



# IRRESPONSIBLE INVESTMENTS

*- a study of Swedish banks' investments in companies linked to human rights abuses*



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**Cover photos:**

Pastor Christian Lekoya Kpandei's hand covered in oily mud, Bodo Creek, Nigeria, 2011.

Pastor Christian Lekoya Kpandei used to be a fish farmer in Bodo. The Shell oil spill of August 2008 destroyed his fish farm. His fishfarm provided a living for about thirty families.

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A woman in Kendugudha village, Vedanta alumina refinery can be seen in the distance, Orissa, India, March 2009.

The residents of Kendugudha village lost their access to potable water from the Vamsadhar river and now make do with infrequent water from borehole wells provided by Vedanta.

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Children outside the former Union Carbide facility in Bhopal, India. 1 December 2012.

© Giles Clarke/Getty Images Reportage

Yuri Melini, director of the Guatemalan Center for Legal, Social and Environmental Action (CALAS), holds a sign that reads: "In San Rafael Las Flores and in my house, the mine does not pass!" Hundreds gathered in the main square of San Rafael Las Flores, Guatemala, to demand that a community plebiscite on industrial mining be carried out in the municipality. San Rafael Las Flores, Santa Rosa, Guatemala. July 20, 2012.

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# SAMMANFATTNING

## OM FAIR FINANCE GUIDE

Den här rapporten granskar svenska storbankers investeringar i företag som kopplas till kränkningar av mänskliga rättigheter. Rapporten är en fallstudie och utgör en del av Fair Finance Guide, ett internationellt initiativ för att öka insynen i hur hållbart och ansvarsfullt banker investerar. Bakom Fair Finance Guide i Sverige står fem organisationer - Amnesty International, Naturskyddsföreningen, Diakonia, Sveriges Konsumenter och Fair Trade Center. Amnesty Internationals bidrag handlar om att definiera hur banker kan och bör arbeta för att respektera de mänskliga rättigheterna.

Genom en internationell metod granskar och betygsätter Fair Finance Guide de sju största bankerna i Sverige när det gäller vilka krav de ställer i sina investeringspolicyer kring hållbarhet och socialt ansvar. De granskade bankerna är Danske Bank, Handelsbanken, Länsförsäkringar, Nordea, SEB, Skandia och Swedbank. Genom löpande fallstudier granskas sedan hur bankerna agerar och investerar i praktiken, för att kontrollera om de följer sina riktlinjer. Resultaten publiceras via webbsidan FairFinanceGuide.se där man kan jämföra bankernas resultat, berätta för sin bank vad man tycker och få vägledning för att byta till en mer hållbar bank.

## OM FALLSTUDIEN

Rapporten är ett stickprov på om bankernas investeringar och agerande rymmer med de principer som bankerna uttrycker i sina policyer om mänskliga rättigheter. Det handlar i den här rapporten om sex företag vars inblandning i allvarliga kränkningar av mänskliga rättigheter har dokumenterats av Amnesty International sedan flera år tillbaka. Framförallt har bankernas så kallade påtryckningsdialoger granskats närmare, för att ta reda på om de är tillräckligt aktiva och trovärdiga för att försvara investeringar i företagen.

Granskningen visar att samtliga av de sju bankernas fonder investerar i flera av företagen, trots att kränkningarna av mänskliga rättigheter är välkända. Fem av bankerna kunde inte redovisa en trovärdig påtryckningsdialog med något av företagen. Två av bankerna redovisade en trovärdigare dialog men även här konstaterades brister.

Som delägare i företagen har bankerna ett ansvar och en unik möjlighet att påverka företagen. Internationella regelverk och standarder, inklusive FN:s vägledande principer för företag och mänskliga rättigheter, är tydliga: *företag har ett ansvar även när de inte direkt orsakar kränkningar - men är kopplade till dem genom en affärsrelation.*

Granskningen visar att flera av bankerna har långt kvar innan de kan hävda att de lever upp till sitt ansvar att respektera de mänskliga rättigheterna. Några av bankerna i studien har inte vidtagit några åtgärder alls för att försöka påverka företagens inblandning i kränkningar av de mänskliga rättigheterna. De har rättfärdigat sin passivitet gentemot företagen med argumenten att de är minoritetsägare, eller att de investerar i tusentals företag och därför prioriterar företag där de tror sig ha ett större inflytande. Det är argument som inte håller. FN:s högkommissarie för mänskliga rättigheter (OHCHR) slår fast att även minoritetsägare har ansvar för att inte mänskliga rättigheter kränks. Dessutom, att agera i ett fall kan inte rättfärdiga att man blundar för ett annat. En parallell kan dras till klädbranschen; klädföretag kan inte längre undgå kritik vid förekomsten av barnarbete hos

några av deras tusentals underleverantörer med förklaringen att de gjort kontroller i andra fabriker. Det är dags att höja standarden även inom finansbranschen.

## OM FÖRETAGEN SOM INGÅTT I GRANSKNINGEN

Samtliga sju banker är aktieägare i **Dow Chemical Company**. Tragedin i Bhopal 1984 räknas som världens allvarligaste industriolycka. Uppskattningar visar att 22 000 personer dog som en direkt följd av händelsen och mer än 570 000 exponerades för skadliga nivåer av giftgas. Föroreningar från den övergivna fabriken har förgiftat den lokala vattenförsörjningen och hundratusentals människor lider fortfarande i sviterna av katastrofen. Människor väntar fortfarande på rättvisa, mer än 30 år efter katastrofen. År 2001 köpte Dow det USA-baserade multinationella företaget Union Carbide Corporation (UCC), som var majoritetsägare till fabriken i Bhopal när olyckan skedde. UCC har upprepade gånger ignorerat kallelser från Indisk domstol om att infinna sig och bemöta ett åtal gällande katastrofen i Bhopal. Även Dow har kallats till domstol. Kallelsen klargör att Dow, som 100-procentig ägare, har ett ansvar att se till att UCC svarar på kallelsen och infinner sig i domstolen. Samtliga sju banker äger aktier i Dow men ingen av dem har ställt krav på företaget angående saken.

Samtliga banker äger även aktier i **Goldcorp**. Företaget startade Marlingruvan i Guatemala 2005 utan konsultationer med Mayaindianerna som lever i området, och de har gjort motstånd mot gruvan sen dess. Spänningarna har förvärrats på grund av hur säkerhetsstyrkorna har bemött protesterna och det har också förekommit attacker mot anti-gruvaktivister som utförts av okända personer. I december 2013 utbröt nya protester då lokala samhällen inrättade vägspärrar på en större väg för att förhindra nya prospekteringsaktiviteter i närheten av Sipacapa. Ingen av bankerna har varit i direktkontakt med Goldcorp angående situationen. Nordea och Skandia gör inga försök alls att påverka företaget medan de andra bankerna utövar påtryckningar genom en konsultfirma. Länsförsäkringar är den banken som kunde uppvisa den mest aktiva påtryckningsdialogen med Goldcorp.

**Shell** är det företag i rapporten där bankerna har störst investeringar – totalt över två miljarder kronor. Shells oljeutvinning i Nigerdeltat i Västafrika har bidragit till att två generationer växt upp mitt i allvarliga oljeföroreningar, vilket fått förödande konsekvenser i form av brist på mat och vatten, förlorade försörjningsmöjligheter, en förgiftad miljö och allvarliga hälsoeffekter. I en banbrytande studie publicerad 2011 konstaterade FN:s miljöprogram (UNEP) att Shells hantering av oljespill i Ogoniland har varit totalt ineffektiv. Alla banker är delägare i Shell men bara två av dem, Swedbank och Länsförsäkringar, kunde uppvisa ett relativt trovärdigt påtryckningsarbete med företaget.

Länsförsäkringar och Nordea har även investerat sina kunders pengar i det brittiska gruvbolaget **Vedanta**. Ursprungsfolket i indiska delstaten Odisha kämpar med den hårda verklighet som det innebär att leva granne med Vedantas aluminiumraffinaderi. Raffinaderiet släpper ut stora mängder föroreningar i luften och i vattendrag. Länsförsäkringar har en dialog med Vedanta genom sin konsult och bankens representant har även själv diskuterat situationen med företaget. Nordea har tidigare fört dialog med Vedanta kring situationen men avslutade dialogen 2012 då banken bedömde att företaget gjort tillräckliga förbättringar. Danske Bank har svartlistat Vedanta på grund av företagets agerande och är den enda banken som svartlistat något av de sex företagen i rapporten.

Ingen av bankerna har investerat i de två sista företagen i granskningen; **Trafigura** och

**Groupe Forrest International.** Trafigura dumpade giftigt avfall i Elfenbenskustens huvudstad 2006 och Groupe Forrest International har bidragit till tvångsvräkningar av hundratals människor i Demokratiska republiken Kongo 2009. Swedbanks fond "Företagsobligationsfond" hade en investering i Trafigura tills nyligen, men hade sålt innehavet innan granskningen.

Granskningen visade stora skillnader mellan bankerna när det gäller hur aktivt involverade de är i påtryckningsarbetet med företagen. Flera av bankerna har lagt ut hela processen på en konsultfirma men ansvaret vilar fortfarande på banken att det görs på ett ordentligt sätt.

Bankerna måste agera i varje fall där de är direkt eller indirekt kopplade till kränkningar av mänskliga rättigheter. Vi har även kunnat se en stor variation i kvaliteten på dialogerna. Påtryckningsdialoger kan vara fruktbara, men bara om de utgår från rätt information, är tillräckligt aktiva och det finns tyngd bakom kraven. En dialog med otydliga mål och utan tidsplan kommer inte lyckas minska kränkningar av mänskliga rättigheter. I stället riskerar det att bli ett falskt alibi för att fortsätta i gamla hjulspår.

