Reports—International*, Virginia, United States: U.S. Geological Survey

2.3.3 Lead

Also in the production of refined lead China has a dominant worldwide position with a 42% share of global production, followed by the United States (8%), India (7%), and South Korea (6%).[59] By individual production capacity, South Korea is home to the world's largest lead and zinc smelter, followed by Chinese companies (see Table 10). No information on suppliers was found for the South Korean and Chinese smelters and refiners.

Table 10 Leading lead smelters in key export countries, by capacity (1,000 tonnes)

Smelter	Country	Main operator/owner	Capacity
Korea Zinc (smelter)	S-Korea	Korea Zinc	423
Jinli (smelter)	China	Jiyuan Jinli Smelting	300
Jiyuan (smelter)	China	Yuguang Gold-Lead	300
Jiyuan Wangyang (smelter)	China	Jiquan Wangyang Smeltery Group	200
Anyang (smelter)	China	Henan Anyang Yubei Metal Smeltery	160
Henan Lingye (smelter)	China	Henan Lingye	100
Shuikoushan (smelter)	China	Shuikoushan Nonferrous Metals	100

Smelter	Country	Main operator/owner	Capacity
Shaoguan (smelter)	China	Shenzhen Nonfemet Co. Ltd	100
Baiyin (smelter)	China	Baiyin Nonferrous Metals Co. Ltd.	80
Hechi Nanfang (smelter)	China	Hechi Nanfang Nonferrous Metals Smelting	80

Source: U.S. Geological Survey (2019), *USGS Minerals Yearbook 2017–2018, volume III, Area Reports—International*, Virginia, United States: U.S. Geological Survey

2.4 Colombian coal mining sector

According to the Colombian Mining Association (Asociación Colombiana de Minería, ACM), Colombia produced 49 million tonnes of coal in 2020.[60] Enerdata estimates this volume somewhat higher, at 65 million tonnes. This makes Colombia the largest coal miner on the Latin American continent. Moreover, it is the country with the second largest coal reserves in the region behind Brazil.[61]

Mining is an important economic sector for Colombia. The overall mining sector attracts around 15% of foreign investments in the country and employs around 160,000 people directly, with coal accounting for around 50,000 or 31%.[62] Next to exports (see section 2.4.2), tax revenue, especially in the form of royalties, is an important contribution to the country's economy. This is particularly relevant in the La Guajira and Cesar departments.[63]

2.4.1 Key coal mining companies

Coal mining in Colombia is dominated by two foreign-owned companies: Drummond (United States) with its local subsidiary Drummond Colombia, and Glencore (Switzerland) with its Cerrejón and Prodeco subsidiaries. During the last ten years, the three companies accounted for around 86% of the country's coal production and 96% of the coal royalties. Royalties paid by the three companies totalled around US$ 1.4 billion per year in the period 2016 to 2018.[64]

Drummond produced around 33 million tonnes of coal in Colombia in 2021.[65] Exports by the company reached 31.5 million tonnes in 2021. In 2020, the impact of the COVID-19 pandemic impacted production and exports, resulting in a total of 29.7 million tonnes exported by Drummond.[66] Based on total Colombian exports of 55.6 million tonnes in 2021 (see section 2.4.2), this represented an export share of around 57%.

As announced in 2021, Glencore acquired the respective 33% shares in Cerrejón held by competitors BHP Group and Anglo American. The acquisition was completed in January 2022, making Glencore the sole owner of the coal mining company.[67] Cerrejón's production in 2021 was reported at 23.4 million tonnes of coal, a strong increase by almost 90% from the previous year. In 2020, production was hit by the pandemic and a three-month strike. No figures on exports were published.[68]

Glencore's other subsidiary, Prodeco, was the third largest coal exporter in the country, behind Cerrejón and Drummond. In 2020, Prodeco's production had decreased by 76% to 3.6 million tonnes.[69] A request by Prodeco to relinquish its contracts for the Calenturitas and La Jagua mines (Cesar department) was initially declined by the Colombian National Mining Agency (ANM) in January 2021. In the meantime, the mines remained on care and maintenance (C&M).[70] In September 2021, the company communicated that it had obtained approval from ANM to return the concessions. It was further stated that the mines remained on C&M until the competition of the formal process.[71] While a review by Glencore had concluded that resuming the operations would have been uneconomic, the Minister of Mines and Energy Minister, Diego Mesa, stated in March 2021 that other, especially Asian investors had expressed interest in the licenses. Other options named were to auction the licenses or to close the mines down.[72]

Both companies are also involved in coal logistics in Colombia, through stakes in the Ferrocarriles del Norte de Colombia (Fenoco) railroad. Drummond and Glencore hold 41% and 36.1%, respectively.[b,73] It connects Chiriguana in Cesar province with the coastal town of Santa Marta. Glencore also controls the Puerto Nuevo coal terminal in Magdalena province, which has an access canal Drummond uses for exports. As Glencore will no longer need to use the Fenoco railroad and Santa Marta port without Prodeco, Drummond asked the commerce regulator shortly after the approval to return the licences to force Glencore to sell its stake in the railway, voicing concerns that Glencore may use its veto power to disadvantage other miners.[74] Based on Glencore's website it still holds its stake at the time of writing.[75]

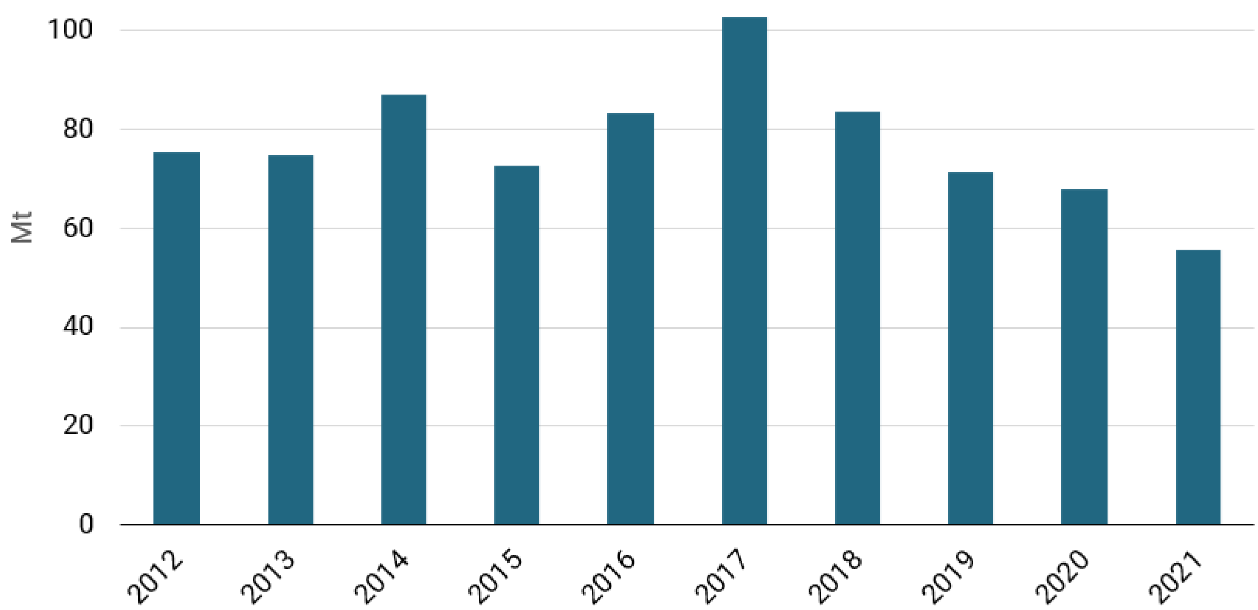
2.4.2 Important export markets for Colombian coal

In 2020, coal exports from Colombia reached a value of US$ 4.26 billion, making it the second most important export commodity after oil. This value equalled a volume of 67.8 million tonnes, or 5.4% of global coal exports, and put the country on the sixth place globally.[76] Looking at the last ten years, exports had peaked in 2017 with 102.7 million tonnes, but since then decreased continuously, falling to 55.6 million tonnes in 2021 (Figure 3).[77]

The top destination for coal exports from Colombia is Turkey, accounting for 24% of total exports in 2021 (Figure 4). This was followed by Chile and the Netherlands with 11% each. For the Netherlands as an export destination, it is important though to note that the country is the top transhipment hub in Europe for further distribution of commodities to other European countries.

Coal exports from Colombia were impacted by various factors in recent years, leading to a significant drop in exports especially in 2020. The COVID-19 pandemic led to a considerable decrease in the power-sector demand. Consequently, Cerrejón's exports in January-May 2020 dropped by 3.4 million tonnes or around 30% year-on-year.[78] Moreover, workers at the Cerrejón mine were on a three-month strike from September to November 2020, when labour union Sintracarbon signed an accord valid until the end of 2023.[79]

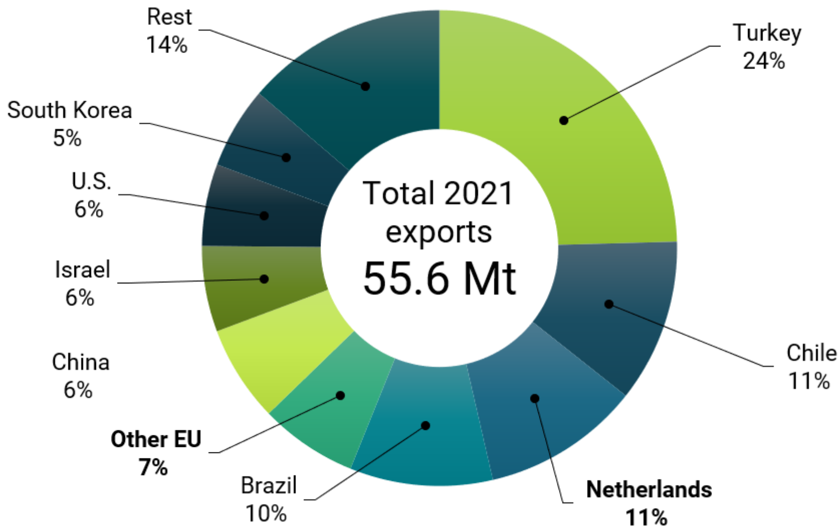
Figure 3 Colombian coal exports, 2012 to 2021 (million tonnes)



Source: ITC Trademap (2022).

[b] Other shareholders are CNR (16.9%), Consorcio Minero (3.6%), and Port & Train (2.4%).

Figure 4 Key export destinations of Colombian coal, 2021



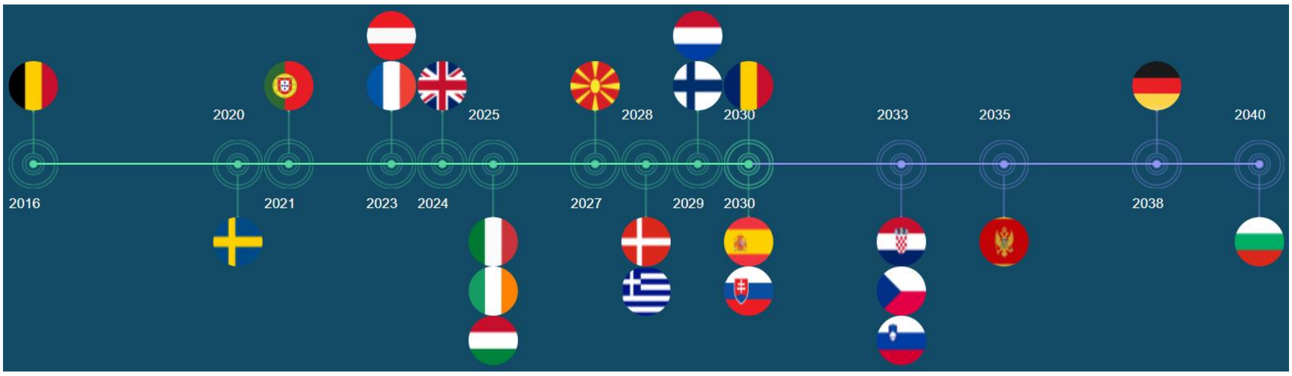
Source: ITC Trademap (2022).

2.4.3 The role of Colombian coal for Europe and the impact of the war in Ukraine

In the last two years, the COVID-19 pandemic reduced energy use in the EU and at the same time several coal-fired power plants were shut down. Coal imports from outside the EU picked up again in September 2020 but remain at a lower level than before 2020 (Figure 6).

The dependency of Colombian coal exports on Turkey and European customers could be a risk to its sales in the short-term as both markets are expected to see further reduction in demand in the coming years. Noteworthy events include Portugal becoming coal-free at the end of 2021 with the closure of the Pego coal plant,[80] nine years ahead of the initial target year 2030. European countries that have quit coal in recent years are Belgium, Austria and Sweden.[81] Spanish energy company Naturgy also closed its coal-fired power plants in the second half of 2021.[82] In total, 23 European countries had announced plans to phase out coal as of June 2022 (Figure 5).[83] Turkey also increasingly substituting coal with gas and renewable energies.[84]

Figure 5 Timeline of European coal phase-out (as of June 2022)



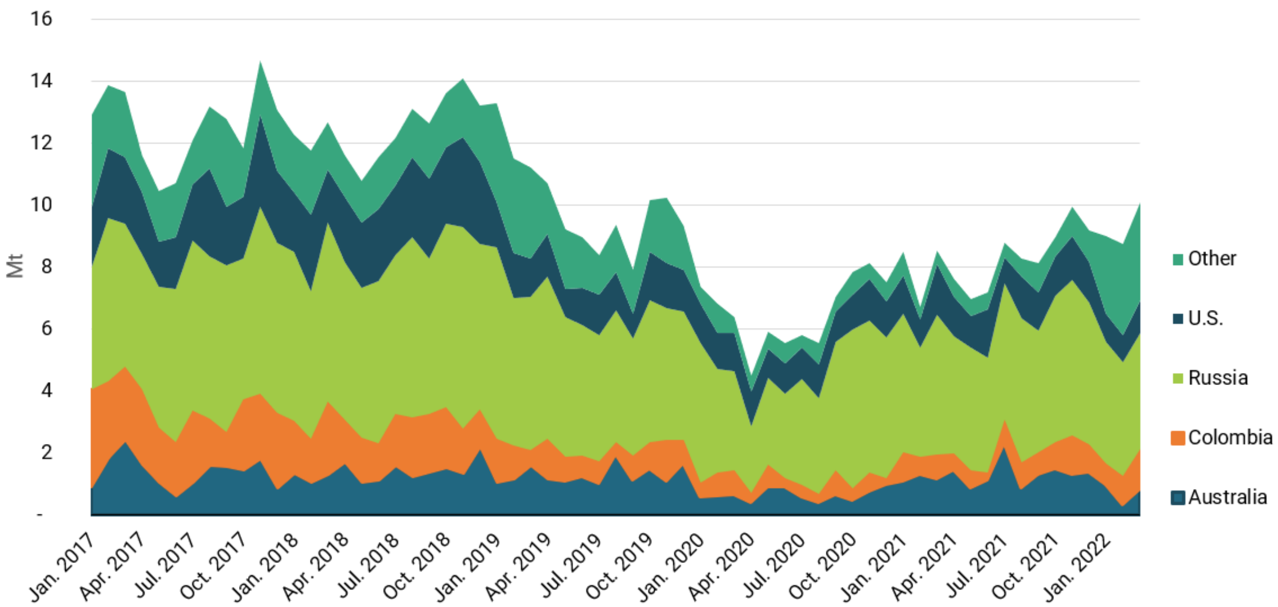
Source: Europe Beyond Coal (2022), “Europe’s coal exit”, viewed in August 2022.

The Russian war in Ukraine since February 2022 underscores the urgency to cut the dependency from fossil fuels and transition to renewable energy sources not only based on environmental but also ethical concerns. Almost 70% of the total primary energy needs of the EU are still linked to fossil fuels in the form of oil (35%), gas (24%), and coal (10%). More than 60% of these are sourced from third countries, of which Russia in 2020 provided 25% of the oil, almost 40% of the gas, and almost 50% of the coal.[85]

The war could have divergent impacts on the energy transition. It may incentivise a reduction in energy demand and accelerate the move to renewable energy sources. However, a consequence of the efforts of European governments to ensure energy security may also be the prolonged use of coal-fired power plants with coal sourced from alternative sources. Germany announced already in June that it will restart coal-fired power plants to reduce the use of natural gas.[86] Similarly, the Netherlands increased the production of its remaining plants again and delayed closure (see section 3.4). In the light of the war and connected sanctions, EU countries are also looking for alternatives for coal and oil from Russia to ensure energy supply in the coming winter. Colombia is one of the willing and able candidates, next to major producers like Australia, South Africa and the United States. Among others, the Colombian president reportedly agreed increased coal sales to Germany.[87]

In previous years, the role of Colombia as a coal supplier has decreased, dropping from 25.4 million tonnes in 2017 to 5.8 million tonnes in 2020. 2021 saw an increase to 8.9 million tonnes. It remains to be seen in how far the Russian war in Ukraine will impact these developments (Figure 6). While too early for a detailed analysis, a comparison of the first quarter 2022 with the previous year shows an increase in coal imports from Colombia to the EU by 28%.[88]

Figure 6 EU coal imports from non-EU origins, January 2017 to March 2022 (million tonnes)



Source: Eurostat (2022).

In the further analysis of CSR policies and financial relationships in this research, the focus is on Glencore as a major actor in Colombian coal.

3

Mineral use of the energy transition

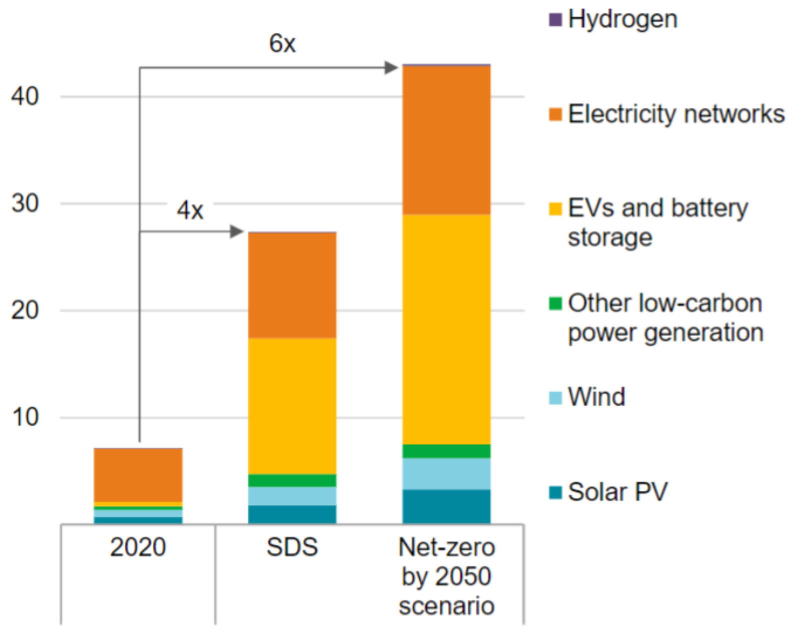
To achieve the commitments under the Paris Climate agreement, a radical shift is required in the way how energy is produced, and transport is taking place. However, the new technologies that are meant to enable an energy transition away from fossil fuels require large volumes of minerals, including those mined in Peru and Bolivia.

3.1 Rising mineral need in clean energy facilities

Under the Paris Climate Agreement, countries pledged to significantly lower carbon dioxide (CO_2) and other greenhouse gas (GHG) emissions. A critical component in achieving these goals is the scaling up of renewable energy sources to severely reduce energy-related CO_2-releases from fossil fuel use as a major source of global emissions.

Consequently, capacity in clean energy generation has increased considerably in recent years, with on- and offshore wind increasing almost four-fold, from 216.3 GW in 2011 to 824.9 GW in 2021. During the same period, solar photovoltaic (PV) increased more than ten-fold, from 72.2 GW to 843.1 GW.[89]

Figure 7 Growth in mineral demand for clean energy technologies to 2040 by sector



Note: not including steel and aluminium.
Source: IEA (202, March), The Role of Critical Minerals in Clean Energy Transitions.

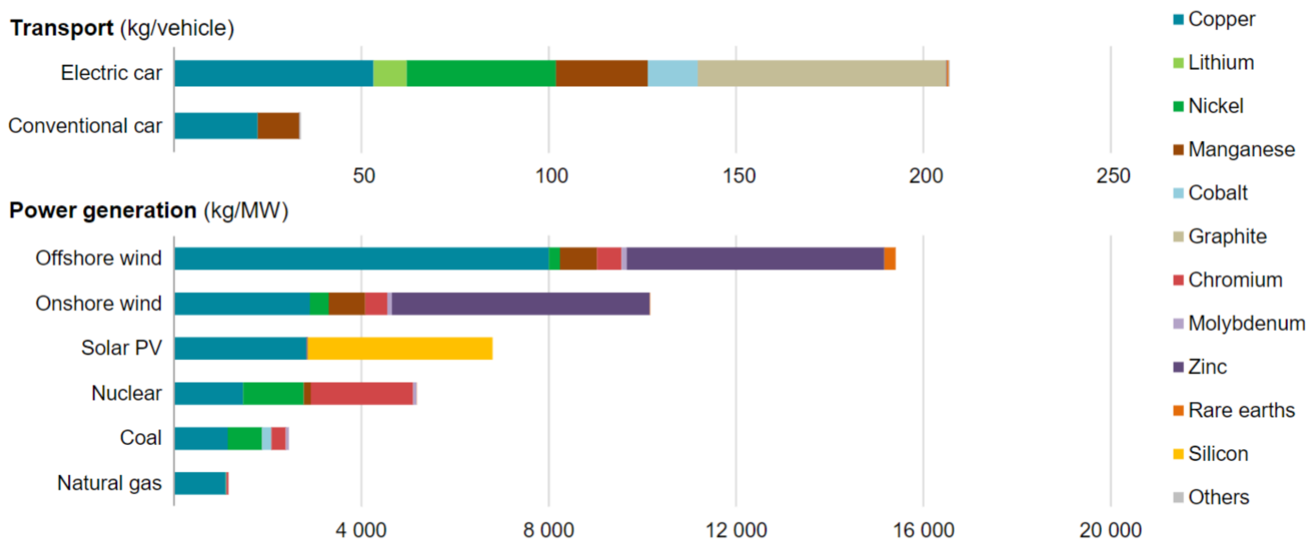
However, clean energy systems differ profoundly from energy facilities based on fossil fuels in that they are considerably more mineral-intensive to build than their fossil-fuel counterparts. For example, a typical electrical vehicle (EV) requires around six times the mineral inputs of a conventional car; an onshore wind plant needs nine times more mineral resources than a gas-fired power plant. Consequently, since 2010, the average volume of minerals needed per new unit of power generation capacity has increased by half in line with the rising share of renewables.[90]

Looking at assessments by the International Energy Agency (IEA), a concerted effort to reach the goals of the Paris Agreement as represented by the IEA's Sustainable Development Scenario (SDS) would mean an estimated four-fold increase of mineral requirements for clean energy technologies by 2040. A faster transition scenario to achieve net-zero globally by 2050, would entail around six times more mineral inputs in 2040 than today (Figure 7).

3.2 Minerals used in clean energy facilities

Figure 8 illustrates the minerals required by technologies like solar PV and wind for power generation, and EVs in transport in comparison with conventional technologies.

Figure 8 Minerals used in selected clean energy technologies



Note: not including steel and aluminium.
Source: IEA (202, March), The Role of Critical Minerals in Clean Energy Transitions.

