



Where do you draw the line?

Research into the financial links between five bank groups and companies that abuse human rights



**This report is part of the campaign
'My Money. Clear Conscience?'**

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INTRODUCTION

- ▶ *A multinational lays a gas pipeline in Burma, a country with an unscrupulous dictatorial regime. The company uses Burmese soldiers, known for their extreme brutality, to clear and protect the route of the pipeline. Serious violations of human rights are the logical consequence.*
- ▶ *A large distribution chain threatens trade union activists, produces their cheap products in appalling conditions for very low pay, and ignores the rights of their workers. The company regularly 'wins' prizes for being the 'most irresponsible company with respect to workers' rights'.*
- ▶ *A consortium of companies lays a large oil pipeline that crosses through a number of countries. The consortium illegally throws people off their land. Resistance is brutally repressed.*

All of these stories relate to highly profitable companies. But few people would be content to invest their money in companies that abuse human rights in these ways. This report will not provide much comfort.

The examples given above are based on the actual practices of real companies. Five bank groups do not have any problem to invest in these companies. Netwerk Vlaanderen has conducted six months of research into the investments of the bank groups AXA, Dexia, Fortis, ING and KBC. This report provides the unsettling results. These five bank groups, that have the largest share of the Belgian market, invest in companies that are involved in the most serious abuses of human rights. This report gives details of more than US\$8 billion of investments, which is not surprising when you consider the investment policy of these banks. Respect for human rights is apparently not a great concern. As a result the savings and investments of unsuspecting customers are invested against the interest of people and their rights.

It is high time that the financial world took another course. Numerous studies have shown that clients demand respect for human rights. Numerous examples on the market have shown that respect for human rights is possible. The Netwerk Vlaanderen campaign 'My Money. Clear Conscience?' demands that bank groups stop investments in human rights violations. Netwerk Vlaanderen also demands that bank groups make their human rights policies open, and allow external control of the implementation of the policy.

CHAPTER 1:



"To observe businessmen who come to Burma with the intention of enriching themselves is somewhat like watching passers-by in an orchard roughly stripping off blossoms for their fragile beauty, blind to the ugliness of despoiled branches, oblivious of the fact that by their action they are imperilling future fruitfulness and committing an injustice against the rightful owners of the trees."

**Aung San Suu Kyi
Letters From Burma**

Banks and dictatorial regimes

1.1. INTRODUCTION

Many multinational companies operate in countries with undemocratic governments, or in regions of armed conflict.

Although foreign investment can have a positive impact on the local population, in some cases the activity of these companies can lead to a marked

deterioration in the situation. Many dictatorships remain in power thanks to the inflow of foreign currency. The conflict regions in which multinationals operate are characterised by a general climate of decreasing standards, and human rights abuses. Companies sometimes misuse, or perpetuate, this situation through their behaviour.

In this chapter we take the business activities in

Burma as an example. We describe the human rights violations in the country, and discuss the call for a boycott of investments in Burma, made by the democratic opposition of Nobel Prize winner San Suu Kyi. And what about the Belgian banks? Are they investing our money in companies with dubious practices in one of the most brutal regimes in the world?

Investing in dictatorships. What is the problem?

Companies that are active in undemocratic countries, and via their activities:

- give financial support to military dictatorship;
- make use of violent police forces or soldiers to guard projects;
- give legitimacy, or support, to the regime;
- encourage armed conflict and oppression

receive support from the banks that invest in them.



1.2. HUMAN RIGHTS ABUSES IN BURMA

Burma (Myanmar) has been a military dictatorship since 1962. Following the violent suppression of student protests in 1988, a new generation of military officers organised elections in 1990. The nonviolent opposition, the National League for Democracy (NLD) won the election with more than 80% of the votes. San Suu Kyi, Nobel Peace Prize winner in 1991, is the figurehead of the democratic opposition. Following the victory of the NLD, the military junta in Burma resolutely refused to transfer power. Since then, democracy has been further suppressed. In contrast to what some foreign firms operating in Burma would suggest, it is generally accepted that the situation in Burma is hopeless. A transition to democracy at the initiative of the military junta seems less likely than ever.

In the meanwhile, the country is characterised by a bloody regime. The Burmese government has been engaged in torture, forced labour and other serious abuses of human rights. The military leaders that have formed the government since the coup in 1962 have a lamentable history:

- Citizens are obliged to work on projects such as the building of roads and bridges, or the maintenance and supply of army camps. This forced labour (about 800,000 victims) has been recognised by the International Labour Organisation¹ as a crime against humanity.²
- Burma has more than 1,300 political prisoners, of which many are routinely tortured.³ Amongst the prisoners are many members of the NLD.
- Between 600,000 and 1,000,000 people have been forced from their land without financial compensation.⁴
- Rape is a widely used weapon of war against women and children of ethnic minorities.⁵
- Burma has one of Asia's largest armies, despite the fact that they face no external threat.⁶ Around 50% of the national budget goes to military expenditure, and only a fraction of this amount to health and education.⁷
- The Burmese army recruits large numbers of child soldiers, in opposition to the official statements it makes on the issue.⁸ The US based human rights organisation Human Rights Watch estimates that

child soldiers make up between 35 and 45 percent of new recruits to the army. The children are kidnapped and enrolled into the army, treated brutally during their training, made to participate in forced labour, and pressured to take part in fights.⁹



A villager forced to work for the Burmese army. After being wounded, he succeeded in escaping. He did not dare to return home for fear of being punished, kidnapped, or killed.

Photo: Earth Rights International

As a result of the systematic and serious violations of human rights, a growing number of international institutions and individual countries are condemning the military regime. This condemnation is taking the form of sanctions as well as words.

At the present time, the US has the strictest sanctions. Since 2003, there has been a ban on the import of all products made in Burma. The assets of the leading figures in the junta have been frozen. The US opposes multilateral loans being given to the country. Since 1997 investment in the country has been forbidden, and all non-humanitarian bilateral aid has been suspended.¹⁰

Europe has also taken different forms of sanctions: withdrawal of preferential trading status (1997), a ban on visas for authorities, freezing of assets, travel ban, arms embargo (2002), suspension of non-humanitarian aid and development programmes (2003).¹¹ Since 2004 the EU has forbidden a number of foreign investments in Burma. France, supported by Germany and Austria, has been successful in obtaining exemptions from the investment ban for certain sectors. As a result, oil, gas and building wood are not covered by the sanctions.¹²

Nevertheless, the military dictatorship has almost complete control over the formal economy. The distinction between government companies and private companies in Burma is hardly relevant. Both are established in the interests of the junta, either directly or indirectly. Furthermore, the law states that foreign companies cannot buy shares in Burmese companies. This means that if a foreign company wishes to be active in Burma it must almost always participate in a joint venture. As a result of the control exercised over the Burmese economy by the military dictatorship, this means that foreign companies are forced to work with the military junta or their protégés. Even worse is the fact that the profits that are generated by these joint ventures give financial support to the dictatorship. This income is used in turn to expand the army - the institution most responsible for human rights abuses.¹³

1.3. THE CALL TO HALT INVESTMENTS IN BURMA

For these reasons the only legitimate representative of the Burmese people, the democratic opposition party NLD, has launched a call for the withdrawal of all investments from Burma. The leader of this party, the Nobel Prize winner Aung San Suu Kyi, calls on the business community and foreign companies to leave Burma, and for tourists to not visit the country.¹⁴ In this way, they hope to reduce the income of the military leaders. The regime is dependent on foreign investments and trade for a substantial amount of its income.

The wider support for the appeal can be seen in Belgium by the opinion article that appeared in 'De Standaard' (a national newspaper) on 20th June 2005. The article was signed by all honorary doctors of the Université Catholique de Louvain (UCL), including prominent figures such as Jean-Luc Dehaene, Jacques Delors, Leonel Jospin and Carla del Ponte. These figures stood behind the call for disinvestment

made by their fellow honorary doctor Aung San Suu Kyi.¹⁵

1.4. MULTINATIONALS IN BURMA, AND THEIR INVESTORS

As a result of the call, and the pressure from the international community, most Western companies have already withdrawn from Burma. Companies that have left the country include British American Tobacco, Heineken, Triumph International, Levi Strauss Inc, Aon Corporation and Premier Oil.

A number of companies continue to operate in the country. We use the example of Total, but we also show that other companies are active in Burma. San Suu Kyi has called Total the largest supporter of the military regime in her country.¹⁶

1.4.1. Total

Total¹⁷ is the fourth largest oil and gas company in the world, with activities in more than 130 countries. The company is the largest foreign investor in Burma. Two months after the elections in 1990, Total signed a contract with the military leaders of the country to carry out studies and tests in Burma. In 1992 Total obtained a contract for the extraction of gas along the Burmese coast. Total received the rights to exploit the Yadana Gas field in the Gulf of Martaban, 350 km



from the Burmese coast. The operation of the gas field was a joint venture with MOGE (a Burmese firm controlled by the junta), a Thai company¹⁸ and Unocal.¹⁹ The extracted gas is not only transported by undersea pipeline, but also via a 63 km long overland pipeline from the Burmese coast to Thailand.

The government began to militarise the region before the construction of the pipeline. This dramatically changed the living conditions of farmers, plantation workers and fishermen in the area. The construction of the pipeline was combined with serious human rights abuses, including forced labour, forced relocation, compulsory military service, torture, rape, and the use of civilians to clear minefields.²⁰ Thousands of soldiers, known for their extreme brutality, were stationed along the route of the pipeline, and patrolled the area.²¹ Total stipulated, in a contract with Burmese partner company MOGE, that the Burmese military would be responsible for the security of the pipeline. Total paid for these services, and the army units stationed along the route received the nickname 'Total battalions'.

The soldiers demanded that villagers participated in constructing military infrastructure along the pipeline, and Total was obliged to pay compensation to a number of the victims of the forced labour. This has not prevented Total being accused in French and Belgian courts of involvement in human rights violations. The same has happened in the United States to US partner Unocal.²²

The income from gas extraction has also been linked to the purchase of weapons by the military regime, specifically the purchase of Russian MIG helicopters and fighter planes.²³ The Total project foresees substantial financial support for the junta. Estimates are around US \$400 million per year.²⁴ Total is the largest company in France, and has a strong impact on the French government, leading to France blocking stronger sanctions against Burma in the European Union.



"In the early 90's Total offered the hope of substantial revenues to a military junta that had just taken power by force. The involvement of Total was important in opening the way for other investors. The Yadana pipeline has today become a source of pride to the dictatorship. Moreover this investment enables it to legitimise its power. (...) We are opposed to foreign investment in the country on account of the political situation and because only the military and a small cluster of businessmen gain any benefit thereby. Total has taken upon itself the responsibility of investing massively in Burma while others decided to withdraw for ethical reasons. The Company must bear the consequences. The country will not forever be governed by dictators. "

*Aung San Suu Kyi
Nouvel Observateur, 18th - 24th May
2000*

Total bataljons

The battalion responsible for the security of the Total gas pipeline, and the seven other 'Total battalions', receive monthly compensation and payment in kind from TotalFinaElf, according to witnesses. This is revealed in interviews with a journalist for Belgian newspaper "De Morgen".²⁵ The reports give an indication of a few of the consequences on the local population of Total's operations in Burma.

... Commander Zaw Lwin refused to give even the smallest indication about the size of these 'donations', but his soldiers were less discrete. There is a student who was forced to join the Burmese army, the Tatmadaw, in 1989. Since 1991 he has been responsible for protecting the pipeline of TotalFinaElf. *"Each month the commander receives money, but also food, medicines, clothing and shoes for the soldiers"*, he said.

A deserter from the 402nd Battalion is even more precise: *"Our Commander, Aung Than Hoo, has received two cars from Total. Also, he only has to send a radio message to have a company helicopter deliver new ammunition to his men"*, he said. *"Our battalion has received 60 mm and 81 mm grenades, and boxes of ammunition for our machine guns on numerous occasions."*

These supplies occurred at the high point of the terror that was instigated by the government army in Karen territory. A villager who fled to Thailand from the area where the pipeline runs recounted. *"In November 1999 Commander Kyaw Soe and a few men from the 273rd battalion, responsible for the security of Total personnel, arrived in our village. They forced all men to participate in laying a road between Kanbauk and Ongpin Gwin."* Not only were the men forced

to work without compensation on constructing the road, each family in the village also had to supply building materials at their cost.

"For a whole month we broke stones and worked on the road that is only used by the cars of Total", said the refugee. Refusing to work would have been met with a prison sentence, and complying with the orders of the military meant *"I could not give food to my children as we had to work without a break from six in the morning to five at night."* *"Escape,"* decided the man, *"was the only alternative that we were left with."*

According to several confirmed stories, dozens of small villages that were in the vicinity of the pipeline have been razed to the ground, and the residents chased off their land. *"It was simply stated that they must leave the region within three days, and if they did not comply, we would come back and set fire to their houses",* said Yé, a deserter from the 402nd battalion.

When he heard that TotalFinaElf denies that people were ever forced to leave their land Yé said: "I cannot agree. I have personally taken part in such operations when I worked for them in Thepye Chaung."

"People said that we had to be happy with the Total project because it was good for the development of the region." said a villager who fled the area. *"But we don't benefit at all from the pipeline, unlike Total and the army."*

TotalFinaElf called the accusations in this article 'outdated and unfounded'. The company states that the security around its projects in Burma, just like in other countries, is the responsibility of the military. The pipeline runs for 60 km through sparsely populated areas, and as such, according to TotalFinaElf, there is no suggestion of forced relocation of the population and even less suggestion of forced labour. The company also states that it gives an annual sum of US\$2 million to the population in aid.

The people dispossessed by the Total pipeline are chased from their land, or obliged to take part in forced labour. Human rights organisations and many Western countries have condemned forced labour in Myanmar.'



Arbeiders leggen de Yadana gaspijplijn door de Tenasserim regio in Birma.

The links between Total and the bank groups

The researched bank groups invest²⁶ the following amounts in Total.²⁷

Table 1: Investments in Total²⁸

	Number of shares	Value of the shares in US dollars	% of the shares in Total
AXA	4,966,019	1,100,671,093	0.78%
DEXIA	1,165,429	258,303,089	0.18%
FORTIS	896,414	198,679,203	0.14%
ING	2,892,216	616,331,230	0.46%
KBC	971,300	215,276,769	0.15%
Total	10,891,378	2,389,261,384	1.72%

The five researched bank groups invest a combined amount of almost US\$2.4 billion in Total, almost 1.72% of the shares in the company.

In January 2005 Total Capital S.A. issued six year obligations on the Benelux capital market, worth a total of 100 million Australian dollars (56 million euro). **Fortis Bank** conducted this issue.²⁹

1.4.2. Other multinationals in Burma

1.4.2.1. Energy sector

In 1989 the Burmese ministry of energy opened the market to foreign companies. Total, as well as Mitsui, Nippon Oil, Petronas and other American and Asian firms responded to this offer.

Petronas³⁰ from Malaysia is active via subsidiaries such as Petronas Gas and Petronas Dagangan in various countries with human rights problems. Petronas Gas owns a company that explores for, and produces, oil and gas in Burma. The company has a share in the Yetagun gas pipeline, in the vicinity of the Yadana pipeline (a project of Total and Unocal) and various supply and exploitation agreements with the Burmese government. Petronas has also been criticised by human rights organisations for activities in Sudan, Chad and Thailand.³¹

The links between Petronas and the bank groups

Three researched bank groups (AXA, ING and KBC) invest³² the following amounts in Petronas.

Table 2: Investments in Petronas³³

	Number of shares	Value of the shares in US dollars	% of the shares in Petronas
AXA	972,000	1,069,200	0.10% [°]
DEXIA	0	0	-
FORTIS	0	0	-
ING	17,000	31,763	0.00% ^{°°}
KBC	107,200	200,295	0.15% ^{°°}
Total	1,096,200	1,301,258	

[°] = investment in Petronas Gas

^{°°} = investment in Petronas Dagangan

The Japanese company **Mitsui**³⁴ has a well-established relationship with the Burmese authorities. The company has developed projects including an industry zone aimed at Japanese companies, in cooperation with the government.³⁵ Mitsui is also involved in the Yadana gas extraction project. The company reached an agreement with the government for the construction of a power station and a production unit for fertilizer in the Burmese capital, Rangoon. Mitsui can coordinate this project, worth around US\$700 million, and lay a 250km pipeline between the Yadana gas field and these companies.³⁶

The links between Mitsui and the bank groups

The researched bank groups invest³⁷ the following amounts in Mitsui.

