The human rights responsibilities of business in a changing world

How companies across the globe are addressing key areas of human rights
## Table of contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foreword</td>
<td>3</td>
</tr>
<tr>
<td>Key findings</td>
<td>6</td>
</tr>
<tr>
<td>Context</td>
<td>9</td>
</tr>
<tr>
<td><strong>Part I</strong> Overview of companies’ global performances in Human rights</td>
<td>12</td>
</tr>
<tr>
<td><strong>Part II</strong> Human rights in society: Prevention of violations, respect and promotion of fundamental human rights</td>
<td>23</td>
</tr>
<tr>
<td><strong>Part III</strong> Employees’ labour rights: prevention of violations, respect and promotion of freedom of association and the right to collective bargaining</td>
<td>30</td>
</tr>
<tr>
<td><strong>Part IV</strong> Non-discrimination and promotion of diversity at workplace</td>
<td>35</td>
</tr>
<tr>
<td><strong>Part V</strong> Human rights in the supply chain</td>
<td>40</td>
</tr>
<tr>
<td>Conclusion</td>
<td>46</td>
</tr>
<tr>
<td>Vigeo Eiris’ products and services on human rights for investors</td>
<td>49</td>
</tr>
</tbody>
</table>
Foreword

Our new study looks at more than 3,000 companies headquartered in 35 countries and uses the rating methodology developed by Vigeo (now Vigeo Eiris). It reveals striking findings that can be seen as both worrying but also useful for enabling changes in corporate perspectives and practices in the field of human rights. Indeed, less than 4% of companies disclose comprehensive commitments on human rights.

Yet businesses have core responsibilities for the prevention of potential abuses (whether by omission, negligence, or complicity) as well as the respect and active promotion of human rights, as defined by international standards. This premise has been affirmed by the UN Guiding Principles on Business and Human Rights, as endorsed by the Human Rights Council in its resolutions of July 2011 and 2014, which established an authoritative global framework to prevent and address adverse human rights risks and impacts linked to business activities, based on the UN’s three pillars of ‘Protect, Respect and Remedy’.

All businesses have to respect and promote human rights and prevent violations across their value chain, including parent companies, suppliers, sub-contractors and financial institutions. Similarly, all relevant company functions should also be involved from the Board and legal teams, to the sustainability and communication departments, and they should contribute to the incorporation of human rights in a company’s global governance strategy.

The respect of human rights is not optional. It is a fiduciary duty for business leaders, risk managers, asset owners and asset managers. The ability of a company to account for, and report on, the respect of human rights in its strategies and operations may impact positively or negatively on its legal security, as well as its capacity to manage risks associated with reputation, human capital cohesion and operational efficiency. It can also impact upon a company’s faculty to protect and increase goodwill, and to create sustainable value.

---

1 i.e. Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the International Covenant on Civil and Political Rights (ICCPR), the ILO core conventions and recommendations, and the OECD principles for multinationals.

One of the strongest, but least analysed, catalysts for worldwide support and acceptability of globalisation is the willingness and commitment of companies to report on their human rights policies, risks and progress. On the one hand, globalisation represents a unique opportunity for better acknowledgement and respect of fundamental human rights and workers’ rights. On the other hand, failures to meet legitimate expectations from people on their individual and collective interests and rights may threaten social cohesion and reduce support for the global economy itself.

The present report assesses the degree to which listed companies around the globe commit and act to respect and promote, and prevent violations of, fundamental human rights\(^3\), employees’ labour rights\(^4\) and non-discrimination at work in both their operations and their supply chain. It lists best performers in each category of human rights, highlights good practices and demonstrates how it is crucial for companies to adopt a strategic approach to human rights, supported by clear responsibilities and managerial processes. It also underlines regional disparities and sector specifics. Finally, our survey illustrates negative impacts for a company’s image, organisation, operations, and legal certainty in cases of human rights negligence. Indeed, more than one out of five multinationals is subject to at least one allegation or prosecution related to the respect of human rights.

Human rights are not an abstraction; they are well anchored in business reality. From a management perspective, human rights represent both material risks and a dramatic lever for improvement, which can boost corporate performance as well as the acceptability of globalisation.

\(^3\) Such as the right to equality and dignity; the right to security; the prevention of torture or other cruel, inhuman or degrading treatment or punishment; freedom of religion, opinion and expression; the right to privacy, and the rights of indigenous peoples, for instance.

\(^4\) Such as respect for freedom of association and the right to collective bargaining.
Objectives of the study

- Analyse the commitments and actions of companies to respect and promote fundamental human rights and workers’ rights, and to prevent violations of these, in corporate operations and supply chain.
- Underline regional and sector variations.
- Highlight good practice in terms of prevention, respect and remedies (e.g. due diligence).
- Establish a map of identified controversies, analysing associated risks and the responsiveness of companies.

The role companies have in society, as collective entities dealing with individuals, means that companies are accountable for the respect of all human rights with no distinction, as defined by the Universal Declaration of Human Rights of 1948, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights of 1966, the ILO core conventions, as well as more recent texts, such as the UN Guiding Principles of Business and Human Rights endorsed by the UN Human Rights Council in June 2011.

Our report does not cover all fundamental human rights that companies are held accountable for, but it focuses its attention on the assessment of four factors of social responsibility. These are the respect, promotion and the prevention of violations of:

- **Fundamental human rights in society**, such as the right to equality and dignity; the right to life, liberty and security; the prevention of torture or other cruel, inhuman or degrading treatment or punishment; freedom of religion, opinion and expression; the right to privacy, and the rights of indigenous peoples

- **Employees’ labour rights**, such as freedom of association and their right to collective bargaining

- **Non-discrimination at work**, based on gender, ethnicity, medical conditions, age, sexual orientation, family conditions, opinions, and the promotion of diversity and equality

- **Human rights in the supply chain**, including fundamental human rights, workers’ labour rights and conditions, as well as the abolition of forced labour and child labour in the supply chain.
Key findings

Overall

The overall average score of companies on human rights is assessed as ‘limited’ and stands at 32/100. Compared to our 2012 survey, this score has decreased from 37/100. This decrease is likely due to two reasons. Firstly, human rights commitments appear to have largely stood still from companies located in industrialised countries. Secondly, Vigeo Eiris’ rating universe now integrates companies listed in emerging market countries where there are typically more limited regulatory requirements and appeals from civil society organisations towards businesses on their responsibilities for respecting human rights.

Less than 4% of companies (3.66%) have formulated comprehensive commitments, policies and processes, and therefore have achieved advanced performance for the integration of human rights principles and goals into their strategy, management practices and operations.

From a global perspective, corporate reporting on human rights is limited and reveals important disparities among geographic areas, countries and sectors.

- Geographical areas - Companies headquartered in Europe achieve a better average performance compared to their peers located in Asia Pacific, North America or Emerging Markets. 96.6% of the top 30 performers are headquartered in Europe, compared to 80% in our 2012 review.

- Countries - France ranks first, followed by Sweden, Spain, Finland, Denmark and Norway. Nine out of the top 10 countries are European ones, while laggards are mainly South Eastern Asian countries.

- Sectors - the Development Banks sector is the highest performer, followed by the Luxury Goods & Services and the Publishing sectors.

- Overall, companies’ scores range from 5/100 to 85/100.

Similar to the findings of our 2012 review, this study finds that the respect and promotion of employees’ labour rights is the human rights thematic area that is the least addressed. One way that Vigeo Eiris assesses this is the ‘rate of information available’, which considers the level of transparency of companies on the theme, and the relevance and exhaustiveness of their reporting on questions under analysis. For employees’ freedom of association and the right to collective bargaining, the rate of information available is 34%. In comparison, for human rights in the supply chain, the rate of information available is 48%; for the respect of fundamental human rights in society it is 53%, and for non-discrimination it is 59%.
How companies’ approaches to human rights differ

For non-discrimination issues, specific and detailed commitments are given by 73% of companies. The majority of such commitments are related to gender, racial or religious discrimination, while only 12.4% concern people with sensitive medical conditions (e.g. AIDS).

Half of companies disclose tangible commitments that integrate human rights considerations in their supply chains, focusing mainly on issues such as employees’ health and safety, non-discrimination, child labour or forced labour.

Just under half of companies (47%) formulate exhaustive commitments about the respect and promotion of fundamental human rights in society. Among these rights, the right most often referred to is the right to privacy. By contrast, a minority of companies explicitly refer to the rights of indigenous peoples, the right to personal security or to freedom of expression.

Finally, only 16% of companies clearly report that they respect employees’ labour rights, with a minority of companies specifically mentioning the non-discrimination of employee representatives or the effective exercise of trade union rights at work.

Alongside this, 67% of companies communicate on measures in place to deal with non-discrimination; 48% provide details on processes to integrate human rights considerations into their supply chain; 37% report on measures adopted to address the respect of human rights in society, but just 10% of companies report on measures concerning the respect of workers’ freedom of association or the right to collective bargaining.

Best practices are seen among companies from sectors that are particularly exposed to potential risks of violations (e.g. Mining & Metals, Forest Products & Paper, Tobacco, Luxury Goods & Cosmetics and Telecommunications). These sectors have launched initiatives and set up tools to support businesses in the adoption of due diligence approaches that adequately assess, mitigate and remedy potential or effective human rights violations.

Mapping controversies

As in our 2012 survey, more than 20% of companies faced at least one human rights controversy. A third of companies were involved in controversies that are assessed as being of high or critical severity.

Controversies on human rights represent 10.9% of all controversies collected by Vigeo Eiris in its Equitics© database.

This study finds that 3% of companies were very proactive in solving the issue raised, by cooperating with stakeholders and implementing permanent corrective measures. However, 43% of companies did not react to allegations they faced.

The Banks sector faced the highest number of controversies, followed by the Food and Mining & Metals sectors.

Overall, more than one-third of the controversies occurred in the United States, where abuses are more frequently brought to court.
Methodology

Vigeo Eiris’ Equitics© methodology is based upon reference to international norms (e.g. the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the ILO core conventions and recommendations, the UN Global Compact, the OECD principles for multinationals, and European Union regulations etc…)

Vigeo Eiris’ analysis framework for the assessment of corporate performance is built around three pillars:

- The visibility and exhaustiveness of a company’s policies and commitments, and their oversight. Specific attention is paid to responsibilities and oversight functions associated with these commitments, and on the way a company integrates them into its governance model.

- The coherence and efficiency of measures implemented. Analysis takes into account the processes in place to deal with a defined issue, the monitoring and internal controls that ensure effectiveness, as well as a company’s reporting on the mitigation or remediation of any negative impacts detected.

- The effectiveness of the results. Results associated with policies and measures are assessed based on quantitative performance data, the opinions of stakeholders, and how responsive companies are to controversies (criticisms, legal proceedings and sentences etc.).

Throughout the analysis, a company’s score on different human rights factors is provided on a scale ranging from 0 to 100. Scores are categorised as weak [0-29], limited [30-49], robust [50-59], or advanced [60-100].
Context

Regulatory context

The role and responsibilities of companies in the respect and promotion of human rights have been clarified by the 2011 UN Guiding Principles on Business and Human Rights. These Principles set up the three pillars of the UN framework ‘protect, respect, and remedy’; they make businesses accountable and guide them on how to address the negative impacts stemming from their activity. These principles have been endorsed by the UN Human Rights Council in its resolutions of July 2011 and 2014, and, since then, have been considered as an authoritative framework by other international organisations or entities.