## REKOMMENDATIONER FRÅN AMNESTY

- Banker som väljer att behålla sina investeringar i företag som är inblandade i kränkningar av mänskliga rättigheter bör föra en aktiv påtryckningsdialog med företagen för att försöka få stopp på kränkningarna och kompensation till de drabbade. I fall av grova kränkningar, bör banken avsluta alla relationer med företaget.
- Bankerna bör, som ägare, lägga tillräckligt med tyngd bakom sina krav för att kunna påverka företag i en positiv riktning. Om företaget inte lyssnar bör banken inleda samarbete med andra investerare för att öka sitt inflytande. Om det ändå inte leder till tillräckliga förbättringar bör banken avsluta sina ekonomiska relationer med företaget.
- Bankerna bör utveckla strategier och arbetssätt som inte enbart fokuserar på större innehav utan även uppmärksammar allvarliga kränkningar i mindre innehav. De bör även ha särskilda strategier för högrisksektorer (bland annat gruvor, olja och gas, textilier, elektronik och vapen) och regioner (inklusive konfliktzoner och ockuperade territorier) eller länder där risken för brott mot mänskliga rättigheter är extra stor.
- Bankerna behöver höja sin kunskap och medvetenhet om mänskliga rättigheter och företags ansvar i hela organisationen. Det gäller inte minst fondförvaltarna som bestämmer vilka företag som bankerna ska investera i och ofta träffar företagen regelbundet.
- När företag kopplas till allvarliga kränkningar av mänskliga rättigheter bör bankerna inhämta information från de drabbade lokalsamhällena eller organisationer som representerar deras intressen, för att få en mer balanserad bild av situationen och företagets agerande.
- Bankerna bör agera mer transparent och öppet rapportera om sitt påtryckningsarbete samt den respons de får från företagen som de försöker påverka.
- Bankerna bör öppet kommunicera en lista över företag som svartlistats på grund av kränkningar av mänskliga rättigheter. På så sätt upprätthålls pressen på företagen som inte hörsammat kraven under påtryckningsprocessen.

# SAMMANFATTNING AV BANKERNAS AGERANDE I PRAKTIKEN JÄMFÖRT MED SINA POLICYER

Bank	Bankens policy för mänskliga rättigheter, enligt Fair Finance Guide, januari 2015.	Bankens investeringar och agerande i praktiken.
Danske Bank	Banken ställer sig bakom 34% av principerna som rör mänskliga rättigheter enligt Fair Finance Guide, inklusive flera principer som företagen i denna rapport bryter mot.	<b>Visade stora brister.</b> Banken investerar i Dow, Goldcorp och Shell men kunde inte redovisa tillräckligt trovärdiga påtryckningsprocesser för att försvara investeringarna. Ett av företagen, Vedanta, har öppet svartlistats av banken, vilket är en ansvarsfull åtgärd. I övrigt brister banken i sin praktiska efterlevnad av principerna i sin policy.
Handelsbanken	Banken ställer sig bakom 28% av principerna som rör mänskliga rättigheter enligt Fair Finance Guide, inklusive flera principer som företagen i denna rapport bryter mot.	<b>Visade stora brister.</b> Banken investerar i Dow, Goldcorp och Shell, men kunde inte redovisa tillräckligt trovärdiga påtryckningsprocesser för att försvara investeringarna. Därmed brister banken i sin praktiska efterlevnad av principerna i sin policy.
Länsförsäkringar	Banken ställer sig bakom 30% av principerna som rör mänskliga rättigheter enligt Fair Finance Guide, inklusive flera principer som företagen i denna rapport bryter mot.	<b>Visade mindre brister.</b> Banken investerar i Dow, Goldcorp, Shell och Vedanta men kunde redovisa jämförelsevis aktiva och trovärdiga påtryckningsprocesser gällande tre av dessa företag. Glappet mellan policy och praktik var mindre hos Länsförsäkringar än hos de andra bankerna i rapporten.
Nordea	Banken ställer sig bakom 43% av principerna som rör mänskliga rättigheter enligt Fair Finance Guide, inklusive flera principer som företagen i denna rapport bryter mot.	<b>Visade stora brister.</b> Banken investerar i Dow, Goldcorp, Shell och Vedanta, men kunde inte redovisa tillräckligt trovärdiga påtryckningsprocesser för att försvara investeringarna. Därmed brister banken i sin praktiska efterlevnad av principerna i sin policy.

Bank	Bankens policy för mänskliga rättigheter, enligt Fair Finance Guide, januari 2015.	Bankens investeringar och agerande i praktiken.
SEB	Banken ställer sig bakom 66% av principerna som rör mänskliga rättigheter enligt Fair Finance Guide, inklusive flera principer som företagen i denna rapport bryter mot.	<p><b>Visade stora brister.</b></p> <p>Banken investerar i Dow, Goldcorp och Shell, men kunde inte redovisa tillräckligt trovärdiga påtryckningsprocesser för att försvara investeringarna. Därmed brister banken i sin praktiska efterlevnad av principerna i sin policy.</p>
Skandia	Banken ställer sig bakom 55% av principerna som rör mänskliga rättigheter enligt Fair Finance Guide, inklusive flera principer som företagen i denna rapport bryter mot.	<p><b>Visade stora brister.</b></p> <p>Banken investerar i Dow, Goldcorp och Shell, men kunde inte redovisa trovärdiga påtryckningsprocesser för att försvara investeringarna. Därmed brister banken i sin praktiska efterlevnad av principerna i sin policy.</p>
Swedbank	Banken ställer sig bakom 52% av principerna som rör mänskliga rättigheter enligt Fair Finance Guide, inklusive flera principer som företagen i denna rapport bryter mot.	<p><b>Visade mindre brister.</b></p> <p>Banken investerar i Dow, Goldcorp och Shell men kunde redovisa en jämförelsevis aktiv och trovärdig påverkansprocess för ett av företagen och var väl insatta i problematiken kring ett annat. Banken uppvisade relativt trovärdiga system för att arbeta med hållbarhetsfrågor. Glappet mellan policy och praktik var mindre hos Swedbank än hos de andra bankerna i rapporten.</p>

# EXECUTIVE SUMMARY

This study examines how major Swedish banks act when they invest their clients' money in companies involved in abuses of human rights. The banks are Danske Bank, Handelsbanken, Länsförsäkringar, Nordea, SEB, Skandia and Swedbank. The study is part of Fair Finance Guide Sweden, where Amnesty International is one of the partners. The website FairFinanceGuide.se, released earlier this year, shows the extent to which Sweden's seven largest banks have publicly committed to principles of sustainability and social responsibility as reflected in their written policies and principles. This study is one of several audits of how the banks live up to their commitments when these are analysed against their actual investment practices. This report is based on an analysis of the investments through the banks' mutual funds in a sample of six companies whose involvement in serious human rights abuses have been documented by Amnesty International for several years.

All of the major Swedish banks invest their clients' money in several of these companies, despite the fact that these companies' involvement in human rights abuses is well known. As co-owners and financiers of these companies, Swedish banks are in a unique position to exert pressure and influence their behaviour. Banks have a responsibility for the activities they support through the use of their customers' money. International human rights law and standards, including the UN Guiding Principles for Business and Human Rights, are clear: companies have a responsibility even when they have not caused the violation but are linked to it through a business relationship. In order to fulfil their responsibility to respect human rights, banks must exercise their leverage to effect change so that the adverse human rights impact is prevented or mitigated. When these attempts fail, the banks ought to divest from these companies.

Banks have a long way to go before they can claim to fulfil their responsibility to respect human rights. Some of the banks assessed in this report have taken no steps to raise concerns or engage with companies involved in human rights abuses. They have justified their inaction toward these companies by saying that they are minority shareholders, or that they invest in thousands of companies and therefore prioritize engaging with companies they believe they have greater influence over. These arguments do not hold. Firstly, the Office of the High Commissioner for Human Rights (OHCHR) has pointed out that even minority shareholders have responsibilities with respect to human rights<sup>1</sup>. Secondly, action in one place cannot excuse inaction in another. This argument is symptomatic of a sector that has stayed under the radar for too long. A parallel can be drawn to the garment industry; major clothing companies can no longer get away with the presence of child labour in a few of their thousands of suppliers with the excuse that they conducted checks in other factories. It is time to raise the standards for investors' responsibilities.

All seven banks are shareholders of the **Dow Chemical Company (Dow)**. In 2001, Dow acquired Union Carbide Corporation (UCC), the US-based multinational company at the heart of the world's worst industrial disaster of our time. On the night of December 2 1984, the Union Carbide pesticide factory leaked tonnes of toxic gas killing between 7000 and 10,000 people within three days. The total death toll is now estimated

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1 OHCHR letter to Chair of the OECD Working Party on Responsible Business Conduct, November 2013. Ref: RRDD/DESIB/CM/ff.

to be over 22,000 people. Pollution from the abandoned site has contaminated the local water supply. Hundreds of thousands of people are still suffering the consequences of the Bhopal disaster, and they are still awaiting justice, more than thirty years after the tragedy. UCC has repeatedly ignored orders to appear before the Indian courts to answer criminal charges concerning the disaster. Even Dow has been summoned. The summons makes it clear that, as 100% owner, Dow has a responsibility to ensure UCC faces these charges. All seven banks own shares in Dow but not a single bank has demanded that Dow respect Indian law and appear in court or make its fully owned subsidiary appear in court.

All banks also own shares in **Goldcorp Inc.** The company's Guatemalan gold mine, Marlin, which is operated by its wholly-owned subsidiary Montana Exploradora, was started in 2005 without any meaningful consultation with the Mayan People who live in the area. The Marlin mine has been the subject of community protests since its inception. Tensions have been exacerbated by the way in which the security forces have dealt with protests and by attacks on anti-mining activists. Protests erupted again in December 2013 when local communities set up road blocks on a major highway to oppose new exploration activities in the nearby area of Sipacapa. None of the banks have been in direct contact with Goldcorp over the past two years. Nordea and Skandia do not attempt to exert any influence on the company, whilst the other banks exert pressure through a consultancy service that engages in dialogue with Goldcorp. Länsförsäkringar is the bank that has contributed most actively to the engagement dialogue with Goldcorp.