Table 3: Investments in Mitsui³⁸

	Number of shares	Value of the shares in US dollars	% of the shares in Mitsui
AXA	8,601,220	77,809,202	0.54%
DEXIA	274,000	2,478,775	0.02%
FORTIS	969,930	8,774,593	0.06%
ING	424,000	3,835,769	0.03%
KBC	137,000	1,239,388	0.01%
Total	10,406,150	94,137,727	0.66%

Nippon Oil³⁹, again from Japan, also has significant interests in the Burmese oil and gas sector. Nippon acquired a 19% share in a project with government owned company MOGE, a Thai gas distributor and Petronas. The project delivered gas to electricity companies in Thailand.⁴⁰

The links between Nippon Oil and the bank groups

Four researched bank groups (AXA, Dexia, ING and KBC) invest⁴¹ the following amounts in Nippon Oil.

Table 4: Investments in Nippon Oil⁴²

	Number of shares	Value of the shares in US dollars	% of the shares in Nippon Oil
AXA	1,673,275	11,054,250	0.11%
DEXIA	274,000	1,810,142	0.02%
FORTIS	0	0	-
ING	1,822,000	12,036,780	0.12%
KBC	691,650	4,569,286	0.05%
Total	4,460,925	29,470,458	0.30%

1.4.2.2. Wood sector

The wood industry also forms an important source of income for the Burmese government. It is primarily Chinese and Thai companies that extract and market the wood. Burmese Teak is known around the world for its high quality. The wood is used in garden furniture and boat decks, as well as other applications. The forestry industry in Burma is controlled by the junta and their friends, and is characterised by corruption, illegality and the large-scale destruction of forests. Inhabitants of the woods are driven from their land, and forced to work for the military. Hundreds of thousands are seeking refuge in camps in Thailand. Deforestation is occurring at an alarming rate, and Burma has the highest rate of deforestation in South East Asia. In 1999-2000 Burma officially exported 806,000 m³ of wood, while countries reported importing 1.72 million m³ of Burmese wood. The difference gives an indication of the scale of illegal forestry, with an estimated value of US\$200 million.⁴³ Wood from Burma comes under the internationally accepted definition of 'conflict wood'.⁴⁴

Many countries that extract Burmese wood are Chinese or Thai, often shadowy, and mostly not quot-

ed on stock markets. In contrast, well-known international companies carry out the international trade in this wood.

Despite the illegality of the forestry, and the social and ecological consequences for the Burmese population, these companies continue their involvement in the trade in Burmese wood. The Danish wood distributor **DLH**⁴⁵ is a world player in the trade in Burmese Teak. The company is facing international pressure to stop the distribution of this wood, but refuses to make any more steps than placing a quota on the import of Burmese Teak.⁴⁶ In Belgium a number of wood distributors continue to trade in Burmese Teak.

The links between DLH and the bank groups

One researched bank group (AXA) invests⁴⁷ in DLH.

Table 5: Investments in DLH⁴⁸

	Number of shares	Value of the shares in US dollars	% of the shares in DHL
AXA	11,400	1,049,680	0.66%
DEXIA	0	0	-
FORTIS	0	0	-
ING	0	0	-
KBC	0	0	-
Total	11,400	1,049,680	0.66%

1.4.2.3. Mining sector

Another important source of income is mining. Burma is rich in natural resources such as silver, lead, zink, copper and precious stones. Traditional mine workers have been extracting these reserves for centuries. Burma did not previously possess the necessary capital and expertise to exploit these resources at a larger scale. The military regime is aware that they need international help to open up the as yet untapped reserves. For this reason, they began to make partnerships with international firms at the start of the 1990s.

Friedland, a Canadian entrepreneur started to work with the generals. One of his many companies, **Ivanhoe Mines**⁴⁹, is now running the Monywa copper mine. This is the largest mine investment in Burma, and like other foreign investments it is done in partnership with the Burmese government. Ivanhoe Mines has invested around US\$60 million in Burma.

While the pressure on Western companies in Burma grows, Ivanhoe is increasing its engagement in the Burmese mining sector, and going in search of other

projects. Mining in Burma, just like the oil and gas industry, is associated with forced labour to put infrastructure in place.⁵⁰

The Monywa mine is partly financed by the Japanese company **Marubeni**, which together with Nissho Iwai Corp. provided US\$90 million for the realisation of the first phase of the project.⁵¹ Marubeni⁵² is active in sectors such as oil, gas, clothing and wood. Marubeni has obtained contracts from the Burmese government for the supply of crude oil⁵³, and construction machines. As Burma was barred from receiving official development loans from Japan at the time of these orders, the Burmese government received a three year deferred payment arrangement from the company.⁵⁴ The company has a subsidiary in Burma, and has good links with the Burmese government.⁵⁵

The links between Marubeni and the bank groups

Four researched banks (AXA, Dexia, ING and KBC) invest⁵⁶ the following amounts in Marubeni.

Tabel 6: Investments in Marubeni⁵⁷

	Number of shares	Value of the shares in US dollars	% of the shares in Marubeni
AXA	3,323,000	10,637,300	0.22%
DEXIA	187,000	598,608	0.00%
FORTIS	0	0	-
ING	52,000	166.458	0.00%
KBC	147,000	470,564	0.00%
Total	3,709,000	11,872,930	0.25%

1. 5. CONCLUSION

To our surprise most of the companies discussed above feature in the portfolios of all the researched Belgian banks. The banks have apparently no problems with passing the savings or investments of customers on to companies that are active in Burma. This is despite the international consensus that business should not be conducted in the country. This form of foreign investment contributes to the human rights violations in one of the most severe dictatorships in the world.

Annex: The representatives of the Burmese people call on Belgian banks to disinvest.

Through Daw San San, a member of parliament who (like her colleagues) was pushed aside during the military coup, the National League for Democracy calls on Belgian banks not to invest in Burma. The party of Aung San Suu Kyi believes that the Belgian banks should give no form of support to companies that refuse to withdraw from the country.

"I understood that a number of Belgian banks have no policy in place which avoids investments in these companies. I'm convinced that this is not due to a lack of willingness to integrate ethical principles in your credit- and financial policy. I'm sure that you agree that you have to take the violation of basic human rights into account when you decide which companies to invest in. Therefore, I want to ask you to develop a policy which avoids any financial links with the companies still active in Burma."

states Daw San San (the complete letter of Daw San San is included as an Appendix to this report)

CHAPTER 2:



Banks and serious abuses of workers' rights

2.1. INTRODUCTION

In 1890 the population of the Belgian city Aalst worked under appalling conditions in the textile industry, abused and exploited for the profit of rich factory owners. This dramatic situation was portrayed in the Belgian film *Daens*. Such conditions continue to exist today, not in Aalst, but in Guadalajara or Dongguan. The profits no longer flow to the factory owners, but

pass through banks to savers and investors around the world. In this chapter Netwerk Vlaanderen investigates the extent of links between Belgian banks and controversial companies in free trade zones in low pay countries. Were the banks shareholders at the time of documented violations of workers' rights?

**Investments in free trade zones.
What is the problem?**

Companies that are active in free trade zones in low pay countries sometimes violate the rights of workers:

- groups that represent the interests of workers, such as independent trade unions, are often banned or oppressed
- the local government does not take action against poor working conditions in these production zones
- the wages and job security for workers are extremely low.

The banks share in the profits that these companies make as a result of these working conditions.

Fundamental principles and rights at work

Freedom of association and the right to collective bargaining (ILO conventions 87 and 98)

The elimination of forced and compulsory labour (ILO conventions 29 and 105)

The abolition of child labour (ILO convention 138)

The elimination of discrimination in the workplace (ILO conventions 100 and 111)

Principles concerning Multinational Enterprises and Social Policy

The right to job security

The right to a living wage (ILO conventions 26 and 131)

The right to safe and healthy working conditions (ILO convention 155)

Observe laws regarding the maximum number of working hours (48+12) (ILO convention 1)

2.2. THE ILO DECLARATION ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK, AN IMPORTANT FORM OF HUMAN RIGHTS

A person spends a large amount of time at work. Violations of the rights of workers, such as forced or unsafe work, are recognised as violations of human rights.⁵⁸ But what exactly are the rights on the work floor? An answer is provided by the International Labour Organisation (ILO)⁵⁹, an international organisation that is part of the United Nations. Since it was founded, the ILO has issued almost 200 conventions relating to working conditions. They throw a light on the rights of workers and employees.

To outline the central core of workers' rights, the ILO developed the 1998 'Declaration on Fundamental Principles and Rights at Work'.⁶⁰ The declaration identifies four key areas, which refer to eight ILO conventions: child labour, forced labour, discrimination in the workplace, and the punishment or prohibition of trade unions.

Alongside this, the ILO has a Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.⁶¹ This declaration includes a number of supplementary employment norms, for which companies must be responsible.

Companies that systematically breach one or more of these fundamental norms are guilty of serious violations of the rights of workers. They do not respect human rights.

2.3. ABUSES OF WORKERS' RIGHTS IN FREE TRADE ZONES

Since the 1970s free trade zones (also known as export processing zones), have been expanding in low pay countries. The ILO defines free trade zones as "*industrial zones with special stimuli to attract foreign investors, where imported material is processed before being exported once more*".⁶²

The host country provides the special stimuli because they hope that free trade zones will create work opportunities and generate income. The incentives include less strict laws relating to working rights and environmental protection, as well as exemption from taxes.

In 2004 there were 5,174 free trade zones worldwide, employing around 42 million people, a majority of whom are women.⁵⁰ More than half of the workers are employed in China. The companies in free trade zones are primarily producing textiles and electronics for the Western export market.⁵⁴

Free trade zones contribute substantially to employment in certain countries, and many companies in these zones employ people in relatively reasonable conditions. But some export processing zones enjoy a less positive reputation. The Clean Clothes Campaign has highlighted the image of a young girl working 16 hours per day for a poverty wage. The problems are not confined to long working hours and low pay. The past ten years have seen documented serious breaches of the ILO fundamental principles in free trade zones.⁶⁵ Forced labour, child labour, a ban on trade unions and collective bargaining, employment insecurity, discrimination in recruitment or during work, and

unhealthy working conditions take place in these enormous production zones.

The reasons for the breaches of employment standards are numerous.

First of all, it is not difficult to find people who will work 'voluntarily' in inhuman conditions. World wide, one billion people live on less than one euro per day income, and hunger affects almost as many people. Furthermore, the (local) governments in many low pay countries commit breaches of workers' rights. They do not have adequate social legislation, or cannot fulfil the necessary control function, due to a lack of resources or decisiveness.

The breaches of workers' rights in free trade zones have not been decreasing in recent years. In fact the opposite is the case.⁶⁶ The explanation for this lies with the increased competition in the market of subcontractors, and the pressure exercised by large companies such as Nike and Wal-Mart to reduce production costs. A chain such as Wal-Mart buys products from thousands of subcontractors, in low pay countries.⁶⁷ These producers compete to win the favour of Wal-Mart. The last cost that the subcontractors can save is the employment costs.⁶⁸ Workers can do little to effect this. Certainly not if they have no independent trade union, which are banned in many free trade zones, such as those in Bangladesh and China. All of this makes investment in free trade zones at least risky, and often controversial, in the area of respect for human rights.



A textile worker in a free trade zone

2.4. MULTINATIONALS RESPONSIBLE FOR ABUSES OF WORKERS' RIGHTS, AND THEIR INVESTORS

Most products from free trade zones are destined for the Western consumer market. The production facilities in low pay countries are often not owned by the multinational companies that buy the products. But, as international bodies and human rights organisations have stressed: responsibility for working conditions must run parallel with business interests.⁶⁹ Multinationals that search for the cheapest way to produce products around the world, but don't take responsibility for the working conditions that follow this, represent a 19th century attitude that belongs to 'wild capitalism'.

In this report, we have focussed on companies where there are not only serious problems related to the subcontractors that they use, but also within the company itself. We refer to companies that have been criticised in international reports. They commit serious breaches of workers' rights in free trade zones, in other production facilities in low wage countries, or in the West. We have also investigated whether the five researched banks have shares in these companies.

At the moment it is publicly known that these companies have breached the basic ILO principles. As well as the multinationals mentioned in this report, there are many other companies that are engaged in similar practices in free trade zones.

A recent example shows that banks are already aware that there are problems, and that they cannot withhold information from their customers. An article in the South China Morning Post revealed on 19th August 2005 that six large banks, including ING, were the most important investors in Henan Rebecca Hair products.⁷⁰ This publicly listed company is the largest wig manufacturer in China, and exports to the West. Part of the production of Henan takes place, according to the journalist, in Chinese re-education camps. The ILO, Human Rights Watch and other organisations have branded the work that takes place there forced labour. Four days after the revelation was made, ING bank wrote a reply on the site Business & Human Rights Resource Center, where the data relating to the case were collected.⁷¹ Mrs. de Wolff-Janssen, Head Corporate Responsibility of ING wrote:

"Forced labour is regarded as unacceptable by the international community. Several international treaties (e.g. UDHR) strictly forbid the use of forced labour.(...) In this particular case ING has passed on all relevant information about the alleged controversial activities of the company to all clients invested in the company and has been informed that the clients are now urgently reviewing the situation."

With this open attitude in this particular case, ING was the most progressive of the all the banks that were named. But will banks make this openness around breaches of workers' rights a general policy, or will they only take emergency measures if something goes wrong?

2.4.1. Wal-Mart

The first company under scrutiny is Wal-Mart. Wal-Mart Stores is the largest distribution chain in the world, with a turnover of US\$285 billion in 2004. The company has 1.6 million employees in 3,600 warehouses, mainly in the United States.⁷²

In January 2005, as a result of the appalling working conditions in Wal-Mart and her suppliers, the company won the Public Eye Award 2005 for being the most irresponsible company on the issue of workers' rights.⁷³ The International Clean Clothes Campaign nominated Wal-Mart for the prize. Wal-Mart has won the not-so-desirable prize as Sweatshop retailer of the year on three of the four occasions that the Maquila Solidarity Network has awarded it.⁷⁴



The unintentional cynicism of the Wal-Mart logo

Wal-Mart has been responsible for the following well-documented breaches of ILO standards over the past five years:

- ▶ The Labor Department of the US government visited 25 Wal-Mart warehouses between 1998 and 2001. The warehouses employed 85 under age workers in dangerous tasks. For this breach of the child labour law, Wal-Mart received a fine of US\$135,540 at the start of 2005.⁷⁵
- ▶ Still in the US, a number of 'union-busting' cases are under investigation. Managers of Wal-Mart register, threaten and regularly illegally fire trade union activists and spare no efforts to prevent the growth of trade unions. The trade union pursuing this issue is the United Food and Commercial Workers Union (UFCW). Between 1998 and 2003, 45 complaints were submitted to the National Labor Relations Board (NLRB) against Wal-Mart for breaches of employment laws relating to the right to freedom of association and collective bargaining. In ten cases, Wal-Mart has already been sentenced by the Labor Department, eight cases were resolved by mutual agreement, and the other cases are still pending.⁷⁶
- ▶ In 2001 six women in California submitted a complaint against Wal-Mart as they were denied the chance to be promoted, and received less pay for the same work as men. The case grew to be the largest anti-discrimination case in US history: 1.6 million women, current and former employees of the company, have lodged a complaint against Wal-Mart.⁷⁷
- ▶ On 16th January 2003 thousands of workers in the Ruaranka free trade zone in Kenya held a one-day strike. They submitted sixteen complaints to the Ministry of Work, including: non-payment,

repression of the trade union, sexual intimidation, excessive working hours, and unpaid overtime. They organised themselves in a legal way, but found on 3rd February 2003 that the doors of the factory were closed, and the message that they were all sacked. More than 8,000 workers lost their jobs. Some time later the employees that were not part of the trade union were employed once more. The Clean Clothes Campaign has documented this clear breach of the basic employment standards.⁷⁸ Of the five factories, three supplied Wal-Mart: Baraka, Kentex and Jar.

- Between January 2001 and March 2002 the El Salvadorian company Cofecciones Ninos, active in the San Marcos free trade zone, supplied companies including Wal-Mart. *Human Rights Watch* documented the following breaches of workers' rights: illegal discrimination against the trade union and trade union members, illegal firing of workers, failure or delay in paying workers and compensation, and failure to pay for overtime and legally required annual bonuses.⁷⁹
- In January 2003 the *Lesotho Clothing and Allied Workers Union (LECAWU)* made a similar complaint against the conditions in 21 factories that produced for Wal-Mart. Violations of working standards included: too long working days, verbal and physical intimidation, bad treatment of pregnant women, and violation of the right to freedom of association. Workers in sweatshops earned US\$54 per month.⁸⁰ In Malawi, wages reached a low point of only US\$14 per month.⁸¹
- On 13th September 2005 a new court case started in California against Wal-Mart. It relates to working conditions in factories in Indonesia, Bangladesh, China, Nicaragua, and Swaziland, which according to the complainants violate codes of behaviour that Wal-Mart claims to respect.