For example, on average more than twice the volume of copper is required in the wiring of electric cars in comparison to conventional cars. Large volumes of copper are also consumed in the production of copper coils for off- and onshore wind turbines and the production of solar panels. Moreover, copper is required for batteries and grid transmission. Zinc as another mineral that is important in Peruvian and Bolivian mining is used in the galvanisation of wind turbines, in solar panels and in batteries. Lead is not mentioned in Figure 8 but plays among others a role in batteries, soldering of electronic components of solar panels, and for wind turbines.[91]

The required inputs can come from two sources: recycling or mining. While recycling is an important and growing source, technology to economically recover the minerals for reuse does often not yet exist. Moreover, there are not enough recyclable products to supply what is needed, especially in the light of massively growing demand globally and many of the minerals required in the energy transition not having been used in older products. For example, the copper required to produce an average EV currently would require the recycling of least four internal combustion engine vehicles.[92] While difficult to predict, reducing material intensity and new technologies allowing material substitution can certainly play a role in reducing demand for newly mined minerals.[93] However, in the short- to medium-term mining will remain the key source of these elements.

The global distribution of key countries currently mining these minerals or pertaining over sizeable reserves differs considerably (Table 11). For some minerals, production is concentrated among a small number of countries, especially in the case of graphite (China 80%), cobalt (DRC 71%), and rare earths (China 60%). Similarly, reserves where one or more countries are dominant include the known inventories of molybdenum (China 52%), cobalt (DRC 46%), and Lithium (Chile 42%). Peru is an important actor in several of these mineral supply chains.

Table 11 Key countries with mining operations and important reserves of minerals used in clean energy technologies

Mineral	Key mining countries (2021)	Mining production 2021 (% of global)	Key deposit countries	% of global identified reserves*
Copper	Chile	26.7%	Chile	22.7%
	Peru	10.5%	Australia	10.6%
	Congo (DRC)	8.6%	Peru	8.8%
	China	8.6%	Russia	7.0%
Lithium	Australia	55.0%	Chile	41.8%
	Chile	26.0%	Australia	25.9%
	China	14.0%	Argentina	10.0%
	Argentina	6.2%	China	6.8%
Nickel	Indonesia	37.0%	Indonesia	22.1%
	Philippines	13.7%	Australia	22.1%
	Russia	9.3%	Brazil	16.8%
	New Caledonia	7.0%	Russia	7.9%
Manganese	South Africa	37.0%	South Africa	42.7%
	Gabon	18.0%	Australia	18.0%
	Australia	16.5%	Brazil	18.0%
	China	6.5%	Ukraine	9.3%
Cobalt	Congo (DRC)	70.6%	Congo (DRC)	46.1%
	Russia	4.5%	Australia	18.4%
	Australia	3.3%	Indonesia	7.9%
	Philippines	2.6%	Cuba	6.6%
Graphite	China	82.0%	Turkey	28.1%
	Brazil	6.8%	China	22.8%
	Mozambique	3.0%	Brazil	21.9%
	Russia	2.7%	Madagascar	8.1%
Chromium	South Africa	43.9%	Kazakhstan	40.4%
	Kazakhstan	17.1%	South Africa	35.1%
	Turkey	17.1%	India	17.5%
	India	7.3%	Turkey	4.6%
Molybdenum	China	43.3%	China	51.9%
	Chile	17.0%	U.S.	16.9%
	U.S.	16.0%	Peru	14.4%
	Peru	10.7%	Chile	8.8%
Zinc	China	32.3%	Australia	27.6%
	Peru	12.3%	China	17.6%
	Australia	10.0%	Russia	8.8%
	U.S.	5.7%	Peru	7.6%
Rare Earths	China	60.0%	China	36.7%
	U.S.	15.4%	Vietnam	18.3%
	Myanmar	9.3%	Russia	17.5%
	Australia	7.9%	Brazil	17.5%

*Reserves are defined as a working inventory of mining companies' supplies of an economically extractable mineral commodity.
Source: U.S. Geological Survey (2022), *Mineral Commodity Summaries 2022*, U.S. Department of the Interior.

3.3 Downstream companies in energy transition sectors

As explained in previous sections, the lack of detailed supply chain information hampers a mapping of mineral flows from the upstream mining companies to the downstream sectors that manufacture end products, be it wind turbines, solar panels or electric vehicles. When selecting corporate downstream actors for inclusion in the further analysis, important factors are the global nature of the supply chains of these minerals in their different processing stages, the lack of comprehensive supply chain monitoring and traceability, and the comparatively important role of Peruvian and Bolivian actors in the supply of minerals with crucial importance in energy transition sectors.

Based on these assumptions, a selection of 25 European companies from relevant sectors has been made. Much of the production of the components and appliances is taking place outside of Europe, and then particularly in China. However, some important producers of wind turbines, solar panels, and EVs are also located in Europe.

Among the top-10 manufacturers of wind turbines globally are several European-based companies, including GE Renewable Energy, Vestas, and Siemens Gamesa. Table 12 lists the eight producers that were selected for inclusion in the analysis. Together they installed more than 43% of global capacity in 2020. According to global statistics for 2022, Vestas is now the leading producer globally.[94]

Table 12 Selected producers of wind turbines

Top European Manufacturers	Country	% of global capacity installed in 2020
GE Renewable Energy	France	14%
Vestas	Denmark	13%
Siemens Gamesa	Spain	8%
Nordex	Germany	6%
Enercon	Germany	2%
KONČAR	Croatia	n/a
Vergnet	France	n/a
Leitwind (HTI Group)	Austria	n/a

Source: *BloombergNEF* (2021, March 10), "Global wind industry had a record, near 100GW, year as GE, Goldwind took lead from Vestas"; Nordex (n.d.), "At a glance"; Kanunnikova, T. (2021, May 12), "Wind power industry analysis | Leading wind turbine manufacturers in Europe", *Gadgets Review*.

The production volume of solar photovoltaic (PV) has seen strong growth over the last 15 years and is forecasted to continue growing at a high compound annual growth rate (CAGR) of 25.9% until 2028.[95] Rapidly rising demand for renewable energy resources as an alternative to fossil fuels – further fuelled by the Russian war in Ukraine - and the increasing dependency on electricity is driving this growth.

The PV industry has experienced a dramatic change over the last few years. While Japan and Europe dominated the production until the mid-2000s, China has since then become the major manufacturing country for solar cells and modules, followed by Taiwan and Malaysia.[96] While accounting for a smaller market share, some PV panel producers are based in Europe and included in the further analysis (Table 13).

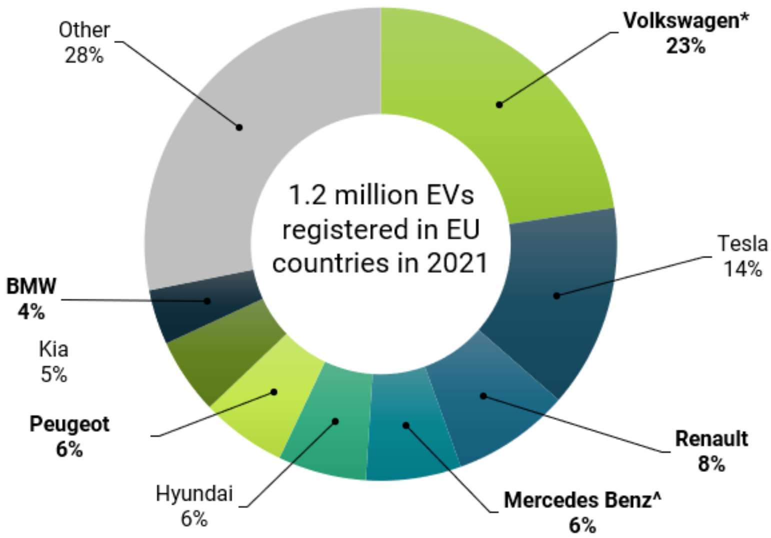
Table 13 Leading solar PV panel producers in the EU, 2020

Company	Country
Soluxtec	Germany
Sonnenstromfabrik	Germany
Soluxtec	Germany
Hanplast Energy	Poland
Kioto	Austria
ExaSun	Netherlands
RECOM Technologies	France

Source: Fraunhofer Institute (2022, February 24), *Photovoltaics Report*, p. 14.

The global market for EVs is dominated by Tesla (United States) with a market share of around 28% in 2020. Other important manufacturers include the Renault-Nissan-Mitsubishi Alliance, Volkswagen (Germany) and BYD (China).[97] For the purpose of this report, the top EU EV producers with the highest share of new registrations were chosen (Figure 9). These are Volkswagen, Renault, Mercedes Benz, Peugeot and BMW.

Figure 9 Top EU EV producers based on 2021 registrations



*incl. Skoda and Audi; ^incl. Smart.
Source: Jato (2022, February 2), "In 2021, Battery Electric Vehicles made up one in ten new cars registered in Europe", online: https://www.jato.com/in-2021-battery-electric-vehicles-made-up-one-in-ten-new-cars-registered-in-europe/, viewed in April 2022.

3.4 Downstream companies linked to Colombian coal

For the shipments of Colombian coal to Europe, data on deliveries could be analysed until February 2021. During the period of more than three years from January 2018, Glencore with its subsidiaries Cerrejón and Prodeco were by far the most important suppliers of coal from Colombia to the EU market. Shipment data suggests a share of around 72%. Drummond as another key actor in Colombian coal accounted for an estimated 21%.[98] A significant share of these imports is linked to Enerco, a Dutch energy commodity trader which is owned by the Luxembourg-based holding AMCI Enerco. Enerco's customers are not known.

A total of seven European energy companies were selected for inclusion in the further analysis (Table 14). These companies are all members of the Bettercoal standard, which has the objective to achieve a global responsible coal supply chain.[99] Some companies did not source coal from Colombia any longer in recent years or reduced sourcing; however, it remains unclear how the supply from Russia will be replaced. This is, for example, the case for Vattenfall, which obtained 85% of its coal in 2021 from Russia but stopped sourcing from the country in March 2022 and was investigating alternatives.[100]

Moreover, the sanctions against Russia also mean that some earlier decisions to cut overall coal consumption have been reverted. In the Netherlands, the remaining three coal-fired power plants, operated by Onyx, Uniper and RWE, previously had to reduce their operations to 35% of normal capacity to achieve the climate commitments of the country. The Onyx Power plant in Rotterdam was meant to be closed against a subsidy payment of € 212.5 million. However, owner Riverstone announced a change of mind in April 2022 and will keep its plant open.[101] Moreover, in June 2022, the Dutch government decided that the three plants can work at a higher level again to relieve the pressure on gas-fired power stations. The measure will last until 2024 and requires additional coal stocks.[102] These resulting increases and changes in procurement away from Russia may increase the demand for coal imports from Colombia.

Table 14 Selected energy companies linked to Colombian coal since 2018

Company	Country	Links with Colombian coal[a]	Source
EnBW	Germany	0.2 million tonnes 2019	103
Enel	Italy	6.1 million tonnes 2018-2021, decreased in recent past[b]	104
RWE	Germany	0.8 million tonnes 2020-2021	
Uniper / Fortum	Finland	1.1 million tonnes 2018-2020,[c] reportedly still sourcing from Colombia	105
Vattenfall	Sweden	0.5 million tonnes 2018-2019, stopped sourcing in 2020	106
ESB	Ireland	2% of Cerrejon's output 2015-2018, restarted import in 2022	107
Onyx Power / Riverstone Holdings	U.S.	unknown	

Notes: [a]indicative due to limited data availability; [b]according to the company coal has decreased in the recent past to a marginal share of fuel purchases, including from Cerrejon; [c]including Fortum Varme and E.on (divested its fossil fuel assets to Fortum in June 2018).

4

Dutch financiers of mining and downstream companies

Based on the selections presented in Chapter 2 and 3, this section looks at the Dutch investors financing mining activities of companies in Bolivia, Peru, and Colombia, as well as European downstream companies that are likely using minerals from those countries in their operations. As mining operations are linked to high human and labour rights risks, investments in these supply chains ask for strong due diligence by financial institutions providing funds to companies at different stages of the supply chain.

4.1 Creditors

Between 2016 and 2022, three Dutch banks (ING Group, Rabobank, and ABN Amro) provided loans and underwriting services for a total of US$ 25.9 billion to companies active in the mining of transition minerals in Bolivia and Peru and coal mining in Colombia, as well as downstream companies that may be exposed to these minerals in their supply chains (Table 15).

Table 15 Loans and underwriting per bank and company, 2016-2020

Bank	**Company**	**Value (in US$ mln)**
ING Group	Trafigura	3,22
	Mercedes Benz	2,59
	Siemens Energy	2,51
	Glencore	1,63
	Volkswagen	1,63
	Enel	1,60
	Philips	1,36
	BMW	1,09
	Fortum	896
	Peugeot	477
	EnBW	277
	Enercon	164
	RWE	145
	Freeport-McMoRan	85
	Breca Group	55
ING Group Total		*17,75*
Rabobank	Trafigura	2,47

Bank	Company	Value (in US$ mln)
	Glencore	871
	Philips	848
	Nordex	100
Rabobank Total		*4,29*
ABN Amro	Trafigura	1,6
	Glencore	1,16
	Philips	416
	Freeport-McMoRan	402
	RWE	145
	Votorantim	144
ABN Amro Total		*3,88*
Total		**25,93**

Source: Thomson Reuters Eikon (2022), 'EMAXX Bondholdings of selected companies', viewed in April 2022; Thomson Reuters Eikon (2022), 'Shareholdings of selected companies', viewed in April 2022.

4.2 Investors

This research also found that 22 Dutch bond- and shareholders invested in the commercial activities the companies selected in Chapter 2 and 3. In total, the 22 Dutch bond and shareholders invested over US$ 7.05 billion in Q1 2022 in this sector (Table 16).

Table 16 Bond and shareholding per investor group (2022, March, US$ mln)

Investor	Company	Value (in mln US$)
Algemeen Burgerlijk Pensioenfonds (ABP)	Volkswagen	679
	Vestas	643
	Enel	483
	Peugeot	411
	Siemens Energy	219
	EnBW	215
	Mercedes Benz	192
	Fortum	83
	ESB	62
	Renault	56
	Vattenfall	31
	RWE	1
Algemeen Burgerlijk Pensioenfonds (ABP) Total		*3,075*
Pensioenfonds Zorg en Welzijn (PFZW)	Volkswagen	288
	Enel	252
	Mercedes Benz	137

Investor	Company	Value (in mln US$)
	Glencore	61
	Freeport-McMoRan	44
	Fortum	11
	Renault	10
Pensioenfonds Zorg en Welzijn (PFZW) Total		*803*
Pensioenfonds Metaal en Techniek (PMT)	Enel	124
	Siemens Energy	92
	BMW	59
	Renault	48
	Vestas	39
	Mercedes Benz	36
	ESB	34
	Vattenfall	29
	RWE	26
	Volkswagen	25
	EnBW	18
	Peugeot	14
	Fortum	9
Pensioenfonds Metaal en Techniek (PMT) Total		*553*
Bedrijfstakpensioenfonds voor de Bouwnijverheid (BpfBOUW)	Volkswagen	153
	Enel	100
	Vestas	69
	Peugeot	52
	EnBW	41
	Mercedes Benz	40
	Siemens Energy	34
	Vattenfall	12
	Fortum	11
	ESB	8
	Renault	7
Bedrijfstakpensioenfonds voor de Bouwnijverheid (BpfBOUW) Total		*527*
Pensioenfonds van de Metalelektro (PME)	Enel	73
	Siemens Energy	51
	BMW	38
	Mercedes Benz	32
	Volkswagen	30
	Renault	29

Investor	Company	Value (in mln US$)
	Glencore	28
	Vattenfall	26
	Vestas	17
	EnBW	16
	ESB	14
	Peugeot	12
	RWE	10
Pensioenfonds van de Metalelektro (PME) Total		*376*
Aegon	Siemens Energy	141
	Freeport-McMoRan	89
	Glencore	53
	Enel	33
	Volkswagen	27
	RWE	16
	ESB	12
	BMW	10
	Mercedes Benz	10
	Peugeot	4
	Vestas	4
	Renault	1
Aegon Total		*400*
Cardano Group	Vestas	104
	Peugeot	72
	Enel	45
	BMW	31
	Mercedes Benz	20
	Volkswagen	15
	Siemens Energy	12
	Renault	5
	ESB	2
	RWE	1
Cardano Group Total		*307*
NN Group	Siemens Energy	98
	Peugeot	85
	Volkswagen	51
	Mercedes Benz	45
	Vestas	31

Investor	Company	Value (in mln US$)
	Enel	19
	Glencore	11
NN Group Total		*340*
Pensioenfonds Detailhandel	Siemens Energy	49
	Enel	44
	Mercedes Benz	36
	Volkswagen	27
	Freeport-McMoRan	21
	Peugeot	17
	BMW	13
	Vestas	11
	Renault	8
	Glencore	6
	EnBW	6
	Fortum	4
	ESB	3
	Vattenfall	2
	Votorantim	1
Pensioenfonds Detailhandel Total		*248*
Mercier Vanderlinden Asset Management	Peugeot	96
Mercier Vanderlinden Asset Management Total		*96*
ABN Amro	Vestas	28
	Peugeot	20
	ESB	14
	Renault	13
	Enel	8
	Mercedes Benz	4
	Glencore	4
	BMW	3
	Siemens Energy	3
	Volkswagen	2
	RWE	1
ABN Amro Total		*100*
Pensioenfonds Horeca & Catering (PH&C)	Siemens Energy	23
	Glencore	14
	Mercedes Benz	13
	Vestas	10

Investor	Company	Value (in mln US$)
	Freeport-McMoRan	8
	Volkswagen	5
	Peugeot	3
	Renault	3
Pensioenfonds Horeca & Catering (PH&C) Total		*79*
Triodos Bank	Vestas	41
	BMW	4
Triodos Bank Total		*45*
BPL Pensioen	Vestas	19
	Siemens Energy	6
	Mercedes Benz	6
	Renault	3
	Peugeot	2
	Fortum	1
BPL Pensioen Total		*37*
ASR Nederland	Enel	11
	Vestas	5
	Mercedes Benz	4
	Siemens Energy	3
	Peugeot	2
	Volkswagen	2
ASR Nederland Total		*27*
Optiver	Peugeot	9
Optiver Total		*9*
Achmea	Vestas	8
Achmea Total		*8*
Van Lanschot Kempen	Volkswagen	6
	ESB	3
	Renault	2
	Siemens Energy	1
Van Lanschot Kempen Total		*12*
Hof Hoorneman Bankiers	BMW	3
Hof Hoorneman Bankiers Total		*3*
ING Group	Renault	1
	BMW	1
	Peugeot	1
	Siemens Energy	1

Investor	Company	Value (in mln US$)
ING Group Total		*4*
Double Dividend	Enel	4
Double Dividend Total		*4*
Privium Fund Management	Vestas	2
Privium Fund Management Total		*2*
Total		**7,05**

Source: Thomson Reuters Eikon (2022), ‘EMAXX Bondholdings of selected companies’, viewed in April 2022; Thomson Reuters Eikon (2022), ‘Shareholdings of selected companies’, viewed in April 2022.

5

Human rights due diligence analysis of mining sector corporate actors

In an effort to obtain social license and to meet the increasingly higher standards set by financiers, businesses pay more attention to preventing and mitigating human and labour rights risks. But very often, these intentions stay only on paper. This section evaluates the human rights due diligence policies and practices of mining companies in Bolivia, Colombia, and Peru and of the downstream companies with likely supply chain links.

5.1 Policies and practices of upstream companies

5.1.1 Glencore (Colombia)

Glencore has been operating in Colombia since 1996, when it acquired CI Prodeco SA.[108] Grupo Prodeco is made up by the following companies (all Genclore's subsidiaries): [109]

- CI Prodeco S.A., owner of the Calenturitas mine and the freight wagons and locomotives that transport coal from Cesar to the port in Ciénaga, Magdalena.
- Carbones de La Jagua S.A., United Mining Consortium S.A. and Carbones El Tesoro S.A., co-owners of the La Jagua mine.
- Sociedad Portuaria Puerto Nuevo S.A., a company that operates and manages the Puerto Nuevo seaport facility, located in the jurisdiction of the municipality of Ciénaga, department of Magdalena.

Calenturitas is an open pit mine located in the municipalities of La Jagua de Ibirico, El Paso and Becerril in the central Cesar region.[110] La Jagua, also an open-pit coal mine, is located in the municipality of La Jagua de Ibirico, Cesar. It consists of five mining concessions. The coal mined at La Jagua is transported by truck to the coal handling facilities at Calenturitas, where it is loaded onto freight wagons for transportation to the seaport in Ciénaga.

As of 2021, Prodeco employed about 2,500 direct workers and 5,000 indirect workers.[111]

Glencore did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

Glencore states its commitment to take into account social, ethical and environmental considerations with regards to its products and supply chains and when managing our relationships with suppliers. Glencore states this commitment through its Responsible Sourcing Policy and its Supplier Code of Conduct. These two policies are, according to Glencore, in accordance with the United Nations (UN) Universal Declaration of Human Rights, the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work, the UN Guiding Principles on Business and Human Rights (UNGPs) and the UN Global Compact.[112]

Glencore claims to take into account social, ethical and environmental considerations when managing its relationships with suppliers and customers. Moreover, in its policies, the company lays out its commitment to conducting due diligence on their supply chains and mitigation of human rights risks. In this context, Glencore's sourcing policies and standards frameworks consider production, sourcing of metals and minerals and procuring goods and services, as well as its commitments and expectations vis-à-vis suppliers.[113]

Glencore's Supplier Code of Conduct applies to any individual, organisation or company that provides, sells, or leases materials directly to Glencore companies, including goods and services. According to Glencore, the standards set out in its Supplier Code of Conduct form the base of its supply chain due diligence (SCDD) programme, which Glencore claims is risk-based and in alignment with the OECD's Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (OECD DDG).[114]

In addition to its CSR policies, Glencore is a member of mining industry initiatives such as: International Council on Mining and Metals (ICMM) and the Voluntary Principles Initiative (VPI).[115] The company also supports the Extractives Industries Transparency Initiative (EITI).[116] Moreover, Glencore is assessed in the Responsible Mining Index and the Business & Human Rights Resource Centre's Transition Minerals Tracker.[117] The company is not a member or has partnered with the Initiative for Responsible Mining Assurance (IRMA).[118]

The policies in practice

Despite its stated commitments to human rights and labour rights, there are several allegations of acts of violence by Glencore and its subsidiaries worldwide against communities and human rights defenders. Between 2018 and 2020, the Business & Human Rights Resource Centre had registered 36 cases of attacked against human rights defenders.[119] In Colombia, peasant families living on the banks of the Ranchería river, in the village of Papayal, municipality of Barrancas, La Guajira, denounced an attempted forced eviction by employees of the Cerrejón coal company and the police inspectorate in November 2021.[120]

Labour rights violations by Glencore in Colombia

Written by Ana Carolina Herrera, CNV Internationaal

Colombia is considered one of the most dangerous countries to exercise freedom of association, according to the Global Human Rights Index of the International Trade Union Confederation. This is reflected in acts of harassment through text messages sent to union leaders, such as what happened on September 1, 2022 when leaders of Sintracarbón (Coal Industry Workers Union) received death threats. [121]

On December 1, 2020, at the time when Glencore was taking over Cerrejón, the mine employees had to be striking for 91 days of strike when an agreement was reached between the companies and the unions Sintracarbón and Sintracerrejón (Cerrejon limited workers union).[122] However, one of the conditions for the cessation of the strike was the creation of technical tables, one of them related to the shift change, called by the workers "death shift", [123] a shift that leads to the termination of work contracts due to the excessive load that has been imposed on the workers today. The heavy workload puts workers at greater risk the levels of accidents in the mine. Moreover, this shift goes against the labour culture and conquests that the workers had achieved in terms of working hours, which reflects the application of regressivity and not progressivity in labour matters. The company argued that it needed to reduce costs and remain competitive in the global market to justify the change in working shifts.[124] Today, this argument has been impossible to sustain, in view of the current high coal prices and the company is applying it.