**Shell** is the company in this study in which the banks have the largest investment - over two billion SEK through their mutual funds combined. Shell's oil exploration in the Niger Delta in West Africa has resulted in two generations growing up with the devastating effects of chronic pollution. A groundbreaking study by the UN Environment Programme (UNEP) in 2011 found that Shell's response to oil spills in the Ogoniland region were entirely ineffective. The consequences are a lack of food and water, destroyed livelihoods, a poisoned environment and serious health impacts. Swedbank has been in direct contact with Shell to talk about the abuses in the Niger Delta. Handelsbanken raises the issue as one of many during meetings. Nordea and Skandia do not discuss the Niger Delta with Shell, whilst the other banks have purchased a consultancy service to try to influence Shell.

Länsförsäkringar and Nordea have invested their customers' money in **Vedanta**. Groups from several indigenous peoples in Odisha in India are struggling with the harsh reality of living next door to Vedanta's aluminium refinery. In addition to causing serious environmental pollution, Vedanta's lack of consultation with indigenous peoples has been criticized for not following the OECD Guidelines for Multinational Enterprises<sup>2</sup>. Länsförsäkringar is part of a pooled engagement and has met Vedanta once during the past two years to attempt to influence the company's practices. Nordea had a dialogue with Vedanta that ended in 2012, since it concluded that the company had made enough improvements. Danske Bank has publicly blacklisted Vedanta, making it the only bank to have blacklisted any of the companies in this study.

This study has also investigated whether the banks' funds invest in **Trafigura** or **Groupe Forrest International**, both of which have been linked to human rights abuses.

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Final Statement by the UK National Contact Point for the OECD Guidelines for Multinational Enterprises. Complaint from Survival International against Vedanta Resources plc. September 2009.

Swedbank's fund 'Företagsobligationsfond' had an investment in Trafigura, but divested before the preparation of this report. No banks had any connections to Groupe Forrest International.

The seven banks included in the report have different attitudes to blacklisting and actively seeking to influence companies. Many of the banks have outsourced the whole process to an external consultancy firm - from the process of screening companies that violate international conventions to influencing the companies or recommending disinvestment. Bringing in expertise through consultants if it does not exist within the bank is a step in the right direction, but the dialogue risks having less impact when the banks do not directly participate. Banks must act in all cases where they are directly or indirectly linked to violations of human rights. In addition, the quality of the engagement dialogues varies greatly. Engagement with companies can be fruitful but only if the dialogue is informed, raising the right issues and exerting real pressure. A dialogue with indeterminate timelines and unspecific goals will do little to prevent, mitigate and remediate negative impacts on human rights. Instead, it risks being an alibi to continue business as usual.

## RECOMMENDATIONS

- If banks want to continue their ownership in companies involved in human rights abuses, they should engage in credible engagement dialogues for example by setting time specific goals, by self-representation at meetings with the companies and actively collaborating with other investors in order to increase leverage. In cases of gross human rights abuses, all forms of relationships should be ceased.
- Investors must exert enough pressure in their dialogues to influence companies in a positive direction. If all efforts to achieve a positive change fail, banks should end all financial relationships with companies that are involved in human rights abuses.
- Investors should develop an integrated approach that focuses not only on key holdings, but on serious breaches as well as high risk sectors (mining, oil & gas, apparel, electronics, weapons) and/or regions (including conflict zones or occupied territories) or countries where the use of security forces, or disregard of indigenous peoples' rights have the highest risk of linkage to potential human rights abuses.
- Banks need to improve their awareness and expertise on human rights and corporate responsibility throughout the organisation.
- In order to gain a complete picture of the situation on the ground, banks need to source information from the concerned local communities, their legitimate representatives and human rights defenders.
- Banks should be more transparent and openly report on their engagement dialogues and the response from companies that contribute to abuses.
- Banks should blacklist companies publicly when they contribute to abuses and insufficient improvement is being made.

# SUMMARY OF THE BANKS' INVESTMENT PRACTICE COMPARED TO POLICY COMMITMENTS

Bank	Policy on Human Rights. Score according to Fair Finance Guide (Jan 2015)	Investments and Engagement in Practice
Danske Bank	The bank has committed to 34% of the human rights principles in the Fair Finance Guide method, including several principles that have been breached by the companies in this report.	<p><b>Major shortcomings.</b></p> <p>The bank invests in Dow, Goldcorp and Shell but could not demonstrate credible engagement processes to justify the investments. One of the companies, Vedanta, has been black-listed by the bank, which is a responsible course of action.</p>
Handelsbanken	The bank has committed to 28% of the human rights principles in the Fair Finance Guide method, including several principles that have been breached by the companies in this report.	<p><b>Major shortcomings.</b></p> <p>The bank invests in Dow, Goldcorp and Shell but could not demonstrate credible engagement processes to justify the investments.</p>
Länsförsäkringar	The bank has committed to 30% of the human rights principles in the Fair Finance Guide method, including several principles that have been breached by the companies in this report.	<p><b>Fewer shortcomings.</b></p> <p>The bank invests in Dow, Goldcorp, Shell and Vedanta. However, the bank demonstrated comparatively active and credible engagement dialogues in three of the four cases. The gap between policy and practice is judged to be smaller for Länsförsäkringar than for the other banks in this study.</p>
Nordea	The bank has committed to 43% of the human rights principles in the Fair Finance Guide method, including several principles that have been breached by the companies in this report.	<p><b>Major shortcomings.</b></p> <p>The bank invests in Dow, Goldcorp, Shell and Vedanta but could not demonstrate credible engagement processes to justify the investments.</p>

Bank	Policy on Human Rights. Score according to Fair Finance Guide (Jan 2015)	Investments and Engagement in Practice
SEB	The bank has committed to 66% of the human rights principles in the Fair Finance Guide method, including several principles that have been breached by the companies in this report.	<p><b>Major shortcomings.</b></p> <p>The bank invests in Dow, Goldcorp and Shell but could not demonstrate credible engagement processes to justify the investments.</p>
Skandia	The bank has committed to 55% of the human rights principles in the Fair Finance Guide method, including several principles that have been breached by the companies in this report.	<p><b>Major shortcomings.</b></p> <p>The bank invests in Dow, Goldcorp and Shell but could not demonstrate credible engagement processes to justify the investments.</p>
Swedbank Robur	The bank has committed to 52% of the human rights principles in the Fair Finance Guide method, including several principles that have been breached by the companies in this report.	<p><b>Fewer shortcomings.</b></p> <p>The bank invests in Dow, Goldcorp and Shell. However, Swedbank demonstrated a comparatively active and credible engagement dialogue with one of the companies and had good knowledge of the situation surrounding another. The bank demonstrated relatively credible systems to work with sustainability issues. The gap between policy and practice is judged to be smaller for Swedbank than for the other banks in this study.</p>

# THIS REPORT

## BACKGROUND

In January 2015, FairFinanceGuide.se was launched in Sweden. Bank customers and other interested parties can now find out how well their banks take human rights and the environment into account when they invest their customers' money. The policies that are analysed are the banks' minimum standards for all of their investments, not criteria for the banks' ethical funds. The banks' policies on 13 different themes ranging from biodiversity to investments in weapons have been assessed and ranked.

FairFinanceGuide.se is a collaboration between Sveriges Konsumenter, the Swedish section of Amnesty International, Diakonia, Fair Trade Center and Naturskyddsföreningen. This study is produced by the Swedish section of Amnesty International and focuses on human rights. It is an investigation into how the banks' policies and commitments translate into practice. Other organisations behind FairFinanceGuide.se will publish further investigations into banks' practices relating to other themes that are covered by the guide.

The Swedish Fair Finance Guide is part of the international network Fair Finance Guide International. It was established in January 2014 as a collaborative effort of NGO coalitions in seven countries: Belgium, Brazil, France, Indonesia, Japan, the Netherlands and Sweden. In each country, NGO coalitions set up Fair Finance Guide websites that customers and other interested parties can use to compare the main banking groups regarding sustainability issues.

Responsible banks are much needed if we are to face the social and environmental challenges that the global community is confronted with. By comparing and ranking banks, the Fair Finance Guide International project sets out to stimulate financial institutions to re-think their role and responsibility in society.

## THIS STUDY

This study investigates the links between Sweden's seven largest banks and six companies that have caused or contribute to human rights abuses: Dow Chemicals, Goldcorp, Groupe Forrester International, Shell, Trafigura and Vedanta. The abuses have been investigated and documented by Amnesty International for many years. Each of the six cases are emblematic and include serious abuses of human rights. The scandals have been well covered by the media and information about the abuses are easily accessible online. This study investigates how Swedish banks have responded to the abuses, how they motivate their continued investments in the companies and whether the investments can be squared with the banks' policies on human rights.

Two of the companies: Groupe Forrester International and Trafigura were excluded from the study. None of the banks had holdings in Groupe Forrester International, a company connected to the forced eviction of hundreds of people in the Democratic Republic of Congo in 2009. Swedbank Robur had shares through a corporate bonds fund in Trafigura, a company that dumped toxic waste in the capital city of Côte d'Ivoire in 2006, but the responsible fund manager sold the holdings before the beginning of this review.

## METHOD

This study has been carried out in three steps. First, the banks' investments in the six companies related to human rights abuses have been examined. Second, the banks have been asked to explain their investment. Third, in the case where banks have justified their investment by referring to an engagement dialogue, this has been evaluated.