Since the establishment of the UN Guiding Principles, corporate responsibility for human rights issues is now well-acknowledged and recognised by international standards, including the 17 UN Sustainable Development Goals of the 2030 Agenda for Sustainable Development1, adopted at the UN Summit of September 2015.

In addition, countries are starting to make specific laws that hold businesses accountable for human rights. In the United Kingdom, Parliament adopted the Modern Slavery Act in March 20152. This legislation requires public and private companies with a global turnover of over £36 million, and that carry out a business or part of a business in any part of the UK, to publish a ‘slavery and human trafficking’ statement at the end of each financial year. Companies have to report on due diligence processes in place to eradicate slavery and human trafficking in their business and in their supply chain.

In France, the Parliament adopted the corporate duty of vigilance law on February 21 2017,3 which requires multinational companies with more than 5,000 employees in France and 10,000 abroad to adopt due diligence processes to mitigate adverse human rights impacts in their supply chain. Failure to comply will be subject to financial penalties. In addition, in 2013 the French State launched a national action plan for the implementation of the UN Guiding Principles on Business and Human Rights, with the support of the National Consultative Commission on Human Rights, and the National Platform on Corporate Social Responsibility4.

In December 2016, the United States launched a National Action Plan (NAP) on Responsible Business Conduct (RBC) dedicated to American companies operating abroad. This focuses on a range of issues including human rights, the rights of indigenous peoples, labour rights, land tenure and property rights, anti-corruption and transparency. In addition, regulatory developments in the United States are pushing companies to report on steps taken to manage social and environmental challenges. For instance, since the Dodd Frank Act (2010), listed companies have to disclose whether minerals in their products originate from the Democratic Republic of Congo and neighbouring countries, and report on due diligence processes exercised when they do. The 2010

---

2 http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted
3 "Sous-traitance : la loi sur le «devoir de vigilance» des entreprises adoptee » - Le Figaro- 21/02/2017
California Transparency Act also requires manufacturers and retailers in this State\textsuperscript{5} to disclose their policies, processes and controls to eradicate slavery and human trafficking.

**Sector initiatives**

Sector approaches to human rights have also emerged in recent years, including industry-related codes of conduct, or multi-stakeholder initiatives. Examples include:

- the Voluntary Principles on Security and Human Rights for extractive companies;

- the Global Network Initiative, which guides ICT companies on how to uphold freedom of expression and privacy on the internet when facing government pressure;

- the Electronics Industry Citizenship Coalition, which focuses on improving efficiency and social, ethical, and environmental responsibility in the global electronic industry supply chain;

- the Thun Group (2013) and the UNEP FI ‘Human Rights Guidance Tool for the Financial Sector’; or

- the Global Social Compliance Programme (GSCP), which is open to buying companies (brands and retailers) across all sectors, and provides tools and processes to support companies in the implementation of social and environmental requirements in their supply chains.

**Stakeholders perspective**

Companies are increasingly scrutinised by stakeholders from civil society or NGOs, such as the Business and Human Rights Resource Centre, Oxfam, Friends of the Earth, BankTrack and Mining Watch, etc. These stakeholders urge companies to be transparent about their policies and efforts to ensure respect of human rights.

Several business networks also help companies to manage human rights, such as the Global Business Initiative on Human Rights, the Danish Institute for Human Rights, the Institute for Human Rights & Business or Shift. For instance, the Reporting and Assurance Frameworks Initiative (RAFI), co-facilitated by Shift and Mazars, has developed the UN Guiding Principles Reporting Framework\textsuperscript{6}, a comprehensive guidance for companies to report on human rights issues in line with their responsibility.

Launched in 2014, the Corporate Human Rights Benchmark (CHRB)\textsuperscript{7} is a multi-stakeholder collaboration made up of 8 organisations: APG Asset Management (APG), Aviva Investors, Business and Human Rights Resource Center, Calvert Investments, The EIRIS Foundation, The Institute for Human Rights and Business (IHRB), Nordea Wealth Management and VBDO. The CHRB methodology is the results of intensive multi-stakeholder consultation around the world over 2 years, involving representatives from over 400 companies, governments, civil society organisations, investors, academics and legal experts. The first benchmark of CHRB ranks the top 100 companies in the agricultural products, apparel and extractive industries. The results of this benchmark are to be disclosed in March 2017. Vigeo Eiris provides research support to the benchmark under CHRB-specific methodology.

\textsuperscript{5} The Act is for companies that meet any of the following four conditions: (1) The company is organised or commercially domiciled in California. (2) Sales in California for the applicable tax year exceed the lesser of $500,000 or 25 percent of the company’s total sales. (3) The value of the real and tangible personal property of a company in California exceeds the lesser of $ 50,000 or 25 percent of the company’s total real and tangible personal property. (4) The amounts paid by a company in California for compensation exceeds the lesser of $ 50,000 or 25 percent of the total compensation paid by the company.


Investors’ perspectives

Increasingly, investors are also paying attention to human rights in their investment strategies and they are adopting diverse approaches to doing so. These include ethical or norm-based\(^8\) exclusions, best-in-class, engagement with companies, ESG voting policies, or investment in thematic funds.

The community of responsible investors is continuously growing. Ten years after their launch in 2006, the United Nations Principles for Responsible Investment (UN PRI) now counts more than 1,600 signatories (asset owners, investment managers and service providers) from over 50 countries\(^9\).

Some investors are extremely influential. This is the case with the Norwegian Government Pension Fund Global (GPFG) (the largest government pension fund in Europe), which was a pioneer in developing an exclusion approach for companies that breach international norms. This fund, which has set up a Council on Ethics to identify companies to exclude, is managed by Norges Bank Investment Management. The pension fund was one of the first to withdraw its investment in 23 palm oil companies in 2012. In March 2016\(^10\), NBIM disclosed a new human rights policy that states that all companies in which the GPFG invests are expected to respect human rights, integrate a human rights strategy into their operations and risk management, and report on their performance in a comprehensive and accessible manner. The fund manages investments in roughly 9,000 companies in 75 countries, representing $830 billion, and its practices and performance are closely monitored worldwide.

In August 2016, the Canada Pension Plan Investment Board (CPPIB)\(^11\), which manages $221.1 billion of assets, added human rights as one of its four focus areas, along with climate change, water and executive compensation. CPPIB also collaborates with other investors to encourage electronics, automotive and battery manufacturing companies to avoid using cobalt from the Democratic Republic of Congo, due to child labour and human rights concerns\(^12\).

The growing interest of investors in human rights encourages companies to better address human rights, to be aware of risks and opportunities stemming from their behaviour, and to tackle properly the challenges they face.

---

\(^8\) Among others, these norms include: the UN Global Compact principles, the ILO core conventions, fundamental human rights as defined by UN core conventions, the Mine Ban Treaty and the Convention on Cluster Munitions etc.

\(^9\) https://www.unpri.org/

\(^10\) Norway takes pathway to ethical investment with human rights policy’, The Guardian, 18/03/2016


\(^12\) CPPIB adds human rights as investment focus’, Pensions and Investments, 19/09/2016
Part I

Overview of corporate performance on human rights globally
Consideration paid to Human rights compared to other ESG issues

Among the six main ESG themes analysed by Vigeo Eiris, human rights issues are the third most addressed by companies in their CSR reporting, after corporate governance and business behaviour. Human rights appear to receive greater consideration than environmental issues in corporate reporting, despite the growing impact of climate change on businesses and the transition towards a low carbon economy.

This ranking is similar to our 2012 survey, but the global average score of companies on human rights has decreased from 37/100 to 32/100, due to lack of progress on commitments from companies located in industrialised countries and due to the integration of companies from Emerging Markets into Vigeo Eiris’ research universe. This limited performance shows that companies still need to better integrate human rights into their corporate business strategy.

Performances by human rights theme

Overall, the global scores obtained on each theme range from 29/100 for the respect of employees’ labour rights to 35/100 for the respect of fundamental rights in society; this range reveals a global lack of commitment from companies on human rights issues as well as insufficient efforts to deploy processes that allow them to mitigate potential risks of abuses or complicity.

Similar to our 2012 review, respect for employee freedom of association and the right to collective bargaining remains the least addressed theme in codes of conduct, social responsibility codes, sustainable development reports and business activity reports, with only 34% of companies making information available.
Differences in companies approach to human rights themes

Although the Universal Declaration of Human Rights states that human rights are indivisible, complementary and interdependent, companies appear to be selective about the categories of human rights or workers rights they choose to address.

Non-discrimination is the issue that is most addressed by companies: 84% of companies either refer (11%) to the issue or commit comprehensively (73%) to prevent abuses against employees on a wide range of grounds. Gender (86.7%), ethnicity (82.9%), religion (75.6%), age (71.5%) and disability (70.0%) are the human rights issues most addressed by companies in their non-discrimination policies. Other topics feature less, such as non-discrimination based on sensitive medical conditions (e.g. HIV) (12.4%), pregnancy (33.4%) or political opinion (25.5%).

In total 70% of companies either make reference to (23%) or formulate visible human rights policies that address the respect of at least some fundamental human rights in society and mention international standards (47%). The respect for the right to privacy is the issue the most addressed. It is mentioned by 52% of companies, coming from various sectors (Telecommunications, Software, Technology Hardware, Pharmaceuticals and Banks). Issues that are also frequently addressed by companies are: the prevention of cruel, inhuman or degrading treatment (addressed by 18.7% of companies); indigenous peoples' rights (8.5%); the right to personal security (6.8%); and property rights and resettlement (5.6%).
As to the respect of human rights in the supply chain, commitments are exhaustive for 50% of companies, while 14% only refer to the issue or to limited categories of rights. The issues that are particularly addressed in their commitments are: workers’ health and safety (by 73.7%); the abolition of child labour (67.7%); non-discrimination (64.8%); the abolition of forced labour (64.5%); freedom of association and the right to collective bargaining (51.0%); decent wages (49.5%); and decent working hours (45.8%).

Finally, 48% of companies in our study appear to address the respect of employees’ labour rights, but only 16% formulate a comprehensive commitment that goes beyond stating simply to respect freedom of association and the right to collective bargaining. Among those companies that disclose some commitments:

- all refer to freedom of association or the right to collective bargaining
- almost one-third refer explicitly to ILO conventions C87, C98, and C135.
- 22.2% commit to prevent discrimination against employee representatives.
- 14.9% commit to ensure that their employees are informed and have adequate conditions in order to effectively exercise their rights.
Regarding the efforts made by companies to prevent violations and to promote these rights:

- 67% of companies communicate on measures in place to deal with non-discrimination;
- 48% provide details on processes to integrate human rights considerations in their supply chain;
- 37% report on measures related to the respect of human rights in society;
- and just 10% mention measures for the respect of workers’ freedom of association or the right to collective bargaining.

In contrast to the expectations of stakeholders, in many cases the measures described are limited to actions with non-significant costs, such as risk mapping or awareness-raising initiatives.