Glencore employees have reported an increase in mental illness and sleep disorders.[125] In August 2022, the Colombian Ministry of Labour carried out an inspection at the Cerrejón mine to address the different OSH concerns, where the company was invited to form a tripartite commission. However, the company refused, and today Sintracarbón also denounces that the Joint Committee for Safety and Health at Work, under manoeuvres of the company, is seeking that the representation of the workers be in charge of a trusted worker of the company, which constitute an illegal practice.[126] In this visit, the Ministry of Labour found that there could possibly be an undue withholding of wages since the multinational is not making the due payment of overtime or night surcharges. Workers at the mine have a workload heavier than that authorised by law. Moreover, the company does not recognise Sunday rest and other paid holidays and does not give workers time off. The Ministry of Labour has warned of an administrative sanctioning process for the violation of labour standards.[127]

Also with regards to OSH, the Company's Sustainability Reports lack transparency when identifying the number of occupational accidents and identifying and reporting occupational diseases, which constitutes a situation of underreporting and lack of information needed to prevent occupational diseases and accidents.[128] However, exposure to coal dust can lead to lung cancer and that should be considered by the mining companies.[129] Due to the massive layoffs by Cerrejón on February 23, 2021, the Company was sanctioned on June 9, 2022 by the Ministry of Labour for violating the reinforced work security of ill workers, who despite being in a clear situation of vulnerability, had their employment relationship terminated. [130]

On the other hand, precarious labour, as reflected in the outsourcing of workers, is a matter of concern. The European Commission is currently processing a complaint against Colombia before the Single Entry Point, a mechanism that monitors the sustainable development chapter of the Trade Agreement between Colombia and the European Union. The plaintiff alleges labour discrimination. Despite performing the same functions within the company Carbones del Cerrejón, outsourced workers earn a substantially lower salary than workers hired directly by the company. This not only consitutite a situation of discrimination with respect to the principle of "equal pay for equal work" contemplated in ILO Convention 111, but also reflects the illegality of outsourcing.[131] According to the 2021 Sustainability Report of Carbones del Cerrejón,[132] shows that out of the 11,088 workers employed at the mine, 4,889 are direct workers and 6,199 outsourced workers - more than 100% of the total number of direct workers. This difference reflects a clear policy of precariousness through the use of outsourcing. This precariousness is evident in economic matters for the worker, low levels of unionisation amongst outsourced workers, and discrimination.

In relation to the Prodeco Group, a company operating in the department of Cesar in Colombia, also owned by Glencore, the company announced the resignation of its mining titles.[133] Faced with this decision, the company offered its workers voluntary retirement plans under clear pressure against workers who even enjoyed reinforced labour stability, as is the case of sick workers, pre-pensioned workers and workers with union privileges.[134] This practice breaks the national norm. According to information provided by one of the leaders of Sintramienergetica in a meeting within the framework of Bettercoal, more than 70% of the workers suffer from occupational diseases. They also denounced that despite the decision to return titles, the company continues to operate, hiring new workers with lower salaries and clearly without conventional benefits. Moreover, union leaders are not allowed to enter the mine, despite the fact that they still have work contracts in force.[135]

The challenges of such decision are enormous. Unfortunately, the decision taken by the company was never thought of in favour of the workers or with the purpose to collectively thinking and exit strategy that would cause the least harm to a region that depends on extractive mining. In response, in February 2022 the unions, Sintramienergetica (National Union of Workers of the Mining, Petrochemical, Agrofuels and Energy Industry), Sintracarbón and the Central Unitaria de Trabajadores went to the Multinational Companies Unit of the ILO in order to promote a space for rapprochement between the company and the union with the support of the ILO. However, this has not yet materialised in a first meeting.[136]

5.1.2 Drummond (Colombia)

The Drummond began to operate in Colombia in 1986, when it acquired its first concession (Pribbenow Mine), and its first international coal production took place in 1995.[137] Currently, Drummond's operations in Colombia include the Pribbenow, El Descanso, and El Corozo open-pit coal mines located in the Cesar Coal Basin near La Loma. Moreover, Drummond owns a deep-water ocean port on the Caribbean Sea near Santa Marta, called Puerto Drummond, and coal transportation and handling facilities.[138]

Drummond employs over 4,400 direct workers and 280 fixed-term workers. Moreover, through subcontracting agencies, 3,900 indirect workers are employed at Drummond Colombia.[139]

Drummond did not respond to our request for feedback on the analysis of its HRDD policies and practices

Human Rights Due Diligence

In its Human Rights (HR) Policy, Drummond Ltd states its commitment to respect, protect and support internationally human rights across the company's business activities, in accordance with the UNGPs and the Voluntary Principles on Security and Human Rights. In this context, Drummond's HR Policy prohibits the company's employees, contractors and suppliers from any form of violation of the right to life, right to a healthy environment, right to safety and health at work, right of free association and collective bargaining, the right to land, right to non-discrimination, and the rights of ethnic minorities.[140]

Drummond Ltd's HR Policy interpretation of "human rights" is aligned with the Political Constitution of Colombia's definition of fundamental human rights, as well as those set forth in the "Universal Declaration of Human Rights" and those developed in international treaties ratified by Colombia.[141] Despite its stated adherence to the Voluntary Principles on Security and Human Rights, Drummond is not a member of VPI.[142] Moreover, Drummond is not a member of any of the major sustainability initiatives of the mining industry.[143]

Neither Drummond Ltd (Colombia) not Drummond Co (US parent company) have a publicly available Supplier Code of Conduct. Drummond Ltd does have a Code of Conduct, but it applies to its employees across all of Drummond's activities.[144] Drummond does not appear to have a Human Rights Due Diligence policy.

Drummond Ltd publishes yearly sustainability reports. In its 2020 sustainability report, Drummond refers to the United Nations Sustainable Development Goals (SDGs). Its sustainability endeavours address 10 out of 17 SDGs. Moreover, Drummond claims that 84% of its investment contracts and agreements have HR clauses. Likewise, Drummond claimed participation in multi-actor skill building initiatives around human rights, including Mining and Energy Committee, Human Rights and Coal Working Group, and Regional Centre for Responsible Businesses and Entrepreneurship (CREER).[145]

The policies in practice

Contrary to its stated intentions in its corporate policies and the actions reported in its sustainability report, Drummond Ltd has been involved in several human rights controversies. In 2020, witnesses testified in the Colombian court that Drummond had ordered and paid for the murders of union leaders.[146] In January 2021, a coalition of Colombian and international civil society organisations filed a complaint with the OECD, alleging that Drummond has a responsibility for ongoing human rights violations in La Guajira.[147] In May 2022, the Corporate Accountability Lab submitted the first half of a report about the role of multinational companies, including Drummond, in the armed conflict to the Chamber for the Acknowledgement of Truth, Responsibility and Determination of Facts and Conduct of Colombia's Special Jurisdiction for Peace (JEP).[148]

Labour rights violations by Drummond in Colombia

Written by Ana Carolina Herrera, CNV Internationaal

In April 2022, the Colombian Commission of Jurists (CCJ), PAX Colombia and Sintramienergética, presented a report to the Special Jurisdiction for Peace, which highlighted the systemic assassinations of trade union leaders in the late 1990s and early 2000s.[149] Currently, the union and allied organisations are still awaiting the materialisation of restorative justice that seeks reparations for the union. In 2013, Jaime Blanco (Blanco Case), a Drummond contractor, was convicted of the murder of two Sintramienergetica executives.[150] This case is still under review by the Special Justice for Peace (JEP) and there are currently criminal proceedings against two Drummond executives.[151] These processes pave the way for accountability on the part of the company for its human rights violations.

With regards to the company's obligations, in terms of decent employment, the trade union movement has exposed in different for a Drummond's lack of compliance with occupational safety and health norms. To date, the company has not solved its debt with the workers. This is evidenced in a complaint filed in 2016 before the National Contact Point of the OECD in Colombia, where despite different meetings between the unions and the company, there was no agreement on the settlement proposal presented by the mediator.[152]

The argumentation of the case was based on the non-observance of the OECD Guidelines on due diligence to prevent impacts on the right to health of workers, where there were documented cases of workers that contracted pneumoconiosis[c] due to failures in the identification and management of workplace health risks.[153] Although no agreement was reached, the National Contact Point made a series of recommendations to Drummond. Those recommendations aimed at improving due diligence processes. Moreover, the National Contact Point recommended that the company have a dialogue with the affected workers so that they could propose opportunities for improvement, as well as to strengthen the system of comprehensive support to sick or disabled workers before health entities, maintain monthly and quarterly dialogue to monitor sick workers and strengthen the complaint mechanisms at the operational level.[154]

On 23 April 2021, the company's trade unions held a meeting with Bettercoal. During that meeting, they drew attention to the high rates of occupational diseases in the mine, as well as other affections, including pneumoconiosis, psychiatric and gastrointestinal diseases.[155] Even though the workers' ill health has weakened them, they remain subject to persecution and dismissal, thus violating the work security principle to which they are entitled to according to the Political Constitution of Colombia of 1991.

[c] Pneumoconiosis is a lung disease resulting from the inhalation of coal, graphite, or charcoal dust over a prolonged period of time. It is considered to be an occupational disease.

One of the main complaints of ill Drummond workers is the routinary delay in the payment of sick leave entitlements. For its part, the company states that these payments should be made by the Labour Risks Administration (ARL). However, the multinational could make the due payment and charge the ARL, since the sick worker is in an unequal position vis-à-vis the company (the latter having a greater economic capacity to make the payment and then claim it back).[156]

Drummond's labour relocation policies seem to work against the interests of ill workers, since the deterioration in working conditions is a continuous situation. The processes of labour relocation must be framed in the principle of human dignity. In this regard, Constitutional Court in Sentence T-269/10 ruled that the employer is obliged to relocate the worker to a job that has the same or greater labour benefits, [157] reiterating the employer's obligation to provide the necessary training to perform in the new position.[158] This is not being applied by the company.

So far in 2022, there have been three fatalities. On May 9, 2022, when three workers lost their lives in a collision involving a bus carrying mine workers.[159] On March 28, the company reported the death of one person in an inactive area of the El Descanso mining concession.[160] These unfortunate events should be carefully analysed as, according to the National Mining Agency in its Management Report, for the first half of 2022, the fatality rate in the mining sector in general had a disproportionate increase. In 2020, there were a cumulative 82 fatalities and in the first half of 2022 there are 91 fatalities. The report states that in legal mining there has been a 120% increase compared to 2021.[161]

During the April 2021 meeting with Bettercoal, allegations were also made about the violation of freedom of association, because of systematic union persecution against leaders and non-compliance with the collective agreement by Drummond and its contractors.[162] In 2019, this situation of violation of the right to freedom of association had already been made visible by one of the company's unions, which had reported the company's refusal to negotiate its list of demands, dismissals of members and offers of promotions for them to leave the organisation, as well as the initiation of legal proceedings to seek the dissolution of the union.[163] Similar violations were denounced by trade union organisations in the aforementioned case to the National Contact Point in 2016.[164] On August 18, 2021, Sintramienergetica denounced acts of Drummond against the right to freedom of association, evidenced by the unjustified dismissal of one of the leaders who was registered as a candidate to aspire to the election of the new Board of Directors of the Codazzi Branch.[165]

None of these grievances are published by Drummond, either in its sustainability ports, nor elsewhere. Providing transparency about grievances to wider stakeholders, through statistics, case studies or more detailed information about the handling of certain cases is one of the components of Principle 21 of the UNGPs,[166] which Drummond claims to align with in its Human Rights Policy.

5.1.3 Santa Cruz Silver Mining/Sinchi Wayra (Bolivia)

Santa Cruz silver Mining did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

Santa Cruz Silver Mining's Code of Business Conduct and Ethics was designed to assist all personnel of the company in making decisions regarding the affairs of the company, including its subsidiaries. While the code states basic principles meant to guide the affairs of the company and deals with certain specific situations, the company admits that the code is not comprehensive and encourages personnel to consult with the Chair of the Audit Committee for direction of specific issues on conflicts or potential conflicts.[167]

While the company's Code of Business Conduct and Ethics states the company's obligation to provide safe and healthy working conditions and comply with all occupational health and safety laws and regulations,[168] neither the code nor the corporate governance documents published on the company's website (including the Health and Safety and Environment Committee Mandate) are expressly aligned with the ILO core conventions. Likewise, none of the corporate governance documents on Santa Cruz Silver Mining's webpage embed any of the international frameworks for International Responsible Business Conduct, including the UNGPs or the OECD Guidelines.[169]

In its Code of Business Conduct and Ethics, Santa Cruz Silver Mining affirms its commitment to respect and comply with the laws, rules and regulations in each of the jurisdictions in which the company does business. Moreover, in the code, the company expresses its commitment to carrying out it duties with due care, competence and diligence, while also safeguarding its best interests and enhancing shareholder value[170] In the code, the company also commits to taking "*reasonable steps to ensure that the disclosure is full, fair, accurate, timely and understandable in all reports and documents that the Company files with, or submits to, government and regulatory agencies, self-regulatory bodies and stock exchanges and in all of the Company's other public communications*."[171] Despite this stated commitment, no sustainability reports are published on Santa Cruz Silver Mining's webpage.

Santa Cruz Silver mining is not a member of any of the mining sector sustainability standards (including ICMM, VPI or EITI). While the company references IRMA in the CSR section of its webpage,[172] this reference is likely related to Carrizal Mining, one of Santa Cruz Silver Mining's subsidiaries in Mexico that is an IRMA member.[173]

The policies in practice

There are several allegations of labour rights abuses at Sinchi Wayra's mines, including a lack of willingness to engage in social dialogue in the face of redundancy, and substantial outsourcing of its workforce, which can lead to precarious working conditions.[174] This study found no allegations since Santa Cruz Silver Mining took over Sinchi Wayra from Glencore in March 2022.

5.1.4 Impala Terminals (Bolivia)

Impala Terminas has no CSR policies of its own but it governed by the policies of its parent company, Trafigura. The analysis of Trafigure HRDD policies and practices is provided in Section 5.1.10.

5.1.5 Compañía de Minas Buenaventura (Peru)

The Compañía de Minas Buenaventura began operations in 1953, when the company acquired a mine in Julcani, Huancavelica Department in Peru. The company conducts exploration, development, construction, and operation of mines. Compañía de Minas Buenaventura currently operates several mine sites in Peru, including gold mines in Orcopampa, La Zanja, Tantahuatay, Tambomayo, and Yanacocha; silver mines in Julcani, Uchucchacua, and Mallay; copper mines in Marcapunta, Trapiche, and Cerro Verde; zinc in Colquijirca; and other mining projects in San Gabriel and El Faique.[175]

In addition to its mining operations, Buenaventura owns other businesses, including Buenaventura Ingenieros S.A. (BISA), NONENHUA, Huanza, Río Seco, and Contacto Corredores de Seguros.[176] Buenaventura's workforce is composed by 11,919 workers. While this number includes subcontractors, the company does not specify the proportion of its workforce that is outsourced.[177]

Buenaventura did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

Buenaventura's Supplier Code of Conduct and Code of Ethics and Good Conduct apply to all providers, their parent companies, and subsidiaries, including their collaborators, CEOs, employees, suppliers, contractors, and subcontractors.[178] None of the above states alignment with the UNGPs or the OECD Guidelines. However, the Supplier Code of Conduct outlines Buenaventura's expectations vis-à-vis its suppliers to respect and promote the commitment to human rights recognised in the Universal Declaration of Human Rights and in the ILO fundamental conventions. In this context, suppliers are expected to incorporate mechanisms to prevent, mitigate or remedy any possible violations of these rights.[179]

Buenaventura's Code of Ethics and Good Conduct states the company's commitment to its workers. In this context, the company commits itself to treating workers respectfully and fairly, taking care of their safety and investing in their development.[180] While this document does not outline a framework to achieve this commitment, the Supplier Code of Conduct does outline the company's expectation that its suppliers will:[181]

- Eliminate any form of discrimination and foster diversity and inclusion amongst its workforce.
- Guarantee the right of freedom of association and collective bargaining.
- Strongly reject child labour.
- Strongly reject forced or slave labour.
- Categorically reject and act against any type of abuse, including any form of intimidation, physical or moral harm.
- Categorically reject and act against bullying or harassment in the work environment.
- Implement good labour practices which contemplate adequate working conditions (working hours, fair remuneration, living conditions, freedom of association, etc.).
- Prevent situations that could negatively affect human rights, incorporating due diligence requirements in their procedures.

Regarding Occupational Safety and Health (OSH), the Supplier Code of Conduct states Buenaventura's expectations that suppliers will comply with national OSH and other requirements set by Buenaventura. Moreover, the company expects its suppliers to implement OSH management systems that promote the incorporation of OSH standards and regulations into procedures and continually improve those management systems. Likewise, Buenaventura expects its suppliers to promote, develop, execute, and maintain an adequate risk management system that emphasises preventive measures to mitigate accident risks. Lastly, the Supplier Code of Conduct outlines an expectation to promote periodic training and foster a work culture of accident prevention.[182]

Despite the labour provisions above, the Supplier Code of Conduct fails to state how Buenaventura will conduct its own due diligence and how it will provide remedy to workers' whose rights are breached in its supply chains. Instead, the Supplier Code of Conduct states that breaching the code grants Buenaventura the power to conclude its trade relations and to exclude the supplier from its supplier list.[183]

Regarding grievances, Buenaventura's Code of Ethics and Good Conduct provides a telephone number and a web address to which to report breaches of the code or any other policy of Grupo Buenaventura. This research found no evidence that this grievance mechanism is socialised and/or accessible to people who are not native Spanish speakers. Likewise, there is no information publicly available about a gender policy or a gender committee.

The policies in practice

Buenaventura appears to report grievances and its progress in implementing CSR policies. In its 2021 Sustainability Report, the company reported that 60% of employees and 100% of service providers and contractors had received the Code of Ethics and Good Conduct. Moreover, Buenaventura reported on the types of grievances that had been filed, including 13 complaints related to workplace harassment, sexual harassment and improper behaviour (up from 9 complaints the year prior) and 23 complaints related to workplace safety (up from 17 the year prior).[184]

Buenaventura also reported on workers' affiliation rate to trade unions, which in 2021 was 50%.[185] While there were no reports of social dialogue between the company and the unions, other forms of collaboration with the unions were reported, including safety sensitisation activities amongst the workers. According to the company, these activities have led to zero mortal accidents in the past 2.5 years.[186]

According to reports by civil society organisations, Buenaventura has been making consecutive losses since 2016, which has enabled the company not to pay income tax since then. This situation will also spare the company from paying this tax until 2025 because the accumulated loss of US$450 million will be carried over. This also will allow Buenaventura to avoid profit share payments to workers.[187] This situation contradicts Buenaventura's stated intention to treat workers fairly, as expressed in the company's Code of Ethics and Good Conduct.[188]

5.1.6 Sociedad Minera Cerro Verde (Peru)

Cerro Verde mine operations date back to 1868-1879, when Spanish colonisers extracted high-grade copper oxide ores. In 1916, Anaconda company became the mine owner, which it owned until 1970, when the Peruvian State took over the mine. The government extracted oxide minerals from Cerro Verde and, in 1972, built one of the world's first copper processing plants using the solvent extraction and electrodeposition (SX/EW) system. Cerro Verde is an EITI supporter and a member of ICMM through its parent company Freeport-McMoRan.[189]

As of 2020, Cerro Verde's workforce was made up of 4,656 direct workers, of which 4,388 were men and 268 were women.[190] While the company does not mention indirect workers in its reports, in 2018, an estimated 3,000 subcontracted workers were employed at Cerro Verde.[191]

Cerro Verde did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

Cerro Verde's CSR activities are governed by the CSR policies of its parent company, Freeport-McMoRan, including Principles of Business Conduct, Supplier Code of Conduct, Human Rights Policy, OSH policy, and Responsible Mineral Sourcing Policy, amongst others.[192] In its CSR policies, Freeport-McMoRan states its commitment to respecting human rights and the human rights of workers in alignment with the Universal Declaration of Human Rights and the UNGPs.[193] Likewise, the company's policies that apply to its suppliers are aligned with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.[194]

While not explicitly aligned with the ILO fundamental conventions, the provisions in Freeport-McMoRan's Supplier Code of Conduct demand that the company's suppliers ensure fair treatment and work conditions for all employees, including the right to free association and collective bargaining. Moreover, in its Supplier Code of Conduct, Freeport-McMoRan expects its suppliers to prohibit forced and child labour and to ban discrimination and workplace harassment. In this context, suppliers are expected to set up and implement grievance mechanisms and to provide remedy in a transparent manner.[195] These provisions are also outlined in the company's Human Rights Policy, which applies to Freeport-McMoRan's employees, suppliers, and other relevant stakeholders.[196]

5.1.7 Volcan Compañía Minera (Peru)

Volcan Compañía Minera is a mining company based in Peru and Glencore Plc is its parent company. In 2019 and employed over 3000 people.[197]

Volcan did not respond to our request for feedback on the analysis of its HRDD policies and practices

Human Rights Due Diligence

Volcan follows the Code of Conduct laid out by its parent company Glencore. Volcan has committed to international standard on human rights, such as the UN Universal Declaration, ILO Declaration on Fundamental Principles and Rights at Work and UNGPs. The company has also aligned its HRDD processes with the OECD Guidelines.[198] Volcan condemns the use of any kinds of forced or child labour and respects freedom of association and collective bargaining. Volcan also engages with union representatives, as established by the company and the unions, through regular virtual meetings.[199]

Glencore's human rights policy covers all those "*working for a Glencore office or industrial asset directly or indirectly controlled or operated by Glencore plc*"[200] However, this does not cover suppliers of Volcan. The policy requires 'assets' to embed RBC in its management systems. These include measures to identify and assess human rights impacts, develop controls to mitigate, prevent or remediate adverse impacts, and set up monitor and review processes.[201] Volcan conducted a broad materiality analysis to identify important RBC risks to which the company is exposed.[202]

The Glencore whistleblowing policy covers employees and business partners of its subsidiaries as well. The policy commits to protecting the identity of the whistleblower and also protecting them from retaliation.[203]

The policies in practice

Written by Gianina Echevarria, CNV Internationaal

The codes of conduct of Volcan and Glencore emphasise the respect and defense of the human rights of their workers, ensuring that their risk assessment processes include a rights approach, seek zero tolerance for violations of the rights of the workers of their contractors.[204] These policies are embedded in a legislative context where opposing forces contend for the rights of workers (Appendix 2 offers an overview of this legislative framework). However, in practice, these commitments fall short.

The Union of Metallurgical Mine Workers of Andaychagua Volcan Mining Company and Specialised, Contractors and Intermediation Companies that provide services in Volcan Compañía Minera – Andaychagua (Union of Andaychagua) is a trade union organisation of Volcan – Glencore. Since its formation, the union has faced several obstacles.