As a first step, the banks' investments in the six companies have been reviewed. The review is limited to the banks' own-managed mutual funds. Both equity and bond funds are included. External funds managed by third parties are not included. Information regarding the funds' holdings has been acquired from Finansinspektionen (the Swedish Financial Services Authority), dated December 31, 2014. Finansinspektionen obtains the information on a quarterly basis from the banks and it contains the holdings of mutual funds registered in Sweden. Information about a fund can be missing in this registry if the fund is newly established, if the fund does not report electronically or if Finansinspektionen has not received correct information from the bank. An additional screening of holdings by the banks' mutual funds in other countries (eg Luxembourg) was also conducted. Finally, each bank confirmed the findings.

Secondly, we contacted the banks asking them to comment on their investments in relation to their policies. In written correspondence, followed by arranged meetings, the banks were given the opportunity to present their perspective. Most of the banks justified continued investment by saying that it was better to engage with the companies in question, in order to prevent or mitigate human rights abuses, than to divest. The study therefore examines more closely the nature and quality of the engagement. In assessing the quality of the dialogue and whether it can credibly be claimed to influence the companies, we have looked at the following:

- The level of involvement of the bank in the engagement dialogue.
- The length of time of the dialogue.
- The nature and frequency of the contacts.
- Whether independent sources of information are gathered to assess the human rights situation on the ground.
- The competency of the banks' representatives on relevant human rights issues and their knowledge of these specific cases.
- The aim of the dialogue and whether there are time-bound objectives.
- The banks' statements regarding improvements in the companies' respect for human rights.
- Whether the bank uses other tools to influence the companies than dialogue.
- Whether the bank cooperates with other fund managers to increase its leverage.
- Whether the bank has blacklisted companies as a result of failed engagement dialogues.
- The banks' transparency about their engagement dialogues.

Third, the findings have been scrutinized and evaluated in relation to the banks' own policies for sustainable investment, as well as in relation to international standards such as the United Nations Guiding Principles (UNGP) and statements by the Office of the

High Commissioner for Human Rights (OHCHR). Statements in the banks' own policies regarding human rights were compared with the practice of the bank in each of the investment cases. The intensity of the banks' efforts to influence companies with a record of involvement in human rights abuses was also assessed. Finally, an overall assessment was made of which banks have large gaps between policies and conduct in practice. Banks that have significant gaps are marked with a warning symbol on the Fair Finance Guide website, next to their policy rating.

All banks included in the study have willingly participated and have demonstrated openness about their work and how it can be improved in the future.

## **BUSINESS AND HUMAN RIGHTS**

### **HUMAN RIGHTS**

The Universal Declaration of Human Rights (UDHR) is the foundation of the international system of protection of human rights. Human rights are basic rights and freedoms that all people are entitled to regardless of nationality, sex, national or ethnic origin, race, religion, language, or other status. Human rights include civil and political rights, such as the right to life, liberty and freedom of expression. These are enshrined in the International Covenant on Civil and Political Rights (ICCPR). Human rights also include social, cultural and economic rights, such as the right to participate in culture, the right to food, and the right to work and receive an education. These are enshrined in the International Covenant on Economic, Social and Cultural Rights (ICESCR). Human rights are protected and upheld by a series of international laws, treaties and standards, but also by national laws.

States are the primary duty bearers under international law for ensuring the respect, protection and fulfilment of human rights. When a government fails to protect people's human rights against harm by non-state actors, such as companies, this amounts to a violation under international law. However, the failings of governments do not absolve the non-state actor from responsibility for their operations and the impact they have on human rights.

### **BUSINESS AND HUMAN RIGHTS**

Globalization has significantly changed the world we live in, presenting new and complex challenges for the protection of human rights. Economic players, especially companies that operate across national boundaries, have gained unprecedented power and influence. This has not always benefited the societies in which they operate.

Companies have a baseline responsibility to respect all human rights. This is the position articulated by Professor John Ruggie, the former UN Special Representative of the Secretary-General (SRSG) on the issue of human rights and transnational corporations and other business enterprises, in his final report to the Human Rights Council in 2011. The corporate responsibility to respect all human rights has a corresponding requirement for concrete action by companies to discharge this responsibility and exert human rights due diligence: companies must take steps to become aware of, prevent and address

adverse human rights impacts. The United Nations Human Rights Council unanimously endorsed this viewpoint on June 16, 2011, when the Guiding Principles for Business and Human Rights were adopted.

Amnesty International's research has highlighted the negative impact companies can have on the human rights of the individuals and communities affected by their operations. This report investigates Swedish banks' investments in four of these companies.

## THE ROLE OF FINANCIAL INSTITUTIONS

Financial institutions, just like other companies, have the responsibility to respect all human rights. Banks facilitate and enable the activities of other companies through investments and by supplying capital. As a result, banks' responsibilities for human rights encompass their own activities as well as the activities of companies they own shares in. Banks can strengthen the financial position of companies that respect human rights, or support and make a profit on companies that are involved in human rights abuses.

The United Nations Guiding Principles for Business and Human Rights extend to business relationships. Financial institutions that are linked to violations of human rights through their business relationship with other companies are required to act. The appropriate action to take should be in proportion to the severity of the human rights abuse. The Principles state that the more complex the situation, the stronger is the case for the company to draw on independent expert advice in deciding how to respond.

As shareholders and creditors, financial institutions can exert influence on companies. Public or private dialogue, blacklisting and divestment are all tools that are at a bank's disposal. When financial institutions join forces and collaborate in their dialogue with companies, they can increase their leverage and create significant pressure. In so doing, financial institutions can set the standard that human rights abuses are unacceptable and contribute to preventing and ending human rights abuses. If pressure is not exerted, financial institutions can end up passively supporting, and making a profit from, companies that contribute to human rights abuses. At the end of the day, it is the people with savings in these banks' funds that end up financing human rights abuses.

# GUIDELINES, PRINCIPLES AND STANDARDS

Based on internationally recognised human rights, guidelines and standards for corporate responsibility have been formulated. The purpose of these guidelines is both to prevent that companies contribute to violations of rights and ensure remediation in cases where they do. The Fair Finance Guide's rating system is largely based on examining which of these standards that banks refer to in their policies. A brief description of the standards relevant for this study follows.

As described above, human rights are enshrined in instruments such as the UN Declaration of Human Rights, the ICCPR and the ICESCR. In the area of business and human rights, certain standards have been concretized in principles and standards.

## UN GUIDING PRINCIPLES ON BUSINESS & HUMAN RIGHTS

John Ruggie, the former UN Secretary-General's Special Representative on business and human rights presented the 2008 framework: "Protect, Respect, Remedy". Three years later, in 2011, the United Nations Human Rights Council adopted the United Nations Guiding Principles on Business and Human Rights (UNGPs), which are guidelines for the implementation of the framework.

The "Protect, Respect, Remedy" framework is based on three core principles:

- The State duty to protect human rights, including from abuses committed by third parties such as corporations.
- The corporate responsibility to respect human rights.
- The need for greater access to remedy for victims of business-related abuse.

Guiding Principle 19 establishes that companies should take appropriate action to prevent and mitigate adverse human rights impacts. When the adverse impact is caused by other parties with which a company has a business relationship, it should use its leverage to mitigate negative impacts, and if unsuccessful, seek to increase its leverage, for example by joining forces with other companies or in this case, investors. If this fails, the company must consider ending the relationship. The more severe the abuse, the more quickly the enterprise will need to see change before it takes a decision whether to end the relationship.

## OECD GUIDELINES

The OECD Guidelines for Multinational Enterprises (the Guidelines) are recommendations backed by 42 governments on responsible business conduct. The OECD Guidelines are not legally binding, though governments that have supported the guidelines are committed to encouraging multinational corporations operating in or from their territories to observe the Guidelines, wherever they operate.

The fourth chapter of the Guidelines concern corporate responsibility regarding human rights. The third section states that companies have a responsibility when linked to another company involved in human rights abuses.

- *“1. Respect human rights, which means they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.*
- *2. Within the context of their own activities, avoid causing or contributing to adverse human rights impacts and address such impacts when they occur.*
- *3. Seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to those impacts. “*

## UN GLOBAL COMPACT

The United Nations Global Compact was established at the request of the UN Secretary-General Kofi Annan during the 1999 World Economic Forum in Davos. The aim was to create international principles concerning human rights, labour standards, environmental issues and anti-corruption targeted to businesses. The principles are based on the Universal Declaration of Human Rights, the ILO core conventions regarding human rights in the workplace, the Rio Declaration and the UN Convention against Corruption. UN Global Compact is voluntary, and companies and organizations can become members.

The UN Global Compact is based on ten principles in the areas of human rights, labour, the environment and anti-corruption. The first two involve human rights.

- *“Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; and*
- *Principle 2: make sure that they are not complicit in human rights abuses. “*

Banks have a responsibility for the companies that they invest in. Placing their clients' money in a company, and thus becoming a partial owner of that company, is a form of participation that in addition means power over that company. The UN Global Compact describes participation as follows:

*“Complicity basically means being implicated in a human rights abuse that another company, government, individual, group etc is causing. The risk of complicity in a human rights abuse may be particularly high in areas with weak governance and/or where human rights abuse is widespread. However, the risk of complicity exists in every sector and every country.”*

# THE CHEMICAL AND EXTRACTIVE INDUSTRIES' IMPACT ON HUMAN RIGHTS

## INTRODUCTION

Chemical, oil and mining companies have significant impacts on the societies in which they operate. Getting to the oil, gold and other valuable resources may require clearing the land from the people, nature and wildlife that currently inhabit the land. Social conflict and protests in communities affected by extractive industries are widespread. Chemical, oil and mining companies are responsible for severe environmental damage, where unsafe production facilities, poor management of waste products or pipelines have polluted the lives and livelihoods of the people living nearby. Chemical production and resource extraction are often located in states with a lower capacity or will to effectively regulate these industries and safeguard human rights. Financiers need to be extra observant of what their money contributes to when investing in these sectors.