The labour rights activist Aisha Bahadur summarised the attitude of Wal-Mart in the following way:

*"After years of informing Wal-Mart of labour conditions in its supply chain and urging the multinational to take responsibility for, and change, its policy, amend its code of conduct and make sure its code is implemented, Wal-Mart has hardly ever responded to allegations and has hardly taken any action to correct terrible labour conditions. They lag far behind other companies in this regard."*⁸³

Lucy's story

Lucy, a Kenyan mother of two, works in a free trade zone sewing the pockets onto children's jeans destined to be sold at Wal-Mart. She says *"A year ago, I worked 48 hours non-stop to meet the shipping deadline set by our boss. My husband walked out, making it difficult for me to pay the rent for my apartment, and my children had to go and live with my parents. I have not seen them for six months. If this EPZ could be better, and give us leave and holidays, then I would be able to go and see the children (...) Supervisors abuse us, and if we talk they say, "shut your beak, even a child can do your job". As women, we feel so oppressed. Because you can't secure your job through the trade union, you have to buy it with sex."*⁸⁴

The links between Wal-Mart and the bank groups

The researched bank groups invest⁸⁵ the following amounts in Wal-Mart.

Table 7: Investments in Wal-Mart⁸⁶

	Number of shares	Value of the shares in US dollars	% of the shares in Wal-Mart
AXA	18,500,638	873,785,133	0.44%
DEXIA	872,740	41,206,758	0.00%
FORTIS	564,345	26,654,014	0.00%
ING	14,096,764	665,790,164	0.33%
KBC	782,203	36,943,448	0.00%
Total	34,816,690	1,644,380,517	0.82%

None of the bank groups see the terrible reputation of Wal-Mart in relation to abuses of workers' rights as a reason to change their behaviour. They all have shares in this enormous distribution chain, worth a combined amount of US\$1.6 billion. AXA and ING lead the list, with shareholdings worth hundreds of millions of US dollars.

2.4.2. Flextronics, Solectron, Sanmina Sci, Jabil and Celestica

Parts and products are produced for the electronic industry in many free trade zones. Export from developing countries to Western countries showed the

fastest growth in recent years in electronic products. The added value of those exports are much higher than the added value in the export of textile products, for example.⁸⁷

The labour conditions in the production facilities that fabricate shoes or clothing for the West are already well known, due the extensive attention in the mass media. Less known are the labour conditions in the companies that develop parts for electronic products. In 2004 the British NGO CAFOD⁸⁸ published the ground breaking investigative report '*Clean up your computer. Working conditions in the electronics industry*'.⁸⁹ The investigation was based on fieldwork in Mexico, Thailand and China. In the report labour rights violations were documented at contract manufacturers supplying big brands including IBM, HP and Dell. CAFOD wanted to push these computer manufacturers and other stakeholders to improve the working conditions in their supply chains in the electronics industry. The biggest part of the production process of computers does not happen in facilities of the known brands but in the hands of contract manufacturers in low-pay countries. The biggest of these contract manufacturers are the following stock listed multinationals: Flextronics, Solectron, Sanmina SCI, Jabil and Celestica⁹⁰. In 2003, CAFOD documented violations against the basic labour norms of the ILO in the factories of these companies in Guadalajara (Mexico) and the Pearl River Delta (China):

► **Jabil, Sanmina and Flextronics** have factories in the province Jalisco, in and around the city Guadalajara, Mexico. Most of the workers in these factories were recruited and employed by local employment agencies. The discriminatory and humiliating recruitment practices of these agencies were revealed in the research of CAFOD in 2004. A psychologist who conducted the recruitment interviews summarised a list of reasons for refusing employment in the psychological interview:

"Reasons for rejection in psychological interview [include] has brought labour claims, homosexual, socially inadequate, does not agree with policies of IBM, signs of lesbianism, more than two tattoos, doesn't respect authority, conflictive person, belongs to a political party as an active member, not disposed to work overtime, father is a lawyer, has a qualification in law, worked for a lawyer, worked for a union, transvestite, has earrings, has long hair."

Besides this, there was discrimination against pregnant women and workers older than 30. The workers who got a job worked on short-term contracts and could be fired when they unionised.

► On 10 may 2004 there was an accidental fire in a factory of **Sanmina SCI** in Guadalajara, Mexico. The fire produced toxic fumes, so the workers were evacuated. But as the managers of the factory didn't want to lose time, they called the workers back in just an hour after the accident. Because of the chemical smoke that still remained, up to twenty persons started to vomit and felt dizzy and sick. Two workers had to be hospitalised because of respiratory problems and nervous problems.⁹²

► **Jabil, Solectron, Sanmina SCI, Flextronics and Celestica** have production facilities in the Pearl River Delta in China. Free trade unions are prohibited in China, so the working conditions are in any case in violation of the ILO norms. CAFOD documented the following labour rights violations in the computer manufacturers in the Pearl River Delta:

- In 2002 the basic monthly wage was around US\$37, which was below the local legal minimum of US\$54 per month. The workers could earn the legal minimum only by working more than 12 hours a day. In the peak season the overtime mounted to 120 hours a month and the workers had to work 7 days a week.
- Different systems of debt, slow payment and financial punishments made the workforce docile, although the managers could fire workers at will.
- There were unhealthy and dangerous working conditions. For example workers were exposed to dangerous chemicals, smoke from soldering, metal dust or noise. Others had to test monitors 11 hours a day, 150 monitors an hour.



Worker at electronics supplier in Asia

As a result of the controversy that followed the publication of the CAFOD report, HP, Dell, IBM and Flextronics, Solectron, Sanmina Sci, Jabil and Celestica developed and signed up to an Electronic Industry Code of Conduct in October 2004.⁹³ This has led to some improvements, for example in the practices of employment agencies. Although CAFOD welcomed the industry code, they had some serious concerns about its content. The code was adapted recently, nonetheless several core concerns raised by investors, workers groups and NGOs were not addressed. The main weaknesses are that there is no reference in the industry code to the right to collective bargaining as it is formulated in the ILO norms, that compulsory overtime stays possible, and that exceptions to the 60 hours working week stay possible in emergency and unusual situations.^{94 95} Without these references, and without a stringent implementation of the code, the risk of labour rights violations in the computer industry are not eliminated.

The links between Flextronics, Solectron, Sanmina SCI, Jabil, Celestica and the banks

Four of the researched bank groups (AXA, Dexia, ING and KBC) invest⁹⁶ the following amounts in Flextronics.

Table 8: Investments in Flextronics⁹⁷

	Number of shares	Value of the shares in US dollars	% of the shares in Flextronics
AXA	173,601,615	2,218,628,640	30.49%
DEXIA	310,109	3,963,193	0.05%
FORTIS	0	0	-
ING	8,200	104,796	0.00%
KBC	327,617	4,186,945	0.06%
Total	174,247,521	2,226,883,574	30.61%

The researched bankgroups invested⁹⁸ the following amounts in Solectron.

Table 9: Investments in Solectron⁹⁹

	Number of shares	Value of the shares in US dollars	% of the shares in Solectron
AXA	280,641,829	1,024,342,676	28.87%
DEXIA	70,302	256,602	0.01%
FORTIS	409,884	1,496,077	0.04%
ING	1,543,336	5,633,176	0.16%
KBC	37,757	137,813	0.00%
Total	282,703,108	1,031,866,344	29.08%

The researched bank groups invested¹⁰⁰ the following amounts in Sanmina Sci.

Tabel 10: Investments in Sanmina Sci¹⁰¹

	Number of shares	Value of the shares in US dollars	% of the shares Sanmani Sci
AXA	100,514,234	512,622,593	19.13%
DEXIA	72,302	368,740	0.01%
FORTIS	6,360	32,436	0.00%
ING	1,262,929	6,440,938	0.24%
KBC	48,326	246,463	0.01%
Total	101,904,151	519,711,170	19.39%

The researched bank groups invested the following amounts in Jabil.

Tabel 11: Investments in Jabil¹⁰³

	Number of shares	Value of the shares in US dollars	% of the shares in Jabil
AXA	353,125	10,321,844	0.17%
DEXIA	11,397	333,134	0.01%
FORTIS	4,479	130,921	0.00%
ING	829,057	24,233,336	0.41%
KBC	20,645	603,453	0.01%
Total	1,218,703	35,622,688	0.60%

Four of the researched bank groups (AXA, Dexia, ING and KBC) invested¹⁰⁴ the following amounts in Celestica.

Tabel 12: Investments in Celestica¹⁰⁵

	Number of shares	Value of the shares in US dollars	% of the shares in Celestica
AXA	4.333.713	54.665.980	2,31%
DEXIA	17.529	221.113	0,00%
FORTIS	0	0	-
ING	82.800	1.044.449	0,04%
KBC	15.820	199.555	0,00%
Total	4.449.862	56.131.097	2,37%

The five researched multinationals produce mainly in free trade zones around the world. As can be seen from their websites, their network of production sites stretches from Mexico via Hungary to China. Serious breaches of workers' rights are documented in these free trade zones in low pay countries.

Although the production takes places elsewhere, the money comes mainly from the West. The position of AXA is most striking. They own more than 20% of the shares of Flextronics, Solectron and Sanmina Sci. The large size of these shareholdings in controversial producers of computer components means that AXA could have demanded a responsible policy on workers' rights, before the issue was revealed in the research report of CAFOD.

The other figures show that no Belgian bank has a problem investing in these companies, although the percentage of shares owned is smaller.

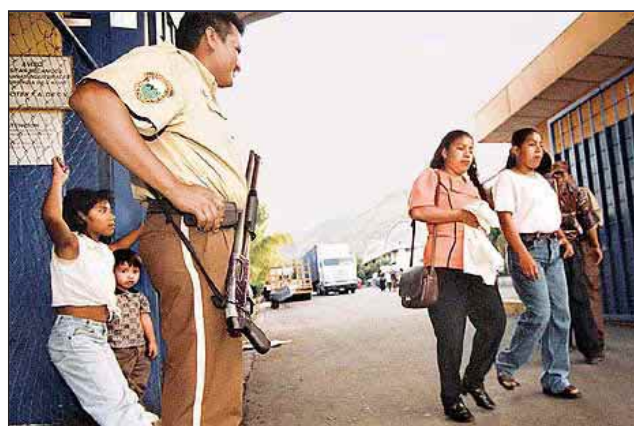
2.4.3. Pou Chen and Yue Yuen

The Tsai family established the Pou Chen group in Taiwan in 1969. The group was engaged in the production and trade in shoes. Over time, the production came under the control of the company Yue Yuen. 70% of the shares in Yue Yuen are held by Pou Chen and the Tsai family.

Yue Yuen is the largest (sport)shoe manufacturer on the planet, and has around 16% of the world market. Yue Yuen produces shoes for Nike, Adidas, Reebok, Puma and other big names. At the end of the 1980s the production moved from Taiwan to China, and later to Indonesia and Vietnam. By 2004 the company employed a total of 250,000 workers, making 167 million shoes per year.¹⁰⁶ A large number of the workers' rights violations in the shoe industry that have

come to light since the 1990s took place in factories of Pou Chen or Yue Yuen. The most pressing complaints from workers relate to the militaristic management style, sexual intimidation, compulsory overtime, wages lower than the legal minimum, unsafe working conditions, illegal contracts and intimidation and repression of trade unions.¹⁰⁷ A witness described the gigantic production unit of Yue Yuen, where more than ten thousand employees work and sleep in the factories and dormitories in a fenced-off area, as a 'well-managed prison'. Even this might be an optimistic assessment of the situation: the workers earn on average 35 dollar cents per hour, on average less than Belgian prisoners earn while working in prison.¹⁰⁸

Despite the fact that Pou Chen and Yue Yuen have changed their policy under pressure from the brand names that they supply, the previous few years have seen continued breaches of the employment standards of the ILO:



Guards at the entrance of a free trade zone factory

- In the PT Nikomas Gemilang factory in West-Java, Indonesia, Pou Chen employs 24,000 workers. In a series of two reports "Like cutting Bamboo" (2000) and "We are not machines" (2002)¹⁰⁹ researcher Timothy Connor investigated the working conditions, via in-depth interviews with workers. The most important complaints relate to the exceptionally low pay, the intimidation that is used to prevent the formation of trade unions, and the inhuman treatment by the management. The workers earned a basic wage in 2001 of between US\$37 and US\$44 per month, a wage with which they are unable to meet their basic needs. It is only by working overtime that people can survive. In 2002 a law increased the minimum wage in Indonesia to US\$57 per month, but the prices also increased greatly over the same period. Due the

low pay, up to half of parents cannot live with their children, and children are often raised by family in the countryside.¹¹⁰ Incidents of intimidation include the not yet resolved case of an attack on a trade union leader by a group armed with machetes in front of the factor (21/03/2001), the use of Indonesian military for controls on the work floor, and the use of violence by the military against workers.¹¹¹

The story of Leily, worker in the Nikomas Gemilang factory ¹¹²

Leily started working at Nikomas from July 1997. On two occasions in 1998 her team did not meet the production targets set by the management. This resulted in the supervisor throwing the outsole of a shoe at her, and she was humiliated further by being forced to clean the floor of the factory before being allowed to work again. From the end of 1999 to the beginning of 2000, Leily was threatened with being fired because she attended a workers' meeting. Factory officials harassed her and a security guard broke into her locker at the dormitory to search for her notes from the meeting. From that day on, she never attended another worker's meeting because she was afraid of being fired. In October 2000, a friend of Leily was very sick, but the supervisor forced her to keep on working. Not until she fainted did the supervisor call an ambulance and take her to the clinic. Leily has also seen many kinds of violence against workers, but she has kept silent because she doesn't want to lose her job. These days there have been improvements in the way supervisors treat them, which is good. But the difficulties which workers face take many forms. Leily is never allowed to take menstrual leave, and has been unable to take the twelve day of annual leave to which she is supposed to be entitled because her supervisor won't allow it. This happens to most of the workers.

- ▶ The Pou Yuen factory F is one of the seven factories in the enormous industrial area of Pou Chen in Dongguan, China. 30,000 workers are employed in the area. Independent and free trade unions are forbidden in China. As a result, the working conditions do not meet the ILO basic standards. 3,000 people work in Pou Yuen F. The following working conditions were reported in 2004 by National Labor Committee and China Labor Watch:¹¹³

 - compulsory shifts of between 13.5 and 16.5 hours per day and at least 6 working days per week

- the hourly wage around 35 US dollar cent per hour, and the monthly wage is around US\$50 to US\$70 per month.
- Workers who speak out against their supervisors, who propose improvements in the management of the factory, who talk, or who arrive more than five minutes late for work are severely punished or sacked
- There are arbitrary reductions in wages if production targets are not achieved.



A sleeping place for workers in a free trade zone in China

The links between Pou Chen and Yue Yuen and the bank groups

Three researched bank groups (AXA, ING and KBC) have investments¹¹⁴ of the following amounts in Pou Chen.

Table 13: Investments in Pou Chen¹¹⁵

	Number of shares	Value of the shares in US dollars	% of the shares Pou Chen
AXA	62,000	50,812	0.00%
DEXIA	0	0	-
FORTIS	0	0	-
ING	50,669	41,526	0.00%
KBC	219,200	179,646	0.01%
Total	331,869	271,984	0.02%

The researched bank groups have investments¹¹⁶ of the following amounts in Yue Yuen.

Table 14: Investments in Yue Yuen¹¹⁷

	Number of shares	Value of the shares in US dollars	% of the shares in Yue Yuen
AXA	263,000	763,138	0.02%
DEXIA	70,000	203,117	0.00%
FORTIS	224,200	650,553	0.01%
ING	307,000	890,811	0.02%
KBC	186,000	539,710	0.01%
Total	1,050,200	3,047,329	0.06%

Following years of campaigning around the issue of working conditions in the sports shoe industry, we have possibly changed our behaviour as consumers. The banks that we researched have not found it necessary, however, to reveal or reduce their shareholdings in the world's largest sports shoe producer. These companies are well known for their militaristic management style, and breaches of the most fundamental workers' rights. Although the Belgian banks do not have many shares in these two Taiwanese companies, they all have shares in one or both of these companies.