At the end of 2020, the Andaychagua Union (of the Andaychagua Mining Unit, in Junín) autonomously decided to modify its statutes to affiliate subcontracted workers of that mining unit. Despite there being no obligation, the decision was communicated to Volcan – Glencore, which, in an obvious act of union busting, asked the Labour Authority to nullify the registration of the statutory amendment. While the authority evaluated the request, Volcan began an investigati onto Mr. Alex Tinoco, general secretary of the union, for alleged unjustified absences from work. Were it not for national and international trade union pressure, it is very likely that Mr.Tinoco would have been arbitrarily dismissed.[205]

Once the Labour Authority turned down Volcan's request,[206] the Andaychagua Union submitted its 2021-2022 list of claims to exercise its right to collective bargaining. However, Volcan refused on the grounds that it was already negotiating with another of its trade union organisations: Federation of Metallurgical Mining Workers of Volcán Compañía Minera, an issue that is compatible with the negotiation proposed by the Andaychagua Union since it would be carried out in the field of establishment, unlike that which is carried out in the field of enterprise.[207] These sanctions had been indicated by two resolutions of the Labour Authority (File No. 023-2021-GRJ-GRDS-DRTPE-DPSC-SBNCRG: Decree of June 24, 2021 of the Sub-Directorate of Collective Bargaining; Decree of October 19, 2021 of the Directorate of Conflict Prevention and Resolution, Resolution No. 025-2021-GRJ/GRDS/DRTPE/DR, and General Directorate Order No. 20-2022-MTPE/2/14 of the General Directorate of Labour),[208] which Volcan Glencore ignored.

Due to the more than 4 months of reluctance on the part of Volcan, the Andaychagua Union decided to go on strike[209] for more than 60 continuous days during which the Labour Authority promoted more than 30 social dialogue meetings between the parties without any result. Despite the fact that Volcan attended these meetings claiming to be willing to solve the conflict, it dismissed one of the affiliates who had been striking (though, the worker has regained employment at the Andaychagua unit by order of the Judiciary).[210]

The Labour Authority intervened in an exceptional manner and ended the strike through an arbitration award, which ordered the start of CBA negotiations between Volcan and the Andaychagua Union.[211] However, the company continued to be reluctant to the mandates of the authority and even filed a lawsuit to challenge the arbitral award.[212] The filing of this appeal does not exempt Volcan from complying with the mandate so that its actions become illegal, and continueto affect the rights of the Andaychagua Union. Moreover, no CBA has been signed between 2021-2022. In addition to these union-busting actions, Volcan has failed to make its contributions to the union. This has been verified by the labour inspectorate by means of an infraction act No. 110 - 2022-SUNAFIL/IRE-JUN and which has proposed a fine of PEN 101,246.00 (US$ 26 163.00).[213]

In accordance with the international instruments of RBC, Volcan should have addressed the negative human rights impacts it generated. However, it failed to carry out due diligence and consequently violated the initiatives it has subscribed to (the OECD Guidelines, the UNGPS, and the Declaration of the International Labour Organization on Fundamental Principles and Rights at Work).

5.1.8 Empresa Minsur (Peru)

Minsur is a Peruvian mining company, owned by Breca Group, engaged in the extraction of tin and gold.[214] In 2018, Minsur employed 3,673 workers, of which 2,964 were outsourced labour.[215]

Minsur did not respond to our request for feedback on the analysis of its HRDD policies and practices

Human Rights Due Diligence

Minsur is committed to ensuring respect for human rights in its operations and supply chain. Its HRDD approach is aligned to the UNGPs and the OECD guidelines for RBC.[216] However, there is no explicit commitment made towards the ILO conventions. Minsur does make an explicit commitment towards the rights and interests of indigenous communities. Peru and Brazil, both countries where Minsur operates, are signatories to the ILO Convention 169 concerning indigenous communities.[217]

The company’s sustainability approach has 4 dimensions – health and safety, environmental care, responsible governance, and shared values. The board of directors and senior management address sustainability issues through different decision-making bodies such as the Executive Sustainability Committee responsible for monitoring progress and fulfilling commitments.[218]

Minsur conducted a site level assessment of human rights risks which covered issues like work conditions, health and safety, freedom of association and collective bargaining. Different stakeholders, like employees, contractors, indigenous communities and migrant populations, were also assessed.[219]

Misur's human rights policy outlines a commitment towards human rights and also "*promoting training on human rights issues throughout the value chain*". Minsur does not tolerate or contribute towards any form of forced or child labour, discrimination, exploitation or forms of corruption.[220] The human rights policy also acknowledges the freedom of association and the right to collective bargaining "*pursuant to relevant laws*".[221] Without a strong explicit commitment towards ILO core conventions, this potentially weakens Minsur's resolve towards human rights, especially in regions where local laws do not offer sufficient protections.

The Minsur Code of Conduct is applicable to all employees and suppliers. The company also has a specific Code of Ethics and Conduct for suppliers and contractors. The Code highlights the responsibilities of the suppliers including promoting human rights, cultural diversity, and a respectful non-discriminatory work environment. With regard to labour rights, requires suppliers to adhere to local laws and international treaties to which Peru is a signatory.[222] In order to further strengthen its commitments against child and forced labour, Minsur intends to offer a training course to suppliers, contractors and communities.[223]

Minsur's supply chain policy refers to a due diligence process, according to the OECD's due diligence 5 step framework, to avoid dealing in cassiterite that may contribute to any form of human rights abuse. It also recognises issues with supply from conflict affected or high-risk areas (CAHRAs) and is committed to policies that do not contribute to any form of human rights abuses.[224] As a member of the Responsible Minerals Initiative, Minsur conducts due diligence to ensure responsible supply chains and audits its operations every three years.[225]

Minsur is a part of different associations to promote collaboration with other relevant entities or stakeholders, such as the International Council on Mining and Metals, Extractive Industry Transparency Initiative and the United Nations Global Compact.[226] Minsur also uses communication channels to engage with different stakeholders. The different stakeholders include employees and trade union, shareholders and investors, suppliers, communities and civil society.

Minsur has a corporate integrity channel, available to employees and stakeholders, to communicate any potential breaches of the law or company policies. The mechanism is confidential and implemented by an independent third party.[227] The Code of Conduct states that complainants would not face retaliation and their identity would be safeguarded.[228]

5.1.9 Empresa Nexa Resources Perú (Peru)

Nexa Resources Perú S.A.A is a Peruvian mining company that belongs to Nexa Resources S.A., the metals and mining division of Votorantim S.A.[229] In 2020, Nexa Resources' workforce consisted of 5,349 company employees and 7,136 permanent independent outsourced workers. Moreover, the company employed over 5,088 temporary independent outsourced workers in the same year.[230]

Nexa Resources did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

Nexa has not publicly committed to international standards on human rights, including the UNGPs, OECD Guidelines, nor the ILO Fundamental Rights at Work. In addition, Nexa has not disclosed a human rights policy, an RBC policy or other documentation outlining a HRDD mechanism.

Enercon has not publicly committed to international standards on human rights, including the UNGPs, OECD Guidelines, nor the ILO Fundamental Rights at Work. Enercon has not disclosed a human rights policy, responsible business conduct policy or any other documents outlining a human rights due diligence mechanism

The Nexa Code of Conduct is applicable to all employees, stakeholders and business partners. It covers topics such as harassment, health and safety, and child/forced labour.[231] Nexa has a grievance redressal mechanism ('Ethics Hotline') to submit complaints or violations of the company's Code of Conduct. It can be used anonymously by employees, third parties and other stakeholders. Nexa rejects any form of retaliation, discrimination or sanctions against complainants.[232]

The policies in practice

The limited public information on due diligence mechanisms suggests that Nexa may not be actively conducting HRDD and that there may only be limited mechanisms in place to safeguard the rights of those affected by Nexa's operations. It is not clear if and how the company identifies human rights risks and takes actions to prevent or mitigate adverse impacts on workers and communities.

Nexa has a supplier authorisation and due diligence process which includes an evaluation covering criteria such as safety and health, environmental, legal and financial. The due diligence process consists of an assessment involving two steps – Standard Due Diligence and Advanced Due Diligence. The latter is applicable to suppliers identified as high/very high risk.[233] There is a lack of transparency regarding the specifics and implementation of this entire process. Furthermore, the evaluation criteria does not explicitly mention human rights.

In 2021, Nexa received 24 grievances through their Ethics Hotline, of which 42% were assessed as violations of the Code of Conduct.[234] No further information regarding the themes of these complaints is provided. The evaluation of suppliers, during the same period, helped identify 18 suppliers with a *"propensity to cause negative environmental impacts (1) or human rights issues (17)"* .[235] No further information on corrective actions taken is provided.

The lack of commitments towards international standards and the limited public information on HRDD processes raise significant concerns about whether Nexa is sufficiently identifying, monitoring and remediating human rights risks in its operations and sourcing activities.

5.1.10 Catalina Huanca Sociedad Minera (Peru)

Catalina Huanca Sociedad Minera did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

Trafigura commits to operating its business in a responsible way and is guided by the UN Global Compact, the UNGPs and the ILO Declaration on Fundamental Principles and Rights at Work.[236] Trafigura's responsible sourcing programme is based on OECD Guidelines for Responsible Supply Chains and the UNGPs.[237] Trafigura seeks to assess, prevent or mitigate the actual and potential human rights impacts of its own activities and that of its business relationships.[238]

Trafigura's Contractor HSEC (Health, Safety, Environment and Community) Code of Conduct lays down expectations and requirements of the group with respect to entities that are engaged directly or indirectly by the group. It covers health and safety, environment, human rights and labour practices, and community relations. Contractors are required to identify, assess, prevent, and mitigate human rights risks and its impacts.[239] They are encouraged to provide workers a grievance mechanism. The Code also indicates that contractors will implement processes to ensure management of risks and potential impacts on affected communities, including indigenous people and vulnerable groups.

The corporate responsibility policy and business principles are applicable to all Trafigura Group companies and entities over which the group has majority control. Trafigura also encourages its business associates to adopt and implement comparable standards. The corporate responsibility policy states that it is not a replacement for domestic or international laws and that when unsure, "*the most stringent standard should be applied*" .[240]

Trafigura is committed to responsible sourcing by identifying and mitigating social environmental risks in its supply chain.[241] Suppliers should not be engaged in forced or child labour and suspend engagement with upstream suppliers if they are associated with serious human rights violations. Trafigura claims to undertake risk-based due diligence on its supply chain, engage with suppliers to develop policies and procedures towards meeting its expectations, and also encouraging suppliers to promote the adoption of similar standards in its own supply chain.[242] However, an expectation to protect the freedom of association and collective bargaining is noticeably absent.

As part of its supply chain due diligence, Trafigura facilitates supplier self-assessment questionnaires for certain new and existing suppliers operating from higher risk countries or supplying higher risk commodities. Those considered high risk based on the assessment may be further subjected to on-site assessments including interviews with workers, contractors and community members. The entire process also includes follow-ups with suppliers to monitor and support their mitigation activities.[243] In 2021, 145 supplier due diligence reviews were initiated, of which 95 were active in Conflict Affected and High-Risk Areas.[244] Trafigura also reports on the due diligence process for contractors that conduct activities that are considered high-risk from a HSEC perspective.[245]

Trafigura engaged a third-party to help identify salient human rights risks. This process involved identifying actual and potential risks, and assessing its severity based on scale, scope and irremediability. These risks included labour rights, worker health and safety, environmental and community impacts, and access to grievance mechanisms.[246] Trafigura seeks feedback on their human rights approach through engagement activities such as multi-stakeholder forums and bilateral meetings. Key stakeholder groups include employees, communities, NGOs, suppliers and financiers.[247] Trade unions and/or worker representatives were not mentioned as a key stakeholder group.

Trafigura has a Compliance Department that oversees compliance related risks and issues, and is supported by a global network of Compliance Representatives.[248] Employees can use the Global Grievance line to anonymously raise concerns or report violations, without fear of retaliation. Trafigura does not tolerate any form of internal retaliation against complainants.[249] Internationally, Trafigura has deployed 'EthicsPoint', an anonymous multilingual grievance mechanism to facilitate reporting for all internal and external stakeholders (including suppliers and supply chain workers).

The policies in practice

It is evident that Trafigura has taken steps towards an appropriate HRDD process. Its annual sustainability report and human rights report provides insights into Trafigura's progress in HRDD implementation and offers some transparency on risk mapping, supplier engagement, and monitoring activities. It also provides a breakdown of grievances across themes. In 2021, the most number of grievances reported were regarding business integrity concerns (25%), supplier/contractor/business partner issues (20%) and allegations of improper behaviour or abuse (20%). Employee relations (15%) and wage/hour issues (10%) were also reported.[250]

However, the company also leaves significant gaps in its reporting on the implementation of policies. Along with its weak commitments towards freedom of association, Trafigura does not report on engagement with trade unions and worker representatives and does not report on the union representation within the company. Furthermore, Trafigura's reporting is mostly gender-blind, with the exception on figures on gender diversity within its own workforce.

5.2 Policies and practices of downstream companies

Energy companies

5.2.1 Uniper Group

Uniper is a publicly listed company based in Düsseldorf, Germany. Uniper is an energy company mostly focused on power generation and trade, including in natural gas, oil, nuclear energy, and coal power plants. In 2021, Uniper generated a net operational income of € 1,856 million and employed 11,494 people.[251]

Uniper did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

Uniper has committed to respect, protect and support internationally human rights across the company's business activities, in accordance with the Universal Declaration of Human Rights and the ILO Declaration on Fundamental Principles and Rights at Work, and expects suppliers and business partners to do the same.[252] However, Uniper does not outline a strong commitment to the UNGPs, the UNGC or the OECD Guidelines, and only states to "*aim to act in accordance with international standards*".[253] In addition, Uniper does not outline in detail how the company interprets and implements these standards.

In Uniper's Supplier Code of Conduct, which suppliers are contractually obliged to sign, Uniper outlines requirements in line with the ILO core labour standards on child labour, forced labour, discrimination, and freedom of association. In addition, the company expects suppliers to act in accordance with local applicable laws regarding working hours, renumeration, and occupational health and safety. However, Uniper's Supplier Code of Conduct does not outline specific expectations, provisions and policies, and strongly emphasises legal compliance over adherence to international standards.[254]

As of September 2021, Uniper has started to centrally coordinate human rights due diligence processes, including risk screenings and assessments, and recognises that "*risk assessments need to be more granular in order to identify which individual activities, projects, purchased products and services pose actual human rights risks*", but does not (yet) disclose outcomes of enhanced risk assessments. Uniper states that by the end of 2022, the company will have assessed all counterparties as part of the due diligence process, although most of newly selected suppliers are not yet subject to sustainability criteria (20% of all tenders in 2022 will include additional sustainability criteria beyond the Supplier Code of Conduct).[255]

In addition to risk screening, a key strategy in Uniper's EHRDD is membership in multistakeholder initiatives (MSIs). Uniper aims to "*become actively involved in up to three multistakeholder associations by 2023 that support ESG due diligence along the supply chain for Uniper's energy commodities*".[256] However, it is not yet clear how many and which MSIs Uniper will join and what their active participation will look like.

Uniper has not outlined the role of stakeholders, including rightsholders and workers' representatives, in its due diligence processes. The company does report on engagement with trade unions and NGOs in the context of the Bettercoal initiative in Colombia.[257]

Uniper has an internal and an external whistle-blower channel to report abuses or breaches of the law and internal company policies. Uniper has made both the internal and external channels available to employees, customers, suppliers and other third parties "*who have a business relationship with Uniper*", but does not outline if other stakeholders, such as local communities affected by Uniper's activities, are included. Uniper does guarantee confidentiality and non-retaliation, but does not provide detailed insights into the grievance process, nor whether and how remediations are determined and provided where relevant.[258]

The policies in practice

It is apparent from Uniper's Sustainability Report 2021 that the company is still very much in the process of implementing EHRDD processes and procedures. While some steps have been taken, including several broad commitments to international standards and the expansion of a human rights risk screening, the company leaves significant gaps in its policies and implementation.

Uniper's approach to EHRDD is mostly focused on legal compliance, risk screening and very limited sustainability and human rights criteria. While the company's efforts to join MSIs in the coming years is applaudable, particularly to address systematic issues that characterise coal value chains, it is not sufficient to prevent and mitigate human rights abuses in the company's own operations and supply chains. In addition, Uniper's policies are mostly gender-blind. The company only reports on gender disaggregated data in relation to its own workforce and diversity policy, but has not outlined an understanding of gendered human rights impacts across the companies activities and supply chains. The lack of reporting on engagement with other marginalised groups, communities and rightsholders, including representatives such as trade unions, suggest that Uniper is not adequately addressing concerns of key stakeholders.

The significant gaps in the company's policies and the current lack of transparency on risk screening outcomes, stakeholder engagement and other implementation activities significantly limit the extent to which external stakeholders can verify whether Uniper is compliant with international standards, and suggest that the company has to significantly improve its EHRDD and reporting to demonstrate that Uniper is taking adequate steps to identify, prevent and mitigate adverse human rights impacts.

5.2.2 Vattenfall

Vattenfall is a Swedish public company located in Solna. Vattenfall is an energy company with wind, coal, gas, nuclear, hydro, solar and biomass power plants. In 2021, Vattenfall had around 19,000 employees and an operating profit of € 2.96 billion.[259]

Despite its past trade links with Colombia, Vattenfall is currently not sourcing Colombian coal, but there is no certainty whether it will not do so in the near future. The company did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

Vattenfall has committed to the UNGPs, the OECD Guidelines, and the ILO eight fundamental conventions.[260] To implement these commitments, Vattenfall has implemented a due diligence process that covers the company's own operations, sourcing and purchasing. However, Vattenfall does not outline how this due diligence is conducted in detail, nor discloses a mapping of salient human rights risks as outlined by the OECD Guidelines. In 2018, Vattenfall did commit that by 2022, the company would strengthen and update due diligence processes, and conduct human rights impact assessments, but a more detailed mechanism nor impact assessments have been disclosed to date.[261]

In its Code of Conduct for Suppliers and Partners, Vattenfall expects suppliers to conduct due diligence in their own operations and supply chains, but does not require companies to abide by the OECD Guidelines. Although Vattenfall does outline some expectations on human and labour rights, these do not refer explicitly to the UNGPs or the ILO Fundamental Rights at Work. Nevertheless, Vattenfall expects suppliers to abolish child labour and forced labour, respect freedom of association, and non-discrimination. In addition, the Code outlines expectations on working hours, wages, health and safety, and the rights of Indigenous peoples. While some of these expectations often go above and beyond local legislation (suppliers are expected to "*meet the more stringent requirements between the Code and applicable laws, rules and regulations*"), the lack of explicit commitments and references to international standards create opaqueness around the exact expectations for suppliers, as Vattenfall's Code lacks sufficient detail on crucial labour rights conditions.[262]

According to Vattenfall's Annual and Sustainability Report 2021, the company audits high-risk suppliers on sustainability criteria, based on which suppliers are engaged to take corrective actions where necessary followed by continuous monitoring to ensure compliance. However, suppliers are only rated as high-risk based on the country, and only suppliers with large contracts are audited.[263] Vattenfall does not disclose which countries are rated as high-risk nor the criteria used for this risk assessment. As a result, Vattenfall may overlook significant human rights risks in countries not marked as high-risk for unknown reasons, as well as human rights impacts among its smaller suppliers.

In 2022, Vattenfall did update its Whistleblowing Policy in line with its commitments to improve human rights due diligence. Vattenfall launched a grievance mechanism available to all internal and external stakeholders to report breaches of human rights and other ethical concerns. Vattenfall provides the option to remain anonymous and prohibits all attempts to determine the identify of a whistleblower and prohibits retaliation against "*a whistleblower who have brought forward a concern in good faith*", though it is not clear how the condition of '*in good faith*' would be assessed in practice, leaving gaps in protecting human rights defenders.[264]

The policies in practice

In 2021, Vattenfall conducted a high-level assessment of its human rights management system and governance practices. According to the assessment, Vattenfall is not fully aligned with the OECD Guidelines nor the UNGPs on all steps of due diligence. The assessment also outlines the gaps that Vattenfall needs to address in its policies, including an uneven implementation of due diligence processes across business units, weaknesses in ownership and accountability for human rights in high-risk procurement categories, and limited due diligence extending to indirect suppliers. In addition, the assessment particularly identified a lack of protection mechanisms for human rights defenders, a lack of accessible grievance mechanisms, and gaps in remediation processes to address harm. Based on the findings, Vattenfall has outlined priority areas of improvement and some broad steps the company has taken and will take to implement the recommendations.[265]

It is certainly noteworthy that Vattenfall has conducted and disclosed the findings of a human rights assessment, including by openly identifying weaknesses in the company's due diligence and points of improvement, thereby showcasing the company's efforts to improve human rights governance. However, to date the policies only show limited progress and Vattenfall has not disclosed detailed findings of any risk screening, human rights impact assessment, providing insufficient insight into the identified risks and mitigation plans.[266]

Vattenfall also does not outline gendered impacts of human rights breaches, nor intersecting vulnerabilities that workers may face based on their gender, race, migrant status or other marginalised identities. In its Annual and Sustainability Report 2021, Vattenfall reports figures on diversity, such as the number of women in leadership but these figures only cover the company's own workforce and Vattenfall does not outline any gender equality policies in relation to its supply chains.[267]

In its Annual and Sustainability Report 2021, Vattenfall provides high-level figures on audits conducted among high-risk suppliers, but it is not clear what these risks constitute, and no detail is provided on the outcomes of these audits and the steps taken to ensure that suppliers respect human rights above and beyond auditing.[268] In addition, despite Vattenfall's commitments on freedom of association, the company does not report on any engagement with trade unions or worker representatives, nor on engagement with other rightsholders. Although in the Human Rights Policy, Vattenfall commits to extending the sphere of influence by engaging with partners to create positive human rights impacts, there is very limited evidence of proactive engagement with stakeholders, particularly with rightsholders, on human rights impacts.[269]

Overall, the reporting by Vattenfall suggests that the company is actively taking steps to improve its human rights management, including by updating its policies, reporting on the steps the company is taking to strengthen its due diligence processes, and launching a grievance mechanism accessible to internal and external stakeholders. However, Vattenfall continues to leave significant transparency gaps, particularly in its human rights risk screening and due diligence procedures, overreliance on social auditing, and does not provide strong evidence of engagement with key stakeholders such as trade unions.

5.2.3 EnBW

EnBW is a publicly traded energy company headquartered in Karlsruhe, Germany. EnBW had an external revenue of EUR 32,147 million in 2021, marking an increase of 63% from 2020, and employs over 26,000 people.[270]

EnBW did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

EnBW is committed to the international standards on human rights in accordance with the UNGPs, and the UN Global Compact. EnBW claims to adhere to ILO core conventions with respect to its own employees but weakens this commitment by maintaining that "*compliance is guaranteed on the one hand by anchoring them in national legislation*".[271] It is important to note that while the EnBW policy on Responsible Procurement of coal and other minerals states that its principles are based on the ILO conventions and the OECD Guidelines, among others, the Supplier Code of Conduct does not explicitly include a commitment towards these international standards.[272, 273]

As part of the sustainability initiatives, EnBW is part of various international and German CSR initiatives such as Bettercoal, Integrated Reporting, Task Force on Climate-related Financial Disclosures (TCFD) and the Ecosense Forum for Sustainable Development of German Business.[274] EnBW describes stakeholder dialogue, including customers, employees, civil society organisations and suppliers, as an important element of its business activities, however they do not explicitly mention employee representatives or unions.[275]

All suppliers are expected to adhere to the principles of the Supplier Code of Conduct and are expected to communicate the same to their suppliers and business partners, while taking reasonable measures to ensure compliance.[276] The Supplier Code of Conduct details principles on human rights and labour rights such as prevention of child labour and forced labour, minimum age conventions, non-discrimination and freedom of association and collective bargaining.[277] The Code of Conduct does not specify requirements on certain specific aspects such as provision of living wages. In order to ensure compliance, EnBW can use measures such as suppliers' self-assessments and on-site audits, which can be conducted by EnBW or third parties. However, the implementation of these measures, including frequency, are unclear.