## FORCED EVICTIONS

Forced evictions constitute violations of a range of internationally recognised human rights, including the human rights to adequate housing, food, water, health, education, work, security of the person, freedom from cruel, inhuman and degrading treatment, and freedom of movement. Forced evictions often affect already vulnerable and marginalized groups and result in increased poverty.

Amnesty International has repeatedly reported on communities being forcibly evicted from areas rich in natural resources. In many of the world's poorest states, communities are relocated to make way for international extractive companies without due respect for people's rights or due concern for the impact on their livelihoods or access to food and water.

Human rights should never take second place to commercial interests. When government officials provide concessions to extractive companies without safeguarding human rights, the host state breaches its duty under international law. But companies are also responsible to respect the rights of local communities, which includes the right to remedy once a violation has occurred.

## POLLUTION

Chemical, oil and mining companies are among the dirtiest industries in the world and are at the top of the list of the worst water polluters. Global chemical pollution is a serious threat not only to the environment but also to human rights. Mineral refining poses a huge potential pollution risk if there is any failure of containment of waste products such as caustic residues and alkaline waste water. Similarly, broken, unsupervised or corroded oil pipelines are a constant threat to local communities that risk having their access to clean drinking water, farmlands and fishing waters devastated by oil spills. When waste from these industries is not properly decontaminated, it pollutes the lives and livelihoods of the people living nearby the factories, mines and refineries, thereby violating the rights to health, water, food and leading to increased poverty. In certain cases, as will be shown in this report, pollution can lead to death.

## INSUFFICIENT SAFEGUARDING

Governments have a duty to abide by international law and take immediate steps to ensure human rights abuses do not occur. ‘Weak governance zones’<sup>3</sup> are areas where the governments are unable or unwilling to assume these responsibilities. These failures in governance create conditions for human rights violations, violence, crime and corruption.

The exploitation of oil and mineral reserves is a predominant revenue source for a number of resource-rich countries with weak governance structures. Companies that operate in weak governance zones are responsible for their involvement in human rights abuses and breaches of national law and international standards as they would be in any other part of the world. Operating in weak governance zones thereby poses additional demands on companies, as they face an additional need to monitor the human right impacts of their operations.

States’ regulatory capacity of the chemical and extractive industries varies widely around the globe, leaving poor, vulnerable and marginalized people at greater risk. The large shift in the allocation of chemical production from developed to developing countries over the last decade, accompanied by a doubling of production<sup>4</sup>, places a significant responsibility on chemical production manufactures and their investors to evaluate and take responsibility for the human rights impact of their operations.

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3 As defined by the OECD Council in 2006.

4 UNEP, Global Environment Outlook 5, Chapter 6, Chemicals and Waste, 2012.

# BANKS AND RESPONSIBLE INVESTMENTS

This section looks at how banks work with responsible investments and how this squares with their policies.

All banks in our survey use external consultancy firms specializing in responsible investments, but to varying degrees. Many banks use the same firm and hence refer to the same work that the consultant conducts for the banks. But the extent to which the banks actively engage in the analysis and dialogues with companies differs a great deal, as is outlined for each bank below.

The most common use of consultancy firms is for the so-called **screening process**. This process consists in identifying companies that are associated with abuses of international norms and standards. To find allegations against companies the consultancy screens information from various sources, such as the UN, other inter-governmental organizations, national authorities, NGOs and the media. When allegations are found and are deemed serious and severe the consultant initiates an investigation and informs the bank about the finding.

If a bank has investments in the company the bank can decide to engage with the company. **Dialogue** is the most common form of **engagement**. This can mean anything from repeated contacts, meetings and putting pressure on the company through publicly expressing clear demands for change, to an occasional standard email. Some banks use the consultancy firms in the engagement phase, who then contact the company as representatives for a group of customers. Other banks are more active and have their own dialogue directly with the company or collaborate with a consultancy firm and actively participate in meetings that the consultants arrange.

If the engagement proves unsuccessful the bank may decide to divest the company. **Exclusion** or blacklisting means that the bank sells its shares in order to disassociate from the company and to send a signal that the company has to change its behaviour. The exclusion can either apply to all the bank's holdings or to specific investments.

Banks primarily have two main types of funds; actively managed and passively managed. Index funds are passively managed which means that the investments follow an external index. According to Swedish legislation the holdings in an index fund may not deviate from the index. This means that the bank cannot decide which of the companies to invest in, even if a company violates the bank's ethical policies. However, there are several options for banks that want their passively managed funds to abide to their ethical principals. One option is to offer a fund that is 'close to index', which allows more flexibility. Another option is to find an index that is consistent with the bank's guidelines, or if that is not available, to create a new index.

## DANSKE BANK

Danske bank is the biggest bank in Denmark and has its main operations in the Nordic countries. In Denmark the bank has provided bank services for more than a century and it has been established in Sweden since 1997. Danske Bank's fund investments are managed from the headquarters in Copenhagen which is also where the responsible investments unit is located.

Danske Bank uses an external specialist consultancy firm to screen its investments

and to conduct its engagement work. The bank's employees only occasionally engage in company dialogues themselves regarding incidents and sustainability issues. The bank has chosen to focus its engagement on a small number of companies, where it sees an opportunity to exert influence.

Danske Bank's portfolio managers are not actively involved in making sure that the investments comply with the bank's policy on human rights. This is handled by the Responsible Investment unit. The unit arranges bi-annual meetings with relevant portfolio managers to exchange information about responsibility issues.

## POLICY

Danske Bank has committed to some of the main international standards on business and human rights and bases its policy on the frameworks of the UN Global Compact, the OECD Guidelines and the UNGPs. (See Table 2).

The policy even sets out a course of action for the bank in cases where the bank invests in a company that breaches one of the principles named above. But the policy, as it is worded, does not oblige the bank to act and it exempts several of the bank's operations entirely.

From Danske Banks Responsibility policy adopted in November 2014.

*“Through appropriate due diligence and the screening of investments, we want to assure customers that their funds are not invested in companies or assets that violate internationally recognised standards adopted by the Group.*

*The GR policy applies to Danske Invest and Danica Pension products and to Danske Bank's pooled accounts where the Group manages the investment of customer funds. The policy also applies to the Group's own investments. The policy does not apply to funds-of-funds, structured products, individual securities or derivatives, institutional mandates, institutional funds or managed accounts. When we recommend that a customer invests in funds other than Danske Invest, we strive to select funds that are based on internationally recognised principles for responsible investing.*

*To enforce the policy, we enter into a dialogue with portfolio companies when we deem it fruitful and in customers' interests. We also support international initiatives in collaboration with other investors, primarily through the UN Principles for Responsible Investments.”*

## SCREENING

Danske Bank uses an external consultancy firm for the screening of its investments. This is the main source for identifying abuses by companies that the bank invests in.

## ENGAGEMENT

Danske Bank primarily uses the consultancy firm's pooled engagement. Additionally, the bank develops its own engagement strategies from time to time, but since these strategies do not involve any of the companies in this report they have not been examined further.

## EXCLUSION

If Danske Bank does not see any results from dialogue, exclusion is still an option according

to the bank. However, the Bank still prefers engagement and dialogue with companies on controversial issues. This means, that the bank will seek to encourage the development of higher standards of responsibility by the company.

Danske Bank has published a blacklist on its website containing around 30 companies. A clear majority of these companies are related to controversial weapons.

## HANDELSBANKEN

Handelsbanken is one of the largest banks in the Nordic countries and also has offices in several other countries worldwide. Handelsbanken has conducted banking operations for more than a century and manages funds worth approximately SEK 337 billion. Its subsidiary Handelsbanken Fonder is responsible for the majority of the bank's funds.

Handelsbanken Fonder's council for responsible investments is responsible for ensuring that the bank acts when companies that the bank invests in are associated to abuses of international standards. The council is led by Handelsbankens Fonder's CEO.

Handelsbanken states that sustainability issues are part of all fund managers' responsibilities. Yet the bank lacks a clear process and system to ensure that the policies are properly implemented. The fund managers have received a basic training in sustainability issues. Sometimes questions regarding responsible investments are raised during strategy meetings where the fund managers are involved. Handelsbanken hopes to develop systems for this in the future.

## POLICY

Handelsbanken has committed to some of the main international standards on business and human rights and bases its policy on the frameworks of the UN Global Compact, the OECD Guidelines and the UNGPs. (See Table 2).

Handelsbanken Fonder's ownership policy sets out guidelines for how the bank should act when it receives signals that companies it has invested in breach international standards. The policy does not bind either the bank as a whole nor the individual employee to act to prevent the bank's indirect involvement in abuses of human rights. The policy states only that Handelsbanken has the possibility to act, not that it must.

Excerpt from the Corporate Governance Policy Handelsbanken Asset Management adopted in May 2014:

*"We have the opportunity to take action on reported deviations from international norms and conventions, e.g., by having a dialogue with the company in question. Depending on the outcome of such a dialogue, we take a position on any further actions. The dialogue either occurs directly between the company and Handelsbanken Asset Management, but it may be coordinated with other actors to achieve the best result. These efforts may include a dialogue with the company's decision-makers, collaboration with other owners as well as casting votes at annual meetings.*

*The possibility of selling holdings in a company may occur in those instances in which we do not believe a change can be attained through engagement and dialogue. The sale of holdings in index funds may be excluded if the investment is significant for the fund to reflect the underlying index."*

## SCREENING

Handelsbanken's funds are screened by an external consultancy firm twice a year. In actively managed funds, the financial risks that sustainability issues may represent are included in the analysis. The division for responsible investment does not carry out any additional research on the companies identified in the screening and relies on the consultant's assessment.