2.5. CONCLUSION

Abuses of the rights of workers in low pay countries have regularly made the news in the past few years. But the bank groups apparently see no problem in making investments in Wal-Mart, a company that is well known for the most serious infringements of important workers' rights. This chapter has shown that they invest in other companies that are related to serious breaches of these rights. The investment policy of these banks deals carelessly with workers' rights to say the least. More seriously, if companies such as Wal-Mart can slip through the net, it may be possible to suggest a complete absence of policy regarding workers' rights.

CHAPTER 3:



Banks and human rights abuses in large-scale projects

3.1. INTRODUCTION

Every country has a right to economic development. But there are great differences of opinion of how this development should proceed. Environmental and human rights groups may call for small scale initiatives and local investment, while many governments and international companies choose resource extrac-

tion and energy projects.

Large-scale mining, extraction of oil and gas, and the generation of energy with large-scale hydroelectric plants are generally seen as logical steps in the development of a country. But the construction of pipelines, dams and other large-scale projects bring a number of serious problems with them. As well as the impact on the environment, there is a chance of increased



regional tension, the suppression of opponents of the plan, militarisation of the site or the region where the project takes place, the removal of natural resources at the cost of the local population, and an escalation of local conflict. The protests of the local population, environmental groups and human rights organisations against these projects do not stop the international financial groups from seeing profits in investing in these schemes. These are relatively secure investments, often supported by international financial institutions such as the World Bank or other development banks, which makes the risk of financial loss for the investors small. For this reason, a blind eye can be turned to the abuses of human rights or damage to the environment associated with these projects.

Project finance?

The term 'project financing' is used most often for large-scale projects such as oil pipelines, the construction of dams and large infrastructure projects. The companies responsible for the project go to the international market in search of financial support. They can find loans because of the profits that are expected to be made once the project is completed, through the sale of oil or electricity for example. The banks that grant a loan count on the completion of the project before the loan is repaid. The financing is mainly done by a syndicate of banks, that all contribute to the loan, under the leadership of one or more head financiers.

The financial world is slowly realising that not all projects can be financed. In June 2003 ten banks launched the Equator Principles.¹¹⁸ Under the leadership of Citigroup, ABN AMRO, Barclays and West LB, the banks presented a common approach to the social and environmental risks related to the financing of large-scale projects. The initiative had a successful start. The first banks that signed up to the principles included ABN AMRO, Barclays, Citigroup, Crédit Lyonnais, Credit Suisse FB and Rabobank. Two years after the launch, 31 financial institutions have adopted the Equator Principles. They include the most important players in the project finance market, including BNP Paribas, Société Générale and Sumitomo Mitsui Banking.¹¹⁹

The signatories of the Equator Principles promise to take account of social and economic factors in their decisions related to project finance. Projects are graded according to the social and ecological risks. For the most risky projects a system is provided for reporting on the environmental risks. This environmental report should include factors such as the use of haz-

ardous products, forced relocation, the impact on indigenous peoples, health threats, and damage to cultural artefacts. The banks expect this report to be taken into account while the project is undertaken.

This is the first time that banks have taken a common standpoint on their responsibility in financing projects that can have negative social impacts. A large group of non-governmental organisations have been calling for such an initiative for many years. In 2003 an international coalition of environmental and human rights groups launched the 'Collevocchio declaration on financial institutions and sustainability', where they called on banks not to place profits before respect for people and the environment.¹²⁰ The organisations apply pressure on commercial banks, through the organisation BankTrack, not to invest in controversial and harmful companies. BankTrack gave a cautious welcome to the Equator Principles. Will the declaration lead to meaningful changes?¹²¹

The first significant test of the Equator Principles was the so-called Baku-Tbilisi-Ceyhan (BTC) oil pipeline in Central Asia. This controversial project was searching for loans on the international market at the time when the Equator Principles were launched. Non-governmental organisations warned the banks about the negative impact of the project on the local population, and the potential environmental damage. They claimed that the plans were in conflict with the Equator Principles and other international standards, and called on the banks not to grant loans.¹²² This did not prevent several banks getting involved in the BTC project.

Investments in large-scale projects. What is the problem?

Banks finance large-scale oil, gas and mining projects, dams and other infrastructure works. These projects are problematic because of:

- serious environmental damage
- forced relocation of the population in the affected area
- insufficient compensation for victims
- threats to the food supply or environment of indigenous peoples
- militarisation of the area where the project is developed
- repression of opponents
- the increase in armed conflict

3. 2. THE BTC OIL PIPELINE AND ITS FINANCIERS

3.2.1. The project

The Baku-Tbilisi-Ceyhan oil pipeline is the largest and most complex transnational infrastructure project in the world, and the largest foreign investment in each of the countries that it passes through. The BTC pipeline aims to transport crude oil from the Caspian Sea to the Mediterranean. The oil is extracted in Azerbaijan and follows a route of 1,700 km across Georgia to the Turkish coastal city of Ceyhan, from where the oil can be carried by ship around the world. The pipeline, which will be underground for the whole route, has a capacity of one million barrels of oil per day. Production began in May 2005, with inauguration of the main pump in Azerbaijan by the Presidents of Azerbaijan, Georgia and Turkey.

The US government supports the construction of the pipeline, which will allow British Petroleum (BP) to transport an enormous amount of oil and gas from Central Asia to the Mediterranean Sea without crossing Russian or Iranian territory.



British Petroleum is the leader of the BTC consortium, the owner and operator of the pipeline. In Turkey, the construction was conducted by BOTAS, a nationalised Turkish company.

Although observers state that BP and the other companies involved in the scheme could finance the pipeline themselves, a large part of the necessary capital was raised from international financial institutions.

3.2.2. The danger for human rights

As the plans for the pipeline progressed, it became clear to human rights organisations and environmental groups that the project would support undemocratic regimes, increase regional conflicts and lead to both damage to human rights and the environment.

Amnesty International warned of the dangers from the start of the project. The agreement between BP and the Turkish government would lead to the displacement of 30,000 villagers and serious damage to the health and safety of the local population.¹²³

3.2.2.1. Protest impossible

Opponents and victims had little ability to protest against the BTC pipeline. The countries involved have a bad record on freedom of speech.

A few days before the opening of the pumping station in Baku, the **Azerbaijani** police prevented a peaceful demonstration, using the argument that this would not be appropriate with the presence of foreign guests at the event. Thirty members of the opposition were pre-emptively arrested, and twenty-five demonstrators were arrested during the demonstration, while security forces beat tens of others.¹²⁴ Azerbaijan is ruled by an authoritarian regime. The government of Aliyev was passed from father to son after elections that have been described as fraudulent.¹²⁵ The leaders of the opposition were charged with organising the protests, and the violence that followed. Aliyev promised in a speech at his investiture that he would strengthen the army and spoke in threatening language about a territorial conflict with Armenia.¹²⁶

A few weeks later a revolution broke out in neighbouring **Georgia**, widely seen as a reaction against the corrupt regime of Shevardnadze. Georgia also has a long way to go in the process of democratisation. The human rights organisation Human Rights Watch has reported that there is torture in prisons, which the government shows no signs of changing.¹²⁷ The country is also plagued by corruption and armed territorial conflict. However, people took to the streets in Georgia, in protest against the pipeline. By December 2003 there had already been 80 demonstrations and blockades along the route of the project, conducted by people in the affected areas, and by workers unhappy at the rates and conditions of pay.¹²⁸

In **Turkey** there is a population of 15 million Kurdish people who are denied fundamental human and cul-

tural rights. The pipeline crosses territory in the North East of Turkey, where Kurdish people make up 40 per cent of the population. In these areas, the Turkish state has committed serious breaches of human rights. There has been suppression of freedom of speech as well as the harassment and imprisonment of democratically elected Kurdish representative and members of official Kurdish political parties.¹²⁹

An international observation mission, who visited the Turkish part of the BTC project, reported guarding of the project by security agents in civilian clothes and uniformed police, as well as numerous arrests and intimidation by security forces. The members of the mission could not conduct interviews in a safe way, and spoke later of their concerns for the interviewees. One of the members of the mission declared: *"What our mission has experienced during the visit has given us a small indication of what the local population goes through on a daily basis. It makes the assertion from BP that there are no security issues on the Turkish part of the pipeline ridiculous. The clear lack of freedom of speech raises serious questions about the whole process of consultation."*¹³⁰ Further, there were strong concerns expressed about the fact that the Turkish Gendarmerie is responsible for the security of the pipeline. The agreement between BTC and the Turkish government has stipulated that the Turkish security forces will intervene in the case of 'civil war, sabotage, vandalism, blockade, revolution, uprising, civil unrest, terrorism, ... and other destructive incidents'.¹³¹ Nick Hildyard of The Corner House¹³² states that the *"vagueness of a term such as 'civil unrest' is disturbing in a region with such a bad reputation in respect of human rights."*

The Council of Europe passed a resolution in 2002 condemning the serious and constant human rights abuses conducted by Turkish security forces and named the Gendarmerie as one of the services in urgent need of reform.¹³³

3.2.2.2. Militarisation and increase in armed conflict

Apart from the fact that the countries involved in the BTC project are not models of respect for human rights, BP also risks being involved in an increase in armed conflicts that are present in the region.¹³⁴ The pipeline runs through or next to seven war zones. The pipeline passes close to Nagorno-Karabach, the part of Azerbaijan occupied by Armenia, where a bloody conflict has left at least 25,000 dead, and created up to 1 million refugees. It runs further through Georgia, which remains unstable with independence movements in Abchazia and South Ossetia. The conflict

over Chechenya is being conducted just across the Russian border. In Turkey, the pipeline runs through a region of conflict between the Turkish state and the Kurdish PKK. Against the background of these ongoing conflicts, Azerbaijan, Georgia and Turkey are militarising further. The Western powers that wish to secure their strategic oil reserves are giving military support to these states, which opponents claim is strengthening the undemocratic regimes.

There are also concerns about the widespread militarisation of the pipeline route, which would be a target for separatist movements.¹³⁵

3.2.2.3. Displacements

The pipeline runs through a very large area, much of which is used for agriculture. The hard living conditions and harsh winters of the Turkish part of the project limit the possibility for agricultural development and industrialisation. The welfare of much of the population is fragile, and many families struggle to keep their heads above water. This means that disruptions such as a loss of grazing land for cattle, the restriction of access to a spring, or the loss of a harvest through construction work on agricultural land can have disastrous consequences for the population. The physical and social impact of the BTC pipeline for those who are already in a marginal economic position is made even harder if the compensation for loss of land is low.

International observers have repeatedly stated that people living on the land lost to the construction of the pipeline have not received adequate compensation for these damages, and in some cases have not been compensated at all. The report of the observation mission mentioned above, which visited one of the affected areas, heard statements from villagers that they received 1 million Turkish Lire per square metre of ground. This sum is 'not even for a pack of the cheapest cigarettes'.¹³⁶ Landowners that wish to appeal against the dispossessions have often not got the resources to defend themselves legally, due to a lack of independent lawyers and a lack of financial means to pay for the procedure. Furthermore, resistance is met with intimidation and arrests. A member of a local Kurdish party who stood up for the interests of dispossessed landowners in his region was imprisoned and tortured.¹³⁷

In January 2004 an international group of representatives from non-governmental organisations collected statements from the villagers along the route of the pipeline. Their initiative resulted in a court case at the European Court of Human Rights, brought by 38 people who charged the BTC project with multiple

breaches of the European Convention on Human Rights.¹³⁸

3. 2. 3. The financiers of BTC

It is not only the BTC consortium and the initiator BP who have come under fire. The banks that have met the costs of the construction have also received criticism of their role in the project. From the planning phase, the potential financial backers have been informed of the risks of the BTC project. In October 2003 a number of organisations including Friends of the Earth, Kurdish Human Rights Project, PLATFORM and Netwerk Vlaanderen informed many banks of the dangers associated with the BTC pipeline. A number of these banks – including KBC, Dexia and ING – signed the Equator Principles. This voluntary code of conduct determines which social and ecological criteria the project must meet before it can be considered for funding. According to these organisations, the BTC project is in conflict with these principles.¹³⁹ Despite this fact, the banks did not respond to the call not to finance the project.

The total investment has been estimated at US\$4 billion. Seventy percent of the costs of the project have been covered by loans from public development banks, and commercial banks.¹⁴⁰ Alongside the World Bank, the European Bank for Reconstruction and Development (EBRD) and various export credit and insurance agencies (ECAs), commercial banks have also played a role in the financing of the project.

In February 2004 the project leader announced that 15 large commercial banks had agreed to give a loan. The leaders of the syndicate are ABN AMRO (The Netherlands), Citibank (US), Mizuho (Japan) and Société Générale (France). The other financiers include **KBC, Dexia and ING**, who have all signed up to the Equator Principles.¹⁴¹

The ink on the contract was not even completely dry before the BTC pipeline came under question again. This time, BP was accused of withholding crucial information in the search for financial backing. This was a report from an advisor on pipeline construction. He had been employed by BP to research the coating that would be used during the construction of the pipeline. This coating is a sort of paint that is used to protect the joints in the pipeline against corrosion, and is therefore crucial to the prevention of leaks. The opinion of the advisor left little to the imagination: he stated that in 41 years of experience he had seen many errors, but that this was practically

‘unique’. He stated that the use of this coating would lead to serious problems, including the potential for oil leaks with disastrous environmental consequences. The Sunday Times also published reports of fraud. The person responsible for the choice of the paint was also – via his consultancy bureau – a representative of the producer of the coating.¹⁴²

Under pressure from the ongoing criticisms of the BTC project, the Italian Banca Intesa, one of the financiers, has withdrawn from the bank syndicate. Greg Muttitt of PLATFORM, one of a coalition of human rights and environmental organisations that have been monitoring the BTC project for the last three years, said, *“This extraordinary move shows just how widespread concerns about the safety of BTC now are. When a major private backer pulls out of a project, it suggests that something is seriously wrong: the private sector doesn’t take financial losses on its investments without a very good reason.”*¹⁴³

KBC, Dexia and ING continue to support the BTC project.

A Belgian non-governmental organisation, Proyecto Gato, submitted a complaint in 2004 against the three Belgian banks, due to their breaches of the OECD guidelines for multinational companies.¹⁴⁴ These guidelines state that companies investing abroad must comply with a set of minimum standards regarding respect for people and the environment. Jan Capelle, spokesperson of Proyecto Gato states that Belgium, as a country that has signed these guidelines, has agreed to encourage banks operating in Belgium to comply with these guidelines.¹⁴⁵

Despite the protests against the involvement of Belgian banks in the BTC pipeline, they do not so far seem ready to withdraw from this project.

3.3. OTHER CONTROVERSIAL PROJECTS AND THEIR FINANCIERS

The BTC pipeline is only one of the many large-scale projects where questions have been raised about human rights abuses. Similar problems have arisen in other projects financed by banks. We provide a few examples.

3.3.1. The Trans Thai-Malaysia pipeline

The Malaysian and Thai oil companies Petronas (see also chapter 1) and PTT began a common project in 1999 to build a gas installation and associated pipeline by 2005. This pipeline was designed to bring gas from the Gulf of Thailand to land, where LPG would be separated from the gas and sold in Thailand. The rest of the gas would be transported to the Malaysian border to be distributed via the gas network.

The project has experienced delays due to resistance to the plans. The local population in the regions of Southern Thailand where the pipeline runs have protested from the start of the project. They claim that the pipeline threatens their way of life, destroys their sources of food, and threatens the food security of the country. The inhabitants are concerned about waste water, and the release of gas from the pipeline. Small-scale fishermen and songbird breeders are highly dependent on clean air and water.¹⁴⁶



During a protest against the TTM pipeline on 11th November 2003 the police beat Phoowis To-Lee

Many demonstrations and blockades have been stopped in a hard-handed manner by the Thai army and police forces, resulting in injuries and arrests. The demonstrators were confronted with serious legal charges. Hina Jilani, who visited the region in May 2003 as a UN human rights observer, criticised the harassment and intimidation of people who make use of their right to freedom of speech and the 'climate of fear' that has been created.¹⁴⁷ Since then, the situation has not improved. In November 2003 the number of police agents constantly guarding the project was increased to 400.¹⁴⁸

Despite the protests, the project has found financial support. Barclays (UK) is the leader of a project financing worth US\$524.3 million, beginning in April 2004. Barclays itself provided US\$257.1 million, while 13 other banks each contributed a smaller amount. **Fortis** provided US\$13.03 million, **ING** and **KBC** each US\$19.55 million. ING and KBC have signed the Equator Principles.¹⁴⁹

3.3.2. Sakhalin II

What?