In case of violations, the supplier commits to take remedial actions and in extraordinary cases, could even lead to termination of the business relationship.[278] Business partners and their employees are also entitled to report any violations or suspected violations of the Code of Conduct to the EnBW central contact point. However, the Supplier Code of Conduct limits the scope of 'business partner' to those companies from which EnBW purchases goods and services and does not cascade further down the supply chain. The Supplier Code of Conduct "*guarantees confidentiality and offers the greatest possible protection for all parties involved*". These caveats potentially raise safety concerns for human rights defenders, especially in countries where they are insufficiently protected by local laws.

The policies in practice

While EnBW incorporates elements of human rights due diligence process in its policies, there are significant gaps in place that make it difficult to assess whether their commitments are implemented adequately.

There is insufficient information on how RBC covering labour and human rights are embedded in their company policies and management systems. Beyond a cursory mention of a Sustainability Team and a CSR Committee, there is very little information on the practicalities of their functioning.

There is a lack of transparency with regard to the risk assessment process. EnBW claims there is "*no risk*" in the area of social engagement despite not mentioning any engagement with trade unions or representatives.[279] EnBW reports on selected activities conducted with stakeholders including customers, local authorities, and suppliers and business partners, however details on consistent engagement and dialog with stakeholders are absent, particularly with trade unions. [280]

The Integrated Annual Report has a cursory mention of steps in the procurement process to mitigate human rights risks. For instance, EnBW uses a "*multistage process to check whether human rights and environmental standards are being observed*", however it is unclear what this multistage process entails.[281]

There are also significant gaps in EnBW's reporting of the implementation of their policies. The reporting is largely gender blind, with no information on gendered impacts or risks. It is noteworthy that while EnBW reports on the share of employees under a collective bargaining agreement, this share has been declining from 2016 (93.4%) to 2021 (85.3%).[282]

The Dutch peace organisation PAX has ended its engagement with EnBW over their attitude towards victims of human rights violations in their suppliers' coal mines in Colombia. PAX claims that the report does not contain a proper analysis of human rights risks and impacts.[283]

The lack of transparency and implementation gaps in the human rights due diligence process indicates that EnBW may not be taking adequate measures to identify, mitigate and prevent human rights violations in its business activities.

5.2.4 Enel

Enel is a multinational power company headquartered in Rome, Italy. Enel had a revenue of EUR 88,006 million in 2021, marking an increase of 33% from the previous year and employs 66,279 people.[284]

Human Rights Due Diligence

Enel is committed to respecting internationally recognised standards of human rights as laid out by the UNGPs and the OECD Guidelines. Additionally, Enel claims that its Human Rights Policy is supported by the values and founding principles of the ILO core conventions. This is not indicative of a steadfast commitment towards the ILO principles.

Enel requires all stakeholders i.e., '*any party with direct or indirect interest in Enel Group's business*' to act in accordance with the Human Rights Policy.[285] The policy covers labour rights such as rejection of forced and child labour, respect for diversity and non-discrimination, freedom of association and collective bargaining, but does not go beyond this minimum requirement to offer rights such as living wages.[286] RBC policies that cover labour and human rights are embedded in Enel management systems through well defined tasks and responsibilities that are assigned to governance bodies such as Control and Risk Committee, Corporate Governance and Sustainability Committee and the Sustainability Planning and Performance Management and Human Rights unit.

The HRDD process at Enel is comprised of an assessment of risk perceived by key stakeholders, a gap analysis to assess risk monitoring processes and identify shortfalls, the development of action plan to address gaps, and monitoring of the implementation of the action plan. The entire process runs on a three-year cycle.[287]

The risk assessment was conducted in 2020, at the country level, in consultation with relevant stakeholders such as civil society, direct and indirect workers, trade unions, representatives of indigenous populations and local communities. [288] The subsequent gap analysis highlighted a robust set of mechanisms and management systems to protect against possible human rights violations. This assessment was based on UNGP operating principles and included interviews of Top Management and assessments of the value chain against various indicators.[289] The improvement plan developed after the assessment includes 170 actions and by the end of 2021, 43% progress has been reported.[290] During 2021, Enel provided approximately 1.9 million training hours on sustainability topics of which more than 7000 hours were on human rights topics.[291] However, this training was offered only to workers and no other stakeholders in the supply chain.

Based on the materiality analysis and the overall Strategic Plan, a Sustainability Plan is devised with objectives that are updated yearly along with new targets being set. The 2022-2024 Sustainability Plan covers 6 macros areas including People (creating long-term value for all stakeholders), Nature (protection of natural capital and biodiversity) and Backbones (support sound governance, respect and promote human rights and improvements in health and safety).[292] The Sustainability Report presents the objectives under each area, the target associated with the 2021-2023 Plan, the results as of 2021, progress made, and the targets for the 2022-2024 Plan.[293]

The grievance mechanism at Enel is open to stakeholders, both internal and external, in the event of any violations. The Audit Function analyses the grievance and in case a violation of the Human Rights Policy is established, the procedure in the Code of Ethics is to be implemented.[294] The Enel Code of Ethics is applicable to all company employees, including that of subsidiaries, and associates connected to the company through a contractual relationship.[295] The Audit Function reports the violation and the proposed corrective measure to the senior management in the company.[296] Enel also ensures that whistleblowers are not subjected to any retaliation and their anonymity is safeguarded, unless otherwise required by the law.[297]

In response to our request for feedback, Enel stated: "*Among the initiatives we pursue for a sustainable supply chain, we are actively engaged in Bettercoal – a global initiative to promote the continuous improvement of corporate responsibility in the international coal industry. Bettercoal has released a code of conduct based on existing and agreed standards of social responsibility in the mining sector. This details guidelines which mining companies can refer to when drawing up their own social, environment and ethical policies. The Bettercoal Code tells suppliers what members expect from their practices in relation to four main categories: management; commitment to ethics and transparency; human and labor rights; and environmental performance, while promoting ongoing improvement*."

The policies in practice

Enel is a member of various energy and sustainability associations such as UN Global Compact, CSR Europe and Global Reporting Initiative.[298] Enel recognises that addressing ESG challenges requires global coordination underlining the importance of multilateral cooperation and collaboration.[299]

During the materiality analysis, stakeholders are closely consulted to understand the priorities assigned to ESG challenges by the stakeholders. In 2021, this process entailed approximately 480 engagement initiatives with relevant stakeholders. [300] For suppliers and contractors, the different channels of engagement included direct contact, forums, working groups and dedicated meetings, all of which happened in its own frequency (daily, weekly, monthly, etc.).[301]

The 2021 Sustainability Report provides information on activities and targets across various themes. Many of the gender-oriented measures, such as share of women in selection processes and share of female managers, have already been achieved.[302] However, there is no reporting on gendered impacts and risks. Enel also reports on the number of violations or suspected violations across different categories such as labour practices, misappropriation, and conflict of interest.[303]

Potential suppliers are only acknowledged as suppliers if they meet all the specific requirements for each product group. This includes mapping of activities in each product group, qualification pathway depending on the supplier type and allocation of risk level.[304] Potential supplies are required to furnish information on labour practices such as freedom of association and collective bargaining. The Supplier Performance Management (SPM) process is used to evaluate and monitor supplier performance in the procurement process and the execution of the contract.[305] In 2021, over 2800 Tier 1 suppliers were assessed and 37% of them were assigned improvement actions.[306] However, it is unclear what these improvement actions entailed. Enel has also launched several initiatives to increase the supply chain resilience, such as the Supplier Development Program.[307]

As per reports by the Business & Human Rights Resource Centre, Enel is embroiled in controversies surrounding human rights violations such as the forced labour of Uyghurs in the global solar supply chains and the building of a hydro-electric dam on ancestral indigenous lands in Guatemala.[308] Enel is also one of the top 10 companies with the most number of abuse allegations, including violation of land rights, indigenous rights and attacks against human rights defenders, in the renewable energy sector in Latin America.[309]

Despite the HRDD processes set in place, there are still gaps that need to be addressed such as more gendered reporting of risks and impacts, more transparency in the monitoring processes and overall supply chain transparency

5.2.5 RWE

RWE is an international energy company headquartered in Essen, Germany, with a revenue of €24.5 billion in fiscal 2021.[310] RWE business is spread over four companies (RWE Renewables GmbH, RWE Generation SE, RWE Power AG and RWE Supply and Trading GmbH) that are all working towards a goal to become carbon neutral by 2040.[311]

Human Rights Due Diligence

RWE has committed to recognise, support and put into practice the UN Global Compact's principles on human rights, labour standards, environmental protection and anti-corruption in their area of influence.[312] RWE also supports the Universal Declaration of Human Rights adopted by the UN, the UNGPs and the ILO core conventions.[313]

In the RWE Social Charter, RWE defines key principles that it upholds including the right to freedom of association and collective bargaining, high standards of OHS, and regulations on working hours.[314] However, it is clear that the social charter does not go beyond the minimum national statutory requirements in the respective countries of operation. In response to our analysis of their policies, RWE added that *"with regards to coal procurement, RWE is a member of Bettercoal, that aims to work on continuous improvement in the coal mining industry. The basis for this is the Bettercoal code against which mining companies are audited/ Principle 6 of the Code [states]: Companies will uphold the rights of workers and ensure dignified and respectful working conditions in line with the ILO eight fundamental Conventions and other relevant ILO conventions."*

Moreover, in response to the researchers' concern about the omission of provisions of living wages in its policies, RWE pointed to Bettercoal's remuneration provisions: *"Remuneration Provision 6.21: Companies will pay employees' wages that meet or exceed whichever is the higher of applicable legal minimum wages, agreed through collective wage agreements or the prevailing industry standard. Provision 6.22: Companies will determine the living wage in their country of operation in cooperation with stakeholders, and will develop, and where possible, implement a plan on payment of the living wage to all employees over time. Provision 6.23: Companies will pay wages by a method that is reasonable for employees and in a timely manner. Provision 6.24 Companies will provide equal pay for work of equal value. Provision 6.25: Companies will pay employees a premium rate for work performed beyond the normal working hours in accordance with applicable laws*." This shows that the company is taking action with providing living wages to workers, however, it remains unclear whether these policies also extend to suppliers in regions with insufficient legislative protections.

Potential material risks likely to exert serious negative impacts were analysed and their potential impacts were assessed across three dimensions: Influence on the part of RWE, Influence on RWE and Relevance for Stakeholders.[315] These risks include human rights, anti-corruption, environment, employees and social aspects.[316] RWE recognises the impact that its business has on various stakeholder groups and have regular dialogues with these groups, including customers, policymakers and representatives of environmental organisations.[317] While RWE clarified that employees are represented through their membership in different work councils and in RWE's supervisory boards, in accordance with German legisltaion, it is unclear whether the company uses its leverage to make sure these stakeholder dialogues extend to trade unions or employee representatives in its supply chains.

RWE distinguishes between supplier qualification and supplier relationship management. In order to be eligible for the tendering process, potential suppliers must complete a qualification process which includes a sustainability questionnaire and also confirm compliance with the Sustainable Procurement Policy and the RWE Code of Conduct.[318] RWE uses IntegrityNext, a digital platform for collecting sustainability data, wherein suppliers are required to submit additional information and documents for verification. The same tool is used for supplier self-assessments and social media monitoring to mitigate HHRR risks. [319]

All procurement transactions must adhere to the RWE Code of Conduct. RWE reviews business relationships "*if it is known in the public domain that they have breached the principles of the UN Global Compact*".[320] The caveat potentially weakens the commitments made by RWE.

RWE companies in the UK issue an annual Declaration of Compliance relating to the UK Modern Slavery Act. The company claims to identify, assess, and monitor suppliers and contractors for potential HHRR risks in the supply chain.[321] Parties entering into an agreement with RWE are requested to respond to questionnaires on this subject, notify RWE in case of any (potential) breach and comply with transparency requests regarding supply chains.[322]

RWE presents its contributions towards implementation and some performance indicators. The company acknowledges that entire supply chains are not reviewed and that human rights impacts may occur in the supply chain.[323] They claim to be, generally, only aware of the direct previous owner in the procurement process, for example wholesale markets, and find it challenging to cover the complete supply chain.[324]

The policies in practice

As part of the human rights due diligence obligations, the Group conducted a risk analysis to review potential areas of action in both their own processes and the supply chain. RWE lacks a whistle-blower system for specific human and labour rights concerns, although the Group claims to be addressing this soon. RWE Group implemented a supplier monitoring tool to review aspects relating to human rights and labour conditions.[325]

Overall, there is weak reporting on implementation of the HRDD policies they have in place. There is a lack of gendered risk and impact assessments. The functioning of the grievance redressal mechanism is unclear due to insufficient disclosures. There is a lack of reporting on number and topics of grievances, as well as corrective measures taken.

While employees have a grievance redressal mechanism to report violations of the RWE Code of Conduct or the GDPR, there is no mention of protection against retaliation. This raises potential concerns for human rights defenders, especially in countries where they are insufficiently protected by the local laws. A report by CIVICUS highlights the role of companies including RWE, in perpetrating attacks on human rights defenders. RWE has been accused of using the legal system to intimidate activists of the climate justice group called Ende Gelände.[326] In response to our assessment of its practices, RWE pointed to a response published by the Business and Human Rights Resource Centre on December 6, 2021. In it, RWE stated: “we clearly emphasise that RWE is not intimidating activists neither in general, nor in the specific case of Ende Gelände, an organisation that is under scruitiny by public authorities because of anti-constitutional tendencies. We decisively reject this accusation. On the contrary, we invite them to continue to express their opinion – independently of our own views.”[327]

5.2.6 ESB

ESB is an energy company headquartered in Ireland and majority owned by the Irish Government (96.5%).[328] The Group is active in electricity generation, transmission, distribution and supplying customers, with generation assets that include coal, natural gas, oil and renewable power plants.[329] In 2021, the Group had more than 7,800 employees and generated revenue of € 5,267 million.

ESB did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

ESB Group commits to respect international standards on human rights, including the OECD Guidelines for multinational enterprises, the UNGPs ILO Declaration on Fundamental Principles and Rights at Work.[330] In its Human Rights Policy, the Group outlines its policy commitments based on international human rights standards, including prohibiting discrimination, modern slavery, child labour, forced labour and trafficked labour, and providing safe and healthy working conditions, fair working hours, market-based reward, and an inclusive working culture.[331] Furthermore, ESB respects the right to freedom of association. Oversight of the Human Rights Policy is assigned to an Executive Director and compliance is provided through a dedicated committee. Furthermore, there is a complaint procedure for employees.[332]

Regarding suppliers, ESB expects them to act in line with the principles as laid down in its Human Rights Policy. [333] However, in its policy for third parties, the Group expects suppliers to comply with laws related to child, forced or compulsory labour, health and safety in the workplace, non-discrimination, working hours and freedom of association, but does not refer to international human rights standards.[334] The Group incorporates these supplier requirements in contractual provisions, in its procurement screening, and by engaging with suppliers through dialogues, audits, assessments and corrective action plans.[335]

ESB Group reports it conducted a materiality analysis in 2020 to identify topics of importance for its stakeholders.[336] To identify potential human rights risks and preventive measures, the Group conducted a human rights assessment that covered both its internal operations as well as suppliers and business partners, and broadly discloses in which areas human rights issues were identified.[337] Various stakeholders, including local communities, that may be affected by the Group's operations are consulted as part of its due diligence.[338]

Based on the human rights risks identified, ESB reports to have various measures in place, including policies, guidelines, awareness training for employees and supplier engagement and auditing.[339] The group respects each employee's right to associate and engages with trade unions (that are part of the ESB Group of Unions) and workers to mitigate risks.[340] The Group is a member of Bettercoal.[341] Bettercoal is an initiative set up by large coal purchasers to verify that coal mines meet certain minimum standards, and to work towards responsible coal supply.[342]

ESB discloses some information on its engagement with suppliers, including on human rights, and other stakeholders.[343] It also discloses KPIs related to identified risks following its group-wide materiality analysis, including on health and safety, but not on other labour and human rights.[344]

ESB has a whistle-blower system in place, which is accessible for "*workers*", meaning all current and past employees and officers of an ESB company, contractors, casual workers and agency workers.[345] Third parties should report incidents to "*any ESB manager*".[346] Incidents can be reported to a worker's line manager, another senior manager, the Group's internal auditor, the confidential webservice or an external party (Minister for Communications, Climate Action and Environment), orally or in writing.[347] The link provided for the webservice does not lead to the correct portal. ESB explains the procedure, without information on the processing time and remedial activities, and states anonymous reporting is permitted but not practical. The Group seeks to protect whistle-blowers by treating all reporting confidentially, "*to the extent practical*", and does not tolerate retaliation, if the person raises a concern "*in line with this policy*".

The policies in practice

ESB Group has taken some steps to implement Human Rights due diligence processes and procedures, including several commitments to respecting international standards, the implementation of human rights risk assessments and the setting up of various policies.

However, the Group's policies lack important elements. For example, ESB does not publicly require suppliers, nor their suppliers, to adhere to international human rights standards within their companies in its policy for third parties.[348] Moreover, no reference is made to the 8 fundamental ILO conventions, and no specific expectations for extractives and mineral supply chain companies are published in any of ESB's policies.

In addition, the Group leaves significant gaps in the implementation of its policies. ESB provides limited transparency on the process of its human rights risk assessment, including whether it considers labour rights and gendered impacts and risks, nor on the results and specific risks identified.[349] While ESB discloses several mitigation measures in place, the Group is not quite transparent on whether risks have been mitigated. Also, the Group reports to a certain extent on supplier engagement and auditing, but not in much detail.[350] Furthermore, ESB provides information regarding its general risk management framework and tracks KPI's as part of it, but identified risks only include those related to health and safety, without any disclosure on other labour or human rights related risks identified and mitigated.[351]

Except for some gender disaggregated data on its workforce and policy statements against gender discrimination, ESB Group does not report on gendered impacts and risks identified within its internal operations and supply chains. Finally, ESB does not commit publicly to providing remedy and its whistle-blower system leaves crucial gaps, especially for third parties who do not have access to the confidential webservice for disclosing incidents but are advised to report to "*any ESB manager*", which is worrying.

Beginning of 2021, a complaint was filed with the Irish National Contact Point for OECD MNE against ESB for sourcing coal from the Cerrejón mine in Northern Colombia, which is well known for its environmental and human rights violations over the past 4 decades.[352] While ESB claims it has not supplied coal from the Cerrejón mine since 2018, it has not published a policy commitment against supplying coal from this mine.[353] Instead, the Group relies on a 2018 assessment conducted by Bettercoal, based on which the Cerrejón mine is an approved "Bettercoal supplier".[354] Recent news articles reveal that ESB restarted supplying coal from the Cerrejón mine in 2022, which was confirmed by ESB, who stated that it needed to place these orders "*…to maintain a secure supply of coal to meet electricity demand from Irish customers in the months ahead*".[355]

Overall, the analysis shows that ESB leaves significant gaps in its policies and implementation, and provides limited transparency on its due diligence activities and outcomes. In addition, by relying solely on Bettercoal assessments for its coal procurement, ESB runs the risk to contribute to actual adverse human rights impacts. There is a clear need to for the Group to fill those gaps and strengthen its human rights due diligence system, to show that it is taking adequate steps to identify, prevent and mitigate adverse human rights impacts, and that it is committed to provide remedy to (potential) victims.

5.2.7 Onyx Power

Onyx Power is an energy company owned by private equity investor Riverstone Holdings. Headquartered in Germany, the company operates five coal and biomass power plants spread over Germany and the Netherlands. Onyx Power currently employs about 400 people at its power plants.[356] Financial accounts are not published on the company's website.

Onyx Power did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

Onyx Power does not publish a responsible business conduct or human rights policy and does not publicly commit to international standards on human rights. The company simply states on its website that "*As an energy supplier, we have a particular responsibility towards our customers and employees as well as towards the people and nature in which we operate. To ensure the safe, reliable and efficient operation of our plants, we train our staff and maintain our power plants regularly.*"[357] With regard to occupational health and safety Onyx Power states that it has implemented occupational health and safety requirements for the majority of its employees and contractors, and trains employees in workplace safety.[358] However, no further information is disclosed on human rights due diligence.

It remains unclear how Onyx Power ensures that human rights are respected within its own operations and its supply chains. The company has not publicly disclosed key documents, such as a Sustainability Report, Annual Report and Supplier Code of Conduct, and does not report on risk screening, prevention and mitigation activities. Onyx Power solely states: "*Responsible sourcing of raw materials is a top priority for Onyx Power. To ensure this in our day-to-day business operations, we follow 12 sustainability criteria when purchasing coal. In addition, we are a member of the Better Coal Initiative, an association of European companies to improve the sustainability of supply chains in the coal industry.*"[359]Although the company follows sustainability criteria for the purchasing of coal and is a member of Bettercoal, it is uncertain whether these criteria include provisions on human and labour rights and how these criteria are used. Furthermore, Bettercoal is an initiative set up by large coal purchasers to verify that coal mines meet certain minimum standards, and to work towards responsible coal supply. The initiative was criticised for leaving the Colombian Cerrejón mine on its approved supplier list although the mine is well known for its environmental and human rights violations.[360]

The policies in practice

The absence of public information on due diligence systems suggest that Onyx Power is not meeting its corporate responsibilities to ensure respect for human rights within its own operations and supply chains. Because the company does not publicly commits to international standards on human rights, labour conditions and due diligence, nor publishes crucial policies on responsible business conduct, it is not clear whether and how the company identifies human rights risks and takes actions to prevent or mitigate adverse impacts. In addition, Onyx Power does not report on a grievance mechanism, engagement with rightsholders and risk assessments, which raises serious concerns whether the company is adequately tracking potential harm, let alone takes action to cooperate in or provide remedy.

Wind turbine manufacturers

5.2.8 Vestas Wind Systems A/S

Vestas Wind Systems is a Danish public company that manufactures, sells, installs and services wind turbines. Vestas is the global market leader in the onshore wind sector, and a large player in the offshore wind sector with production facilities in Europe, North America, Latin America, and Asia. In 2021, Vestas generated a revenue of € 15.6 billion and a profit before tax of 257 million.[361] The company employed an average of 29,164 FTEs.[362]

Human Rights Due Diligence

In the Human Rights Policy, Vestas commits to the UNGPs and states to accordingly "respect all internationally recognised human rights, including the Universal Declaration of Human Rights, the ILO Declaration on Fundamental Principles and Rights at Work, and additional ILO conventions on labour standards on working hours, wages and benefits, and health and safety." Vestas further clarifies this also explicitly includes the rights of Indigenous Peoples.[363] The company has also publicly supported the EU Human Rights Due Diligence Directive through its membership in the Nordic Business Network for Human Rights.[364]

Vestas expects all business partners to respect the same human rights across the value chain, and states that where international standards exceed local laws and regulations, these international standards will be applicable.[365] In Vestas' Supplier Code of Conduct, all suppliers and subcontractors are expected to follow these same standards, with specific expectations outlined on health and safety, modern slavery, child labour, working conditions (including wages and working hours), freedom of association and collective bargaining, discrimination, harassment and community engagement.[366] Where adverse impacts are identified among suppliers, Vestas "*will work together with the supplier to agree on a corrective action plan. If a supplier violates the Supplier Code, or the supplier fails to correct non-compliance within a reasonable timeframe, we will consider suspending or terminating the business relationship*."[367]

Vestas' Social Management System describes in more detail how the company has embedded responsible business conduct in its policies and management, including a description of Vestas' social due diligence.[368] However, this due diligence policy only refers to wind turbine installation and maintenance projects, but only limited information could be found on due diligence of Vestas' sourcing and manufacturing. In response to this assessment, the company pointed out that in 2021, it conducted due diligence screenings on 3,438 Suppliers (including Vestas sourcing direct and indirect suppliers (focus on Tier 1)).[369] In addition hereto the company also *"assessed compliance via [its] supplier tool consisting of both Supplier Self-assessment questionnaires and online and onsite audits."*

In the Social Management System, Vestas describes a social risk screening in relation to wind turbine projects, as part of which project developers identify and document "*potential social risks and the division of social roles and responsibilities around i.e. stakeholder engagement, land acquisition, local employment, cultural customs and heritage, community health and safety, or access to remedy for impacted communities and workers*."[370] In addition, the Modern Slavery reporting of Vestas includes a high-level analysis of risks within Vestas' own operations and supply chains, including a description of risk screening through pre-screening, self-assessments, on-site assessments and ongoing risk evaluations.[371] Also, Vestas' Supplier Code of Conduct describes that Vestas conducts due diligence on suppliers to identify and manage risk. Vestas states: "*Based on risk criteria, we select suppliers for additional assessments which can include a code of conduct audit. We may also decide to conduct an audit if we detect or reasonably suspect that a supplier is not complying with this Supplier Code. Our Procurement team leads this process and will be your point of contact should the need for an audit arise*."[372] While the company describes its risk-based approaches for direct suppliers and extra-ordinary audits for indirect suppliers,[373] no results have been disclosed that demonstrate how Vesta operationalises this policy.