Best practices are observed among companies from sectors that are particularly exposed to potential human rights violations (i.e. Mining & Metals, Forest Products and Paper, Tobacco, Luxury Goods & Cosmetics, and Telecommunications etc.). These sectors have launched initiatives and set up tools to support businesses in the adoption of due diligence approaches that adequately assess, mitigate and remedy actual or potential human rights violations.
Disparities among geographic regions

Companies headquartered in Europe commonly perform better (with an average score of 39/100) than companies from North America (31/100), Asia Pacific (31/100) or Emerging Markets (27/100). Companies from Europe typically demonstrate stronger awareness of human rights issues, drawn from a more stringent regulatory framework, as well as greater scrutiny from stakeholders.

The scores of European companies range from 5/100 to 85/100; the standard deviation of scores is higher than in other regions, revealing noticeable gaps between the worst and best performers.

![Graph showing score distribution by region with summary statistics.]

<table>
<thead>
<tr>
<th>Region</th>
<th>Max. Score</th>
<th>+Std.Dev</th>
<th>Average</th>
<th>-Std.Dev</th>
<th>Min. Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asia-Pacific</td>
<td>65</td>
<td>42</td>
<td>31</td>
<td>19</td>
<td>11</td>
</tr>
<tr>
<td>Europe</td>
<td>85</td>
<td>54</td>
<td>39</td>
<td>24</td>
<td>5</td>
</tr>
<tr>
<td>North America</td>
<td>64</td>
<td>40</td>
<td>31</td>
<td>21</td>
<td>10</td>
</tr>
<tr>
<td>Rest of the world</td>
<td>66</td>
<td>37</td>
<td>27</td>
<td>16</td>
<td>8</td>
</tr>
</tbody>
</table>
Performance by country

In terms of where companies that are addressing human rights are headquartered, France ranks first. Notably, French companies have been subject to legal obligations for ESG reporting since the Grenelle Laws (2010). The rest of the top 10 performing countries are Nordic countries (Sweden, Finland, Denmark, Norway), Spain, the Netherlands, Germany, Italy and the United Kingdom. These countries all have a stringent legislative and regulatory framework aligned with international human rights standards and ILO conventions. Stakeholder activism in relation to business behaviour on human rights is also intense. In addition, the responsible investment (RI) market in these countries is typically more mature than in other regions. The RI strategies of pension funds and mutual funds, as well as the opinion of ESG rating agencies, are influential and encourage listed companies to formalise commitments. In South Africa and Brazil, where reporting on ESG issues is mandatory for companies that are listed, companies rank in 11th and 12th position respectively.

The United States stands in the middle of the ranking at 16th position, with a third of the controversies related to human rights that have been identified in Vigeo Eiris' Equitics© database.

Countries at the bottom of our ranking, such as China, Malaysia, the Philippines, or Indonesia, have a large proportion of their economies characterised by outsourced production, with weak regulatory protection for the rights and working conditions of local workers.
Almost three-quarters of business sectors achieve a ‘limited’ score of between 30 and 40/100, meaning that important margins for improvements remain.

The Development Banks sector outclasses the other sectors with a robust average performance of 54/100. Indeed, development banks follow the International Finance Corporation (IFC) guidelines when financing projects in developing countries. They conduct human rights impact assessments of the projects they finance and they usually set up independent complaints management mechanisms for communities potentially affected. In addition, as supranational entities, development banks are subject to a high level of scrutiny. The Luxury Goods & Cosmetics sector ranks in second position. Labour rights and non-discrimination of workers are key issues for company operations and their supply chains in this sector. The Publishing sector ranks third, where companies need to ensure the respect of privacy rights, intellectual property rights and freedom of expression in a digital age marked by the increase of piracy and the emergence of new technologies.

As in our 2012 survey, other sectors exposed to stakeholder scrutiny perform well; such scrutiny may be due to the nature of their products or activities, or due to the complexity of their supply chain. This is the case for sectors such as Forest, Mining, and Electric & Gas Utilities, which can be exposed to human rights abuses (e.g. forced settlement and non-respect of indigenous peoples' rights etc.), especially when operating in countries with weak governance.

The lowest ranking sectors are Real Estate, Specialised Retail, Industrial Goods & Services, Travel & Tourism, Home Construction, and Food. Many companies in these sectors are engaged in a high level of outsourcing, and seem less proactive in tackling human rights challenges.
**Best performers: top 30 ranking**

Our study finds that 96.6% of the top 30 performers are headquartered in Europe.

Of the top 30 performers, 20% operate in the Electric & Gas Utilities sectors, a sector that is used to paying specific attention to abuses that can occur in large hydro-power projects and oil and gas exploration operations, especially in countries with weak governance. This sector can be exposed to specific human rights issues (e.g. loss of land and livelihoods without negotiation or compensation, forced resettlement, violence of security forces, arbitrary detention and torture etc.) and companies in it usually have implemented specific processes to address such issues.

Financial companies represent 30% of the top performers (including Development Banks, Banks and Financial Services sectors etc.). Through the assessment of ESG risks, they also consider potential human rights abuses faced by companies that are included in their investment or lending portfolios. In this respect, financial institutions usually follow the guidelines of the Equator Principles for their project finance activities, but also use dedicated tools to implement the UN Guiding Principles on Business and Human Rights, such as the Thun Group paper conclusions, or the UNEP FI reporting guidance tools. Finally, they are exposed to strong scrutiny from NGOs, such as BankTrack and Oxfam.

Overall, what the best performers appear to have in common is the ability to identify risks and opportunities linked to their adequate management of human rights issues. They are aware of the related impacts on their reputation, operational efficiency, employee cohesion, and legal security. As a consequence, they formulate visible and comprehensive policies and effectively identify accountability levels for each issue. They cooperate with stakeholders, establish dialogue on key issues, identify levers for action, and set up due diligence procedures (e.g. risk mapping, preventive measures, controls and remedial actions). They publish quantified performance indicators where appropriate. They are also transparent about the controversies they encounter (e.g. criticisms, boycott campaigns, lawsuits, fines or sentences) and transparent about the responses they use to solve them.
<table>
<thead>
<tr>
<th>Title</th>
<th>Country</th>
<th>Sector</th>
<th>Score (/100)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Red Electrica Corporacion</td>
<td>Spain</td>
<td>Electric &amp; Gas Utilities</td>
<td>85</td>
</tr>
<tr>
<td>E.on</td>
<td>Germany</td>
<td>Electric &amp; Gas Utilities</td>
<td>81</td>
</tr>
<tr>
<td>Groupe PSA</td>
<td>France</td>
<td>Automobiles</td>
<td>81</td>
</tr>
<tr>
<td>Fonclere des Regions</td>
<td>France</td>
<td>Financial Services - Real Estate</td>
<td>80</td>
</tr>
<tr>
<td>Umicore</td>
<td>Belgium</td>
<td>Chemicals</td>
<td>79</td>
</tr>
<tr>
<td>La Banque Postale</td>
<td>France</td>
<td>Banks</td>
<td>79</td>
</tr>
<tr>
<td>Norsk Hydro</td>
<td>Norway</td>
<td>Mining &amp; Metals</td>
<td>76</td>
</tr>
<tr>
<td>Engie</td>
<td>France</td>
<td>Electric &amp; Gas Utilities</td>
<td>77</td>
</tr>
<tr>
<td>Carrefour</td>
<td>France</td>
<td>Supermarkets</td>
<td>76</td>
</tr>
<tr>
<td>L’Oreal</td>
<td>France</td>
<td>Luxury Goods &amp; Cosmetics</td>
<td>76</td>
</tr>
<tr>
<td>Gas Natural Sdg</td>
<td>Spain</td>
<td>Electric &amp; Gas Utilities</td>
<td>75</td>
</tr>
<tr>
<td>Telefonica</td>
<td>Spain</td>
<td>Telecommunications</td>
<td>75</td>
</tr>
<tr>
<td>Gecina</td>
<td>France</td>
<td>Financial Services - Real Estate</td>
<td>75</td>
</tr>
<tr>
<td>Terna</td>
<td>Italy</td>
<td>Electric &amp; Gas Utilities</td>
<td>75</td>
</tr>
<tr>
<td>Kreditanstalt für Wiederaufbau</td>
<td>Germany</td>
<td>Specific Purpose Banks &amp; Agencies</td>
<td>74</td>
</tr>
<tr>
<td>BT Group</td>
<td>United Kingdom</td>
<td>Telecommunications</td>
<td>74</td>
</tr>
<tr>
<td>European Investment Bank</td>
<td>Luxembourg</td>
<td>Development Banks</td>
<td>74</td>
</tr>
<tr>
<td>Sodexo</td>
<td>France</td>
<td>Hotel, Leisure Goods &amp; Services</td>
<td>73</td>
</tr>
<tr>
<td>Endesa</td>
<td>Spain</td>
<td>Electric &amp; Gas Utilities</td>
<td>72</td>
</tr>
<tr>
<td>Amundi</td>
<td>France</td>
<td>Financial Services - General</td>
<td>72</td>
</tr>
<tr>
<td>A2A</td>
<td>Italy</td>
<td>Electric &amp; Gas Utilities</td>
<td>72</td>
</tr>
<tr>
<td>Vallourec</td>
<td>France</td>
<td>Mining &amp; Metals</td>
<td>71</td>
</tr>
<tr>
<td>Orange</td>
<td>France</td>
<td>Telecommunications</td>
<td>71</td>
</tr>
<tr>
<td>Linde</td>
<td>Germany</td>
<td>Chemicals</td>
<td>70</td>
</tr>
<tr>
<td>Merck</td>
<td>Germany</td>
<td>Pharmaceuticals &amp; Biotechnology</td>
<td>69</td>
</tr>
<tr>
<td>Munich Re</td>
<td>Germany</td>
<td>Insurance</td>
<td>69</td>
</tr>
<tr>
<td>Crédit Foncier</td>
<td>France</td>
<td>Banks</td>
<td>69</td>
</tr>
<tr>
<td>STMicroelectronics</td>
<td>The Netherlands</td>
<td>Technology-Hardware</td>
<td>69</td>
</tr>
<tr>
<td>Agence Francaise de Développement</td>
<td>France</td>
<td>Specific Purpose Banks &amp; Agencies</td>
<td>69</td>
</tr>
<tr>
<td>African Development Bank</td>
<td>Tunisia</td>
<td>Development Banks</td>
<td>69</td>
</tr>
</tbody>
</table>
Mapping of human rights controversies

More than 20% of companies in the study have faced at least one human rights controversy. One-third of companies are involved in controversies that are assessed as being ‘high’ or ‘critical’ in severity.

Overall, 1,122 controversies have been identified, representing 10.9% of all controversies assessed by Vigeo Eiris in its Equitics© database (10,317 in total).

As to the content of these controversies:

- 51% are linked to violations of fundamental human rights (i.e. right to privacy, right to property, freedom of expression, rights of indigenous populations etc.);
- 11% relate to violations of labour rights (e.g. ‘union busting’ practices or union discrimination);
- 21% relate to employee discrimination (based on gender, medical conditions, ethnicity etc.); and
- 17% are related to human rights violations in the supply chain (i.e. child labour, forced labour and bad working conditions etc.).

In 43% of controversy cases, companies did not react to allegations. A vague response or settlement was observed in 41.5% of companies, while 12.5% took remedial action, and 3% were proactive (i.e. consulting with stakeholders in addition to undertaking permanent corrective measures).

The Bank sector faces the highest number of controversies (84), mainly related to its involvement in the financing of controversial projects. The Food sector follows second (with 83 controversies), as it is regularly exposed to allegations concerning the rights of indigenous peoples, property rights, discrimination of workers, and the respect of human and labour rights in the supply chain. The Mining & Metals sector ranks third with 73 controversies; this sector often faces controversial resettlements of local populations and the improper use of security forces.