The Sakhalin project consists of the development of two oil and gas fields that were discovered in the 1980s next to the Russian island of Sakhalin.

The project leaders speak of the presence of more than 1 billion barrels of crude oil and 500 billion m³ gas in this region.¹⁵⁰ The first oil was produced in 1999. Phase two (Sakhalin II) is now progressing at full speed. Two offshore gas platforms have been joined to the island by pipeline. The gas will be transported via a pipeline over land to a harbour in the south of the island, from where it will be transported to consumers.

Shell is the major shareholder in the Energy Investment Company that is conducting the second phase of the Sakhalin project. Other partners include Mitsui (see also chapter 1) and Mitsubishi, two large Japanese companies.

Sakhalin II is the largest direct foreign investment in Russia, a multi-billion dollar project, for which the initiators have gone in search of support on the international financial market. Publicly owned international banks such as the European Bank for Reconstruction and Development (EBRD), the U.S. Export Import Bank, and the Japanese Bank for International Cooperation all support the project. ABN AMRO and Cr dit Suisse function as advisers. These banks have received criticism as a result of their involvement in Sakhalin.

Problems

Sakhalin II is under fire due to the threat to the rare grey whale, and the damage to fish stocks, as well as the natural environment of the local population of the island.

Since the start of Sakhalin the indigenous people of the island have reported negative consequences of the project, including large numbers of fish dying in the



Local protest action against the Sakhalin project

area around the Shell drilling platform and a significant decrease in the area where waste is dumped into the water. They fear that the laying of the pipeline will cause further environmental damage. The pipeline of Sakhalin II is constructed across a holy burial site, and the noise of the construction has forced caribou herders to lead their animals out of traditional areas. A higher death rate amongst young caribou has also been reported. The herders claim that the disturbances caused by the pipeline are responsible.¹⁵¹ Fishermen report that in recent years the fish often taste or smell of oil. In the words of the fishermen 'chemicals', 'medicines', 'drugs' or 'rotting hay'. The fish must regularly be thrown away as it is impossible to eat them.¹⁵²

The groups affected by the project have attempted to bring improvements to the situation by writing letters and attending public meetings with the company and government officials. When they realised that these initiatives were not having the desired effects, they decided to take more direct forms of action.¹⁵³ They have used demonstrations and blockades to

show their dissatisfaction. *"As we continue our blockades and resistance to this devastating project on our land, we call on all financial institutions, especially those who have signed on to the Equator Principles, to reject this project,"* said Dmitry Lisitsyn of Sakhalin Environment Watch, a local environmental organization. *"The future of our land and our way of life is at risk and there is a clear opportunity here to invest in the long term health of communities and our environments rather than the short term profits generated from destructive oil projects."*

The financiers of Sakhalin

An international coalition of human rights and environmental organisations has called on the financial sector to stop support for this project. All potential financiers were approached. The bank group Crédit Suisse that was giving advice to the project has repeatedly received visits from activists.

In June 2005, 8 organisations placed a full-page advertisement in the Financial Times calling on Credit Suisse First Boston (CSFB) to realise its obligations regarding sustain-

ability, and to end its relationship with Sakhalin. The advertisement coincided with new demonstrations and blockades, and a week of solidarity actions in New York, London and Moscow. The general meeting of Shell in London and the offices of Crédit Suisse in Moscow were confronted with direct action.

"Sakhalin II is an environmental time bomb," said Ilyse Hogue, director of the Global Finance Campaign at Rainforest Action Network. *"This type of radical resource extraction is exactly the type of project that the Equator Principles were designed to prevent. The Shell-led cartel is exhibiting a reckless disregard of the precautionary principle in this clear-cut case of business choosing oil over life. Credit Suisse First Boston and all other Equator Banks have no other ethical choice but to completely withdraw support and assistance for Sakhalin II."*¹⁵⁵

Immediately after Shell's announcement that the Sakhalin II project would cost \$US20 billion, twice the original estimate, all banks were once again requested to refuse to finance the project.¹⁵⁶ This was the third time that the 25 potential financial supporters were

made aware of the social and environmental consequences of Sakhalin II.

Until now, no bank has formally distanced itself from this controversial project. According to the publication Project Finance International, 8 banks are possible leaders of the bank syndicate for Sakhalin II: Bank of Tokyo Mitsubishi, Mizuho, SMBC (Japan), ABN AMRO and **ING** (Netherlands), Hypovereinsbank and West LB (Germany), Royal Bank of Scotland.

possessions, the destruction of sources of income, and violence and repression.

3.4. CONCLUSIONS

Four of the researched banks (DEXIA, Fortis, ING and KBC) are involved in the financing of one or more of controversial projects mentioned above.

Table 15: Involvement in the financing of controversial projects

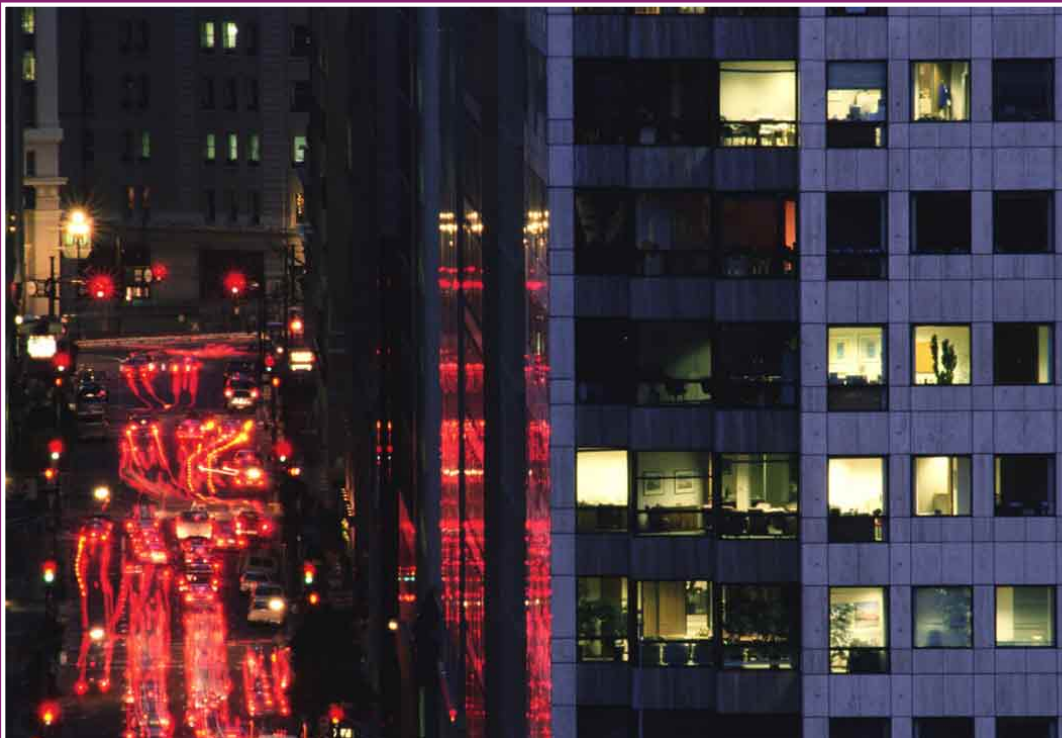
	AXA	Dexia	Fortis	ING	KBC
BTC pipeline		X		X	X
Trans Thai-Malaysia pipeline			X	X	X
Sakhalin II				X? ^o	

^o In October 2005 the financiers of Sakhalin II were not yet known. ING is on a short-list of 8 banks that will soon provide the 4 banks that will lead the investment via a bank syndicate.

It appears that the above-mentioned banks have little problem in financing large-scale projects that trample on the human rights of the local population. Even banks that have signed the Equator Principles, including KBC, ING and Dexia, continue to pump money into these projects.

The calls from local people and human rights organisations not to support certain projects, or at least to have a positive influence on them, fall on deaf ears. However, project financing offers bank groups the chance to make a difference. If they do not want to lose face with their customers, they have to take care that the strictest ethical criteria are applied. They can make their promises concrete by refusing to support certain projects. Even if they choose to finance a project, despite the criticism, they can use their power as a financial backer to ensure that the affected population gain some benefit from the project. The long lasting link with the company involved, and the dependence on the future income, means that the banks cannot afford to take risks with the project, and must follow the development closely. In this way the banks can act to prevent forced relocations and dis-

CHAPTER 4:



Your bank and its investments in human rights abuses: five portraits and a group photo

4.1. INTRODUCTION

If you are a client who wants to know if human rights are respected in the policy of your bank, it is difficult to get a clear answer from their website. Some more research is necessary for people wanting clarity.

In the previous chapters we showed some of the results of our research into the financial links between the five largest bank groups in Belgium, and some companies involved in human rights violations. You can already see that there are unsettling results. All five banks invest in companies involved in human rights abuses.

In this chapter, we outline the policy of each of the banks. Netwerk Vlaanderen went in search of this information in the annual reports, sustainability reports, and ethical codes of AXA, Fortis, KBC, Dexia and ING. These bank groups also received a questionnaire in which they were asked to explain how their investment policy takes account of human rights. This chapter gives a sketch of their (lack of) policy, and places this alongside the investments that have been revealed in the previous chapters.

After the review of each individual bank, we show a "group photo", of the financial sector. The bank groups that we have researched account for more than 80% of the Belgian market.

4.2. AXA



4.2.1. Short introduction

AXA¹⁵⁷ is a bank and insurance group that is active around the world. In 2004 they had a turnover of euro 72.2 billion, managed euro 869 billion, and realised an operational result for the year of euro 2.7 billion.¹⁵⁸

4.2.2. Human rights in the general policy of AXA

In February 2003, AXA signed the Global Compact¹⁵⁹ principles of the United Nations. The annual report of AXA for 2004¹⁶⁰ stated that the signatories of the Global Compact are obliged to support universal principles related to work, human rights, environment and corruption.

The sustainability report states that: *"AXA has set up a Sustainable Development Department. This department is responsible for the development of a policy, and the coordination of the implementation. In developing this policy, human rights experts were consulted."*¹⁶¹ We also read that the management of AXA has commissioned an external audit of the sustainability policy, and the related practices of AXA. Human rights were one of the issues that were investigated.¹⁶² It is unclear if these initiatives have any impact on the investment policy.

4.2.3. Human rights in the investment policy of AXA

Are human rights violations excluded?

AXA does not state explicitly that the investment in companies involved in violations of human rights is against its business principles. They do not state that discovering serious violations of human rights is a reason to end or decrease an investment relationship.

Are human rights taken into account?

Credit

Regarding credit, AXA informs us that every offer of credit is subject to ethical rules and the rule of law. Furthermore, care must be taken that the aim of the credit is not to avoid legal obligations. According to AXA, this ensures respect for social legislation and human rights.¹⁶³

Investments and insurance

AXA has not shown in any clear way that the selection of investments, or the reinvestment of insurance reserves, pays particular attention to human rights violations.

AXA IM is rather explicit. They state: *"AXA IM does not integrate human rights criteria into the criteria that are used to select effects"*.¹⁶⁴ If you wish to ensure that human rights are taken into account, you are pointed towards the sustainable investment products of AXA.

Engagement¹⁶⁵

AXA states that they wish to be a responsible shareholder in the use of their voting rights. In their written answer to Netwerk Vlaanderen, they state that voting is an efficient way to sanction companies that do not respect the ten basic principles of the Global Compact¹⁶⁶.

It is strange that on the website¹⁶⁷ that explains their voting policy, no mention is made of human rights or the Global Compact. It focuses instead on issues related to corporate governance: the presence of independent directors, executive salaries, and problems with takeovers. From the available information related to votes that have been cast, it is not possible to see if AXA has ever voted out of concern for human rights. Let alone that it would be possible to see which firm and which issues this related to.

4.2.4. The investments of AXA

**Table 16: Investments of AXA
in companies that violate human rights¹⁶⁸**

	Number of shares	Value of the shares in US dollars	% of shares company
Dictatorial regimes (Birma)			
		1,202.290,725	
Total	4,966,019	1,100,671,093	0.78%
Nippon Oil	1,673,275	11,054,250	0.11%
Mitsui	8,601,220	77,809,202	0.54%
Petronas	972,000	1,069,200	0.10%°
DLH	11,400	1,049,680	0.66%
Marubeni	3,323,000	10,637,300	0.22%
Violations of workers' rights			
		4,695,180.816	
Wal Mart	18,500,638	873,785,133	0.44%
Flextronics	173,601,615	2,218,628,640	30.49%
Solectron	280,641,829	1,024,342,676	28.87%
Sanmina Sci	100,514,234	512,622,593	19.13%
Jabil	353,125	10,321,844	0.17%
Celestica	4,333,713	54,665,980	2.31%
Pou Chen	62,000	50,812	0.00%
Yue Yuen	263,000	763,138	0.02%
TOTAL AMOUNT		5,897,471,541	

AXA invests in all companies in the report, for a combined total of almost US\$5.9 billion. It is noticeable that AXA has particularly large interests in some companies: 30.49% in Flextronics, 28.87% in Solectron and 19.13% in Sanmina Sci. The investment of more than US\$1 billion in Total is also noteworthy.

AXA is not involved in directly financing any of the large controversial infrastructure projects dealt with in this report.

4.2.5. Conclusion

AXA provides insufficient guarantees that your money is not invested in human rights violations. That is evident both from the absence of a coherent policy, and from the investments in controversial companies.

4.3. DEXIA



4.3.1. Short introduction

Dexia¹⁶⁹ is an important player in 'Public & Project Finance' and financial service provision for local government. Mergers with Artesia and Bacob have put the bank in a stronger position as a provider of financial services for individuals, and in insurance, financial markets, and social profit. The Dexia group works with a balance total of euro 389 billion, and realised an annual profit of euro 1.8 billion in 2004¹⁷⁰.

4.3.2. Human rights in the general policy of Dexia

The sustainability report announces the signature of the Global Compact Principles¹⁷¹.

We have not been able to find any further mention of human rights playing a part in their financial policy, in either the annual report or the sustainability report.

The closest comes from the following statement, made by a director, in the foreword to the sustainability report 2004: *"Together with our European dimension, our long term thinking, and our attachment to humanist values, sustainable development is part of the common values on which our identity is built."*¹⁷²

4.3.3. Human rights in the investment policy of Dexia

Are human rights abuses excluded?

Dexia does not state explicitly that the investment in companies involved in violations of human rights is against its business principles. They do not state that discovering serious violations of human rights is a reason to end or decrease an investment relationship.

Dexia has established an initiative, called Portfolio21, that offers insurance companies the opportunity avoid investing their insurance reserves in companies and governments that are involved in serious violations of workers' rights. The reserves of the companies that are linked to Portfolio21 are not

invested in companies that are involved in serious breaches of the fundamental workers' rights, or in governments that have not ratified the agreements relating to workers' rights. A large proportion of the insurance companies within the Dexia group have chosen this way of working.

Buying insurance from a company that participates in the Portfolio21 system guarantees that the insurance reserves are not invested in companies involved in serious breaches of fundamental workers' rights, or in governments that have not ratified the agreements relating to workers' rights.

Are human rights taken into account?

Credit

The annual report, the sustainability report and the answers to the questions posed by Netwerk Vlaanderen all fail to explain whether, or in which ways, the general credit policy of Dexia takes account of human rights.

Project financing

Dexia has signed the Equator Principles.^{173 174}

Investment

Dexia does not indicate whether the normal investments that they offer, or the investment funds that they manage, or the investments they make for their own portfolio take account of human rights.

Those customers who wish this are referred to the sustainable investment products of Dexia.

Engagement

Dexia exercises the voting rights for the funds that it manages. This is done on the basis of a number of principles. Respect for human rights in the companies financed by these funds is not a point of attention.¹⁷⁵

4.3.4. The investments of Dexia

Table 17: Investments of Dexia in companies that violate human rights¹⁷⁶

	Number of shares	Value of the shares in US dollars	% of shares company
Dictatorial regimes (Burma)		263,190,614	
Total	1,165,429	258,303,089	0.18%
Nippon Oil	274,000	1,810,142	0.02%
Mitsui	274,000	2,478,775	0.02%
Petronas	0	0	-
DLH	0	0	-
Marubeni	187,000	598,608	0.00%
Violations of workers' rights		46.552,657	
Wal Mart	872,740	41,206,758	0.00%
Flextronics	310,109	3,963,193	0.05%
Solectron	70,302	256,602	0.01%
Sanmina Sci	72,302	368,740	0.01%
Jabil	11,397	333,134	0.01%
Celestica	17,529	221,113	0.00%
Pou Chen	0	0	-
Yue Yuen	70,000	203,117	0.00%
TOTAL AMOUNT		309,743.271	

Dexia invests in 11 of the 14 companies in the report, with a combined total of almost US\$310 million.