In 2018, Vestas undertook a corporate-wide Human Rights Impact Assessment, in which an external party mapped human rights risks across the value chain which were subsequently prioritised on the saliency of the risk (scale, scope, irremediability, likelihood) and relevance for business action (attribution, leverage, risk history, current management).[374] While this broad scoping is in line with the OECD Guidelines, it is not clear whether Vestas intends to conduct such a risk assessment on a more regular basis. In addition, the results of the Impact Assessment have not been disclosed. In response to this, the company stated: "*As stated at our corporate website, we have publicly committed to a corporate wide Human Rights Assessment minimum every 3 years (see Corporate Social Responsibility) - commitment to be found under Human Rights DD).*"

Vestas commits to "*remedying adverse impacts on individuals, workers and communities that the company has caused, or contributed to, and will make grievance mechanisms available without obstructing access to other remedies*." [375] To this end, the company has an operational grievance mechanism for workers, groups and individuals impacted by a project to raise concerns, doubts or complaints. Vestas also expects suppliers to have a reporting system in place for workers to raise concerns anonymously and without fear of retaliation. In addition, "*suppliers and their employees are also strongly encouraged to use our global whistleblower system, EthicsLine, to make a report if they suspect misconduct among their employees and/or Vestas employees*."[376] In 2021, Vestas received 462 complaints through the EthicsLine, of which 96 were substantiated and led to disciplinary actions.[377]

In the Social Management System, Vestas describes operational-level grievance mechanisms in more detail, including a division of responsibilities based on the type of grievance, communication channels, engagement with stakeholders, and due diligence procedures.[378] However, for both EthicsLine and operational grievance mechanisms, Vestas provides little detail on how grievances are investigated and assessed, or how remediation is determined. In various policies, Vestas emphasises that retaliation against whistle-blowers is not tolerated, including "*threats, intimidation, physical or legal attacks against human rights defenders in relation to our business or operations*."[379]

The policies in practice

Vestas has an extensive policy framework to manage social risks in its operations and supply chain, including a strong emphasis on respecting labour rights and safeguarding the wellbeing of workers, as well as not sourcing mineral directly from mines, smelters, or refiners, but expecting suppliers to disclose information on the origin and sources of minerals used. These standards explicitly go beyond legal minimum requirements where relevant and are applicable to suppliers. In this context, the Danish Institute for Human Rights covering rated Vestas no. 1 out of 20 large Danish Companies because of its documentation of human rights work.[380]

The Sustainability Report 2021 provides crucial insights into developments throughout the year, including reporting on workplace safety incidents, grievances, and supplier monitoring. Details and figures about grievances suggest that Vestas is actively implementing its policies and tracking and investigating adverse human rights impacts. However, several important gaps remain regarding details on the identified risks, mitigation efforts, outcomes of impact assessments, and a lack of gender-disaggregated data.

Although Vestas' 2020 Modern Slavery statement reports 80 non-conformities related to working conditions, the company does not describe in detail how those issues were addressed. In the Sustainability Report, Vestas notes that 148 key suppliers are being tracked on performance, and 42 code compliance and audits were conducted by an external company.[381] But again, Vestas provides little detail how adverse impacts are mitigated in practice, or what engagement with suppliers on non-conformities entails. In response to this assertion, Vestas commented: "*All non-conformities found during the audits are registered and include an improvement plan with specific timeframe for closure of actions based on the findings. Regular follow ups with the suppliers are done by Vestas Supplier Quality & Development team together with the auditors making sure that improvements get implemented*."

This lack of detail in the disclosed information is too limited to verify Vestas' practice and conduct in specific cases or in relation to specific human rights abuses. In addition, Vestas does not provide evidence of adequate engagement with rightsholders, including workers, workers' representatives and trade unions, despite the company's strong emphasis on labour rights, including freedom of association and non-retaliation against grievance raisers.

5.2.9 Siemens Gamesa

Siemens Gamesa Renewable Energy S.A. (Siemens Gamesa) is a Spanish subsidiary of Siemens Energy. Siemens Gamesa focuses on development and manufacture of wind turbines for onshore and offshore wind power plants in 79 countries. In 2021, Siemens Gamesa employed 26,182 people and generated a revenue of € 10.2 billion, most of which is attributable to wind turbines (81%).[382]

Siemens Gamesa did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

Siemens Gamesa has committed to key international standards on human rights, including the OECD Guidelines, the UNGPs, the ILO Tripartite Declaration and the Social Policy, and the Women's Empowerment Principles (WEP). In its Human Rights Policy, Siemens Gamesa commits to respecting the ILO Fundamental Conventions, including by prohibiting forced labour and child labour, respecting freedom of association, and eliminating discrimination, harassment, and violence.[383] These same standards are extended to suppliers Code of Conduct for Suppliers and Third-Party Intermediaries, who need to contractually commit to the Code and are expected to extend the same standards to their own suppliers.[384]

In a Global Framework Agreement with IndustriALL, Siemens Gamesa further commits to social dialogue with labour representation, prioritising occupational health and safety measures, and monitoring the implementation through a committee consisting of trade unions and Siemens Gamesa management.[385] In its annual Non-Financial Statement, Siemens Gamesa also reports on labour relations, including union representation across the company's operations.[386]

In various policy documents, Siemens Gamesa commits to conducting human rights due diligence (HRDD) to identify, prevent and mitigate human rights risks in the company's own operations and in the activities of suppliers, but Siemens Gamesa provides very little detail how due diligence is conducted in practice. Though this due diligence includes a risk screening, Siemens Gamesa only reports that *"there is no record of any sanctions or fines related to human rights infringements in FY21"* and lists a number of broad human rights topics identified as a priority but does not provide sufficient insights into the identified risks, nor what actions have been taken in practice to mitigate or prevent those risks from materialising. In addressing human rights risks among suppliers, Siemens Gamesa strongly relies on self-assessments and auditing.[387]

Siemens Gamesa has a grievance mechanism ("Integrity Hotline") that can be accessed by any stakeholder to report violations of laws or the Code of Conduct. Siemens Gamesa guarantees anonymity and prohibits retaliation against whistleblowers and provides some limited insights into grievance procedures. In the Non-Financial Statement 2021, Siemens Gamesa reports that only one human rights-related issue was submitted through the grievance mechanism, which was investigated and found unsubstantiated.[388]

The policies in practice

Despite Siemens Gamesa's fairly elaborate policies regarding human rights and specifically labour rights, it is difficult to assess how the company implements these policies in practice. Siemens Gamesa reports on labour relations and human rights in the annual Non-Financial Statement, but the company provides limited insight into specific developments or issues. In reporting about material human rights risks, Siemens Gamesa only highlights broad topics, but does not disclose how the screening was conducted, nor what specific risks in which supply chains or geographies were identified, nor how these issues are addressed beyond the company's general policies. Regarding prevention and mitigation, Siemens Gamesa mostly refers to compliance monitoring and auditing, but does not outline how the company proactively addresses systematic human rights abuses.[389]

For these reasons, it could not be verified whether Siemens Gamesa adequately implements its commitment to conduct environmental and human rights due diligence. However, the company's active reporting on labour relationships, including active engagement with trade unions and workers' representatives, is a positive sign. Additionally, the company has committed to the WEPs, reports gender disaggregated data regarding its workforce, and outlines various actions to promote gender equality within the company.[390]

5.2.10 Nordex

The Nordex Group is a public company based in Hamburg, Germany. Nordex designs, manufactures and builds onshore wind turbines that are installed in over 40 countries. In 2021, Nordex generated a gross revenue of € 5.1 billion and employed 8,658 people.[391]

Nordex did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

In its Human Rights Policy, Nordex commits to the UNGPs, the ILO Fundamental Principles and Rights at Work, and the OECD Guidelines, though no details are provided on the company's interpretation and implementation of these standards. The Code of Conduct for Suppliers only requires suppliers and contractors to adhere to the UN Global Compact. These expectations are not extended to indirect suppliers and other business relations. Ain addition, although the Code provides provisions on the core labour rights, Nordex significantly weakens various standards by requiring suppliers to comply with local laws and regulations rather than ILO standards on freedom of association, working times and remuneration. In addition, none of the policies refer to marginalised communities and gendered impacts, except for the company's internal diversity policy.[392]

According to the Human Rights Policy, Nordex uses "*an internal controls as well as Due Diligence mechanism for our own activities as well for the activities for our Suppliers*", but no further details on this due diligence mechanism are provided.[393] Only regarding conflict minerals, suppliers are required to establish due diligence measures.[394]

In the Sustainability Report 2021, Nordex reports on conducting a risk assessment to identify human rights risks and found that there were *"high human rights risks in business areas such as sourcing and sales in countries with relaxed labor laws, as well as in our supply chain which deals with labor from these countries."* To mitigate these risks, Nordex launched a due diligence initiative that included a self-assessment of first tier suppliers, though the company does not report on the results nor on the subsequent actions taken.[395]

Nordex has established a grievance mechanism ("Notify!") to raise concerns about misconduct. However, the mechanism is only open to Nordex employees and employees of business partners, and it is not clear how other stakeholders, such as local communities, can access remedy. Nordex facilitates anonymous complaints but does not guarantee full anonymity, and the company states that *"the whistleblower is protected by the corporations against adverse effects to the best of ability"* but does not provide strong protections against retaliation. According to the Sustainability Report 2021, Nordex did not identify any human rights incidents during 2021 and *"received no formal complaints in relation to the Company's supply chain."*[396]

The policies in practice

Nordex prides itself on its "*above industry average*" ESG performance[397], yet provides very limited insights into the company's environmental and human rights due diligence. Though Nordex commits to crucial international standards on human rights, the company does not disclose details on how it conducts and implements due diligence procedures to ensure that human rights are respected throughout the supply chain. In the implementation, Nordex seems to strongly rely on contractual obligations and audits but does not demonstrate proactive efforts to promote better working conditions across the chain.

In addition, Nordex focus on legal compliance over adherence to international standards leaves significant gaps, particularly in relation to crucial labour rights such as freedom of association and collective bargaining. In its Sustainability Report 2021, Nordex reports on "stakeholder engagement" but this only refers to customers, suppliers and investors. It is not clear if Nordex has engaged with trade unions and workers' representatives, local communities or other key stakeholders.[398]

As a result of significant gaps in disclosure, it could not be assessed if and how Nordex implements international standards such as the OECD Guidelines and the ILO Fundamental Rights at Work, nor how the company ensures that human rights risks are identified, prevented, and mitigated throughout the supply chain. However, the shortcomings in Nordex policies, including weak provisions on labour rights, lack of a grievance mechanism for stakeholders other than workers, gender blindness, and overreliance on auditing and legal compliance, suggest that the company's policies are falling significantly short in meeting the OECD Guidelines.

5.2.11 Enercon

Enercon is a privately owned company headquartered in Aurich, Germany. Enercon develops, manufactures, installs and services onshore wind turbines in over 50 countries. In 2020, Enercon generated an operating revenue of € 3.6 billion and employed 14,115 people.[399]

Enercon did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

Enercon has not publicly committed to international standards on human rights, including the UNGPs, OECD Guidelines, nor the ILO Fundamental Rights at Work. Enercon has not disclosed a human rights policy, responsible business conduct policy or any other documents outlining a human rights due diligence mechanism.

The only relevant document publicly available is Enercon's Sustainability Report 2020, which outlines broad criteria that suppliers, subcontractors, and service providers need to meet. According to the report, Enercon screens suppliers and tracks continuous compliance with sustainability criteria that includes labour and human rights, health and safety, environmental risks, and community engagement. However, Enercon does not outline what these criteria entail in detail. Enercon states that new and existing suppliers are screened based on compliance with the Supplier Code of Conduct, as part of which *"suppliers have to comply with International Labour Organization regulations relating to forced labor, minimum age and child labor."* However, the Supplier Code of Conduct has not been disclosed and no commitments on freedom of association and collective bargaining could be identified.[400]

Enercon relies on assessments and auditing to ensure suppliers meet these minimum requirements but has not disclosed results of risk screening and auditing, and no information could be found regarding other initiatives to ensure human and labour rights are respected throughout Enercon's supply chains. No evidence on engagement with trade unions and workers' representatives, local communities and other rightsholders could be identified, except for the company's engagement with employees through a satisfaction survey, and community engagement in 2020 with a community impacted by a windfarm in Brazil.[401]

No evidence could be found that Enercon has a grievance mechanism that is accessible to workers and other stakeholders.

The policies in practice

The lack of documents and policies publicly available on Enercon's approach to responsible business conduct, human rights and labour conditions, is striking. The only relevant document, the Sustainability Report 2020, is becoming dated and the company has not publicly adopted any policies that cover human rights. The policies that Enercon does refer to, such as the Supplier Code of Conduct, have not been publicly disclosed.

Because Enercon has not publicly committed to any crucial international standards on human rights, it is not likely that the company conducts due diligence in line with the OECD Guidelines. While Enercon outlines some level of risk screening and compliance auditing among suppliers and subcontractors, this does not equate to a full due diligence mechanism. The lack of a human rights policy, unavailability of a grievance mechanism, and a lack of engagement with trade unions, rightsholders and other key stakeholders, suggests that Enercon is not meeting its responsibilities to ensure that human rights are respected in the company's operations and along its supply chains.

5.2.12 Končar

KONČAR – Elektroindustrija d.d. (Končar) is a publicly listed company based in Trešnjevka, Croatia. Končar is active in the electrical, transport and energy sectors, including wind energy through subsidiary Končar Renewable Energy Sources. In 2021, Končar generated a revenue of € 479 million and employed 3,640 people.[402]

Končar did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

Končar has not published a human rights or responsible business conduct policy and has not publicly committed to international standards on human rights and the OECD Guidelines. In addition, no references to environmental and human rights due diligence could be found. Although Končar does not outline a commitment to the ILO Fundamental Rights at Work, the company does state that it *"does not tolerate child labour, nor does it implement compulsory or forced labour in any of its business activities or forms."* Končar further states that the company respects human rights and takes human rights into considerations in operational decision-making.[403]

However, no other statements, policies or commitments on human rights could be identified. It is not clear how Končar ensures that human rights are respected within its own operations and its supply chains. The company has not publicly disclosed key documents, such as a Supplier Code of Conduct, and does not report on risk screening, prevention efforts and mitigation activities. Although the CSR Report 2020 states that suppliers are screened based on compliance, it is not clear what this compliance entails and whether it contains provisions on human rights and labour conditions.[404]

Končar does report on labour relations and engagement with trade unions representing its own workers, and states that all its employees are entitled to freedom of association and collective bargaining. However, the company does not outline a similar commitment to workers along the supply chain. In addition, while Končar claims to have policies against (gender-based) discrimination and sexual harassment in the workplace, these policies are not disclosed and only covers its own workforce.[405]

No information could be found on the availability of a grievance mechanism to raise concerns on human rights or labour conditions. According to Končar's CSR Report 2020, the company did not record any grievances or complains in relation to social or environmental impacts of the company's activities in the year 2020.[406]

The policies in practice

The lack of public information on due diligence mechanisms suggests that Končar is not meeting its corporate responsibilities to ensure respect for human rights throughout the company's operations and supply chains. Because Končar has not publicly committed to international standards on human rights, labour conditions and due diligence, nor has disclosed crucial policies on responsible business conduct, it is not clear if and how the company identifies human rights risks and takes actions to prevent or mitigate adverse impacts on workers and communities. The lack of reporting on human rights risk screening, coupled with the inexistence of an accessible grievance mechanism and no evidence on engagement with rightsholders, further raises significant concerns whether Končar is adequately tracking and monitoring potential harm to humans and the environment, let alone taking actions to remediate victims.

5.2.13 Vergnet

Vergnet S.A. is a French public company that designs, manufacturers and maintains wind and solar energy solutions. In 2021, Vergnet had a revenue of € 6 million.[407] The company employs around 96 people and operates in over 40 countries.[408]

Vergnet did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

Vergnet has not publicly committed to any international standards on human rights and labour conditions, including the OECD Guidelines, the UNGPs, or the ILO Fundamental Rights at Work. In addition, the company has not published any information about sustainability and human rights policies, due diligence mechanisms, CSR, or other responsible business conduct topics.

Vergnet has published a step by step approach on how the company supports renewable energy projects, but none of these steps include EHRDD activities nor other explicit steps to address responsible business concerns.[409]

As a result, it could not be assessed if and how Vergnet ensures that human rights are respected in its operations and in its supply chains.

The policies in practice

Vergnet does not provide any transparency on its policies and activities in relation to human rights and labour conditions and does not disclose an annual Sustainability Report. This suggests that the company is not actively conducting EHRDD, and may only have limited mechanisms in place to safeguard the rights of those affected by the Vergnet's operations and sourcing activities.

5.2.14 Leitwind

Leitwind is an Italian private company that designs, manufactures and installs wind turbines.[410] Leitwind is part of the High Technology Industries (HTI) Group, which also includes subsidiaries in the transportation field. In 2020, HTI Group had sales worth € 887 million employed 3.849 staff worldwide. It is not clear what portions of these figures are attributable to Leitwind.[411]

Leitwind did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

Leitwind has not publicly committed to any international standards on human rights and labour conditions, including the OECD Guidelines, the UNGPs, or the ILO Fundamental Rights at Work. In addition, the company has not published any information about sustainability and human rights policies, due diligence mechanisms, CSR, or other responsible business conduct topics.

The only relevant document publicly disclosed by Leitwind is a Code of Ethics from 2013, but this code does not contain any provisions on human rights or labour conditions.[412] In addition, the annual report of parent company HTI Group only reports on voluntary CSR initiatives but does not mention human rights or due diligence activities.[413]

As a result, it could not be assessed if and how Leitwind ensures that human rights are respected in its operations and in its supply chains.

The policies in practice

Leitwind does not provide any transparency on its policies and activities in relation to human rights and labour conditions and does not disclose an annual Sustainability Report. This suggests that the company is not actively conducting EHRDD, and may only have limited mechanisms in place to safeguard the rights of those affected by the Leitwind's operations and sourcing activities.

Solar PV panel producers

5.2.15 Soluxtec

Soluxtec is a private company located in Bitburg, Germany, which designs and manufactures solar PV modules. Soluxtec has not publicly disclosed any information about financial performance, ownership, nor number of employees.[414]

Soluxtec did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

Soluxtec has not publicly committed to any international standards on human rights and labour conditions, including the OECD Guidelines, the UNGPs, or the ILO Fundamental Rights at Work. In addition, the company has not published any information about human rights policies, due diligence mechanisms, CSR, or other responsible business conduct topics. The only information publicly available on responsible business conduct is Soluxtec's sustainability page, which only outlines commitments on the ecological footprint of its products and manufacturing process.[415]

As a result, it could not be assessed if and how Soluxtec ensures that human rights are respected in its operations and in its supply chains.

The policies in practice

Soluxtec does not provide any transparency on its policies and activities in relation to human rights and labour conditions and does not disclose an annual Sustainability Report. This suggests that the company is not actively conducting EHRDD, and may only have limited mechanisms in place to safeguard the rights of those affected by the Soluxtec's operations and sourcing activities.

5.2.16 Sonnenstromfabrik

Sonnenstromfabrik (CS Wismar GmbH) is a private company based in Wismar, Germany. Sonnenstromfabrik designs and produces solar PV modules. In 2020, Sonnenstromfabrik became part of the CENTROTEC Sustainable SE group, which has a turnover of € 700 million.[416] No further information could be found on Sonnenstromfabrik's revenues, ownership, and number of employees.

Sonnenstromfabrik did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

Sonnenstromfabrik has not publicly committed to any international standards on human rights and labour conditions, including the OECD Guidelines, the UNGPs, or the ILO Fundamental Rights at Work. In addition, the company has not published any human rights policies, due diligence mechanisms or other RBC policies.

Sonnenstromfabrik does state that its manufacturing takes place exclusively in Germany and is compliant with German standards in terms of working conditions, occupational safety, and environmental standards. In addition, Sonnenstromfabrik states to rely mostly on European suppliers and only sources outside of Europe when necessitated by supply chain disruptions. In those cases, Sonnenstromfabrik states it conducts audits to ensure no forced labour is used.[417] However, no further details on this auditing approach could be found and Sonnenstromfabrik does not outline how it ensures the same standards are respected beyond Tier 1 suppliers.

As a result, it could not be assessed if and how Sonnenstromfabrik ensures that human rights are respected in its operations and in its supply chains.

The policies in practice

Sonnenstromfabrik does not provide any transparency on its policies and activities in relation to human rights and labour conditions, and does not disclose an annual Sustainability Report. This suggests that the company is not actively conducting EHRDD, and may only have limited mechanisms in place to safeguard the rights of those affected by the Sonnenstromfabrik's operations and sourcing activities.

5.2.17 Hanplast Energy

Hanplast Energy is a private Polish company based in Bydgoszcz, Poland and is a subsidiary of Hanplast Ltd. Hanplast Energy manufactures solar PV panels.[418] No further information could be found on Hanplast's ownership, revenues and workforce.

Hanplast did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

Hanplast Energy has not publicly committed to any international standards on human rights and labour conditions, including the OECD Guidelines, the UNGPs, or the ILO Fundamental Rights at Work. In addition, the company has not published any human rights policies, due diligence mechanisms or other RBC policies.

The parent company of Hanplast Energy, Hanplast Ltd, outlines an ethics charter on its website, which includes prohibition of the use of child labour and forced labour, anti-discrimination, health and safety, and environmental protection.[419] However, the company does not outline how it ensures these principles are respected in its own operations and in the supply chain, and no other documentation on RBC issues could be identified.

As a result, it could not be assessed if and how Hanplast Energy ensures that human rights are respected in its operations and in its supply chains.

The policies in practice

Hanplast Energy does not provide any transparency on its policies and activities in relation to human rights and labour conditions, and does not disclose an annual Sustainability Report. This suggests that the company is not actively conducting EHRDD, and may only have limited mechanisms in place to safeguard the rights of those affected by the Hanplast Energy's operations and sourcing activities.

5.2.18 Kioto Solar

Kioto Solar is a private company located in Glan, Austria. Kioto Solar manufactures solar PV modules.[420] No details could be found on Kioto Solar's ownership, revenues or number of employees.