Overall, more than one-third of the controversies observed occurred in the United States (396 in the U.S.), where cases of abuses of human rights tend to be more often brought to court.
Part II

Human rights in society: respect and promotion of fundamental human rights and prevention of violations
Principles of action

Respect and promotion of fundamental human rights and prevention of violations. This includes: the right to equality and dignity; the right to life, liberty and security; the prevention of torture or other cruel, inhuman or degrading treatment or punishment; freedom of religion, opinion and expression; the right to privacy; and the rights of indigenous peoples.

Best performance by sector

As previously mentioned, the Development Banks sector ranks first (61/100) in terms of addressing fundamental human rights. These companies are supranational entities that comply with the IFC guidelines and assess the human rights impacts of development projects.

Among the top 10 performing sectors, there are several sectors that have launched sector initiatives and developed tools to assess and to prevent potential adverse human rights impacts in their activities, and to remediate shortcomings as much as possible.

For instance, in the extractive industries (Mining & Metals, Oil & Gas, and Energy sectors etc.) the Voluntary Principles on Security and Human Rights (jointly established by governments, major multinational extractive companies and NGOs) provide guidance to companies on tangible steps that they can take to minimise the risk of human rights abuses in communities located near extraction sites in countries with weak governance.

In the Forest industry, the Forest Law Enforcement, Governance and Trade (FLEGT) initiative seeks to ensure that timber producing countries are acting legally, in particular in relation to the rights of indigenous and local communities who depend on forest resources. In addition, the not-for-profit Forest Stewardship Council promotes responsible management of the world’s forests and seeks to find solutions to pressures faced by forests and forest-dependent communities.

Another example is the Global Network Initiative (2008) that has been launched by companies operating in the Information and Communication Technology (ITC) field (Telecommunication, Software & IT Services sectors) jointly with civil society organisations, investors and academics, in order to better protect and advance freedom of expression and privacy in the ICT sector.
Best performance by company

Mining & Metals companies represent 30% of the top 30 performers. Most companies conduct human rights impact assessments due to their frequent exposure to potential abuses, especially during the extraction of minerals or raw materials (i.e. exposed to conflicts resulting from property rights and forced resettlement, violations of indigenous rights, or use of security forces, etc.).

Of the top performers, 10% come from the Telecommunications sector where the right to privacy, including the protection of consumers’ personal data and e-data, is particularly important.

The financial industry also comprises 23.3% of the companies in this top 30 ranking.

Overall, these top performers have formulated exhaustive commitments, set up due diligence processes to prevent and identify human rights risks, established control mechanisms to guarantee their effectiveness, and developed remedial procedures.

<table>
<thead>
<tr>
<th>Title</th>
<th>Country</th>
<th>Sector</th>
<th>Score (/100)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Norsk Hydro</td>
<td>Norway</td>
<td>Mining &amp; Metals</td>
<td>84</td>
</tr>
<tr>
<td>Teck Resources Limited</td>
<td>Canada</td>
<td>Mining &amp; Metals</td>
<td>81</td>
</tr>
<tr>
<td>Nokia</td>
<td>Finland</td>
<td>Technology-Hardware</td>
<td>81</td>
</tr>
<tr>
<td>E.on</td>
<td>Germany</td>
<td>Electric &amp; Gas Utilities</td>
<td>79</td>
</tr>
<tr>
<td>Amundi</td>
<td>France</td>
<td>Financial Services - General</td>
<td>79</td>
</tr>
<tr>
<td>Gas Natural</td>
<td>Spain</td>
<td>Electric &amp; Gas Utilities</td>
<td>79</td>
</tr>
<tr>
<td>Eurazeo</td>
<td>France</td>
<td>Financial Services - General</td>
<td>79</td>
</tr>
<tr>
<td>SWISS REINSURANCE COMPANY</td>
<td>Switzerland</td>
<td>Insurance</td>
<td>78</td>
</tr>
<tr>
<td>African Development Bank</td>
<td>Tunisia</td>
<td>Development Banks</td>
<td>77</td>
</tr>
<tr>
<td>WPP</td>
<td>United Kingdom</td>
<td>Broadcasting &amp; Advertising</td>
<td>77</td>
</tr>
<tr>
<td>Telstra</td>
<td>Australia</td>
<td>Telecommunications</td>
<td>77</td>
</tr>
<tr>
<td>ArcelorMittal</td>
<td>Luxembourg</td>
<td>Mining &amp; Metals</td>
<td>77</td>
</tr>
<tr>
<td>Telefonica</td>
<td>Spain</td>
<td>Telecommunications</td>
<td>77</td>
</tr>
<tr>
<td>Kinross Gold</td>
<td>Canada</td>
<td>Mining &amp; Metals</td>
<td>77</td>
</tr>
<tr>
<td>SAP</td>
<td>Germany</td>
<td>Software &amp; IT Services</td>
<td>77</td>
</tr>
<tr>
<td>G4S</td>
<td>United Kingdom</td>
<td>Business Support Services</td>
<td>76</td>
</tr>
<tr>
<td>RABOBANK</td>
<td>The Netherlands</td>
<td>Banks</td>
<td>76</td>
</tr>
<tr>
<td>European Investment Bank</td>
<td>Luxembourg</td>
<td>Development Banks</td>
<td>74</td>
</tr>
<tr>
<td>Nordic Investment Bank</td>
<td>Finland</td>
<td>Development Banks</td>
<td>74</td>
</tr>
<tr>
<td>Merck</td>
<td>Germany</td>
<td>Pharmaceuticals &amp; Biotechnology</td>
<td>74</td>
</tr>
<tr>
<td>Siliconware Precision Industries</td>
<td>Taiwan</td>
<td>Technology-Hardware</td>
<td>74</td>
</tr>
<tr>
<td>STMicroelectronics</td>
<td>The Netherlands</td>
<td>Technology-Hardware</td>
<td>72</td>
</tr>
<tr>
<td>L’Oreal</td>
<td>France</td>
<td>Luxury Goods &amp; Cosmetics</td>
<td>72</td>
</tr>
<tr>
<td>Gold Fields</td>
<td>South-Africa</td>
<td>Mining &amp; Metals</td>
<td>72</td>
</tr>
<tr>
<td>Kumba Iron Ore</td>
<td>South-Africa</td>
<td>Mining &amp; Metals</td>
<td>72</td>
</tr>
<tr>
<td>GlaxoSmithKline</td>
<td>United Kingdom</td>
<td>Pharmaceuticals &amp; Biotechnology</td>
<td>72</td>
</tr>
<tr>
<td>Rio Tinto</td>
<td>United Kingdom</td>
<td>Mining &amp; Metals</td>
<td>72</td>
</tr>
<tr>
<td>Agnico-Eagle Mines</td>
<td>Canada</td>
<td>Mining &amp; Metals</td>
<td>72</td>
</tr>
<tr>
<td>Kesko</td>
<td>Finland</td>
<td>Supermarkets</td>
<td>72</td>
</tr>
<tr>
<td>Orange</td>
<td>France</td>
<td>Telecommunications</td>
<td>71</td>
</tr>
<tr>
<td>BHP Billiton (UK)</td>
<td>United Kingdom</td>
<td>Mining &amp; Metals</td>
<td>71</td>
</tr>
</tbody>
</table>
Analysis of managerial approaches and best practice

Corporate commitments and policies

47% of companies have formalised a visible and comprehensive policy to respect and promote fundamental human rights; 30% did not formulate any commitment, while 23% made references to fundamental human rights in general terms.

Human rights concerns vary by sector and corporate activity. However, the respect for the right to privacy is the issue the most addressed. It is mentioned by 52% of companies, coming from various sectors (Telecommunications, Software, Technology Hardware, Pharmaceuticals and Banks). Issues that are also frequently addressed by companies are: the prevention of cruel, inhuman or degrading treatment (addressed by 18.7% of companies); indigenous peoples’ rights (8.5%); the right to personal security (6.8%); and property rights and resettlement (5.6%).

Other issues that are dealt with include respect of the right of patients to free, prior and informed consent (Pharmaceuticals and Biotechnology sectors), freedom of expression (Publishing sector) and non-discrimination of clients (Banks and Financial Services sectors).

Overall, 8.1% of companies explicitly mention their support of either international conventions on human rights or sector initiatives, and 34.5% commit to prevent any complicity in human rights violations.

Due diligence processes

In addition to formulating commitments, companies are expected to adopt on-going due diligence processes, demonstrating that they “know and show” that they respect human rights in practice. In concrete terms, this means that companies should assess actual and potential human rights impacts, integrate the findings and act to prevent or mitigate the impacts, track how effectively impacts are addressed, and communicate on results.

Our research finds that only 37% of those companies surveyed communicate on due diligence measures that are in place to tackle human rights issues. Among these companies:

- half report that they raise the awareness of employees on human rights issues
- almost one-third (35.7%) offer employees a dedicated training programme
- one-quarter proceed to human rights impact assessments
- one-fifth carry out internal audits
- 7.7% report that they to conduct external audits.

Examples of best practice

The pharmaceutical giant GlaxoSmithKline communicates on its public policy positions on emerging human rights topics such as cloning technologies, stem cell research, biological diversity and clinical trials in the Developing World. It also collaborates with the Harvard Stem Cell Institute (HSCI) on these issues. GSK’s Chief Medical Officer and the Medical Governance Executive Committee ensure that medical governance systems are standardised and regularly identify new risks. Protocols developed for clinical trials are reviewed by an independent ethical review committee. Finally, GSK’s human rights steering group provides company-wide direction and oversight to help ensure that the

1 See graph on p.13
2 http://www.gsk.com/
company meets its commitments on human rights.

In the Telecommunications sector, Yahoo!'s Business & Human Rights Programme (BHRP)\(^3\) provides training to employees on its human rights obligations and the implementation of the Global Network Initiatives Principles. This programme includes Human Rights Impact Assessments (HRIA) on freedom of expression and privacy in relevant countries and regions.

In the Bank sector, Rabobank\(^4\) has concluded an agreement with unions, NGOs and the Dutch government to undertake a joint research programme and share best practices on the respect of human rights in investment and financing matters, especially in high risks sectors (e.g. palm oil, cocoa and gold). The bank requests that its customers prevent, mitigate and account for actual or potential adverse human rights impacts linked to their products, operations or business relationships. Rabobank has also entered into dialogues with clients facing controversies on human rights, environment and governance issues. In addition, the company engages with stakeholders on sensitive issues (e.g. palm oil, financing of controversial weapons etc.).

In the Mining sector, Rio Tinto\(^5\) works from a common Communities and Social Performance framework which is based on building knowledge, engaging with communities and developing mutually beneficial programmes. The company also refers to external policies such as the International Finance Corporation’s (IFC) Performance Standards on Environmental and Social Sustainability, and supports the International Council on Mining and Metals’ position statement on Indigenous Peoples and Mining. Rio Tinto reports to consult with local people to ensure the protection of their cultural heritage sites and values. It has set up a dedicated guide for employees and managers that provides the foundation of its Communities and Social Performance work, including resettlement. When negotiating agreements with host communities to gain access for exploration and to develop mining operations, Rio Tinto makes sure that the community groups entering into agreements have access to independent advice and expertise. Agreements arising from this process are evidence of Free, Prior, and Informed Consent (FPIC), as defined in IFC Performance Standard 7.