Dexia is also a financial backer of the highly controversial BTC pipeline. The value of the financing is unknown.

4.3.5. Conclusion

Dexia provides insufficient guarantees that your money is not invested in human rights violations. That is evident both from the absence of a coherent policy, and from the investments in controversial companies. Also the increased explanation of the policy gives incomplete guarantees. Dexia is not completely indifferent to the issue. That can be seen by the establishment of the Portfolio 21 initiative, and the signature of the Equator Principles. These signatures have not, however, prevented Dexia from financing the BTC pipeline.

4.4. FORTIS



4.4.1. Short introduction

Fortis¹⁷⁷ is a worldwide provider of banking and insurance services. It has individual, business and institutional clients. With a market capitalisation of euro 26.5 billion and a balance total of euro 571 billion, Fortis is one of the 20 largest financial institutions in Europe. Fortis employs 51,000 people worldwide.¹⁷⁸ They made an annual profit in 2004 of euro 3.3 billion¹⁷⁹.

4.4.2. Human rights in the general policy of Fortis

The Governance Statement of Fortis includes the following rule of conduct: *"We are of the opinion that respect for human rights, as described in the Universal Declaration of Human Rights of the United Nations of 1948, is a condition to maintaining a sustainable society. We apply the relevant human rights principles in our relationships with employees and we acknowledge our responsibility to foster the application of human rights whenever we, as a private enterprise, are in the position to make a meaningful contribution to this cause".*

The sustainability report of 2004 dealing with developments outside Benelux clarifies that Fortis applies this principle wherever it operates.¹⁸⁰

Fortis states that it has also sought advice on various human rights issues with specialist NGOs, that they discuss human rights issues with other companies, and that the theme of human rights is expressly addressed on their intranet site dealing with Corporate Sustainability.¹⁸¹

4.4.3. Human rights in the investment policy of Fortis

Are human rights violations excluded?

Fortis does not state explicitly that the investment in companies involved in violations of human rights is against its business principles. They do not state that discovering serious violations of human rights is a reason to end or decrease an investment relationship.

Are human rights taken into account?

General credit

The sustainability report of Fortis states that: *"in 2005 and 2006 a general credit policy on sustainability will be implemented and that connection will be made to international standards"*.¹⁸²

Fortis also states that their 'Global Credit Policy on Sustainability' deals with several dimensions of human rights. Fortis does not disclose exactly which dimensions they are referring to.

Project finance

Export and project finance are not incidental activities. Fortis has a special department, Global Export & Project Finance, which is active around the world. Fortis has not signed the Equator Principles, a code of conduct for project finance that the financial sector has drawn up.

Fortis takes its own path here. Whenever Fortis is dealing with export or project finance, they state that they only invest in projects that are economically meaningful, that comply with international environmental standards, and make a socio-economic contribution. Fortis states explicitly that although the balance between these factors may be criticised by environmental organisation in some projects, this would not automatically exclude the project from financing.¹⁸⁴

Investment for own portfolio and insurance

Fortis does not describe how human rights are considered in relation to these products.

Investment

Fortis does not only take human rights into account in its sustainable products.

Fortis Investments, the portfolio manager for Fortis, has introduced systematic sustainability indicators in the management process¹⁸⁵. The following human rights factors are included: supervision of the social policy of the suppliers, cooperation with authoritarian

regimes, procedures if human rights are not respected, control systems and external verification in relation to human rights.¹⁸⁶

Fortis Investments states that these risks are quantified, and a decision is made if they are fully incorporated into the market value of the shares. Fortis has chosen these factors they believe that can have an impact on the price of shares in the medium term. We assume that other human rights related factors, which Fortis does not believe will influence the price of shares, are not taken into account. The importance given to these issues is related to the impact on returns. The seriousness of the (potential) human rights abuses will not be the determining factor, but rather the impact that this might have on the returns offered by the shares.

Engagement

Fortis Investments exercise voting rights at the shareholders meetings of the companies in which it invests. Their sustainability report states that they use this voting right for reasons including the approval or rejection of reporting on questions relating to sustainability. Attention is paid to reporting on issues such as the environment, human resources and external social policy.¹⁸⁷

Approaching the issue of human rights only by paying attention to 'reporting' is not a very substantial approach. Hopefully there is more. But we will only be made aware of this if Fortis fulfils its promises. The Fortis Governance Statement states: *"Until now, Fortis Investments has not systematically published its voting records, but is preparing to do so in the near future."*¹⁸⁸

Country policies

Fortis claims that it considers certain 'issues' related to human rights in each of the countries that it operates¹⁸⁹. Without clarifying exactly what it means by this, it states that they make use of *"internationally recognised standards and indexes"*¹⁹⁰

4.4.4. The investments

Table 18: Investments of Fortis in companies that violate human rights¹⁹¹

	Number of shares	Value of the shares in US dollars	% of shares company
Dictatorial regimes (Burma)			
Total	896,414	198,679,203	0.14%
Nippon Oil	0	0	-
Mitsui	969,930	8,774,593	0.06%
Petronas	0	0	-
DLH	0	0	-
Marubeni	0	0	-
Violations of workers' rights			
Wal Mart	564,345	26,654,014	0.00%
Flextronics	0	0	-
Solectron	409,884	1,496,077	0.04%
Sanmina Sci	6,360	32,436	0.00%
Jabil	4,479	130,921	0.00%
Celestica	0	0	-
Pou Chen	0	0	-
Yue Yuen	224,200	650,553	0.01%
TOTAL AMOUNT		236,387,797	

Fortis invests in 7 of the 14 companies that are featured in this report, for a combined value of more than US\$235 million.

Fortis has given US\$13.03 million in financial backing to the very controversial Trans Thai-Malaysia pipeline.

In January 2005 Fortis led a share issue of Total worth euro 56 million.

4.4.5. Conclusion

In the explanation of their policy, Fortis explains that they are integrating human rights issues into both their credit and investment policies. First steps, but not enough. The policy does not guarantee that investments in companies involved in human rights violations are excluded, and that can also be seen from the investments in controversial companies.

4.5. ING



4.5.1. Short introduction

ING¹⁹² is a financial service provider active around the world, with its origins in the Netherlands. It employs 113,000 people in more than 50 countries. It provides credit, insurance, portfolio management, and other services for individuals, companies and governments. In terms of market value, it is amongst the top 20 largest financial institutions in the world and amongst the top 10 in Europe.¹⁹³ Its balance total is euro 866 billion. ING made an annual profit of euro 5.9 billion in 2004.¹⁹⁴

4.5.2. Human rights in the general policy of ING

In general terms, the ING Business Principles state: *"In doing business, we accept our responsibility for the sustainable development of society. The conditions we set for our core activities are first of all economic. While respecting the wishes of our clients, we also take into account a range of social, ethical and environmental considerations"*.¹⁹⁵

In the Corporate Responsibility Report of ING, 'ING in the community', we read: *"We have a responsibility to conduct our corporate activities in a way that is socially and environmentally sustainable"*.¹⁹⁶

ING expanded its Business Principles in 2004 with a concrete definition of human rights. Under the heading 'We promote sustainable development and respect human rights' can be found *"ING supports the aims of the United Nations Universal Declaration of Human Rights and endeavours to apply its principles throughout its operations worldwide."*¹⁹⁸

4.5.3. Human rights in the investment policy of ING

Are violations of human rights excluded?

ING does not state explicitly that the investment in companies involved in violations of human rights is against its business principles. They do not state that discovering serious violations of human rights is a reason to end or decrease an investment relationship.

Are human rights taken into account?

Credit

ING states that it has developed a separate policy for granting credit to companies that are involved in business that is not in agreement with ING's social, ethical and environmental standards. This policy also deals with human rights.¹⁹⁹ The actual content of the policy is not clarified. In its response to Netwerk Vlaanderen, ING limited itself to procedural clarification.²⁰⁰

Project finance

In June 2003 ING signed up to Equator Principles. The corporate responsibility report states that by adopting these principles, ING has committed itself to take account of certain social and environmental factors in project finance transactions.²⁰¹

Investments and insurance

ING does not indicate whether the normal investments that they offer, or the investment funds that they manage, or the investments they make for their own portfolio take account of human rights.²⁰²

ING does offer sustainable investment products.

It is worth mentioning that ING has taken the initiative to inform its customers of a human rights issue. A Chinese company that ING customers had invested in, came under scrutiny for human rights violations.²⁰³

Engagement

ING's 'Global Voting Policy' states that companies in its portfolio have to act responsibly to all stakeholders. This implies that they must take social and human rights issues into account in the areas in which they operate. ING states that it has used its voting rights, in the interests of the long term returns for customers, to ensure that this is the case. We received no concrete information regarding this.

4.5.4. The investments of ING

Table 19: Investments of ING in companies that violate human rights²⁰⁴

	Number of shares	Value of the shares in US dollars	% of shares company
Dictatorial regimes (Burma)		632,402,000	
Total	2,892,216	616,331,230	0.46%
Nippon Oil	1,822,000	12,036,780	0.12%
Mitsui	424,000	3,835,769	0.03%
Petronas	17,000	31,763	0.00%
DLH	0	0	-
Marubeni	52,000	166,458	0.00%
Violations of workers' rights		704,179,196	
Wal Mart	14,096,764	665,790,164	0.33%
Flextronics	8,200	104,796	0.00%
Solectron	1,543,336	5,633,176	0.16%
Sanmina Sci	1,262,929	6,440,938	0.24%
Jabil	829,057	24,233,336	0.41%
Celestica	82,800	1,044,449	0.04%
Pou Chen	50,669	41,526	0.00%
Yue Yuen	307,000	890,811	0.02%
TOTAL AMOUNT		1,336,581,196	

ING invests in 13 of the 14 companies mentioned in this report, with a combined value of more than US\$1.3 billion. The investments of more than US\$600 million in both Total and Wal-Mart are striking.

ING has financed very controversial pipelines: the BTC pipeline and the Trans Thai-Malaysia pipeline. The first amount is unknown, the second is worth US\$19.55 million.

ING is also on the short list of banks that could become the 'lead arranger' for the financing of the Sakhalin II project.

4.5.5. Conclusion

In the explanation of their policy, ING states that they are integrating human rights issues into their credit and investment policy. First steps, but not enough. The policy does not guarantee that investments in companies involved in human rights violations are excluded, and that can also be seen from the investments in controversial companies mentioned in this report. The signature of the Equator Principles by ING has not stopped them being involved in financing both the BTC pipeline and the Trans Thai-Malaysia pipeline.

4.6. KBC

4.6.1. Short introduction



KBC²⁰⁵ is a bank insurance company used primarily by individuals and small businesses. KBC is mainly active in Belgium and Central Europe. KBC employs 46,500 employees around the world²⁰⁶. With a market capitalisation of euro 17.6 billion and a balance total of euro 250 billion it is certainly not a small player in the European market.²⁰⁷ In 2004 the company made a profit of euro 1.8 billion.²⁰⁸

4.6.2. Human rights in the general policy of KBC

The annual report 2004 includes no specific reference to human rights.

The policy statement, guide to conduct of the KBC group, and KBC's Principles for Socially Responsible Business, contain no specific references to human rights. KBC did not have, at the time of writing,²⁰⁹ a sustainability report.

The following statements from the annual report chapter on 'socially responsible business and human resources' perhaps come the closest. *"KBC aims to contribute to the economic and social advancement of the communities it serves. Accordingly it conducts its activities in compliance with both the spirit and letter of the prevailing laws and regulations. It also takes account of changing societal norms, norms which usually foreshadow subsequent legislation."*²¹⁰ It goes on to state that KBC takes account of social, economic, ecological and cultural effects of its business in the short and long term, and that this principle is ensured by various guidelines and codes of conduct.²¹¹

4.6.3. Human rights in the investment policy of KBC

Are violations of human rights excluded?

Yes, in credit

KBC only finances transactions where it is reason-

ably understood that normal ethical, legal and fiscal standards are respected. Criminal and other socially unacceptable activities are excluded.²¹² In fact, this does not say a lot. The clarification given to Netwerk Vlaanderen is therefore substantial. In their written response, they state: *"We offer no credit to clients which we know do not respect human rights". "This policy applies not only to companies, but also governments"*.²¹³

Are human rights taken into account?

Project finance

KBC has signed the Equator Principles. KBC states also that credit dossiers that do not fall under the Equator Principles must meet the same standards. This means that all of the credit given by the company must meet these standards.

Investment - insurance

KBC does not indicate whether the normal investments that they offer, or the investment funds that they manage, or the investments they make for their own portfolio take account of human rights.

KBC does offer sustainable investment products.

Engagement

KBC will decide shortly how it will make use of its voting rights.

4.6.4. The investments of KBC

Table 20: Investments of KBC in companies that violate human rights ²¹⁵

	Number of shares	Value of the shares in US dollars	% of shares company
Dictatorial regimes (Burma)		221,756,302	
Total	971,300	215,276,769	0.15%
Nippon Oil	691,650	4,569,286	0.05%
Mitsui	137,000	1,239,388	0.01%
Petronas	107,200	200,295	0.15%
DLH	0	0	-
Marubeni	147,000	470,564	0.00%
Violations of workers' rights		43,037,033	
Wal Mart	782,203	36,943,448	0.00%
Flextronics	327,617	4,186,945	0.06%
Solectron	37,757	137,813	0.00%
Sanmina Sci	48,326	246,463	0.01%
Jabil	20,645	603,453	0.01%
Celestica	15,820	199,555	0.00%
Pou Chen	219,200	179,646	0.01%
Yue Yuen	186,000	539,710	0.01%
TOTAL AMOUNT		264,793,335	

KBC invests in 13 of the 14 companies mentioned in the report, with a combined total of US\$265 million.

KBC is also a financial backer of two very controversial pipelines: the BTC pipeline and the Trans Thai-Malaysia pipeline. The first amount is not known, the second is worth US\$19.55 million.

4.6.5. Conclusion

In the explanation of their policy KBC states that, as far as they know, they offer no credit to customers that do not respect human rights. An important step, but not enough. The policy does not guarantee that all investments in companies involved in human rights violations are excluded, as can be seen from their investments in the controversial companies named in this report. The fact that KBC has signed the Equator Principles has not prevented them from being involved in financing controversial projects such as the BTC pipeline and the Trans Thai-Malaysia pipeline.

4.7. THE GROUP PHOTO

4.7.1. Human rights present in the general policies of the big banks

More and more attention is being paid to creating an image of a 'socially responsible company'. At first sight it is a good thing that financial institutions want to differentiate themselves from the competition in this way, and acknowledge their responsibilities. It must be about more than image, of course. Looking only to the general policy of the banks, you could believe that there was no problem here. Each of the bank groups writes that they wish to contribute to the advancement of human rights. But if you conclude that your bank is not making investments in serious violations of human rights, you would be sadly mistaken.

The researched banks are only making their first steps. There is still a lot to be worried about.

4.7.2. Human rights in the investment policies

Serious involvement in human rights violations is not excluded

None of the bank groups state explicitly that the bank group excludes investments in companies involved in human rights violations. They offer no guarantee that your money is not invested in:

- ▶ companies that exploit child labour, or breach other basic workers' rights;
- ▶ companies that cooperate with dictatorships;
- ▶ projects which force people from their lawfully owned land.

KBC is the only one to explicitly rule out financing human rights violations. But this only applies for credit. And only in cases of which the bank is aware. It is also worth pointing out that it is KBC that has the least bombastic references to human rights in its general policy.

The Portfolio21 initiative of Dexia ensures that many of the insurance reserves of the Dexia group are not invested in companies or countries that abuse the basic rights of workers.

As a client, if you want a guarantee that none of your bank group's products involve investments in serious violations of human rights, you should stay away from these banks.

Are human rights taken into account?

If human rights violations do not lead to the exclusion of finance (in just about all circumstances) maybe they are taken into account, along with other criteria, in decision taken by the bank on where to invest and where to offer credit?