Kioto Solar did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

Kioto Solar has not publicly committed to any international standards on human rights and labour conditions, including the OECD Guidelines, the UNGPs, or the ILO Fundamental Rights at Work. In addition, the company has not published any information about human rights policies, due diligence mechanisms, CSR, or other responsible business conduct topics. The only information publicly available on responsible business conduct is a short statement that Kioto Solar aims to "*initiate appropriate corrective actions*" in case of workplace accidents, but no further details are provided.[421]

As a result, it could not be assessed if and how Kioto Solar ensures that human rights are respected in its operations and in its supply chains.

The policies in practice

Kioto Solar does not provide any transparency on its policies and activities in relation to human rights and labour conditions and does not disclose an annual Sustainability Report. This suggests that the company is not actively conducting EHRDD, and may only have limited mechanisms in place to safeguard the rights of those affected by the Kioto Solar's operations and sourcing activities.

5.2.19 Exasun

Exasun is a private company located in The Hague in the Netherlands. Exasun manufactures solar PV modules.[422] No details could be found on Exasun's ownership, revenues or number of employees.

Exaun did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

Exasun has not publicly committed to any international standards on human rights and labour conditions, including the OECD Guidelines, the UNGPs, or the ILO Fundamental Rights at Work. In addition, the company has not published any information about human rights policies, due diligence mechanisms, CSR, or other responsible business conduct topics. On its Sustainability webpage, Exasun states: "*We produce our solar roof systems locally, at our own production location in The Hague. Where possible we source raw materials from European suppliers. This is how we avoid international transport. The energy we use for production is also cleaner than the energy used for this purpose in China. Production takes place under good working conditions and stimulates local employment.*"[423]

However, Exasun does not outline what the company understands as 'good working conditions' or what specific expectations and policies are set for its own operations and its suppliers to respect labour rights. In addition, European suppliers are not exempt from due diligence responsibilities, plus Exasun also does not outline how it safeguards these same standards when sourcing raw materials from other regions.

As a result, it could not be assessed if and how Exasun ensures that human rights are respected in its operations and in its supply chains.

The policies in practice

Exasun does not provide any transparency on its policies and activities in relation to human rights and labour conditions and does not disclose an annual Sustainability Report. This suggests that the company is not actively conducting EHRDD, and may only have limited mechanisms in place to safeguard the rights of those affected by the Exasun's operations and sourcing activities.

5.2.20 Recom Technologies

Recom Technologies (Recom) is a private company located in Lannion, France. Recom designs and manufactures solar PV modules, which have been sold in 95 countries. In a 2021 company brochure, Recom states to have revenues of over $ 750 million and around 350 employees.[424]

Recom Technologies did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

Recom has not publicly committed to any international standards on human rights and labour conditions, including the OECD Guidelines, the UNGPs, or the ILO Fundamental Rights at Work. In addition, the company has not published any information about human rights policies, due diligence mechanisms, CSR, or other responsible business conduct topics. In its company brochure, Recom states that its committed "*European social and sustainability standards*", though no further detail is provided what these standards entail nor how Recom ensures these standards are respected throughout the company's operations and supply chain.[425]

As a result, it could not be assessed if and how Recom ensures that human rights are respected in its operations and in its supply chains.

The policies in practice

Recom does not provide any transparency on its policies and activities in relation to human rights and labour conditions and does not disclose an annual Sustainability Report. This suggests that the company is not actively conducting EHRDD, and may only have limited mechanisms in place to safeguard the rights of those affected by the Recom's operations and sourcing activities.

EV producers

5.2.21 Volkswagen

Volkswagen AG, or Volkswagen Group is a German motor vehicle manufacturer headquartered in Wolfsburg, Germany. Volkswagen is publicly traded but is controlled by Porsche SE, which in turn is controlled by the Porsche and Piëch family. In 2021, Volkswagen had a sales revenue of € 250.2 billion and employed nearly 673 thousand people.[426] Electric cars accounted for 7.5% of total number of cars delivered, which is a doubling compared to 2020.[427]

Human Rights Due Diligence

Volkswagen has publicly committed to international standards on human rights, including the ILO core labour standards, the ILO Tripartite Declaration, the UNGPs, and the OECD Guidelines.[428] These commitments are reflected in various policies that together constitute Volkswagen's approach to EHRDD. In the company's Declaration on Social Rights, Volkswagen outlines its policy commitments in line with the ILO Fundamental Rights at Work, and in various cases outlines commitments above and beyond national legislation where ILO standards exceed those minimum requirements, such as on child labour, freedom of association, and workplace health and safety.[429] In response to our assessment, Volkswagen added: "*In the next couple of months, we will issue an updated Responsible Raw Material Report. In view of the German Supply Chain Due Diligence Act and its EU equivalent, these efforts will continue to be steadily deepened.*"

Volkswagen’s Code of Conduct for Business Relations is applicable to all Volkswagen’s suppliers, who are in return expected to cascade the requirements to their own suppliers along the supply chain. The Code requires suppliers to take actions in line with the ILO fundamental rights at work on forced labour, child labour, freedom of association, and discrimination, as well as several additional provisions on compensation, working hours, occupational health and safety, and working and living conditions. However, Volkswagen does not outline specific requirements that suppliers need to meet, for example by banning the confiscation of migrant workers’ passports or by banning retaliation against union organisers.[430]

To identify, prevent and mitigate human rights risks from materialising, Volkswagen has conducted human rights risk assessments covering all of the company’s production sites, and reports on high-level results in its Sustainability Report 2021. In addition, Volkswagen has also conducted a broad scoping exercise (‘materiality analysis’) to identify the most important RBC risks to which the company is exposed.

Volkswagen has a dedicated raw material sourcing due diligence policy, which covers 16 priority raw materials including battery raw materials, conflict minerals, and other materials used in the production of electric vehicles. The raw material due diligence mechanism particularly focusses on labour rights, including the ILO fundamental rights at work, occupational health and safety, as well as the rights of Indigenous people and communities and adverse environmental impacts.[431]

Volkswagen’s annual reporting on raw materials includes a description of the company’s risk screening for each raw material, origins and nature of Volkswagen’s sourcing, and a description of actions taken to address those risks, which in most cases refers to auditing of and engagement with suppliers, and dialogue with local stakeholders. However, Volkswagen does not report on any engagement with workers’ representatives or trade unions in 2021 as part of its raw materials due diligence.[432]

Across various policies, Volkswagen relies on auditing to monitor suppliers’ compliance with its policies on human rights and labour conditions. The company further complements this through participation in various multi-stakeholder initiatives, such as the Extractive Industries Transparency Initiative (EITI), and by offering trainings to suppliers on RBC.[433] Volkswagen reports annually on this supplier engagement, including the number of suppliers for which risk assessments on human rights have been conducted, delivery of trainings, due diligence audits, and number of suppliers associated with complaints. In 2021, Volkswagen conducted a human rights risk assessment on 782 suppliers (out of over 60,000), provided sustainability training on over 1,000 suppliers, conducted 1,513 due diligence audits, and registered 111 complaints against both direct and indirect suppliers.[434]

Volkswagen has a whistle-blower system in place that is to raise grievances on misconduct by the company and its employees, and the system can be accessed online, through email, by phone and by post. However, the grievance mechanism does not detail how complaints are evaluated an remediated where relevant, and only refers to “*potential misconduct of employees*”, but not misconduct by Volkswagen’s suppliers. In addition, Volkswagen’s statements on protecting anonymity and non-retaliation are quite weak and leave significant loopholes. For example, Volkswagen assures anonymity only for “*whistleblowers, who do not misuse our Whistleblower system*”, and states to not tolerate retaliation but only if the whistle-blowers “*contribute to correct behaviour at Volkswagen*”.[435] These loopholes and limitations raise significant concerns for the privacy and safety of human rights defenders.

The policies in practice

It is apparent that Volkswagen has taken steps to conduct EHRDD and establish respect for human rights within the companies' policies, including in its sourcing of raw materials used for electric vehicles. Volkswagen reports on the implementation of these policies through several mechanisms, including an annual Sustainability Report, a dedicated Responsible Raw Materials Report, and ESG key figures per RBC theme. These documents provide important insights into Volkswagen's progress in EHRDD implementation and offers some transparency on risk screening, supplier engagement, and monitoring activities. Volkswagen provides insights into the outcomes of various due diligence activities. Most of this reporting is provided through high-level data, such as the number of audited suppliers, though a breakdown by region and RBC topic is generally provided.

However, the company also leaves significant gaps in its reporting on the implementation of those policies. Despite commitments on freedom of association, Volkswagen does not report on engagement with trade unions and worker representatives, with the exception of a couple of ad-hoc examples and does not report on the union representation within the company. In addition, the company does not provide strong safeguards to protect human rights defenders, union organisers and whistle-blowers. Volkswagen also does not provide insights into the grievances, such as a distribution of grievances per human rights topic, how these grievances were evaluated and addressed, nor whether any remediation has been provided to victims.[436]

In addition, Volkswagen's reporting is mostly gender-blind, with the exception on figures on gender diversity within its own workforce and some limited provisions against workplace discrimination. The Responsible Raw Materials Report 2021 nor the Sustainability Report 2021 report on any gendered impacts or risks identified within Volkswagen's operations and supply chains.[437]

These important gaps flag a need for Volkswagen to further strengthen its due diligence mechanisms, both in terms of policy provisions, reporting on EHRDD activities and outcomes, engaging with stakeholders, and increasing supply chain transparency.

5.2.22 Renault

Renault S.A., or Renault Group is a French automotive company that designs, develops, produces, distributes, and finances vehicles.[438] The majority of Renault's shares are publicly held (64.8%), while 15% is held by the French State and another 15% held by Nissan. In 2021, Renault had 156,466 employees, spread over 38 countries, and group revenues amounting to € 46.2 billion. The company's E-TECH range (electric vehicles and hybrid engines) accounted for 30% of the Group's passenger vehicle sales in Europe in 2021, compared to 17% in 2020.[439]

Renault did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

Renault publicly commits to international standards on human rights, including the OECD Guidelines for multinational enterprises and the ILO Declaration on Fundamental Principles and Rights at Work.[440] In its Global Framework Agreement on Social, Societal and Environmental Responsibility, Renault explains how the company commits to respect the ILO's Fundamental Principles by adhering to the eight related fundamental ILO conventions. For example, the company respects freedom of association and encourages social dialogue, ensures health and safety in the workplace, and eliminates discrimination and promotes diversity with a focus on "Men and women", "Disability", "Origin" and "Age".[441] Implementation of the Global Framework Agreement is overseen by the management and members of the Renault Group Works' Council, in collaboration with IndustriALL Global Union. For follow-up of the agreement, management of the Renault Group is involved in the process as well.[442]

Regarding suppliers and subcontractors, Renault asks them to commit to and apply the same standards within their own company and endorse the Global Framework Agreement.[443] These expectations for suppliers and subcontractors are further outlined in the Group's CSR Guidelines for Suppliers, which include guidelines on discrimination, child labour, forced labour, remuneration and working hours.[444] In order to ensure compliance, Renaults mandates suppliers to sign the CSR Guidelines as part of the purchasing process, and to participate in CSR compliance assessments upon request.[445] The document outlines the assessment process and actions that will be taken in the event of non-compliance. In addition, Renault's Universal Registration Document 2021 indicates that the Group encourages suppliers to use the CSR guidelines with their own suppliers and request them to commit to the same standards as mentioned in the Global Framework Agreement.[446]

Furthermore, Renault Group publishes material-specific policies, including for the procurement of cobalt and minerals from conflict-affected and high-risk areas.[447] The policy specifies requirements for suppliers which are based on the OECD guidelines for the procurement of cobalt, including developing an appropriate management system to conduct due diligence; developing due diligence policies, requiring tier-one suppliers to adopt these, and requesting the same from their suppliers; identifying risks and taking step to mitigate them; and report on supply-chain due diligence. No reference is made to the establishment of grievance mechanisms and stakeholder engagement. For other minerals than cobalt, Renault Group requires suppliers to verify and inform the Group whether the minerals supplied as part of materials or component parts are conflict-affected or high-risk and to design and implement an appropriate risk strategy.[448]

Renault Group reports to have a group-wide risk management system in place, which include the analysis of human rights risks.[449] In order to identify and prioritise ESG issues, Renault Group conducted a materiality analysis at the end of 2019. The results of the analysis show that ensuring "respect of human and labour rights throughout entire supply chain" is an identified material risk which will have a high impact on the Group's sustainable business performance.[450] To develop the materiality matrix, various stakeholders were consulted through dialogue, including employees and employee representative bodies.[451]

The risk assessment distinguishes between risks resulting from own activities and risks from those of suppliers and subcontractors. [452] Regarding Renault's employees, the risk assessment considers labour rights, based on ILO principles with a focus on discrimination (ILO 111), equal pay (ILO 100) and occupational health and safety.[453] The Group's risk assessment regarding its own employees is gender-sensitive, using disaggregated data on wages and positions.[454] However, this is limited to Renault's own employees and the topics of renumeration and positions. Regarding suppliers and subcontractors, risk mapping considers product and geographical risk factors.[455]

Furthermore, specific risk mapping for Renault Group's cobalt supply chain was performed in 2019 by an external audit firm, which entailed supply chain mapping and on-site audits.[456] Renault reports that "No critical cases of noncompliance were identified, and corrective action plans are being implemented." However, the Group does report that, based on these first audits, it is currently revising its approach to risk management and audits. Additionally, Renault Group is in the process of setting up direct partnerships with mineral suppliers for its battery supply chain.[457]

Renault reports on several actions it takes to mitigate risks, including monitoring mechanisms, social dialogue and meetings with the Works Council regarding its own employees.[458] With respect to suppliers, Renault supports them with corrective action plans and monitors implementation.[459] In addition, Renault Group is a member of the Responsible Mineral Initiative (RMI), striving for a more responsible supply chain for minerals and material from conflict-affected and high-risk areas. [460] Specifically regarding labour rights, the Group reports to have "Discussions with the ILO for the roll-out of training on fundamental social rights".[461] In its Universal Registration Document 2021, Renault reports on due diligence procedures for employee health and safety, labour rights and supplier relations and linked performance indicators.[462] However, limited information is published on the outcomes of supplier engagement, social dialogue and meetings with the Works Council.

The policies in practice

While Renault claims to implement a vigilance plan with measures enabling the identification of human rights risks and impacts, the processes leading to said identification are unclear.[463] The same vigilance plan also covers supply chains and also lack details on the identification of potential human rights risks and impacts in the supply chain.[464]

The Renault Group has incorporated steps to enable better identification of at-risk situations with respect to human rights, but does not show evidence of systems that can prevent or mitigate these risks[465]

As reported by the Business & Human Rights Resource Centre, on 31 May 2021 the Indian court required Renault-Nissan to have government officials inspect covid-related safety protocols at its car plant in Tamil Nadu, India, after workers did not report for duty over safety concerns.[466] In a response, Nissan stated it followed all guidelines and will act on the recommendations that followed from the inspection, collaborating with government stakeholders and the union to ensure safety and wellbeing of its employees.[467] However, no reporting by Renault was found on the incident and inspection, the measures taken, how impacts are addressed and whether remedy was provided.[468]

5.2.23 Mercedes Benz

Mercedes Benz Group AG is a German automotive company that manufactures and finances luxury vehicles.[469] Mercedes Benz Group is active in most countries around the world and had 172,425 employees and group revenues amounting to € 168.0 billion in 2021. The majority of Group's shares is publicly held by institutional and retail investors (73.5%), while the rest is held by individual shareholders, of which the largest is BAIC Group with 10%.[470]

In response to our request for comment, Mercedes Benz pointed to its first Raw Materials Report and its Sustainability Report 2021. Those reports are included in the analysis below.

Human Rights Due Diligence

Mercedes Benz Group publicly commits to international standards on human rights, including the OECD Guidelines for multinational enterprises, the UNGPs and the ILO Declaration on Fundamental Principles and Rights at Work.[471] Mercedes Benz's Principles of Social Responsibility and Human Rights outlines its policy commitments in line with the 8 fundamental ILO Conventions.[472] For example, the Group commits to effective abolition of child labour, acknowledges the freedom of association and the right to collective bargaining, and commits to prevent all forms of discrimination.

Furthermore, it ensures safe and healthy working conditions and commits to pay an appropriate wage that, at least, enables employees to secure their livelihoods. These principles form the basis for Mercedes Benz's human rights due diligence system and were adopted jointly by corporate management, Daimler's General Works Council, the World Employee Committee and IndustriALL Global Union.[473] The Group's Sustainability Board, which consists of responsible Board of Management members, monitors the implementation of the principles.[474] The Group assigned oversight and responsibility to a board member who works across business units to ensure human rights compliance. A whistle-blower system is in place open for employees and external third parties.

Regarding suppliers, Mercedes Benz expects them to respect the same international human rights standards within their own company.[475] These mandatory requirements for suppliers are outlined in the Group's Responsible Sourcing Standards, which include requirements on child labour, forced labour, freedom of association, discrimination, health and safety, remuneration and working hours. Mercedes Benz requires suppliers to communicate the Group's standards to their suppliers and to ensure compliance in their supply chain. The requirements are included in the contractual terms and standards, and suppliers are obliged to provide information, participate in audits and follow training upon request.[476]

Specifically for sourcing of raw materials from conflict-affected and high-risk areas, Mercedes Benz requires suppliers to meet their due diligence obligations and establish a policy that outlines their system of identifying and prioritising risks.[477] In addition, the Group expects suppliers of such minerals to work with its supply chain and collaborate in industry initiatives to strengthen its due diligence system, to engage with affected parties to rectify adverse impacts and prevent reoccurrence, to offer training to promote respect for human rights within its own business as well as outside, and to establish a system of control and transparency in their supply chain.

Mercedes Benz Group reports it conducted a company-wide materiality analysis in 2020 to identify relevant sustainability issues and is completing a new analysis in 2022.[478] To identify and avoid systemic risks and potential negative impacts of its business activities on human rights, the Group conducts risk assessments as part of its human rights due diligence system which is applied both internally as well as in its supply chains.[479] The risk assessments consider geographical, product and company factors and is based on the ILO's fundamental standards.[480] For suppliers, new suppliers as well as existing suppliers are regularly assessed, based on database research and audits.[481] In case of anomalies, suppliers are further researched and questioned, for example about their own suppliers.

In addition, Mercedes Benz started in 2021 with risk assessments of 24 raw materials identified as potentially critical for human rights and reports on the results of the assessments, implemented measures and future measures of 6 of these raw materials in its Raw Materials Report.[482] The risk assessment considers labour rights, including working conditions, occupational health and safety, and child and forced labour.[483] As part of the risk assessment for its cobalt supply chain, Mercedes Benz discloses rightsholder consultation took place at mining level.[484] Also, various NGOs have been consulted during the raw material assessments.[485] No reference is made to gendered risks and impacts.

Regarding the mitigation measures taken by Mercedes Benz, it reports to engage with suppliers and mine operators, to implement monitoring mechanisms such as third party auditing and contractual agreements with suppliers, define corrective action plans, and to engage in cross-sectoral initiatives such as the Responsible Minerals Initiative and the Responsible Mica Initiative against child labour. [486] Furthermore, the Group consults rightsholders, including employees, and their representatives, as well as external stakeholders such as local residents.[487]

Mercedes Benz reports on the results of the measures takes to mitigate human rights risks of 6 critical raw materials, but to a limited extent on engagement with suppliers. [488] In its Sustainability Report, the Group reports in more detail how the company engages with suppliers, and its due diligence process, but not on the results.[489] Regarding the auditing of suppliers, it discloses that in 2021 805 on-site audits took place, and states that "*Anomalies were detected with regard to working hours, occupational safety, business ethics, the communication of our sustainability standards and other topics*", but that the audits "*…discovered no specific suspected cases of child labour or forced labour, nor were there any indications of violations against the right to collective bargaining or freedom of association*."[490]

Mercedes Benz has a whistle-blower system in place, which is accessible for employees, business partners and third parties to report suspected human rights violations and request remedy.[491] The system can be accessed by post, e-mail or via an online report form, and in selected countries via toll-free hotlines. The Group explains the procedure and remedial activities, and states that reports can be submitted anonymously if local laws permit. Furthermore, it protects whistle-blower by ensuring that if a whistle-blower does not want its identity to be disclosed to other parties within the company, this is respected, and by guaranteeing that statements are treated confidentially.[492] Apart from the Group's own whistle-blower system, it takes part in the establishment of an industry-wide grievance mechanism under the National Action Plan for Business and Human Rights of the Federal Republic of Germany.

The policies in practice

Mercedes Benz Group has taken steps to establish a Group-wide human rights policy and develop human rights due diligence processes and procedures, including for its suppliers. In these, the Group pays specific attention to the sourcing of its raw materials. Mercedes Benz reports on the implementation of its human rights policies in its Sustainability Report, its website, and Raw Materials Report, which provide clear insight into the Group's HRDD processes and procedures. The Group discloses information on risk assessments, stakeholder engagement, measures taken, and monitoring activities employed, as well as some insight into the results of its due diligence activities.

However, Mercedes Benz leaves room for improvement in reporting on the results of its due diligence activities with regard to human rights, including on the outcomes of its mitigation measures. The Group reports some data in its Sustainability Report, such as the number of audits performed at supplier sites, the number of cases received by the whistle-blower system and the number of trainings completed, but it does not always become clear whether identified risks have been mitigated by the measures taken. Regarding stakeholder engagement, Mercedes Benz reports that rightsholders are consulted, but not what the results are of these engagements.

For the sourcing of its raw materials, the Group has set itself the goal to review all of its raw materials that pose an increased human rights risk and define necessary remediation measures by 2028, and is at 31% in 2021.[493] Indeed, it is clear that the Group is still in an initial phase of mapping its supply chain, including the execution of risk assessments and designing and implementing measures. Apart from disclosing on due diligence activities in the cobalt supply chain, reporting on the outcomes of the due diligence process and implementation of measures on other raw materials is limited.[494]

Furthermore, the Group leaves gaps in its reporting on the implementation of its policies. Except for some gender disaggregated data on its workforce and policy statements against gender discrimination, Mercedes Benz's does not report on gendered impacts and risks identified within its internal operations and supply chains. In addition, the Group identified the protection of human rights defenders as one of its key human rights topics based on its risk assessment, but does not provide inside on how this topic is further addressed.[495] Also, Mercedes Benz commits to provide remedy, but does not provide details on whether human rights complaints were received, addressed and whether remediation has been provided to victims.[496]

Overall, the analysis shows that Mercedes Benz needs to further strengthen its human rights due diligence system, especially focussing on reporting on the implementation of its policies and disclosing the results of its due diligence activities.