---


4 \(\) www.rabobank.com

5 \(\) www.riotinto.com
Analysis of controversies

Material risks

Depending on the context, the nature of the activities and the location of operations, risks from human rights abuses can vary. Risks could include fines or judicial rulings, divestment of projects, boycotts of products, deterioration of a company’s reputation (by a media or NGO campaign) or impacts upon the cohesiveness of a company’s human capital.

Key findings

- The study identifies 572 allegations about fundamental human rights, representing 51% of all human rights controversies.
- Of controversies observed, 40% are considered to be of ‘high’ or ‘critical’ severity.
- A large group of companies (41%) did not react to the controversies they faced, but 43% of companies solved the issue and reached an agreement or communicated on the case. A smaller proportion (14%) implemented corrective measures, but only 11% of companies adopted proactive approaches and consulted stakeholders in addition to implementing corrective measures.

Sector and country exposure

The sectors facing the highest number of controversies are Banks, Mining & Metal, Energy, Insurance, Software & IT, Financial Services, and Telecommunications.

Financial institutions are often criticised by NGOs, such as BankTrack or Pax Christi, for their involvement in the financing of projects that have negative impacts on local populations (i.e. resettlement of populations, or violations of indigenous rights), or for their support of companies considered to be producers of cluster munitions or nuclear weapons.

In the extractive sectors (e.g. Mining & Metals, and Energy), controversies are mainly related to forced relocation and displacement of indigenous populations, lack of consultation or free consent, and the use of armed soldiers and security personnel.

In the Telecommunications, Software and IT Services sectors, several companies have been accused of providing access to customer data to government intelligence agencies.

Geographical exposure

The controversies identified in this study occurred in North America (31%), Europe (22%), Asia (19%), South America (10.5%), Africa (9.8%) and Oceania (7.1%).

The five countries where there are higher numbers of controversies reported are: the United States, the Netherlands, the United Kingdom, Australia and Indonesia.

Examples of controversies

On 15 November 2016, two human rights NGOs SHERPA and the European Center for Constitutional & Human Rights filed a legal complaint against Lafarge (now Lafarge Holcim). They claimed that the company paid taxes to IS to maintain some of its operations in Syria between 2013 and 2014, and sued the company for alleged complicity in war crimes and crimes against humanity. Eleven former Syrian employees

1 L’ONG Sherpa porte plainte contre Lafarge pour le financement du terrorisme’, Le Monde, 15/11/2016
of Lafarge Cement Syria (LCS) were also party to the legal complaint, accusing their former employer of reckless endangerment of their lives and safety. SHERPA activists raised doubts about the fact the company’s management could have ignored crimes perpetrated by IS during this period. Five months before, in June, the French daily newspaper ‘Le Monde’ reported that Lafarge allegedly indirectly financed IS jihadists through arrangements with them to maintain production, by paying taxes to intermediaries under IS’ control or to IS middlemen for passes issued by the terrorist organisation for their products and workforce, as well as for the purchase of raw materials necessary for cement production, such as oil and pozzolana. In a statement, the company said that when the conflict came close to the plant, its absolute priority was to ensure the safety and security of its employees; at that time, closure of the plant was also under discussion. The company subsequently suspended its operations in September 2014. Employees were evacuated, granted paid leave, and access to the plant was prohibited.

In February 2015, a judicial inquiry into the death of 40 civilians during a four day terrorist siege of the energy company Statoil’s joint-owned gas plant in Amenas (Algeria) showed several flaws in security precautions. The company reacted transparently to the case and reported on its website that, directly after the attack, the Board commissioned an external investigation, the findings of which have been made public and used internally to improve risk assessment and emergency preparedness at the plant.

In June 2013, media sources accused Microsoft and Skype (owned by Microsoft), along with other giant tech firms of having opened their servers to intelligence agencies, and therefore allowing intelligence services to access their servers to retrieve data about users, via the spying and monitoring programme (PRISM) of the American National Security Agency. The company reacted to the scandal saying that customer data had been provided only when it received a legally binding order or subpoena to do so, and never on a voluntary basis. In reaction, on 9 December 2013 Microsoft joined seven other American technology giants to lobby the US government to change the laws regulating state surveillance of citizens and to ensure the protection of their data privacy.

---

2 Comment le cimentier Lafarge a travaillé avec l’Etat islamique en Syrie’, Le Monde, 21/06/2016
3 ‘Précision de LafargeHolcim sur ses opérations en Syrie’, Communiqué de presse de LafargeHolcim, 21/06/2016
4 ‘In Amenas murders: coroner points to security flaws at Algerian gas plant’, The Guardian, 26/02/2015
5 ‘U.S., British intelligence mining data from nine U.S. Internet companies in broad secret program’, The Washington Post, 06/06/2013
Part III

Employees’ labour rights: respect and promotion of freedom of association and the right to collective bargaining, and prevention of violations
Best performance by sector

Some of the best performing sectors on employees’ labour rights are sectors where labour rights are particularly important issues. Indeed, most of these sectors have operations in developing countries or emerging markets where the protection of labour rights is either at risk or limited. In addition, employees’ working conditions (e.g. temporary or seasonal contracts, and precarious or difficult working conditions etc.) make them vulnerable to potential violations. In these sectors, some companies are aware of these challenges and have set up management systems (monitoring, risk-mapping and audits) to ensure labour rights are respected.

Best performance by company

One-third of the top performing companies in this area are from the Financial sector, with most of these companies having signed collective agreements on trade union rights. Of the top performers, 20% come from the Electric & Gas Utilities sector, historically considered to have strong relations between state monopolies and employee representatives in Europe.

Some of the top performers have signed agreements with a global union federation (e.g. Norsk Hydro, Carrefour, Vallourec, TenneT, Danone and Danske Bank) or a Global Framework Agreement (e.g. Endesa and Umicore). Most have also set up at least some form of audit or risk mapping procedure to prevent potential abuses. Similarly, they provide evidence of the means used to inform their employees about their rights and allow them to exercise their rights as unionised workers.
<table>
<thead>
<tr>
<th>Title</th>
<th>Country</th>
<th>Sector</th>
<th>Score (/100)</th>
</tr>
</thead>
<tbody>
<tr>
<td>La Banque Postale</td>
<td>France</td>
<td>Banks</td>
<td>86</td>
</tr>
<tr>
<td>Banque Federative du Credit Mutuel</td>
<td>France</td>
<td>Banks</td>
<td>86</td>
</tr>
<tr>
<td>Norsk Hydro</td>
<td>Norway</td>
<td>Mining &amp; Metals</td>
<td>85</td>
</tr>
<tr>
<td>Carrefour</td>
<td>France</td>
<td>Supermarkets</td>
<td>85</td>
</tr>
<tr>
<td>Endesa</td>
<td>Spain</td>
<td>Electric &amp; Gas Utilities</td>
<td>84</td>
</tr>
<tr>
<td>BT Group</td>
<td>United Kingdom</td>
<td>Telecommunications</td>
<td>84</td>
</tr>
<tr>
<td>Danske Bank</td>
<td>Denmark</td>
<td>Banks</td>
<td>84</td>
</tr>
<tr>
<td>Tennet Holding</td>
<td>The Netherlands</td>
<td>Electric &amp; Gas Utilities</td>
<td>84</td>
</tr>
<tr>
<td>E.on</td>
<td>Germany</td>
<td>Electric &amp; Gas Utilities</td>
<td>81</td>
</tr>
<tr>
<td>Gas Natural</td>
<td>Spain</td>
<td>Electric &amp; Gas Utilities</td>
<td>81</td>
</tr>
<tr>
<td>Danone</td>
<td>France</td>
<td>Food</td>
<td>81</td>
</tr>
<tr>
<td>Telefonica</td>
<td>Spain</td>
<td>Telecommunications</td>
<td>80</td>
</tr>
<tr>
<td>Crédit Foncier</td>
<td>France</td>
<td>Banks</td>
<td>80</td>
</tr>
<tr>
<td>SMI</td>
<td>Morocco</td>
<td>Mining &amp; Metals</td>
<td>79</td>
</tr>
<tr>
<td>Umicore</td>
<td>Belgium</td>
<td>Chemicals</td>
<td>78</td>
</tr>
<tr>
<td>Groupe PSA</td>
<td>France</td>
<td>Automobiles</td>
<td>78</td>
</tr>
<tr>
<td>Engie</td>
<td>France</td>
<td>Electric &amp; Gas Utilities</td>
<td>77</td>
</tr>
<tr>
<td>Ibercaja</td>
<td>Spain</td>
<td>Banks</td>
<td>77</td>
</tr>
<tr>
<td>Managem</td>
<td>Morocco</td>
<td>Mining &amp; Metals</td>
<td>76</td>
</tr>
<tr>
<td>Telecom Italia</td>
<td>Italy</td>
<td>Telecommunications</td>
<td>73</td>
</tr>
<tr>
<td>Svenska Cellulosa</td>
<td>Sweden</td>
<td>Forest Products &amp; Paper</td>
<td>72</td>
</tr>
<tr>
<td>Gecina</td>
<td>France</td>
<td>Financial Services - Real Estate</td>
<td>72</td>
</tr>
<tr>
<td>Foncère des Régions</td>
<td>France</td>
<td>Financial Services - Real Estate</td>
<td>72</td>
</tr>
<tr>
<td>Total</td>
<td>France</td>
<td>Energy</td>
<td>71</td>
</tr>
<tr>
<td>Groupe BPCE</td>
<td>France</td>
<td>Banks</td>
<td>71</td>
</tr>
<tr>
<td>Terna</td>
<td>Italy</td>
<td>Electric &amp; Gas Utilities</td>
<td>71</td>
</tr>
<tr>
<td>Vallourec</td>
<td>France</td>
<td>Mining &amp; Metals</td>
<td>71</td>
</tr>
<tr>
<td>Coca-Cola</td>
<td>United States of America</td>
<td>Beverage</td>
<td>70</td>
</tr>
<tr>
<td>Banco Popular Espanol</td>
<td>Spain</td>
<td>Banks</td>
<td>70</td>
</tr>
<tr>
<td>SGS</td>
<td>Switzerland</td>
<td>Business Support Services</td>
<td>70</td>
</tr>
<tr>
<td>Sodexo</td>
<td>France</td>
<td>Hotel, Leisure Goods &amp; Services</td>
<td>70</td>
</tr>
</tbody>
</table>

Analysis of managerial approaches and best practice

Corporate commitments and policies

16% of companies have formal, detailed policies and commitments in favour of employees’ freedom of association and the right to collective bargaining; 52% of companies simply ignore this issue; 32% only make references to it.

Among those companies that disclose some commitments:

- all refer to freedom of association or the right to collective bargaining
- almost one-third refer explicitly to ILO conventions C87, C98, and C135.
- 22.2% commit to prevent discrimination against employee representatives.
- 14.9% commit to ensure that their employees are informed and have adequate conditions in order to effectively exercise their rights.

Due diligence processes

10% of companies report on procedures to prevent potential abuses and to guarantee the ability of employees to unionise.