We suggest that the banks are making their first steps in this direction. Certainly not sufficient to remove the concern. An overview:

In the credit policy

Alongside KBC, only ING and Fortis give explicit statements that they take account of human rights in offering credit. This is done in very summary fashion, and we are not really much clearer about what this means in practice.²¹⁵

Attention to human rights almost absent from investments

AXA, Dexia, Fortis, KBC and ING apply no human rights criteria in the selection of companies in which they will invest. Each of the companies points to sustainable investment products, or their tailor made services for large customers. If you want to purchase a normal investment or insurance product you receive no guarantee that your money is not used to finance companies or governments that are involved in serious breaches of human rights. Even in violations that have been given particular attention.

There are two exceptions to this. The Fortis Group is the only group that integrates human rights issues in a part²¹⁶ of its standard share portfolios. But what this means in practice if a decision must be taken on investment remains unclear.

Dexia has, via Portfolio21, special attention for workers' rights.

Project Finance

Dexia, ING and KBC have signed up to the Equator Principles. This is a code of conduct drawn up by the financial sector to govern the financing of big projects. The signatories agree to, amongst other things, take account of human rights situations in the awarding of finance. A step forwards, but insufficient. The Equator

Principles seem to be a perfect cover to allow continued investments in controversial projects. We find the signatories are financing many projects that are cause for concern (see chapter 3). The root of the problem could be the fact that these principles are derived from the relatively weak guidelines of the IFC²¹⁷ and not, for example, from the UN Norms for Business (see chapter 5). BankTrack states that the IFC guidelines are weak on the issue of human rights, and do not provide a good basis for the banks on this issue²¹⁸. The code of conduct is still new and can evolve. There is a lot of work to be done.

4.7.3. Engagement: taken seriously, or just an alibi?

All researched banks, with the exception of KBC, state that they make use of their voting right. Do human rights issues play a role here? Hardly.

Fortis claims to pay attention to the reporting in relation to the external social policy (which would include a number of human rights issues). Dexia states that engagement in relation to human rights issues only plays a role for its sustainable products.

AXA and ING state explicitly that human rights issues can play a role in voting behaviour. But they don't give any concrete examples.

It is obviously a good thing that financial institutions want to make more use of their voting rights to raise social issues. But, it is important not to raise expectations too high, and a bit of realism is needed. The actual practice shows that human rights issues are not a 'hot item' in the exercising of voting rights. Furthermore, it takes a specific knowledge of the issues and extra dialogue, in order for the voting pattern to have an impact on the policy of a company. The time that is necessary is not often available. And even if time and resources are made available, there is no guarantee of success. Financial institutions have power, but they are not omnipotent.

In the case of serious human rights violations it is irresponsible to use an investment to maintain the current situation unless there are sufficient indications that 'engagement' can make a substantial contribution to the solution.

Engagement is an extra instrument that can be used in the development of a sound investment policy.

Engagement cannot be used to replace a critical evaluation of the human rights situation in respect of a certain investment decision. In this case, engagement is nothing more than an alibi to make the continued investment of money in human rights violations socially acceptable.

Statements such as that from AXA, "*we choose dialogue in place of exclusion*", sound beautiful. But under closer scrutiny, this seems to be an alibi to continue making money from investing in shady practices. AXA does not say that companies are excluded from investment on the basis of human rights issues.

4.7.4. A lack of transparency

A lack of clarity around the policy and implementation.

The information provided by the banks is not tailored to the customer. No bank group gives a coordinated overview on their website or in any public document of how they deal with human rights in their investment policies. This information is spread across annual reports, sustainability reports, codes, and so on. Furthermore, it is incomplete, and can often give the wrong impression. For example, if you read so much about human rights in the general principles, you would be surprised to see so little attention to the issue in the actual investment policy.

We have also asked the financial institutions to explain their policy in writing. All of the large banks that we approached have replied. And it must be said: the answers were clearly prepared with the necessary attention. We received more information than the average customer.

Nevertheless, we have to note that the answers were insufficient. Referring to 'ethical codes' which are not explained or made concrete does not say anything. Answers such as "*our global credit policy on sustainability deals with many dimensions of human rights*" or "*we have a separate credit policy for companies that are involved in business that is not in accordance with our norms (including human rights)*" leave us little the wiser.

This kind of answer gives no clarity to pertinent questions such as 'will my savings or investment

money be invested in:

- ▶ companies that exploit children or violate other (fundamental) workers' rights?
- ▶ companies that strengthen oppressive regimes? Regimes that use forced labour?
- ▶ large-scale projects that lead to forced relocation, that neglect the right to consultation for the local population, ... and other abuses of the human rights of local indigenous populations?

The investments sit in a black box

With the exception of investment funds, financial institutions do not make public which companies and governments they invest in.

The financial links revealed in this dossier requires research work. However, it is the concrete investments that make clear what the actual result is of following a certain policy.

Voting pattern unknown

Bank groups that make use of their voting rights within companies do not make it sufficiently clear how they have used this in support of human rights. Concrete details are lacking.

4.7.5. The investments

Table 21 : Investments of five bank groups in companies that abuse human rights (value of the shares in US\$) ²¹⁹

	AXA	Dexia	Fortis	ING	KBC
Dictatorial regimes (Burma)	1,202,290,725	263,190,614	207,453,796	632,402,000	221,756,302
Total	1,100,671,093	258,303,089	198,679,203	616,331,230	215,276,769
Nippon Oil	11,054,250	1,810,142	0	12,036,780	4,569,286
Mitsui	77,809,202	2,478,775	8,774,593	3,835,769	1,239,388
Petronas	1,069,200	0	0	31,763	200,295
DLH	1,049,680	0	0	0	0
Marubeni	10,637,300	598,608	0	166,458	470,564
Violations of workers' rights	4,695,180,816	46,552,657	28,934,001	704,179,196	43,037,033
Wal Mart	873,785,133	41,206,758	26,654,014	665,790,164	36,943,448
Flextronics	2,218,628,640	3,963,193	0	104,796	4,186,945
Solectron	1,024,342,676	256,602	1,496,077	5,633,176	137,813
Sanmina Sci	512,622,593	368,740	32,436	6,440,938	246,463
Jabil	10,321,844	333,134	130,921	24,233,336	603,453
Celestica	54,665,980	221,113	0	1,044,449	199,555
Pou Chen	50,812	0	0	41,526	179,646
Yue Yuen	763,138	203,117	650,553	890,811	539,710
TOTAL AMOUNT	5,897,471,541	309,743,271	236,387,797	1,336,581,196	264,793,335

All bank groups invest a combined total of US\$8 billion in companies that are involved in highly controversial human rights practices.

Four of the bank groups are involved in financing one or more of the controversial projects discussed above.

Table 22: Involvement of five bank groups in the financing of controversial projects

	AXA	Dexia	Fortis	ING	KBC
BTC pipeline		X		X	X
Trans Thai-Malaysia pipeline			X	X	X
Sakhalin II				X? ^o	

^o In October 2005 the financiers of Sakhalin II were not yet known. ING is on a short-list of 8 banks that will soon provide the 4 banks that will lead the investment via a bank syndicate

4.7.6. The group photo: summary

Table 23: The group photo

	AXA	Dexia	Fortis	ING	KBC
Human rights in general policy					
Signature of Compact Principles present in other documents	+	+	+	+	+/-
Policy includes reference to UN Human Rights Norms for Business or to economic, social, cultural, civil and political rights	-	-	-	-	-
Human rights in the investment policy					
Financing of human rights violations excluded					
• From credit	-	-	-	-	+
• From insurance and investment (b)	-	(a)	-	-	-
Special attention to human rights					
• Credit	-	-	+/-	+/-	+/-
• Project finance					
- signatory of Equator Principles	-	+	-	+	+
- other points of attention	-	-	+/-	-	-
• Investment and/or insurance (b)	-	(a)	+/-	-	-
Engagement (with attention for human rights) (b)	+/-	-	+/-	+/-	-
Concrete investment in human rights violations					
• Companies active in Burma	YES	YES	YES	YES	YES
• Violations of workers' rights	YES	YES	YES	YES	YES
• Controversial project finance	No	YES	YES	YES	YES
Transparency					
• Clear investment policy with respect to human rights on website	-	-	-	-	-
• Investments made public	-	-	-	-	-

(a) excluded from a part of insurance, and only in relation to breaches of fundamental workers' rights

(b) this deals with the normal insurance and investment products, not the sustainable or ethical.

+/- present, but unclear what this means in practice.

This report makes clear that there are still gaps in the policy: minimum standards are lacking, there is too little clarity for the customer, special attention for human rights is lacking from many investment practices.

The failures of the policy are shown in the concrete investments that we have identified. These investments make clear that the financial return for the client of the bank group is based on investments in compa-

nies involved in serious violations of human rights.

Enough reason to be concerned. But these shortcomings and holes are also opportunities. There is a chance for financial institutions to differentiate themselves from the competition, and to take their responsibility. And it goes without saying that we will pay attention to whether the banks have taken this opportunity in our follow-up reports.

CHAPTER 5:



Another course is necessary

The previous chapters make it clear that change is necessary. Thankfully, Netwerk Vlaanderen is not alone in this wish. In this chapter, we illustrate this by using a number of examples. We show positive signals from the financial sector, and from the saver and investor. And we also indicate that authoritative organisations such as the United Nations also want companies to take more responsibility.

Some alternatives show that things can in fact be different. The range of alternatives is, as you will notice, rather limited. There is still a lot of work to be done. And there is urgent need for action. We close this report with a review of the campaign demands.

5.1. POSITIVE SIGNALS FROM THE FINANCIAL SECTOR

The free flow of capital has not only brought more financial opportunities, but also more social responsibilities. Capital has been free to circulate the planet for some decades. The realisation that this comes with new responsibilities (related to human rights, for example) is coming slowly: sustainability reports become the rule rather than the exception, respect for human rights finds a place in the general policy, the first steps are being made to include human rights in investment criteria, and so on.

Financial institutions are beginning to realise that bad working conditions can lead to social disturbances, and a loss of income, that being active in countries with oppressive regimes can represent a financial risk. Research conducted by CSR Europe, Deloitte and Euronext showed that 86% of the investors who were questioned believed that social and ecological risk management provided long term value for a company. The respect for human rights is, according to the study, the most important social-ecological criterion that is brought into account if they are making choices or recommendations on investments.²²⁰

'Who Cares Wins', is a report that deals with social, environmental and governance issues, and their impact on share value. Under the auspices of the United Nations many prominent bank groups (including AXA) worked on a report that is full of recommendations to take more and better account of the these issue in investment decisions.²²¹

There are, therefore, enough reasons related to ensuring profits to take more account of human rights. This is clearly becoming accepted by the financial world. We only have to hope that words and deeds are in line with each other. The first steps are being made.

But, we cannot leave the issue there. Because not all human rights violations will effect profits. To make changes here, a different mentality is needed.

5.2. CLIENTS DEMAND RESPECT FOR HUMAN RIGHTS

A contemporary client does not search for profits at the cost of everything else. Additional research is clearly still needed, but we want to share some research with you that has already been conducted. It shows that the contemporary client is not prepared to accept that a return on investment is achieved as a

result of exploitation or oppression of people. Respect for human rights is at the top of the list of concerns.

5.2.1. Ethibel

In 2004 Ethibel carried out research amongst savers and investors. Participants were asked which sorts of companies should be avoided in their investment portfolio.

At the top of the list was companies that were involved in the production or trade of weapons. 84% of the respondents found this very important. Second and third on the list were companies that were involved in the violation of human rights. 78% found it very important to avoid companies exploiting workers or using child labour. 77% wished to avoid companies that cooperate with regimes that violate human rights.

Other practices to be avoided include cooperation with corrupt regimes (66%) and companies that don't apply the ILO conventions (51%)

5.2.2. DSR

At the start of 2004 Dutch Sustainability Research (DSR) published a report²²² that researched how large NGOs deal with their own share holdings.

They were asked which specific factors were included in the policy on ethical or sustainable investment. Child labour was most frequently included in the policy. The following issues related to human rights were taken up in the policy of at least 50% of the respondents:

- ▶ child labour : 79%
- ▶ working conditions (general) : 71%
- ▶ human rights violations (general) : 61%
- ▶ corruption and cooperation with dictatorial regimes: 57%
- ▶ poverty, discrimination and ILO conventions: 50%

Also important, but in smaller numbers:

- ▶ forced labour and freedom of trade unions (41%)
- ▶ environmentally damaging products (33%)
- ▶ OECD guidelines (29%)

5.2.3. ING

ING bank asked members of the Dutch public which sectors or activities should be excluded from investments. 71% of the respondents found that human rights violations should lead to an exclusion of investments.²²³ Human rights violations were second only to repeated environmental damage.

5.3. UN SUB-COMMISSION DECLARES THAT HUMAN RIGHTS ALSO APPLY TO COMPANIES

In August 2003 the UN Sub-Commission on the Promotion and Protection of Human Rights unanimously adopted the "Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights".²²⁴ These UN Human Rights Norms for Business combine the international standards in the field of human rights, and apply them to companies. The UN Norms were welcomed by many organisations and NGOs as a necessary step in drawing up the responsibility of companies around the world. They provide a yardstick with which financial institutions can measure the behaviour of companies, when faced with investment decisions. We briefly expand on each of these points.

5.3.1. Why are norms needed for companies?

The 1945 UN Charter, and the 1948 Universal Declaration of Human Rights (UDHR) set down a number of human rights. These rights were later developed and supplemented by treaties. At first they only applied to states. It was expected that the states would transfer these rights into local law. From the start of the UDHR it was expected that states would call on every organ in society (including companies) to ensure, respect and promote, human rights.

Since the 1980s, economic globalisation and the free flow of capital have increased the power of (multinational) companies. Their attitude towards human rights has become more important. The media has shown us many questionable examples over the past years of companies that are operating in conflict zones and dictatorships, for example, which are only concerned with their own interests. The question of how the growing power and freedom of the companies can be balanced with human rights becomes more pressing.

The UN Norms start from the conviction that – although the primary responsibility lies with states – the responsibility also lies with (multinational) companies to promote respect for human rights, and to observe their application. The UN Norms go further than a voluntary code of conduct, which some (questionable) companies have already adopted. Codes of conduct are positive in the sense that they show com-



panies are willing to make an engagement for human rights. They are not sufficient. There are too many, their implementation is seldom guaranteed or controllable, and above all they have no meaning for the companies that do not feel the need to subscribe to the code and continue with business as usual. The preamble of the UN Norms deals diplomatically with the situation: *"Noting also that transnational corporations and other business enterprises often are involved in human rights issues and concerns, such that further standard-setting and implementation are required."*²²⁵ The route is charted for an instrument of international law that forces companies to respect human rights, and makes them accountable. But it is not there yet.

5.3.2. The current status and content of UN Norms

Amnesty International describes the UN Norms as the guide for companies that wish to do business in a responsible and sustainable manner. They form the international instrument, issued by an authoritative institution, and give a systematic and comprehensive view on the responsibilities of international companies and how they can be realised.²²⁶

The UN Norms are not yet legally binding. They have been unanimously approved by the UN Sub-Commission for Human Rights, but not yet by the UN High Commission for Human Rights. It is primarily the business world, and its continuing attachment to voluntary codes, which is obstructing progress.

Alongside a number of general responsibilities, the UN Norms contain six 'clusters' of rights: non-discrimination, the right to security of persons, the fundamental rights of workers, respect for national sovereignty, the protection of the consumer, and the protection of the environment. The content of these clusters refer back to existing international standards. In this way,

the cluster on workers' rights refers to the fundamental principles of the International Labour Organisation.²²⁷ The UN Norms include the following workers' rights: the prohibition on forced labour and child labour, the need for a safe and healthy working environment, respect for the freedom of association and collective bargaining, and also the need for a living wage.

The UN Norms also refer to implementation. They clarify that every company must firstly ensure that its own codes of conduct fit with these norms, and report on the progress that is made in this direction, and may only enter into business relations with other companies that show respect for the UN Norms.

5.3.3. Financial institutions must use the UN norms in their investment policy

The general obligations²²⁸ of the UN Norms state clearly what they expect from companies: within their respective spheres of activity and influence, transnational corporations and other business enterprises have the obligation to promote, secure the fulfilment of, ensure respect of, respect, and protect human rights.

For anyone who still has doubts, the commentary on the obligations makes escape impossible:

- ▶ transnational corporations and other business enterprises shall have the responsibility to use due diligence in ensuring that their activities do not contribute directly or indirectly to human rights abuses,
- ▶ and that they do not directly or indirectly benefit from abuses of which they were aware or ought to have been aware.