5.2.24 Peugeot

Peugeot is a brand of vehicles produced by global automotive group Stellantis, headquartered in Hoofddorp, Netherlands. On 16th January 2021, Peugeot S.A. merged with Fiat Chrysler Automobiles N.V. and the combined company was subsequently renamed Stellantis N.V.[497] In 2021, the group had a net revenue of EUR 149.4 billion[498] and had 281,595 employees globally.[499]

Peugeot did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

The Stellantis guidelines for suppliers and human rights policy are consistent with the OECD Guidelines, ILO Declaration on Fundamental Principles and Rights at Work and the UNGPs.[500] The Company is also a signatory of the UN Global Compact Initiative, aimed at encouraging business to adopt sustainable and socially responsible policies.[501] Stellantis commits to implementing preventive measures to uphold human rights, based on international standards, and also adhere to legislative requirements like the Duty of Vigilance, EU Conflict Minerals regulation and the Modern Slavery Act.[502] Stellantis is also a signatory of the UN Women's Empowerment Principles and is committed to adopt business practices that support gender equality and empower women within the company.[503]

The Stellantis Board of Directors has oversight responsibilities on areas that impact the Company's sustainability.[504] The Board is assisted and advised by the ESG Committee which acts on matters related to the monitoring, evaluating and reporting of the sustainable policies and practices.[505] The Stellantis CSR network is comprised of CSR Champions and CSR Correspondents, as well as a CSR Global Office that directly reports to members of the top executive team.[506] CSR Champions ensure that CSR issues are appropriately considered in the decision-making within their purview. CSR Correspondents are focused on the disclosure of qualitative and quantitative information for their respective CSR issues.[507]

The principles of the Global Compact initiative and ILO conventions are key elements in the Stellantis purchasing policy and they also consider the objectives of the OECD Guidelines.[508] Under the Stellantis Global Responsible Purchasing Guidelines, suppliers must respect the protection of human rights embodied in the ILO core conventions including uphold freedom of associations and collective bargaining rights, eliminate all forms of forced labour, child labour and discrimination, and ensure occupation health and safety standard at work.[509] Compliance with these Guidelines is a prerequisite for prospective suppliers.[510] Stellantis also asks its suppliers to raise awareness on CSR issues with their own suppliers, establish a responsible procurement policy and implement due diligence measures in its own subcontracting chain.[511]

Stellantis uses a double materiality approach to identify areas exposed to RBC risks. This approach includes both potential impacts of the Company on stakeholders (including environment) and impacts of the external environment on the Company.[512] The Company has identified 6 CSR macro-risks, including '*Ensuring protection of human rights and supporting a balanced economic development of territories*', and 22 CSR issues grouped into these 6 categories.[513] Regions and areas with the largest risk of human rights violations are identified based on country (non-signatories to global agreements, countries ill-equipped to enforce international law) and manufacturing process (significant requirement for low-skilled labour).[514]

The suppliers' social and environmental performance is regularly assessed by a third party and covers themes such as labour practices, working conditions, business ethics and sustainable procurement.[515] The assessment is used for risk identification and for potential audit sites. In case of non-compliance, the company requires the supplier to implement an action plan to rectify the issues, reserves the right to conduct follow up audits to ensure implementation of the planned actions and in some cases even termination of the business relationship.[516]

Stakeholders including suppliers, distributors and other partners are expected to act in accordance with the Stellantis Code of Conduct, and in certain cases stakeholders may be required to explicitly adopt the Code.[517] In case of suspected or potential violations of the Code, employees can report through the whistleblower line or speak to Human Resources, Compliance or the Legal Departments.[518] The whistleblowing channels are also open to suppliers, dealers, consumers and other stakeholders.[519] Stellantis does not allow retaliation against complainants *reporting 'in good faith*' and persons taking any retaliatory action will be subject to disciplinary action.[520] The whistleblower line is designed to protect the confidentiality of the complainant and reports may be made anonymously unless local laws require otherwise.[521] The caveats raise safety concerns for human rights defenders in countries where they are insufficiently protected by local laws.

The policies in practice

Stellantis has taken measures towards conducting HRDD. A detailed view of the CSR issues or challenges are provided in the Annual Corporate Social Responsibility report. Within each CSR issue, the report details the potential impacts of the risk and the mitigation strategies.[522] The report also provides information on the main initiatives and actions taken with respect to each CSR issue, along with data on KPIs such as suppliers' performance across categories like environment, labour and human rights, ethics and sustainable procurement.

Implementing a trustful and transparent social dialogue with employee representatives and stakeholders, is considered an important element for managing company transformations.[523] The Company has identified the percentage of countries covered by collective agreements as a KPI and also laid out short medium and long-term targets for the same. As of 2021, 86% of countries are covered by the collective agreements.[524] In the same year, 467 collective agreements were signed worldwide and 97% of blue-collar workers in the company were covered by a collective bargaining agreement at sectoral and/or company level.[525]

Stellantis' employees represent 170 different nationalities and 21 percent of them are women.[526] However, neither the Annual Report nor the Sustainability Report identify gendered impacts or risks within their own operations and/or supply chains. This suggests that the Stellantis HRDD process is gender-blind and insufficiently considers the human rights risks faced by vulnerable groups.

As per French legislation on the Duty of Vigilance, Stellantis reports on due diligence measures to identify risks, prevent serious breaches of human rights and fundamental freedoms, and ensure health and safety of persons and the environment.[527] These CSR issues were included in the Vigilance Plan if it impacted human rights, health and safety concerns and/or the environment, and if it was classified as a "Strategic" or "Significant" CSR issue.[528] The CSR issues covered in the Vigilance Plan were spread across three activities – supply chain, operations of the company and use of products and services. [529] For each of these CSR issues 5 measures are presented that cover risk mapping, assessments, mitigation, reporting and monitoring.[530] It is important to note that measures taken across all 5 dimensions need not be covered for other CSR issues not included in the Vigilance Plan.

As part of its efforts towards responsible purchasing practices, the company seeks to ensure selection of suppliers based on quality, competitiveness and social, ethical and environmental standards.[531] Stellantis has outsourced the assessment of Tier-I suppliers to an independent external company, EcoVadis.[532] Suppliers are reassessed each year to ensure continuous improvement in their CSR performance. In 2021, more than 88,500 suppliers were assessed which marks an increase of approximately 13,500 suppliers since 2020.[533] Targeted audits are also conducted for suppliers identified as risky based on three criteria: countries (those with questionable governance), products or processes.[534] Stellantis reports on the suppliers assessed by third-parties, the suppliers with corrective action plans in place and the performance of Stellantis suppliers compared to the EcoVadis benchmark.[535] While the HRDD process seems to largely rely on audits, Stellantis also holds monthly briefings with suppliers to provide CSR updates and communicate the company's CSR expectations along with trainings on sustainability topics.[536]

Despite the commitments to protect human rights made by Stellantis, Morocco World News and subsequently the Business and Human Rights Resource Centre, has reported that workers at the Peugeot plant in Kenitra, Morocco, went on strike to protest their working conditions, long working hours and low wages.[537] Furthermore, neither the purchasing guidelines nor the sustainability reports mention living wages as a labour right.

The aforementioned gaps indicates that there is room for improvement and further strengthening of the due diligence process followed by Stellantis. These improvements could be addressed towards more gender disaggregated reporting and greater transparency in reporting on monitoring and evaluation processes.

5.2.25 BMW

The BMW Group is a leading developer and manufacturer of premium automobiles and motorcycles worldwide. BMW AG, based in Munich, Germany, is the parent company of the BMW Group. In 2021, the Group had a revenue of EUR 111.2 billion and employed over 118 thousand people.[538]

BMW did not respond to our request for feedback on the analysis of its HRDD policies and practices.

Human Rights Due Diligence

BWM is committed to respecting internationally recognised human rights based on the standards set forth by the ILO Declaration on Fundamental Principles and Rights at Work, OECD Guidelines, UNGPs and the UN Global Compact principles.[539] The BMW Group Code on Human Rights and Working Conditions explains how the group implements the ILO Core Conventions in its business activities.[540] The Code covers freedom of association, elimination of forced labour, abolition of child labour and elimination of discrimination in the workplace. The Code also covers OHS, remuneration and working hours. At the minimum, the BMW Group follows local laws and regulations on these standards and seem to rely on regional and national conditions. The Code is applicable to employees, suppliers, and authorised sales organisations, across all Group sites and business units.[541]

The Group Code on Human Rights and Working Conditions stipulates that employees have the right to raise their concerns in case human rights abuses are suspected and the same would be followed up by the Human Rights Response Team.[542] In case of potential shortcomings with suppliers, a Supply Chain Response Team would follow up on the issue.[543] The BMW Group protects informers by providing anonymity and stipulates that they should not face retaliation.[544]

The BMW Group expects its business partners, both suppliers and authorised sales organisations, to abide by the ILO conventions.[545] Suppliers are also required to undertake "reasonable and meaningful steps" to ensure that their sub-contractors also act accordingly.[546] The Group advises suppliers of standards and expectations, offers targeted training courses to improve compliance and includes specific clauses to promote human rights in contractual agreements with authorised sales organisations.[547]

The BMW Group Supplier Sustainability Policy requires all suppliers to observe the UN Global Compact initiative, the ILO declarations and to align their due diligence process with the UNGPs.[548] All suppliers are required to comply with national and international health and safety standards and adhere to processes in accordance with the OECD Due Diligence Guidelines.[549]

BMW Group identifies compliance as the managerial responsibility of the Board of Management of BMW AG. As of January 2021, a new Chief Compliance Officer role has been created, responsible for the Compliance Management System (CMS) and regular reporting of developments and implementations of the CMS to the Board of Management and Supervisory Board of BMW AG.[550]

The policies in practice

The BMW Group's corporate due diligence process is based on the German government's National Action Plan (NAP), that includes core elements of policy statements, risk analyses, prevention, reporting and grievance mechanisms.[551] The Group carries out continuous risk analysis based on factors like probability of occurrence, severity, the group's degree of influence and ability to influence the impacts of business activities.[552] The Responsible Business Alliance (RBA) risk assessment platform is an important element in the group's due diligence efforts to ensure sustainability in its supplier network.[553] It is noteworthy that the Group has not publicly disclosed a Sustainable Value Report since 2019. Sustainable Value Reports give comprehensive information about their sustainability strategies and the progress made in integrating them into corporate processes.

While the Code on Human Rights and Working Conditions indicates the existence of a Human Rights Response Team, no further information is provided regarding its responsibilities or functioning.[554] The group indicates that trainings on human rights are provided to staff in the human resources departments, managers and specific focus groups like purchasing staff, but it is unclear whether all employees received human rights training.[555] Furthermore, it is difficult to assess how the grievance redressal mechanism works since there is no reporting on specifics such as number of grievances made, topic of complaint and remedial actions taken.

The Group monitors the implementation of human rights policy commitments through the internal Compliance Committee, however, no evidence is found on the corrective actions taken or the extent of the supply chain that is covered.[556] The Group includes RBC in strategies and management systems, and also uses tools such as media screening, sustainability questionnaires and BMW-specific risk filters to identify risks in its own operations, although human rights risks are not explicitly mentioned.[557] In order to identify these risks with suppliers, the Group takes a supplier oriented approach rather than a risk based approach as described by the OECD guidelines.[558]

The Code on Human Rights and Working Conditions describes the principles that BMW seeks to uphold but details on the implementation process are noticeably absent. The Code mentions how "*Based on a systematic internal analysis of human rights implications for different business units, the due diligence process for the company and in relation to our business partners is continuously refined*".[559] Specifics on the assessment and mitigation of human rights risks, and on the systems for monitoring and evaluating the effectiveness of corrective actions are not disclosed. The lack of reporting on vulnerable groups, such as women, indigenous communities and migrant populations, is indicative of an HRDD process that probably overlooks human rights impacts on these groups.

Despite the commitments made by the company, there is evidence of allegations made against the Group on human rights violations. The BMW Group has been identified as one of the 83 companies that have allegedly benefitted from the forced labour of Uyghur workers in China.[560]

6

Conclusions

This chapter draws conclusions from this study's main findings about the importance of the Latin American mining sector for Europe's energy transition. In doing so, it reflects on the sector's lack of transparency regarding trade relations and the still limited efforts of businesses to fulfil their HRDD obligations.

The transition to renewable energies is connected to a rapidly increasing demand for a large number of minerals. This run for minerals is connected to high risks to human rights in these supply chains, but often, the lack of transparency regarding mineral flows makes it difficult to hold companies accountable for their HRDD responsibilities. This hampers any possibilities for a truly just transition.

6.1 Lack of transparency of trans-continental mineral flows

The findings of this study suggest important economic relations in the trade of Colombian coal with Europe. While demand for coal in Europe is set to rapidly decrease in the coming years, the war in Ukraine may lead to a short-term increase in demand for coal also from Colombia.

Meanwhile, the lack of data on the flow of minerals with importance for the energy transition through global supply chains underscores the need for improved supply chain monitoring and transparency in the global mineral supply chain. The lack of comprehensive data on trade flows between actors in upstream mining in Bolivia and Peru and downstream consumer markets in Europe is commonly explained with the undoubtedly complex mineral supply chains involving various processing stages and corporate actors.

However, transparency and credibility are increasingly demanded also in such complex chains for governance and sustainability reasons. Improving the traceability and disclosure on these flows would allow to more reliably identify and tackle human and labour rights as well as environmental issues.

6.2 Substantial financing of high-risk operations

In terms of the Dutch financing of Latin American mining companies and business in Europe that are likely using these minerals in their products, this study found that three banks are providing substantial support: ING Group, Rabobank, and ABN Amro. Also, 22 Dutch bond- and shareholders invested in the commercial activities of those European and Latin American companies. Amongst those bond- and shareholders are Dutch pension funds, asset management companies, and banks. While the investment policies of these actors were not investigated, evidence points at the many risks these investors face in investing in industries with a large record of environmental and human rights violations.[561]

Where there is a societal response to the negative environmental and human rights impacts, sustainability risks are also risks for business, including legal risks, reputational risks, lower entrepreneurial value. Likewise, business risks become financial risks for banks and investors due to the financed companies running business risks. Just like businesses, financiers also face reputational risks, but also regulatory and funding risks, which can also result in profitability risks. To make investment decisions based, financial analysts and investors need reliable information about potential risks – and about where and how the companies they invest in have made choices that impact financial return. But as the results of this study suggest, the lack of transparency (be it in the manner of supply chain links or in vague HRDD policies and reports) stand on the way.

6.3 The mismatch between HRDD policy and practice

This study found that most large and public companies commit to key international standards on human rights, including the UNGPs, the ILO Fundamental Principles and Rights at Work, and the OECD Guidelines. In the case of private SMEs (particularly in wind and solar), most companies do not commit to these international standards. Particularly, SME producers of solar panels have published very limited or even no public information on financial performance, sustainability, CSR and RBC.

While there is a strong focus on Occupational Safety and Health within social and labour policies (including child labour and forced labour), there is limited attention to other areas of labour rights, such as living wages, social dialogue, and social protection. Those three are pillars of the ILO Decent Work Agenda.

Regarding labour conditions, companies often weaken statements on freedom of association, wages and working hours by stating the company adheres to local laws and regulations. Companies' human rights policies sometimes (except for internal diversity policies) tend to be gender blind and very rarely pay focused attention to marginalised groups.

By the same token, there is a tendency to rely on contractual provisions (e.g., signing a Supplier Code of Conduct) and social or compliance auditing. In this context, the companies analysed here focus on legal compliance over compliance with international standards. Annual sustainability reports provide more transparency, but in most cases still do not include key details on risk screening, mitigation measures and stakeholder engagement, or indications of how any preventive and remedial measures are tailored to groups that are affected differently, such as women, migrant workers, and Indigenous people.

With regards to due diligence, the companies assessed here often only disclose details on implementation and progress regarding the sourcing of 3TG minerals, because this is legally required under the EU Conflict Minerals Regulation as of 1 January 2021. In most cases, companies do not extend these 3TG due diligence mechanisms to other minerals. By the same token, limited transparency about due diligence processes, leaving gaps in reporting about implementation and monitoring progress.

These findings suggest that European manufacturers are under a false assumption that if production and raw material sourcing takes place within Europe, this automatically means human rights are respected and decent labour conditions are safeguarded. While it may be true that operating and sourcing in Europe generally is less risky, this does not exempt companies from conducting human rights due diligence.

Appendix 1 Checklist for analysis of CSR policies

1. **Embed responsible business conduct into policies and management systems**
   Is there a public responsible business conduct or human rights policy covering labour conditions?

   Does the company explicitly commit to the following international standards:

   - The OECD Guidelines
   - The ILO Declaration on Fundamental Principles and Rights at Work
   - The 8 fundamental ILO Conventions:
   - Conventions 87 and 98 (freedom of association)
   - Conventions 29 and 105 (elimination of forced labour)
   - Conventions 100 and 111 (elimination of discrimination in the workplace)
   - Conventions 138 and 182 (abolition of child labour).

   Does the policy statement outline expectations/requirements that suppliers (direct and indirect) and other business relations also respect human rights (including women's rights) and labour rights?

2. **Identify and assess actual and potential adverse impacts associated with the enterprise's operations, products or services**
   Does the company conduct a risk screening or scoping exercise to identify the areas of business where CSR risks are most present and significant?

   Does the risk assessment actively consider labour rights, particularly the Fundamental Principles and Rights, but also occupational health and safety, subcontracting practices, and living wages?

   Does the company consult and engage impacted and potentially impacted rightsholders, including workers, workers' representatives, and trade unions? Do companies seek to engage with women groups specifically? If consulting rightsholders is not possible, independent expert such as human rights (including women's rights) defenders, trade unions and CSOs should be consulted.

   Is the risk screening gender sensitive? E.g., is gender disaggregated data selected, is there specific attention to gendered impacts and risks?

3. **Cease, prevent and mitigate adverse impacts**
   Does the company have a mitigation plan in place when adverse impacts are identified? I.e., engagement with suppliers, action plans, monitoring mechanisms etc.?

   Does the company actively promote and protect workers' representation and trade unions, and engage with workers, workers' representation, and trade unions to prevent and mitigate risks?

   Does the company engage in cross-sectoral approaches in addressing systemic labour issues, such as child labour?

4. **Track implementation and results**
   Does the company report on continuous tracking of the implementation and effectiveness of due diligence and mitigation activities? E.g., reporting on engagement with suppliers, reporting on whether risks have been mitigated etc.?

   For human rights impacts the enterprise has, or may, cause or contribute to, does the company seek to consult and engage impacted or potentially impacted rightsholders, including workers, workers' representatives, and trade unions to track progress?

5. **Communicate how impacts are addressed**
   Is the company transparent by publicly disclosing relevant information on due diligence policies, processes, activities conducted to identify and address actual or potential adverse impacts, including the findings and outcomes of those activities?

   - Check for example for: Human Rights / Due Diligence Policy, Codes of Conduct, Sustainability Reports.

   Does the company disclose labour, human rights, or environmental audit or assessment results with impacted or potentially impacted rightsholders, while respecting confidentiality requirements?

   Does the company disclose gender disaggregated data where relevant, including on impacts on workers?

6. **Provide for or cooperate in remediation where appropriate**
   Does the company commit to cooperating in or providing remedy when it has caused or contributed to actual adverse impacts?

   Does the company have a grievance mechanism that is accessible for:

   - Direct employees and subcontractors
   - Indirect workers in the supply chain
   - Communities and other external stakeholders

   Does the company communicate transparently about the grievance mechanisms, including aspects like procedure, processing times, remedial activities?

   Does the company guarantee non-retaliation against whistle-blowers with protection mechanisms where relevant (e.g., guaranteeing anonymity, procedural safeguards, gender sensitivity e.g., in relation to gender-based violence (GBV))?

Appendix 2 The state of RBC in Peru

Written by Gianina Echevarria, CNV Internationaal

The OECD Guidelines set out the expectation that businesses (regardless of their legal status, size, ownership or sector) must avoid and address adverse impacts of their operations while contributing to sustainable development in the countries where they operate." [562] In compliance with the Guidelines, Peru designed the National Action Plan on Business and Human Rights 2021-2025 (PNA) in 2019. The PNA was a long participatory process involving various social actors to address 23 impact issues of Responsible Business Conduct (RBC).[563]

An OECD survey on the RBC practices of 110 businesses between December 2020 and January 2021 found that 50% do not apply due diligence processes against risks in the supply chain. In this context, only 43% of surveyed businesses required their suppliers and partners to have an RBC policy as part of a contract. A scant 25% only carried out risk assessments amongst their first-tier suppliers.[564]

Based on this information and incorporating the UN Guiding Principles, the PNA has proposed 5 strategic guidelines aimed at enacting a culture of respect for human rights. These guidelines, moreover, seek to influence public policies to prevent violations of human rights in the business field and to promote respect for companies to through accountability, research, and redress for the impacts of their activities. Also, due diligence procedures are foreseen to ensure companies' respect for human rights, and the strengthening of mechanisms to ensure that those affected can access redress.[565]

The PNA consists of 97 actions to be implemented until 2025. Some of its highlights include a normative proposal on due diligence (action 30) and on appropriate redress mechanisms (action 88). Moreover, it includes a program that provides business sector technical assistance in the implementation of due diligence mechanisms (action 67) and guides the implementation of those mechanisms in issues of human rights defenders (action 71) seeking comprehensive redress (action 97). Due diligence measures that avoid risks of violations of the safety and health of workers (action 83), information on due diligence of respect for collective labour rights throughout the supply chain (action 84), voluntary follow-up, monitoring and reporting mechanisms for business due diligence (action 87) and reparation mechanisms (action 96) are also included. In implementing these actions, the Peruvian Government expects to comply effectively with international RBC instruments.[566]

In addition to the PNA, so far in 2022, two labour standards of particular importance have been issued: Supreme Decree No. 001-2022-TR on outsourcing labour and Supreme Decree No. 014-2022-TR on freedom of association. The first decree limits outsourcing to business activities that are not part of the core business. It also grants companies a 180-day term for adaptation, provides for the illegality of the contracts of outsourced workers performing core business work and establishes that the sanction for non-complying companies is to add outsourced workers to the payroll of the main company. Additionally, the labour inspectorate (SUNAFIL) approved a protocol to supervise those companies that fail to comply with the norm (Superintendence Resolution No. 428-2022-SUNAFIL).[567]

The second decree substantially improves the existing regulation on the right to freedom of association. Among the main changes is the express recognition of the right to form unions of productive chain or subcontracting networks or company groups, a provision of special relevance for subcontracted workers. Moreover, it prevents companies from unilaterally extending the conditions of the collective bargaining agreement (CBA) to non-affiliated workers. It also recognises the permanence of the CBA clauses, unless otherwise agreed. Other changes include the repeal of the provision that required that unions obtained a final judicial decision before striking; the prohibition of agreements that prevent workers from exercising their right to strike; and banning the practice of replacing striking direct and indirect workers, with outsourced labour.[568]

Three clear examples demonstrate that none of these regulations have been welcomed by the business sector. Firstly, the lawsuit filed by Consorcio Minero Horizonte to request the non-application of the outsourcing regulation - a request that was granted by the Superior Court of Justice of La Libertad (File No. 00020-2022-51-1607-JM-CI-01).[569] Secondly, the lawsuit filed by the National Confederation of Private Business Institutions (CONFIEP), which has as one of its main associates, the National Society of Mining, Petroleum and Energy, requesting that the outsourcing norm be declared illegal - a process that has not yet received a response from the judicial authority.[570] Lastly, the administrative complaint filed by COSAPI Mining requesting that the prohibition to outsource labour for core business activites to be considered an illegal bureaucratic barrier that hinders the access or permanence of companies in the market - a motion that has been supported by the National Institute for the Defense of Competition and Protection of Intellectual Property (INDECOPI) with general effects (File No. 000070-2022/CEB).[571]

In parallel with the efforts to overturn the new legislation by Peruvian mining companies, some members of the Congress of the Republic have presented bills (Nos. 1522, 1726 and 2129) with the purpose of annulling the same decrees. The three proposals, which are currently being discussed in the plenary of Congress,[572] come from the right-wing political parties Fuerza Popular and Avanza País. The former is led by Keiko Fujimori, daughter of former dictator Alberto Fujimori - convicted for crimes against humanity and whose legislative work has been weakening labour rights since the 1990s. The second is a political party whose Government Plan 2021 - 2026 has the stated objective to reach a consensus on a law that promotes employment and protects social benefits that do not threaten the flexibility of the labour market and the goal to promote the creation of jobs with decent wages and make regulations more flexible and efficient.[573]

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