Among those companies that communicate on this issue, 51.7% report that they conduct risk mapping to identify potential abuses; 37.8% carry out internal audits;

1 See graph on p. 13
13.3% cooperate either with unions or external parties; 12.6% conduct external audits; and 3.1% have set up a confidential reporting system that enables employees to report any violations.

**Examples of best practice**

In the Food sector, Danone has signed a group-wide agreement with the IUF, a Global Union Federation, on exercising trade union rights. A permanent representative of the IUF works at Danone and the agreement is jointly monitored with employee representatives. Danone monitors labour rights through a social reporting process that is also requested from its subsidiaries. An alert system is in place at site level for local unions to reach the IUF. Internal audits are carried out at subsidiary level, and occasional external audits on social dialogue are also performed. Local visits in business units are jointly conducted by Danone and the IUF to assess employees’ knowledge of the conventions on labour rights and their implementation. Subsidiaries are also encouraged to offer the necessary conditions for electing staff representatives, and to guarantee their independence.

In 2012 La Banque Postale signed a collective agreement on social dialogue with trade unions. The company provides them with financial support, dedicated training and communication channels (such as an intranet portal, noticeboard and leaflets) to enable them to exercise their rights. The bank also encourages employees to participate as employee representatives or in work council elections.

**Analysis of controversies**

**Material risks**

Social conflicts, work stoppages and strikes, blockades, and sabotage due to a lack of respect for labour rights can have material adverse effects on business operations and financial results, as well as on human capital cohesion. In addition, violations of freedom of association, the right to collective bargaining or the right to strike may lead to legal proceedings.

**Key findings**

Overall, the study finds 123 controversies related to the respect of freedom of association and the right to collective bargaining; these represent 11% of all controversies observed on human rights issues.

Of the controversies identified, 32% are evaluated as being of ‘high’ or ‘critical’ severity (68% as ‘significant’ or ‘minor’ severity).

Over half (54%) of companies did not react on controversies; 34% of them solved the issue, reached an agreement or communicated on the case; 10% of companies have implemented corrective measures; 2% have adopted a proactive approach and consulted stakeholders in addition to the implementation of corrective measures.

The most commonly reported abuses are related to ‘union busting’ practices, denial or violations of freedom of association, or trade union discrimination.

---

2 www.danone.com and www.iuf.com
3 www.banquepostale.com
Examples of controversies

In October 2016, the technology giant Samsung was strongly criticised by the International Trade Union Confederation (ITUC) after the leak of an internal document revealing company management’s aggressive tactics to impede workers from forming labour unions. One month before, a report from IndustriALL Global Union also denounced the Company’s anti-union policy and described practices violating human and labour rights. These ranged from ‘union busting’, poor wages and insecure and unsafe working environments, to forced overtime as well as informal work and modern slavery. The company did not react.

In May 2015, an employee delegation from the United States, South Africa, Australia and Colombia attended the mining company Glencore’s Annual General Meeting in Zug, Switzerland. Together with the global union IndustriALL they delivered a message that exposed the company’s alleged violations of workers’ rights globally. In November 2014, an IndustriALL ‘Glencore global network’ was launched in Sao Paulo to denounce ‘the consistent brutality and disrespect for workers’ and unions’ rights displayed by Glencore throughout its operations’. Practices condemned included lock out of workers, worker dismissals after a strike, and even death threats.

In the Automobile sector, a subsidiary of Daimler, Mercedes Benz US International, was found guilty by the US Court of Appeal for the 11th Circuit of violating the National Labour Relations Act, upholding a 2014 ruling by the National Labour Relations Board. The company told employees they could not disseminate union materials in some areas of the plant and put a provision in its employee handbook that illegally prohibited them from discussing forming a union. Reacting to the allegation, Daimler explained that the decision regarding union representation is up to its employees and that Mercedes-Benz US International (MBUSI) would have to remain neutral. Daimler added that the MBUSI’s employee handbook did not prohibit from discussing unions or any other topic but that the old version of the handbook was unclear regarding rules for solicitation. This issue was reported to have been addressed in the 2014 handbook that was distributed to team members.

---

4 ‘Global reach of Samsung’s medieval practices revealed in new report’, International Trade Union Confederation, 05/10/2016
5 ‘Unions deliver strong message to Glencore shareholders’, IndustriALL, 07/05/2015
6 ‘IndustriALL targets Glencore for anti-union behavior’, Mines and Communities, 20/11/2014
7 ‘Mercedes’ Alabama Workers Have Right to Organize in Plant, Appeals Court Rules’, Industry Week, 03/10/2016
Part IV

Non-discrimination and promotion of diversity in the workplace
Principles of action

Acting against all forms of discrimination (based on gender, ethnicity, medical conditions, age, sexual orientation, family conditions and opinions etc.) and promoting equality.

Luxury Goods & Cosmetics companies lead on non-discrimination and promotion of diversity in the workplace. All companies except one in this sector have detailed commitments in terms of non-discrimination, and they deploy at least some basic efforts (e.g. whistleblowing process or awareness-raising initiatives) to deal with this issue. The situation is similar in the Publishing sector, where there is a high level of disclosure about commitments, but a lower percentage of companies reporting on the measures in place.

A clear majority of sectors have companies with a score between 30 and 40/100. Discrimination cases they may face are most often related to remuneration or career development for women, employees from ethnic minorities, or people with disabilities.

At the bottom of the 38 sectors on this issue are companies from sectors such as Real Estate, Travel & Tourism, or Food, which seem to address this issue less systematically. These sectors are more mixed in their workforce in terms of gender and ethnicity, even though they are also affected by global issues such as gender salary gaps.

Best performance by company

Among the 30 top performers, 40% come from the financial industry (10 banks, two insurance companies and three real estate investors), in which key issues include women’s career development and gender pay gaps. Of the top performers, 12.5% are from the Electric & Gas Utilities sector, while 10% are from the Telecommunications sector.

European companies are still dominant in this area (82.5%), but less so than for other human rights themes analysed. Asian companies represent 12.5% of the best performers, while 5% are North American companies.

Several top performers have signed agreements with trade unions on gender equality or pay gaps, career development, work-life balance, or career paths for key groups such as people with disabilities or senior employees (e.g. Engie, BNP Paribas and L’Oreal). Most of them have set targets in terms of diversity (e.g. Red Electrica Corporacion, L’Oreal, BNP Paribas and Munich Re). In addition, those companies have a dedicated structure to oversee their commitment. They also communicate on measures in place to address diversity and non-discrimination, and are transparent about key performance indicators.
Analysis of corporate managerial approaches and best practice

Corporate commitments and policies

Almost three-quarters of companies (73%) disclosed a detailed and precise commitment on non-discrimination.

Gender (86.7%), ethnicity (82.9%), religion (75.6%), age (71.5%) and disability (70.0%) are the human rights issues most addressed by companies in non-discrimination policies. Other topics feature less, such as non-discrimination based on sensitive medical conditions (e.g. HIV) (12.4%), pregnancy (33.4%) or political opinion (25.5%)¹.

Two-thirds of companies do not explain whether their commitment applies to their employment decision processes (i.e. hiring, promoting and redundancies), or to employee working conditions (i.e. training, working hours etc.).

¹ See graph on p. 13
Due diligence processes

67% of companies report on processes in place to prevent discrimination and promote diversity.

Almost 60% of companies have set up a whistleblowing system; 53.3% monitor diversity data; 46.2% organise awareness-raising initiatives for employees; and 31% provide training to employees. A significant proportion (32%) of companies communicate on affirmative actions in place (e.g. women’s mentoring programme, or dedicated measures for people with disabilities or for senior employees etc.). Disciplinary procedures in the event of abuses have been implemented by 21.1% of companies.

Examples of best practice

The bank **BNP Paribas**\(^2\) signed an agreement with the European Works Council and two European union federations (UNI and FECEC) on Workplace Equality. The company has set up targets to ensure that 30% of women are in senior management positions by 2020. The Group Diversity Committee consists of 35 members. To raise employee awareness the Group launched a ‘Diversity week’ for various countries and subsidiaries. Diversity training sessions are organised either for newcomers or managers depending on practices in local sites. Gender indicators and salary disparities are monitored and a compensation process review is in place to take the necessary corrective actions. A whistleblowing system exists and disciplinary actions are foreseen in cases of abuses. The bank has also set up specific measures for employees with disabilities. Flexitime initiatives are allowed and negotiated locally. Paternity and maternity pay will be negotiated in a global agreement in 2017. Finally, in Africa, the company promotes the employment of ethnic minorities.

**Red Electrica**\(^3\), from the Electric & Gas Utilities sector, signed an agreement with the Spanish Ministry of Health, Social Services and Equality in 2014 for the adoption of measures to facilitate the increase of women in management positions and within the Management Committee. The company supports the ‘Promoción’ Project, which promotes women to top managerial positions, and is presented by the CEOE (Confederación Española de Organizaciones Empresariales). In 2015, a Women’s Leadership Observatory was created internally to increase the presence of women in leadership positions.

Analysis of controversies

Material risks

Non-discrimination is an important factor of internal cohesion and efficiency, as a diverse workforce can have a positive influence on how a company functions and its management. A comprehensive diversity policy is also a way to maintain a stable workforce (i.e. a low turnover rate) and to create a motivating working environment. On the other hand, discriminatory practices in a company can affect its reputation and ability to attract new employees. Finally, discriminatory practices can lead to legal proceedings and fines.

\(^2\) www.https://group.bnpparibas
\(^3\) www.ree.es/en
Key findings

Overall, 237 discrimination controversies are identified in this study, representing 21% of all controversies observed on human rights issues.

The percentage of controversies that are assessed as being of ‘high’ or ‘critical’ severity is 9% (91% are assessed as ‘significant’ or ‘minor’ severity).

Over half (52%) of companies did not react to controversies; 43% solved the issue, reached an agreement or communicated on the case; only 1% have implemented corrective measures. One company has adopted a proactive approach and consulted stakeholders in addition to implementing remedial measures to solve the issue permanently.

Sector and geographical exposure

The five sectors that have the highest number of allegations are Specialised Retail, Pharmaceuticals & Biotechnology, Food, Automobiles, and Electric & Gas Utilities.

Most of the controversies about discrimination come from the United States (more than 75%), where lawsuits on these issues are commonplace.

Examples of controversies

In April 2016, a federal judge granted preliminary approval for a lawsuit to go forward as a collective action, which accused the pharmaceutical company Merck & Co Inc of underpaying female sales representatives. The Company was requested to pay $250 million in damages. The Company is alleged to have systematically paid female sales representatives less than their male peers, denying them promotions and subjecting them to sexual harassment. Female employees who become pregnant or have children are reported to be pressured to leave the company. Merck said that the claims were without merit and emphasised its commitment to providing equal opportunity for all employees.

On 21 December 2015, the Hillshire Brands, a US subsidiary of the Food company Tyson, agreed to pay $4 million to settle claims in a class action brought by 70 African American employees who complained about a hostile work environment. A spokesperson for Tyson said that the company did not tolerate the kind of discrimination found by the federal government and that it was committed to treating team members with dignity and respect.

The Oil & Equipment Services company Helmerich and Payne agreed to pay a former employee $59,000 to settle a disability discrimination lawsuit brought by the U.S. Equal Employment Opportunity Commission (EEOC) in April 2015 for having fired a worker for using prescription back pain medication, and for having engaged in unlawful disability-related inquiries and medical exams of employees. Reacting to the sentence, the company agreed to modify its written policies to achieve compliance with the Americans with Disabilities Act, to provide training regarding this policy and to post a notice referring to the consent decree.