## ENGAGEMENT

The companies that are flagged in the screening processes are brought before Handelsbanken's council for responsible investments. The council decides how the bank should act.

The bank has its own dialogue mainly with companies where the bank has a large stake and where they have the greatest opportunity to exert influence as an owner. For some other companies, Handelsbanken participates in the consultant's pooled engagement. Handelsbanken has not initiated its own cooperation with other investors to influence the companies in this report.

## EXCLUSION

Handelsbanken rarely excludes a company on the grounds that it violates international standards. If the company is excluded or shares are divested, it is usually based on an assessment that it is not economically viable to retain the shares. However, occasionally shares in a company are divested when the bank has not received a response from the company regarding questions posed or when the dialogue has not resulted in progress. An exclusion list can be found on its website.

## LÄNSFÖRSÄKRINGAR

Länsförsäkringar is a formation of 23 regional insurance companies. Banking is a relatively new business area for Länsförsäkringar and they have only provided banking services through Länsförsäkringar Bank since 1996. The subsidiary Länsförsäkringar Fondförvaltning AB is the group's fund management company. In 2014, Länsförsäkringar Fondförvaltning managed SEK 95 billion and offered 34 mutual funds including external funds.

Länsförsäkringar is just in the beginning of starting dialogues with companies. Its screening, dialogue process and new policy has been up and running for one year only. 2012 was the first year the bank screened all its investments. To gain competence in this matter Länsförsäkringar has recruited a manager for responsible investments with relevant experience. Moreover, Länsförsäkringar Fondförvaltning has two employees that work half time with sustainability issues. The bank is using a consultancy firm through which Länsförsäkringar can join ongoing dialogues to influence companies.

Länsförsäkringar Fondförvaltning has no portfolio managers employed, instead the bank uses external managers and has less influence over its investment decisions and dialogues with companies.

## POLICY

Länsförsäkringar has committed to some of the main international standards on business and human rights and bases its policy on the frameworks of the UN Global Compact, the OECD Guidelines and the UNGPs. (See Table 2).

The bank's new investment policy sets the framework for how the bank should handle investments that are connected to violations of human rights. The wordings are vague and provide no guaranties that the bank will act if the companies that it invests in are linked to abuses of human rights. The policies are formulated as recommendations in every aspect except one; the bank states that it does not do any direct investment in companies that can be linked to controversial weapons.

Länsförsäkringar Fondförvaltning AB's investment policy from June 2014 states:

*”LFAB verkar för att de bolag som LFAB eller dess fonder investerar i ska följa de internationella konventioner och överenskommelser som Sverige har skrivit under, däribland konventioner om miljö, mänskliga rättigheter, arbetsrätt, korruption och kontroversiella vapen, och genom det stöd som Sverige ger till initiativ såsom FNs Global Compact och OECDs riktlinjer för multinationella bolag.*

*Om det kommer till LFABs kännedom att ett bolag bryter mot internationella konventioner inleds i regel en utredning för att verifiera fakta och en dialog inleds med bolaget på egen hand eller via extern konsult. Dialogen syftar till att bolaget ska upphöra med kränkning samt vidta förebyggande åtgärder för att förhindra att kränkning sker igen. Om dialogen inte når avsett resultat kan LFAB som en sista utväg välja att avyttra sitt innehav i bolaget. LFAB gör inga direktinvesteringar i aktier och företagsobligationer i bolag som kan kopplas till kontroversiella vapen.”*

## SCREENING

All of Länsförsäkringar funds are screened by a consultancy firm specialised in ethical investments. The screening of Länsförsäkringar Fondförvaltnings investments has been done since 2012. In addition, Länsförsäkringar gathers some information from other sources.

## ENGAGEMENT

If the consultancy firm can verify that a company is connected to an abuse of human rights, the department for responsible investments decides whether the bank should take part in the consultancy firm's pooled engagement. Länsförsäkringar usually participates in the dialogue if the company's abuse is “verified” and they occasionally participate when there are indications of abuse. Länsförsäkringar has currently outsourced all of the screening and most of the reactive dialogue work, but state that they have become more active in meetings with the companies since 2014.

## EXCLUSION

When a company that Länsförsäkringar invests in is flagged for breaching international standards, Länsförsäkringar chooses dialogue as the first option. Exclusion can constitute a last option if the company does not show any willingness to improve.

Länsförsäkringar publishes a blacklist on its website. The list currently contains 25 companies which have been excluded due to involvement in controversial weapons, activities in the occupied Palestinian territories, abuses of labors rights or forced evictions.

## NORDEA

Nordea is the largest bank in the Nordic region and also has operations in several countries outside the region. Previously, the Swedish government was a significant owner, but the government sold its stake in 2013. In Sweden, funds are managed through the Swedish branch, Nordea Funds Ltd, which manages SEK 850 billion in assets.

Nordea Asset Management is the only asset manager in this report that engages in dialogue with the companies without the assistance of a consultancy firm. The division for responsible investments works closely with the portfolio managers and belongs to the same organization, which according to the asset manager leads to a greater understanding of the issues among the employees. The consequences of conducting engagement in-house is that Nordea Asset Management is engaged in dialogue with fewer companies, but it is able to put more weight behind the engagement dialogues that it pursues. Since none of Nordea's prioritized dialogues concern the companies in this report, they have not been evaluated.

## POLICY

Nordea has committed to some of the main international standards on business and human rights and bases its policy on the frameworks of the UN Global Compact, the OECD Guidelines and the UNGPs. (See Table 2).

Neither Nordea's Sustainability Policy nor its policies for responsible investments provide a detailed description of how the bank should act when it has holdings in companies that violate international standards. The policy does not bind the bank to act, only states that the bank, as the largest asset manager in the Nordic countries, aims to promote good practice through constructive dialogue with the companies.

From Nordea's Policy for Responsible Investment from February 2015:

*“As a responsible asset manager we want to invest to achieve long-term and good returns. We define responsibly as observance of existing laws and regulations, relevant rules and international conventions. Furthermore, a responsible company addresses environmental, social and governance risks, as well as identifies and capitalizes on opportunities within these areas. As the largest asset manager in the Nordic region we seek to encourage best practice through constructive and credible dialogue with companies.”*

## SCREENING

Nordea Asset Management buys screening reports from a consultancy firm to identify companies that are associated to violations of its policy. In addition to that, the bank conducts annual oversights of its funds to identify high risk industries and issues in its portfolios.

## ENGAGEMENT

Nordea Asset Management engages with companies where it feels it can exert greater influence, often where it is a large shareholder and has a good relationship. Nordea Asset Management also works thematically and focuses on companies relevant to the chosen

themes. This year, the thematic areas are climate, taxes, water and anti-corruption.

Nordea Asset Management is one of the few asset managers that report more detailed examples of their engagement dialogues on its website.

## EXCLUSION

Blacklisting a company is used as a last resort by Nordea Asset Management. It does so when a company shows no willingness to change and the abuses are serious.

Nordea has a public blacklist on its website that contains around 30 companies, of which all but three are involved in controversial weapons. These companies are involved in human rights abuses due to their direct or indirect operations in occupied territories.

## SEB

Skandinaviska Enskilda Banken (SEB) – is a finance group with its main activities in northern Europe but with representation all over the world. SEB is one of Sweden's largest banks and has provided bank services for more than a century. The bank's subsidiary SEB Investment Management AB manages a broad range of funds and tailored mandates. In 2014, asset under management in SEB's fund companies amounted to SEK 513bn.

SEB is both working in-house and through an expert consultancy firm to screen and engage with companies that can be linked to abuses of human rights. SEB prioritizes to have individual engagement dialogues with companies where they have a significant holding, which often means Nordic companies and joins a consultancy firm's pooled engagement with non-Nordic companies. The main reason for this, according to the bank, is an attempt to allocate the bank's limited resources where it believes they will achieve the greatest impact; the team responsible for the dialogue consists of only five persons. SEB states that its engagement is constantly under evolution. Since this report does not involve Nordic companies, SEB's in-house engagement is not evaluated.

## POLICY

SEB has committed to some of the main international standards on business and human rights and bases its policy on the frameworks of the UN Global Compact, the OECD Guidelines and the UNGPs. In addition, SEB's policy explicitly recognises the rights of women, children and indigenous peoples' right to free, prior and informed consent (FPIC). (See Table 2).

In cases where the bank invests in companies that violate international standards, the policy suggests a course of action based on the UNGPs.

From SEB's human rights policy adopted in November 2014:

*“SEB seeks to prevent, mitigate or remediate adverse human rights impacts that are linked to our operations, activities and business relationships. Potential impacts will be prioritised for possible further assessment and implementation across relevant internal functions and processes, based firstly on severity of the potential impact/violation as well as likeliness of the impact. Understanding that SEB may not have the leverage to influence all negative impacts, SEB will make an informed decision on what issues to prioritise and take appropriate actions based on an assessment of whether SEB is*

*potentially causing, contributing, or only linked to the negative human rights impacts. In prioritised situations where SEB is merely linked to the impacts and does not have leverage, SEB strives to gain leverage, which can be achieved in various ways, including engagement with stakeholders and multi-investor coalitions. If efforts to gain leverage are unsuccessful, SEB may exit the relationship.”*

## SCREENING

SEB uses a specialized consultancy firm that screens the bank's investments. In some cases, SEB does additional research.

## ENGAGEMENT

SEB focuses its engagement on some of its investments based on where the bank assesses it will achieve the most impact. SEB joins the consultancy firm's pooled engagement with companies when the bank does not consider the case a priority.