It could be expected that any financial institution wishing to meet these demands would integrate the UN Norms in their investment decisions. Amnesty International explained it in the following way:

"Evaluate companies in which you invest by using the UN Human Rights Norms for Businesses as a benchmark, and use the UN Human Rights Norms for Businesses in the development of criteria to assess the human rights impact of potential projects".

To realise this, it will be necessary to assess whether, and in how far, companies and governments meet the UN Norms. We have asked those offering and researching sustainable financial products if they can guarantee that the companies in which they allow investments are not breaching the UN Norms. A num-



ber of researchers and funds stated that they can offer a reasonable guarantee to their customers. Why is it that this is possible for sustainable investment products, but not for standard products?

Amnesty International describes the UN Norms as the guide for companies that wish to do business in a responsible and sustainable manner. The UN Norms offer the systematic and comprehensive instrument provided by an authoritative international organisation: the UN. They state in general terms that companies have the duty to promote, respect and ensure the realisation of human rights within their sphere of influence. This is made more concrete by taking thirty existing international treaties, and translating them into obligations for companies.

5.4. ALTERNATIVES

5.4.1. An example from abroad: The Co-operative Bank

The Co-operative bank is a British bank and insurance group. At the end of 2004 they had more than 7 million customers and almost 13,000 members of staff.²²⁹ Their pre-tax profits were UK£132 million.²³⁰

The Co-operative Bank has a strongly developed ethical policy, which has important implications for their investment policy. This governs the way they relate to issues such as: human rights abuses, the arms trade, genetic manipulation, environmental impact, animal testing, etc. Many companies involved in these practices are excluded from investments.²³¹

The British bank's statement on human rights includes the following:

"Through our investments, we seek to support the principles of the Universal Declaration of Human Rights.



In line with this, we will not invest in:

- ▶ any government or business which fails to uphold basic human rights within its sphere of influence.
- ▶ any business whose links to an oppressive regime are a continuing cause for concern." ²³²

This policy is further clarified on their website.

Compare what you can find on their website²³³ with what can be found on the websites of the banks we researched. You would immediately agree: not only the policies of our banks, but also what they declare about the policies, could be much better.

5.4.2. Belgium: products that exclude human rights abuses from investment

For customers that want to avoid their savings and/or investments being used to fund serious human rights violations, we give a few alternatives.

Savings accounts

The following savings accounts provide the best guarantee that your money will not be used to finance companies or governments involved in serious human rights abuses.

- ▶ The savings and term accounts of Triodos Bank
- ▶ The 'Krekelsparen' at Fortis
- ▶ The VDK 'Solidariteitsspaarrekening'

All of these products have criteria that make the financing of companies involved in serious human rights violations almost impossible. Furthermore, they

are sufficiently transparent, or they involve some kind of external control that assesses whether the promises have been kept, and makes this information public.²³⁴ For more explanation of these products, visit our website: www.netwerkvlaanderen.be ²³⁵

Investments

Investments in the social economy

You can choose an initiative yourself in which you want to invest. There are a number of risks here: do you know the initiative well enough, if things go wrong you risk losing (all of) your money, is the financial return what you hoped for? But maybe your child's school wishes to renovate with the help of loans from parents, the organisation you are a member of needs a loan for the office, or a friend needs money to start a social company. You would be surprised how many organisations and companies have to rely on loans from sympathisers to keep their head above water.

You can also invest in companies that specialise in financing initiatives from the social economy.

You can find examples on the website:

www.netwerkvlaanderen.be²³⁶

You can be assured that your money is not being used to finance human rights violations.

Investment funds and insurance products

Our website includes an overview of all investment and insurance products offered on the Belgian market under the names 'sustainable', 'ethical', 'socially responsible', and so on²³⁷. On average, these products offer similar returns to the 'classic' equivalents. But watch out: you are also investing here, and there is no guarantee that you will not lose money.

All of the bank groups researched in this report offer this kind of product, as do a number of smaller financial institutions. The majority of these products include human rights criteria in the selection of companies and/or governments in which they invest. They do not all do this however, and they are not all equally thorough. The good news is that the researchers and fund managers of a number of products offer a guarantee that your money is not invested in companies involved in violations of human rights. The bad news is that they don't all do this, and you can't find this out from the product information. Extra research is needed. This is research that we are currently undertaking, and will make public soon. Before this, there is no other alternative than to go product by product and ask the provider of the product if it can guarantee that investments in companies involved in human rights violations are excluded.

5.5. CAMPAIGN DEMANDS

5.5.1. Demands to the bank groups

The campaign demands

- ▶ Stop investments in serious human rights violations

Netwerk Vlaanderen asks that bank groups end their investment in companies that have been criticised for serious human rights violations.

Serious human rights violations that have been documented by Netwerk Vlaanderen in this report are: worrying cooperation with dictatorial regimes, breaches of the fundamental workers' rights and violations of the rights of local populations.

- ▶ Clearer and more controllable investment policy

Because savers and investors cannot judge the human rights profile of their bank without clear information, Netwerk Vlaanderen asks the bank groups:

- to make public a clear human rights policy and the way this will be implemented
- to make public the companies and governments in which they invest

Furthermore, this cannot be the form of window dressing: bank groups must say what they do, and do what they say.

Stop investments in serious human rights violations

Netwerk Vlaanderen has researched a number of violations of human rights conducted by companies around the world. We showed that bank groups operating in Belgium invest in companies that support cruel dictatorships, treat their employees inhumanely, forbid trade unions, disrupt local communities and commit other human rights violations. The examples show that the bank groups are currently not taking their responsibility for respecting human rights. However, banks have an important social responsibility. They give a direction to society by deciding which companies will be financed and which not, and under which conditions. If financial institutions wish to behave responsibly, it is in these investment decisions that they can make a difference.

In the current context, investment decisions are made relating to companies operating around the world. Because there is not yet an internationally agreed legal framework governing respect for human rights, banks are operating in a grey area. On several occasions, they have invested in companies that violate the international norms regarding human rights.

The typical attitude of the banks offers no solace here. They say that they do not break the law with their investments. But the problem is precisely that in countries where human rights are not valued or legally protected it is perfectly legal for companies to operate in ways that breach human rights. In dictatorships such as Burma the regime is also actively supporting violations of human rights. Although they are not illegal, investments in mining projects that use forced labour, forced relocations and repression, can hardly be called responsible or desirable.

It is one of the greatest challenges of the 21st Century to resolve this situation. The freedom of movement of capital has run far ahead of the legal regulation. There are as yet no enforceable laws for companies relating to human rights, but there are standards, and rules of decency. These are spelled out in international standards. The UN Norms (see chapter 5.3) are currently the most authoritative example.

We ask that financial institutions use the UN Norms in their business dealings. We ask that they integrate these norms in the selection of companies and governments for investment. Amnesty International expresses it in the following way: *"Evaluate companies in which you invest by using the UN Human Rights Norms for Businesses as a benchmark, and use the UN*



*Human Rights Norms for Businesses in the development of criteria to assess the human rights impact of potential projects*¹⁹²³⁸.

Taking this seriously will create a position where breaches and/or doubts in relation to human rights lead to financiers saying "I want nothing to do with this. I will not invest (any more) here". This minimum standard does not seem to exist at any of the bank groups that we researched. The policies, with the exception of the credit policy of KBC, do not reveal the existence of a minimum standard, or what it is. We have found all of the banks involved in even the most serious human rights violations documented in this report. And that is unacceptable. For this reason, financial institutions must develop policies to evaluate and halt investments in serious human rights violations.

Clear and controllable investment policy

Making public a clear investment policy

This report has shown that clients are not sufficiently informed about what is happening with the money that they have saved and invested (see chapter 4).

Almost everyone has money in a financial institution. The bank uses savings to supply credit and to invest for its own portfolio. Investment funds invest the investors' money in stock market listed companies and government bonds, amongst other things. Insurance companies do the same with the insurance premiums that they receive.

All of them work with the money of their clients. The client has a right to know what is happening with their money. The client needs this information to make an informed choice. A client must be able to determine whether the things that happen to their money correspond to their own beliefs.

The transparency that we ask for is not only necessary for the individual customer, but also for society. As we state above, financial institutions play an important social function. Society has a right to know which role financial institutions are playing. Are they working for the realisation of the Universal Declaration of Human Rights? And if so, in which ways? Or are they continuing to invest in breaches of the declaration?

Citizens, companies, specialist NGOs, and governments, amongst others must be able to guide this in the public interest. They must be able to judge how far financial institutions are contributing to the Universal Declaration of Human Rights (signed by Belgium). It can only be achieved if they have access to the correct information.



Even if the financial institutions adopt international standards (the UN Norms, for example) in developing their policy, then transparency remains important. Even the UN Norms can be interpreted in different ways. It is not up to financial institutions alone to decide how they are interpreted and translated into practice. Sound reporting over the conduct of the policy is necessary to allow society to control this.

We ask for the publication of a clear investment policy, in language that can be understood by everyone.

In the first place, we ask for the minimum standard to be made public. Which serious human rights violations are not compatible with the principles of the bank, and would lead to exclusion from investment?

A good start would be making clear what the policy is regarding a number of the human rights violations discussed in this report:

- ▶ the support for dictatorial regimes
- ▶ serious and/or systematic breaches of workers'

rights

- ▶ the disrespect for the rights of indigenous peoples' rights

We also ask that the practical implementation of the policy is made known. We look in particular to the following issues:

- ▶ the international standards and specific human rights that are taken into account;
- ▶ the methods of research and the role played by specialised NGOs;
- ▶ the weight attached to these risks and infringements;
- ▶ the breadth of the policy: does it apply to the whole group?, does it apply to all products?
- ▶ the responsibility for the policy;
- ▶ the ways in which the reports will be made public.

It should not need days of study to get clarity on these issues. A clear text dealing with these matters on the website of the bank group would be a good start.

Controllable investment policy: reporting of investments and voting behaviour

It is only by making known which companies and governments the bank group has invested in that the policy can be evaluated in practice. The investments revealed in this report make the fundamental shortcomings abundantly clear. If you still have doubts about the groups, based on their policy statements, you cannot deny the practice of the groups that is revealed by their investments.

It is difficult to conduct such control. The concrete investments of financial institutions are in a 'black box'. Large banks do not reveal to which companies and governments they extend credit. A number of smaller banks do this. There is a body that has this information about the banks, the Central Credit Office. But, they do not make this information public. The privacy of the companies goes before the general public interest.

In the United States there is a different approach, in the framework of the Community Reinforcement Act, for example. This act obliges financial institutions to reinvest locally obtained money in local projects. To make this information available, financing agreements must be made public.

Investment funds already have to make known where they are investing. The financial sector makes detailed reports of this investment data, and commercialises the processing of the information. The result is that it costs a lot to get hold of the data. Insurance

companies and pension funds currently have no obligation to act transparently. Our insurance money, and a part of our pensions, are in their hands. But we have to guess which companies and governments they are pinning their hopes on.

Netwerk Vlaanderen has nevertheless, via research journalists, obtained details of a number of controversial investments. Without having access to anything better, this is the only alternative. This is not what the client and society will need in the future. Therefore, we ask that the actual investments are made known. The 'black box' must become a 'glass box'.

To conclude, it should be expected that financial institutions that use their voting rights should also make known which votes they have cast on human rights issues. The client and society also has a right to this information. This information is vital as the basis for making an informed choice as a consumer, or as the basis for control and reform by wider society.

5.5.2. Political campaign demands

Belgian government

Setting an example

Netwerk Vlaanderen expects different levels of government (cities, regions, federal government) to set an example. It is not acceptable that they invest their resources in companies and/or governments that seriously damage human rights. That does not fit with their task of serving the public interest. And the federal government does not contribute to the realisation of the Universal Declaration on Human Rights, which it has signed. For this reason, the governments must develop a savings and investments policy that contributes to the support for internal treaties, including the UDHR. The money of pension funds for government personnel must be invested in accordance with international treaties.

Obligation of transparency and responsibility

The rules must set a minimum level of transparency and responsibility with respect to ecological, social and governance issues. These issues can also have an influence on the value of shares in a company, and must be made known to the saver or investor. Revealing this makes it easier to integrate these items into a financial analysis.²³⁹ A few examples:

- ▶ Pension and investment funds are legally obliged to make known whether and in what ways they take social, ecological and ethical issues into

account. The same obligation could be applied to other financial institutions, including banks and insurance companies.

- ▶ Investment funds must reveal which companies they invest in, the amounts and the ways in which they use their voting rights. These obligations should also be applied to other financial institutions and products.
- ▶ Annual reports and report of (initially) market-listed companies should include a description of their attention to social, ecological, ethical and governance items.

More social responsibility

An absolute minimum is that the government explicitly states that companies operating on her territory must do business in accordance with international standards and international humanitarian law. The government must also promote compliance with the UN Norms for companies.

Politicians must also consider the question of what they consider to be the minimum standards of social responsibility for businesses. Is it acceptable for financial institutions to finance companies that violate human rights? A politically acceptable set of minimum standards must be determined, and legally enforced.

International

Transparency and social responsibility

There should also be initiatives taken at the European level that increase the transparency and social responsibility of financial institutions. The expectations that we have for the national level should also be applied to the European level.

The Belgian government can insist that its representatives in different international institutions (OECD, UN, etc.) defend the UN Norms.

International law for companies

There is currently virtually no legal basis on which companies that seriously violate human rights can be tried and sentenced for the damage they have caused. As long as companies respect the local law, there is no problem. Extra efforts are necessary to make companies responsible for their breaches of human rights. The reference to, and recognition of, the UN Norms in numerous policy statements are an example of this.

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National League for Democracy (Liberated Area)

Thailand, november 2005

To: the Board of Directors of AXA, Dexia, Fortis, ING and KBC

cc: Call for disinvestment from Companies which are still active in Burma

Dear,

As a democratically elected member of the National League for Democracy, I want to draw your attention to our call for disinvestment from Burma. My party, which won the elections in 1990 but was kept from power by the military, is convinced that banks should avoid any financial or moral support to one of the most oppressive regimes in the world.

The Burmese government violates the basic human rights of its people. The military Junta, which seized power in 1990, is responsible for torture, forced labour, forced relocations and rape. These well documented and internationally condemned practices have led to several embargo's and economic sanctions. This is why the NLD calls for disinvestments. Our leader, the Nobel Price Winner Aung San Suu Kyi, states that international companies should stop investing in Burma. These companies perpetuate the violence by providing the military junta with substantial revenues and by giving moral support to the current regime. Several companies have already withdrawn from the country because of ethical reasons, but others have chosen to stay and are thus held responsible for support to the atrocities committed by the Burmese government. Amongst them are some well known companies like Total, Nippon Oil, Mitsui and Maribenu.

I ask all companies to take up their responsibility and to stop all economic activities in Burma. I urge the Belgian banks and other investors to stop any financial support to companies which refuse to withdraw. I understood that you have no policy in place which avoids investments in these companies. I'm convinced that this is not due to a lack of willingness to integrate ethical principles in your credit- and financial policy. I'm sure that you agree that you have to take the violation of basic human rights into account when you decide which companies to invest in. Therefore, I want to ask you to develop a policy which avoids any financial links with the companies still active in Burma.

Yours sincerely,

Daw San San
Secretary NLD

Elected as Member of Parliament in 1990
Founder and secretary of the Member of Parliament Union
Imprisoned several times because of political activities
Fled to Thailand after the Depayin massacre

FOOTNOTES

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- 10 Burmese Sanctions Regulation, Interim Final Rule, Office of Foreign Assets Control, Dept of Treasury, US, Tuesday Aug 16th 2005, see http://www.treas.gov/offices/enforcement/ofac/legal/regs/fr05_16144.pdf
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Netwerk Vlaanderen vzw promotes an alternative approach to money. Money is an instrument that – if applied well – can promote a sustainable and honest society. For the past few years, Netwerk Vlaanderen has been running the campaign "My Money. Clear Conscience?" to make the investment policies of the

banks public, and enforce the participation of the saver and investor in the destination of their money. Netwerk Vlaanderen provides information on sustainable investment and savings products, and supports and advises organizations and companies who (wish to) have a socially and environmentally friendly approach to money.

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Netwerk Vlaanderen and her partner organisations want to use the campaign 'My Money. Clear Conscience?' to show the financial world where its responsibilities are.

Banks work with your money. They invest that money in various companies, including those responsible for weapon production or human rights abuses. We demand that the banks are open about which companies they finance. And we demand that they end their investments in companies involved in the production of weapons and the abuse of human rights!

Other publications by Netwerk Vlaanderen in the campaign 'My Money. Clear Conscience?'

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