---

4 ‘Merck sex discrimination case could be collective action: judge’, Reuters, 27/04/2016
5 ‘Hillshire To Pay Record $4M To Settle EEOC Race Bias Claims’, Law 360, 21/12/2015
6 ‘Helmerich & Payne to Pay $59,000 to Settle EEOC Disability Discrimination Suit’, EEOC Press Release, 22/04/2015
Part V

Human rights in the supply chain
### Principles of action

Preventing any violations, respecting and promoting workers' labour rights, and abolishing forced and child labour in the supply chain.

### Best performance by sector

<table>
<thead>
<tr>
<th>Sector</th>
<th>Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>Luxury Goods &amp; Cosmetics</td>
<td>48</td>
</tr>
<tr>
<td>Forest Products &amp; Paper</td>
<td>46</td>
</tr>
<tr>
<td>Tobacco</td>
<td>46</td>
</tr>
<tr>
<td>Technology-Hardware</td>
<td>42</td>
</tr>
<tr>
<td>Chemicals</td>
<td>39</td>
</tr>
<tr>
<td>Beverage</td>
<td>39</td>
</tr>
<tr>
<td>Building Materials</td>
<td>38</td>
</tr>
<tr>
<td>Telecommunications</td>
<td>37</td>
</tr>
<tr>
<td>Electric Components &amp; Equipment</td>
<td>33</td>
</tr>
<tr>
<td>Hotel, Leisure Goods &amp; Services</td>
<td>31</td>
</tr>
<tr>
<td>Electric &amp; Gas Utilities</td>
<td>31</td>
</tr>
<tr>
<td>Supermarkets</td>
<td>31</td>
</tr>
<tr>
<td>Specialised Retail</td>
<td>31</td>
</tr>
</tbody>
</table>

The Luxury Goods & Cosmetics sector ranks in first position for human rights in the supply chain. Across its activities (such as cosmetics and toiletries, luxury fashion and accessories, and jewellery) this sector faces several types of challenges related to health and safety of local workers, employees' working time, low salaries, and even child labour (e.g., during extraction of diamonds, or the use of chemical products). Sector initiatives have been developed to address these challenges. For example, the ‘Kimberley Process’ aims to increase transparency in the diamond industry. In addition, the introduction of the UN Guiding Principles (in 2011) for this sector has led to clarification of the meaning of conducting ‘due diligence’ for companies. In this respect, the ‘OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict Affected and High-Risk Areas’ (amended in 2012) and a similar guidance for the Garment and Footwear Sector, are helpful tools for companies seeking to ensure adequate implementation of the UN Guiding Principles.

Other high performing sectors for human rights in the supply chain (such as Forest Products and Paper, or Tobacco) have also adopted sector-specific initiatives. For example, there are the Forest Stewardship Council certification schemes for forest products and paper.
### Best performance by company

The top two performers operate in the Telecommunications sector, and more than one-quarter of the top performers come from the same sector (25.8%). Companies from the Chemical, Building Materials, and Technology Hardware sectors represent 12.9% of the best performers.

<table>
<thead>
<tr>
<th>Title</th>
<th>Country</th>
<th>Sector</th>
<th>Score (/100)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deutsche Telekom</td>
<td>Germany</td>
<td>Telecommunications</td>
<td>94</td>
</tr>
<tr>
<td>BT Group</td>
<td>United Kingdom</td>
<td>Telecommunications</td>
<td>89</td>
</tr>
<tr>
<td>E.on</td>
<td>Germany</td>
<td>Electric &amp; Gas Utilities</td>
<td>88</td>
</tr>
<tr>
<td>Telecom Italia</td>
<td>Italy</td>
<td>Telecommunications</td>
<td>87</td>
</tr>
<tr>
<td>Philips</td>
<td>The Netherlands</td>
<td>Technology-Hardware</td>
<td>86</td>
</tr>
<tr>
<td>Air Products &amp; Chemicals</td>
<td>United States of America</td>
<td>Chemicals</td>
<td>86</td>
</tr>
<tr>
<td>Svenska Cellulosa</td>
<td>Sweden</td>
<td>Forest Products &amp; Paper</td>
<td>85</td>
</tr>
<tr>
<td>Toto</td>
<td>Japan</td>
<td>Building Materials</td>
<td>84</td>
</tr>
<tr>
<td>3M Company</td>
<td>United States of America</td>
<td>Chemicals</td>
<td>84</td>
</tr>
<tr>
<td>Millicom International Cellular</td>
<td>Luxembourg</td>
<td>Telecommunications</td>
<td>84</td>
</tr>
<tr>
<td>KPN</td>
<td>The Netherlands</td>
<td>Telecommunications</td>
<td>83</td>
</tr>
<tr>
<td>SPRINT</td>
<td>United States of America</td>
<td>Telecommunications</td>
<td>82</td>
</tr>
<tr>
<td>Geberit</td>
<td>Switzerland</td>
<td>Building Materials</td>
<td>82</td>
</tr>
<tr>
<td>British Land Company</td>
<td>United Kingdom</td>
<td>Financial Services - Real Estate</td>
<td>82</td>
</tr>
<tr>
<td>Kimberly-Clark</td>
<td>United States of America</td>
<td>Luxury Goods &amp; Cosmetics</td>
<td>81</td>
</tr>
<tr>
<td>Foncière des Régions</td>
<td>France</td>
<td>Financial Services - Real Estate</td>
<td>80</td>
</tr>
<tr>
<td>Red Electrica Corporacion</td>
<td>Spain</td>
<td>Electric &amp; Gas Utilities</td>
<td>79</td>
</tr>
<tr>
<td>Groupe Seb</td>
<td>France</td>
<td>Technology-Hardware</td>
<td>79</td>
</tr>
<tr>
<td>Henkel</td>
<td>Germany</td>
<td>Luxury Goods &amp; Cosmetics</td>
<td>79</td>
</tr>
<tr>
<td>DONG Energy</td>
<td>Denmark</td>
<td>Electric &amp; Gas Utilities</td>
<td>79</td>
</tr>
<tr>
<td>Logitech International</td>
<td>Switzerland</td>
<td>Technology-Hardware</td>
<td>79</td>
</tr>
<tr>
<td>Orange</td>
<td>France</td>
<td>Telecommunications</td>
<td>78</td>
</tr>
<tr>
<td>Saint-Gobain</td>
<td>France</td>
<td>Building Materials</td>
<td>78</td>
</tr>
<tr>
<td>BASF</td>
<td>Germany</td>
<td>Chemicals</td>
<td>78</td>
</tr>
<tr>
<td>Monsanto</td>
<td>United States of America</td>
<td>Chemicals</td>
<td>78</td>
</tr>
<tr>
<td>Inditex</td>
<td>Spain</td>
<td>Specialised Retail</td>
<td>77</td>
</tr>
<tr>
<td>Delta Electronics</td>
<td>Taiwan</td>
<td>Technology-Hardware</td>
<td>77</td>
</tr>
<tr>
<td>CNH Industrial</td>
<td>Italy</td>
<td>Industrial Goods &amp; Services</td>
<td>76</td>
</tr>
<tr>
<td>Telenor</td>
<td>Norway</td>
<td>Telecommunications</td>
<td>76</td>
</tr>
<tr>
<td>Smurfit Kappa Group</td>
<td>Ireland</td>
<td>Forest Products &amp; Paper</td>
<td>76</td>
</tr>
<tr>
<td>Duratex</td>
<td>Brazil</td>
<td>Building Materials</td>
<td>76</td>
</tr>
</tbody>
</table>

### Analysis of managerial approaches and best practice

#### Corporate commitments and policies

64% of companies report that they address the issue of human rights and workers’ rights in their supply chain; 50% disclose a formalised and precise commitment, while 36% do not address the issue at all.

The issues that are particularly addressed in their commitments 1 are: workers’ health and safety (by 73.7%); the abolition of child labour (67.7%); non-discrimination (64.8%); the abolition of forced labour (64.5%); freedom of association and the right to collective bargaining (51.0%); decent wages (49.5%); and decent working hours (45.8%).

#### Due diligence processes

48% of companies report on the means in place to address human rights in their supply chain.

---

1 See graph on p. 13
Among them, 55.1% integrate social clauses in suppliers’ contracts, 49% send suppliers specific questionnaires, and 48.5% conduct supplier risk assessments. Additionally, 37.2% offer support to suppliers (e.g. technical assistance or training); and 24.4% offer training to their employees in charge of purchasing, in order to raise their awareness of human rights issues in the supply chain.

Overall, 44% of companies conduct social audits of suppliers or sub-contractors, and 2% mention that these social audits are carried out by an independent external auditor. Finally, 10% of companies communicate on the outcomes of these audits.

**Examples of best practice**

The telecommunications company Deutsche Telecom (DT)\(^2\) set a target to carry out social audits for 75% of its procurement volume by 2015, compared to 54% in 2012. The Company’s requirements for suppliers address freedom of association and right to collective bargaining, abolition of child labour, abolition of forced labour, non-discrimination, health and safety, decent wages, working hours and other fundamental rights. Suppliers must fill in a prequalification questionnaire that includes social criteria. DT launched a programme designed to support suppliers and to establish for solutions on issues such as working hour regulations, occupational health and safety, in order to implement better working conditions. In addition, DT conducts social audits under the scope of the Joint Audit Cooperation, an initiative for socio-environmental auditing of suppliers launched by DT and eight other telecommunication companies. The company is transparent on the outcomes from its audits.

The cosmetic company Henkel\(^3\) is a signatory to the cross-sector Code of Conduct of the German Association of Materials Management, Purchasing and Logistics (BME), and its suppliers must either recognise this Code or produce a comparable one. Henkel conducts audits and assesses risks encountered by its suppliers (based on their sector and locations) through questionnaires on their social standards. Regular training programmes are provided to suppliers. In addition, Henkel supports plantations and smallholders in palm-growing countries to improve livelihoods of farmers. The company is transparent on the outcomes from its audits and reports it terminated one contract due to socially unethical practices.

In the Building Materials sector, Geberit\(^4\) conducts a social risk assessment before each collaboration agreement with suppliers. Agreements concluded with suppliers include human rights clauses that are subject to audit processes. Geberit works with external partners in this respect. Quality audits are carried out, including on health and safety issues. Shortcomings must be remedied in due time, and may give rise to sanctions. The company risk management approach classifies suppliers into various risk classes based on the production location and the type of production processes. In 2015, 42 companies were identified in the highest risk categories, representing 5% of its procurement value.

**Analysis of controversies**

**Material risks**

Risks stemming from insufficiently managed labour standards in supply chains can be operational in nature. Employees facing bad working conditions can be demotivated and this can lead to suboptimal production levels that may require human and financial resources to remedy. In the case of large-scale disasters (as have occurred for instance in the Specialised Retail sector), compensation may have to be paid to victims and their

---

\(^2\) [www.telekom.com/en](http://www.telekom.com/en)

\(^3\) [www.henkel.com](http://www.henkel.com)

\(^4\) [www.geberit.com](http://www.geberit.com)
families and new supply chain routes must be sought out. Indeed, reputation is at risk if supply chains are found out to be ‘dirty’, and can lead to consumer boycotts in key markets.