In addition to individual dialogues with companies, SEB partners with other international investors via the PRI Clearinghouse for thematic engagements. For example, SEB has been working on the themes of anti-corruption, as well as fracking in the shale gas industry. In addition, SEB collaborates with a number of Swedish institutions, and have initiated a discussion around taxation and tax evasion for their equity holdings. In actively managed funds SEB works to integrate sustainability issues and has started a process to support the portfolio managers, team by team.

## EXCLUSION

SEB relies on the consultancy firm's evaluation of companies. If the consultancy firm sees improvement, SEB continues the dialogue instead of excluding the company from investment. SEB does not publish a list of blacklisted companies or publicly declare which companies that they have a dialogue with. SEB excludes companies involved in certain activities such as the production or marketing of illegal weapons (landmines, cluster munitions, chemical and biological weapons) and in the development or production phases of nuclear weapons programmes. An exclusion list can be found on its website.

## SKANDIA

Skandia is an insurance and savings company that started retail banking in 1994. The bank Skandia was one of the first banks that managed customer relations over the phone and now mainly through online services. The bank is currently operating in Sweden and Norway. Skandia Fonder manages the group's mutual funds.

Skandia offers approximately 800 funds managed by internal and external fund managers. Thirty of those funds are managed by Skandia, who uses a partner when it comes to sustainability matters, as well as resources from Skandia's sustainability department. Skandia collaborates with Norway's largest bank DNB. DNB manages parts of Skandia's capital and Skandia also purchases services in the field of responsible investment. Skandia does not have its own team of analysts working on sustainability and social responsibility.

## POLICY

Skandia, as well as the rest of the Skandia group, has committed to some of the main international standards on business and human rights and bases its policy on the frameworks of the UN Global Compact, the OECD Guidelines and the UNGPs. (See Table 2).

Skandia's policy differs from other banks in that it places a greater emphasis on exclusion of companies and less importance on dialogue with them. The policy states that the company that the fund invests in shall comply with international conventions and agreements on human rights. However, exclusion is not the automatic consequence for companies who breach international standards.

From Skandia's policy for ethical and environmental considerations:

*”De företag som Fonderna investerar i ska på ett godtagbart sätt följa internationella konventioner och överenskommelser om mänskliga rättigheter, arbetsvillkor, miljö, mutor och korruption. För det fall sådana konventioner och överenskommelser inte är tillämpliga ska investeringsobjektet ändå bedömas utifrån de principer som anges däri, varvid dock även lokala förhållanden samt praxis kan beaktas. Om det kommer till Skandia kännedom att något företag bolaget investerat i bryter mot tillämpliga lagar eller inte på ett för fonderna godtagbart sätt följer internationella konventioner och överenskommelser ska en utvärdering av placeringens lämplighet göras. Baserat på tillgänglig information ska en helhetsbedömning göras av investeringens lämplighet, varvid bl.a. kan beaktas vilka åtgärder företaget har vidtagit för att rätta till missförhållandena och företagets agerande i etiska och miljörelaterade frågor i övrigt.”*

*”Från Skandia policy om ägarstyrning information om bolagen inhämtas, bearbetas och utvärderas kontinuerligt. Två gånger per år utarbetar DNB ett förslag på en exkluderingslista som efter godkännande av Skandia implementeras för Fonderna. I händelse av frågor av akut karaktär är något oförutsett inträffar i ett bolag tas omedelbart ställning till det inträffade vilket kan leda till att bolag i fonden exkluderas direkt.”*

## SCREENING

Skandia's screening is conducted primarily by DNB, which in turn buys the services from consultants. DNB also has its own sustainability analysts who conduct research. Skandia states that it also has the possibility to react and respond to incidents where the companies in its portfolio are in breach of standards.

## ENGAGEMENT

When DNB initiates a dialogue, Skandia is given the opportunity to join. The priority is to be involved when the dialogue concerns a serious breach of norms and when Skandia believes it has a greater potential to influence the company, which is more often the case with Swedish companies. Sometimes Skandia starts a dialogue on its own initiative. Since Skandia does not blacklist or have a dialogue with any of the companies mentioned in this report, the quality of these dialogues is not assessed.

Skandia does not publicly declare which companies it has a dialogue with.

## EXCLUSION

Skandia does not invest in companies involved in certain controversial weapons or tobacco companies, or companies that are in breach of the corporate governance policy when it comes to the above-mentioned norm-based criteria. Skandia shares a blacklist with DNB, but it is not published. Skandia has decided offer ‘exposure funds’ instead of index funds to be able to exclude companies in passively managed funds.

## SWEDBANK

Swedbank is made up of local savings banks that merged and the bank still teams up with local savings banks around Sweden. Today, the bank operates primarily in the Nordic and the Baltic countries. Swedbank’s funds are managed by the subsidiary Swedbank Robur. Swedbank Robur manages assets over SEK 1000 billion on behalf of the bank’s customers and offers about 120 funds.

Swedbank Robur has a team working with responsible investments. Previously the team worked only with sustainability funds, but since 2010 the team’s scope covers all funds. There are systems in place to ensure that fund managers have basic knowledge of sustainability issues. The team working on responsible investments have formal meetings with the fund managers individually twice a year to update them on current issues and the sustainability performance of the companies in their investment universe and fund portfolios, and they have set up a digital system to give the portfolio managers sustainability information about companies. In addition, all of the bank’s employees attend a basic education on sustainability issues every two years.

## POLICY

Swedbank has committed to some of the main international standards on business and human rights and bases its policy on the frameworks of the UN Global Compact, the OECD Guidelines and the UNGPs. In addition, Swedbank’s policy explicitly recognises indigenous peoples’ right to free, prior and informed consent (FPIC). (See Table 2).

Swedbank Robur’s policy differs from the other asset managers by saying that it does not invest in companies that seriously and systematically infringe international sustainability standards with regards to the environment, human rights and business ethics.

From Swedbank Robur Fonder AB’s Ownership Statement, adopted in November 2012:

*”Swedbank Robur engages with companies as a responsible owner and refrains from investing when necessary. Swedbank Robur can also dispose of companies when company dialogue does not achieve the intended results. In particular, Swedbank Robur investigates companies in industries and geographies with a significant sustainability risk. One of the aims of Swedbank Robur’s investment process is to recognize companies that contribute to sustainable development through their products and services. Swedbank Robur does not invest in companies that seriously and systematically infringe international sustainability standards with regards to the environment, human rights and business ethics.”*

## SCREENING

Swedbank Robur uses two different consultancy firms to screen its funds and relies largely on the consultants' assessments of whether companies violate international standards or not. Sometimes Swedbank Robur also uses other sources to assess the seriousness of a company's alleged abuses. The asset manager expressed an ambition to be more involved in the consultancy firm's assessments and design of dialogue.

## ENGAGEMENT

Based on the companies flagged in the screening, Swedbank Robur has selected about seventy companies that are on the asset manager's list of especially high-risk companies: the Watch List. These companies are prioritized for engagement. Swedbank Robur also keeps a list of companies that it has been engaging with. This list is updated four times a year and is published on the asset manager's website. Most dialogues are conducted by the asset manager, while others are conducted by a consultancy firm. Swedbank Robur also has partnerships with other asset managers through the PRI Clearinghouse where banks have dialogues with companies around selected themes such as corruption, oil sand and palm oil.

## EXCLUSION

In principle, Swedbank Robur only excludes companies that are associated to controversial weapons. The sustainability funds have much sharper criteria for exclusion. To be able to exclude companies also in passively managed funds the asset manager is in the process of replacing the index funds with so-called 'index close' funds. In non-ethical funds, dialogue is the main strategy and as long as a company shows a willingness to improve, the dialogue continues. In a few years, the asset manager may consider excluding other companies than weapons companies.

Swedbank Robur publishes a list of excluded companies on its website, which contains 25 companies that are associated to various controversial weapons.

# THE BANKS' COMMITMENTS TO THE INTERNATIONAL PRINCIPLES RELEVANT FOR THIS REPORT

## Human Rights

Companies respect human rights as described in international declarations and conventions, including the Universal Declaration of Human Rights, International Covenant on Civil rights and Political Rights and the International Treaty on Economic, Social and Cultural Rights.

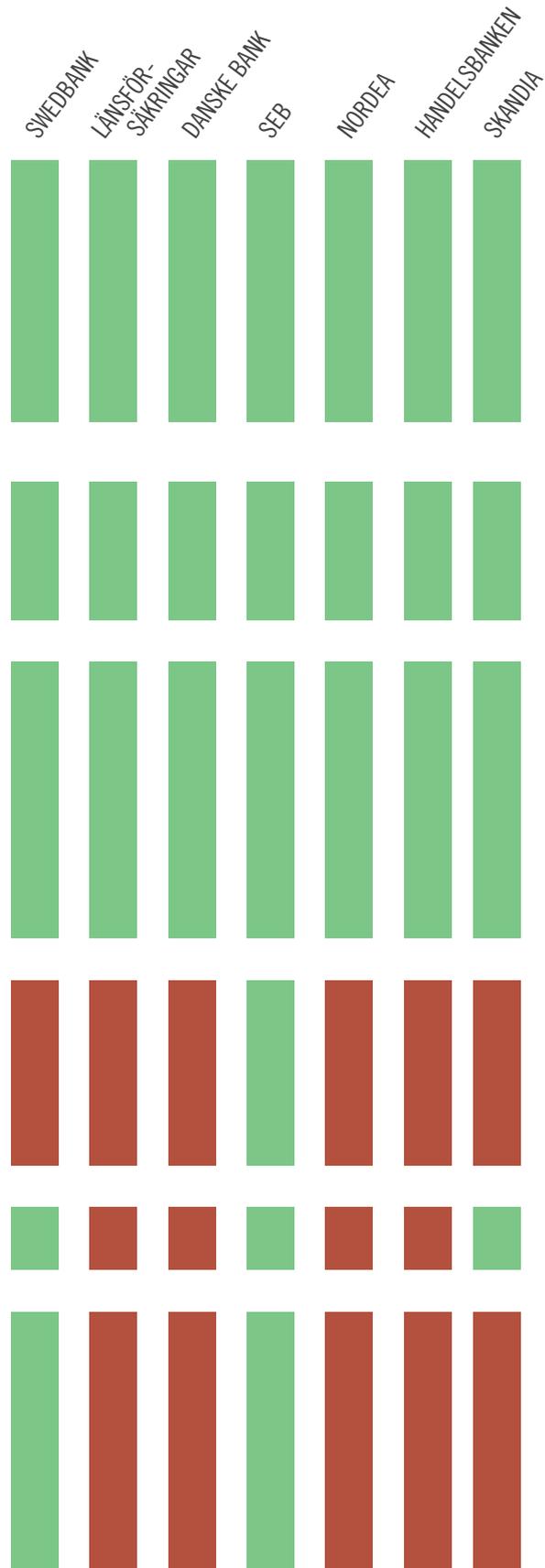
Companies implement the human rights due diligence process of the UN Guiding Principles on Business and Human Rights

Companies establish processes for remediation and compensation for victims of human rights violations (including grievance mechanisms and compensation possibilities in line with the UN Guiding Principles) they have caused or to which they have contributed.