**Key findings**

In relation to the respect of human rights in the supply chain, 193 controversies have been found, representing 17% of human rights allegations. 62% of controversies are assessed as being of ‘high’ or ‘critical’ severity (68% as of ‘significant’ or ‘minor’ severity).

Overall, 31% of companies did not react to controversies; 41% of companies solved the issue, reached an agreement or communicated on the case; 18% implemented correctives measures; 10% have adopted proactive approaches and consulted stakeholders in addition to the implementation of remedial measures.

**Sector and geographical exposure**

The five sectors with the highest number of allegations are Specialised Retail, Food Supermarkets, Beverages and Technology Hardware.

In the Specialised Retail sector, many companies continue to face controversies linked to the safety of the factory buildings where textile suppliers are housed. Following the Rana Plaza tragedy of April 2013, over 170 international brands and retailers signed the final Bangladesh Accord on Fire and Building Safety in 2014, committing to proactively work together to improve the precarious situation of more than two million garment workers in Bangladesh. However, some companies are facing ongoing lawsuits related to failures in the implementation of standards and the oversight mechanisms designed to ensure the health and safety of workers.

In the Food sector, products such as coffee, chocolate and sugar cane are sourced from countries where fundamental human rights and labour standards are not always respected. Production of such commodities is often done on small-scale farms where temporary or seasonal work, weak remuneration, sub-contracting, immigrant workers and child labour have been reported. Allegations of using child labour are particularly common in the cocoa supply chain. For example, the ongoing lawsuit filed under the Alien Tort Claims Act against Nestlé USA, Archer Daniels Midland and Cargill; ongoing concerns in Unilever’s tea leaf supply chain; or recurrent criticism against Hershey. A number of companies are reporting steps to identify and respond to these challenges.

Controversies are mainly observed in South and South East Asian countries such as Cambodia, Thailand, Bangladesh, India, Indonesia, Myanmar and Malaysia. They are also reported in China and in the United States, as well as in Africa, especially in the Democratic Republic of Congo and in the Ivory Coast.

**Examples of controversies**

In March 2016 Nestlé and Jacobs Douwe Egberts (in the Food sector), admitted that coffee beans sourced from Brazil may have come from plantations where slave labour is used. This announcement came after an investigation from the Danish research centre DanWatch on the coffee beans industry in Brazil. The investigation concluded that some plantation workers were victims of trafficking. The DanWatch report also claimed that workers were unpaid or receiving little payment, and were forced to live on rubbish heaps and drink water alongside animals. Nestlé acknowledges that the Company is uncertain of the origin of all coffee beans it purchases from Brazil.

---

5 ‘Nestlé admits slave labour risk on Brazil coffee plantations’, The Guardian, 02/03/2016
In the Specialised Retail sector, a report published by the Students and Scholars Against Corporate Misbehaviour (SACOM) mentioned that workers at suppliers in China for Gap, H&M and Zara were allegedly abused. They were forced to work excessively long overtime to meet disproportionately tight delivery times; they received very low salaries as wages were calculated by “fixed and meagre piece rates”; and they were exposed to toxic chemicals, cotton dust and other hazardous substances without protective gear being provided. Reacting to the report, Gap admitted that the issues raised in the report were found to be true, and as a response, the company was working with its suppliers to develop time-bound action plans, and to address the root causes of issues brought forward, in order to ensure sustainable improvements are reached. Gap also decided to partner with other buyers that work with these suppliers to conduct follow-up visits to verify that all issues identified are fully resolved.

On 18 August 2016 media sources reported that Cambodian villagers filed a lawsuit against four companies, including Wal-Mart, claiming they were trafficked to work under slavery-like conditions in a Thai seafood factory that supplies American supermarkets. The civil lawsuit, filed in June 2016 in a California Federal Court, accused the American and Thai food and supermarkets companies of knowingly profiting from the villagers’ poor working conditions and violating the Trafficking Victims Protection Act, a US law aimed at preventing human trafficking. In August 2016 the firms filed a motion to dismiss the complaint on jurisdictional grounds.

---


7 ‘Cambodians sue US and Thai firms over trafficking and forced labour claims’, The Guardian, 18/08/2016
Conclusion
While respect for human rights is a key element of corporate social responsibility, this is also one of the most sensitive issues. Failure to address human rights challenges adequately may endanger a company’s acceptability, its licence to operate, even its ability to create sustainable value. Failure to address human rights challenges can also impede the acceptability of globalisation in public opinion and by various stakeholders worldwide.

Human rights breaches are not limited to companies acting in or with developing countries. A high number of controversies are identified across all the human rights themes under review in North American and European countries. In each geographical region or country, the majority of companies demonstrate moderate commitments and their reporting on due diligence processes in place also remains limited.

The minority of leading companies with advanced commitments to these key fundamental issues have formal, visible, accurate and comprehensive policies and effectively identify accountability levels for each objective. They cooperate with stakeholders and are transparent about due diligence procedures and how they remedy abuses or irregularities. They publish quantified performance indicators where appropriate and respond to controversies they face.

Those companies performing best go beyond a preventative approach to risks of and from human rights violations. The best performers are the companies that also often adopt proactive and innovative behaviours that address the so-called ‘third-generation’ of human rights, embracing the collective rights of society or peoples, such as the right to a healthy environment, the right to natural resources or to development etc. These companies set up active partnerships with human rights organisations, raise awareness and provide training to their team and board members on these subjects.

Since the endorsement of the UN Guiding Principles on Business and Human Rights in 2011, corporate responsibility is, more than ever, underlined by international laws. The Sustainable Development Goals of the 2030 Agenda for Sustainable Development, adopted by world leaders in September 2015 at an historic UN summit, provide companies with strategic direction for contributing to human development; and they require respect of fundamental human rights, communities’ rights and workers’ rights.
From a financial perspective, investors also consider the risks to companies from human rights abuses. Growing attention to corporate behaviour on human rights issues is paid by responsible pension funds or mutual funds. This is shown by divestment movements driven by human rights concerns in some countries (e.g. Sudan, Myanmar etc.), participation in multi-stakeholder initiatives by financial institutions, the adoption of responsible investment strategies.

Finally, human rights deserve to remain a particular focus of attention for businesses and investors because they are at the heart of current and future scientific and technological developments. Human rights raise major ethical concerns and represent a central issue in the debates raised by the transhumanism theory. This theory highlights the potential consequences for humans resulting from the use of nanotechnologies, biotechnology, information and communication technologies, cognitive science and artificial intelligence. Therefore, it is essential that companies become fully aware of the impacts linked to these evolutions, in order to further protect and promote human rights.
Vigeo Eiris’ products and services on human rights for investors

Equitics©

Vigeo Eiris’ ESG research methodology is based on universally recognised standards emanating from international organisations such as the UN, ILO, and OECD: Vigeo Eiris covers all ESG risk factors and applies sector-appropriate weighting to each issue.

The rating framework encompasses more than 300+ action principles under review, allowing us to question companies’ governance and managerial systems on the degree to which they have integrated universally recognised CSR objectives.

The action principles are grouped into 38 sustainability drivers, which are in turn grouped into six domains (Human Rights, Corporate Governance, Business Behaviour, Environment, Human Resources, and Community Involvement).

In this framework, following an analysis based on public, documented and traceable information disclosed by the companies and legitimate stakeholders, each company obtains a global score and a score per domain and per risk factor based on a 0 to 100 scale.

Controversies Risk Mitigation

Vigeo Eiris monitors on a daily-basis all new controversies impacting a company. Analysts provide an opinion on companies’ controversies risk mitigation based on the analysis of three factors: their severity (for the company and for stakeholders), issuers’ responsiveness and the frequency with which an issuer is exposed to controversies.

To assess the severity of a controversy, Vigeo Eiris analyses its impact on stakeholders and the company using the framework defined by the Office of the High Commissioner of the United Nations Human Rights (analysis of the scale, scope and irremediable character of the impact). According to Vigeo Eiris, the severity of a controversy is therefore considered critical when related to a fundamental issue, with high adverse impact on the company’s and stakeholders’ interests.

Each controversy and connected events are analysed and associated with one or several of the 38 sustainability drivers.
Convention Watch

The Convention Watch service, covering relevant international laws and normative instruments, such as the UN Global Compact and UN Guiding Principles on Business and Human Rights, provides a detailed analysis on the most egregious controversies. This covers approximately 4,500 developed world and emerging market companies.

There are 218 reports covering human rights and labour rights for developed world companies, of which over half relate to breaches in the supply chain. For emerging market companies there are 64 reports, with only 5% relating to the supply chain. To take one example, excessive working hours, often with allegations of forced overtime, account for 12% of all allegations; these relate mainly to the ICT, Apparel and Food sectors. For human rights cases relating to allegations of abuses committed by security forces, 77% relate to Oil & Gas and Mining companies own operations.

(Footnote reference: Research based on information available in the EIRIS Global Platform updated as at end December 2016, extracted as at 18 January 2017.)

Conflict Risk Network

Vigeo Eiris Conflict Risk Network service provides research that helps investors manage the risk of doing business in Sudan. In 2007 the US government passed legislation in response to the genocide in Darfur to support US states’ and investors’ decisions to divest from companies with certain business ties to Sudan.

Conflict Risk Network profiles companies that have operations in sectors most exposed to conflict risk in Sudan.

This research is designed to provide the information necessary to align with the targeted Sudan divestment model legislation and policies based upon it, therefore helping US investors to comply with their obligations.
This study was written under the direction of:

**Fouad Benseddik**  
Director of Methods and Institutional Relations  
fouad.benseddik@vigeo.com

**Author:**

**Valérie Demeure**  
Head of Thematic Research  
valerie.demeure@vigeo.com

**Press contact:**  
**Anita Legrand** - anita.legrand@vigeo.com

**Contributors:**  
Elise Attal, Sofia Benslimane, Sophie César, Virginia Jennings, Jordi Lesaffer, Siyang Lin and Amélie Nun

All rights reserved. Reproduction and dissemination of material in this report for educational or other noncommercial purposes are authorised without any prior written permission from Vigeo SAS provided the source is fully acknowledged. Reproduction of material in this report for resale or other commercial purposes is strictly prohibited without written permission of Vigeo SAS.
Vigeo Eiris is a global provider of environmental, social and governance (ESG) research to investors and public and private corporates. The agency evaluates the level of integration of sustainability factors into organisations’ strategy and operations, and undertakes a risk assessment to assist investors and companies’ decision-making.

Vigeo Eiris offers two types of services through separate business units:

- **Vigeo Eiris rating** offers databases, sector-based analyses, ratings, benchmarks and portfolio screening, to serve all ethical and responsible investment strategies.

- **Vigeo Eiris enterprise** works with organisations of all sizes, from all sectors, public and private in order to support them in the integration of ESG criteria into their business functions and strategic operations.

Vigeo Eiris methodologies and rating services adhere to the strictest quality standards and have been certified to the independent ARISTA® standard. Vigeo Eiris is CBI (Climate Bond Initiative) Verifier. Vigeo Eiris’ research is referenced in several international scientific publications.

Vigeo Eiris is present in Paris, London, Boston, Brussels, Casablanca, Milan, Montreal, Santiago and Tokyo and has a team of 200. The agency works with partners through its Vigeo Eiris Global Network.

For more information: [www.vigeo-eiris.com](http://www.vigeo-eiris.com)