Companies show that they have special attention for respecting the rights of women, especially to prevent discrimination and to improve equal treatment of men and women.

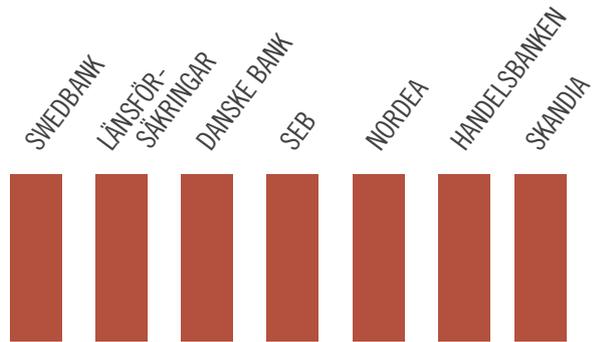
Companies have special attention to respect the rights of children.

Companies prevent conflicts over land rights and acquire natural resources only by engaging in serious consultation with local communities and obtaining free, prior and informed consent (FPIC) when it concerns indigenous peoples.



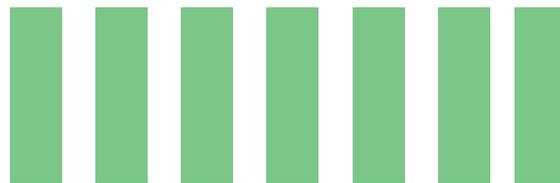
### Human Rights

Companies prevent conflict over land rights and acquire natural resources only with free, prior and informed consent (FPIC) of the land users involved.

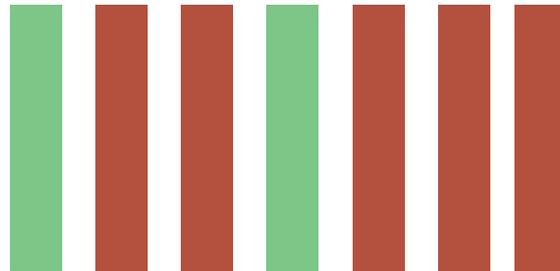


### Oil & Gas

Companies establish processes for remediation and compensation for victims of violations of human rights (including grievance mechanisms and compensation possibilities).



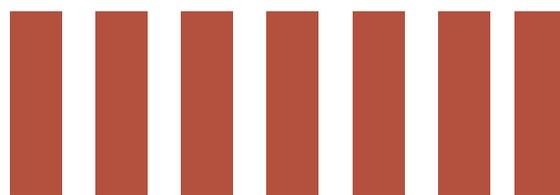
Companies prevent conflicts over land rights and acquire natural resources only by engaging in serious consultation with local communities and obtaining free, prior and informed consent (FPIC) when it concerns indigenous peoples.



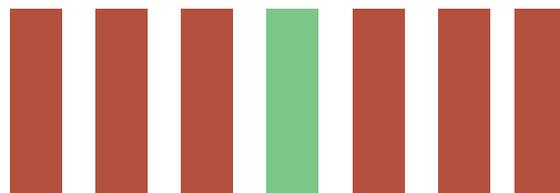
Companies prevent conflict over land rights and acquire natural resources only with free, prior and informed consent (FPIC) of the land users involved.



Companies only operate in weak governance zone or conflict-affected areas if they are able to demonstrate that they are not causing or contributing to human rights abuses.

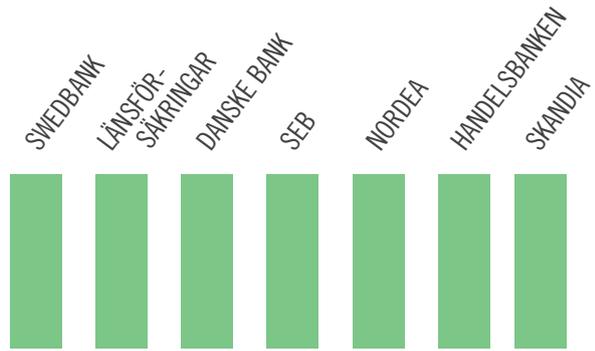


Companies include the environmental and health effects of the dismantling of production facilities, especially of offshore drilling platforms, in plans for the development of new projects.

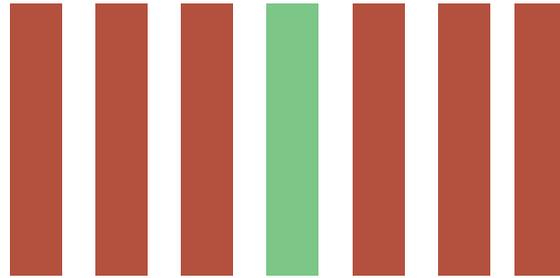


**Mining**

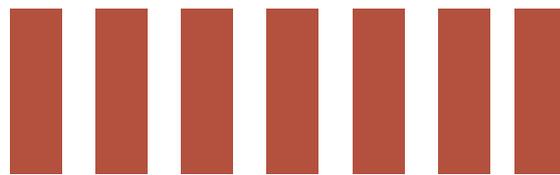
Companies establish processes for remediation and compensation for victims of violations of human rights (including grievance mechanisms and compensation possibilities).



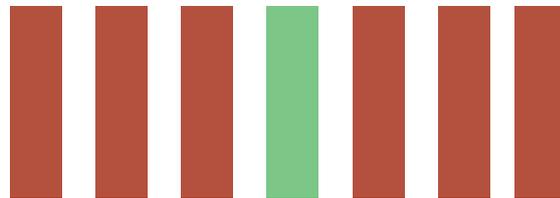
Companies prevent conflicts over land rights and acquire natural resources only by engaging in serious consultation with local communities and obtaining free, prior and informed consent (FPIC) when it concerns indigenous peoples.



Companies prevent conflict over land rights and acquire natural resources only with free, prior and informed consent (FPIC) of the land users involved.



Companies only operate in weak governance zone or conflict-affected areas if they are able to demonstrate that they are not causing or contributing to human rights abuses.





## DOW CHEMICAL COMPANY

### Human rights at stake in the context of the Bhopal tragedy:

- The right to life
- The right to health
- The right to water
- The right to a safe environment
- The right to earn a living through work
- The right to an effective remedy

### THE COMPANY

Dow Chemical Company is one of the world's largest chemical manufacturing companies, producing a range of products including plastics, pesticides and pharmaceuticals. Dow has its headquarters in the United States, production in more than 30 countries and sales activities in almost 140 countries.

In 2001, Dow bought the American company Union Carbide Corporation (UCC). Union Carbide's company in India ran a pesticide factory in the city Bhopal. The Bhopal factory caused one of the world's worst industrial disasters in 1984. UCC has consistently avoided any responsibility, arguing that the Bhopal factory was managed and operated exclusively by Indian citizens in India at the time of the disaster. UCC has failed to appear before the Indian courts to answer the outstanding charges against it which include "culpable homicide not amounting to murder". Similarly, Dow maintains that it has no

responsibility though it now owns UCC, as UCC had sold off of the disastrous factory before Dow bought the company. Amnesty International contends that it is undeniable that Dow exercises effective control over UCC. As a consequence Dow bears responsibility for UCC's current conduct including its failure to appear before Indian courts in addition to the ongoing environmental and human rights disaster in Bhopal.

## REPORTS OF HUMAN RIGHTS ABUSES

On the night of December 2<sup>nd</sup> 1984, a poisonous yellow fog spread in the city of Bhopal in central India. Half a million people were exposed to the approximately 24 500 kg deadly toxic chemical methyl isocyanate (MIC) and 11 000 kilograms of reaction products that had leaked into the air from the UCC pesticide plant.

At least 7 000 people died that night and half a million people were injured. A further 15 000 people lost their lives over the following years as a result of the disaster. After being abandoned, the site has continued to be a source of environmental pollution. More than 100 000 people continue to suffer today with respiratory diseases, cancer, depression and anxiety being common problems. The consequences for women's health are particularly serious, with a sharp increase in gynecological diseases.

There is overwhelming evidence of serious failures and lack of safety routines by Union Carbide at the Bhopal plant before the night of the disaster and that the UCC management was aware of these serious safety problems. The company had no comprehensive emergency plan in place to warn local communities about leaks, even though it had such a plan for its production sites in the United States. Union Carbide has still not named all the chemicals that leaked out from the Bhopal factory, which hampers the treatment of victims.

Most of those affected by the gas leak in Bhopal were poor. The accident and the human rights violations that it led to - violations of the right to life, the right to health and the right to earn a living, among others - drove thousands of people into deeper poverty. Thousands of people could not continue with their livelihood as a result of various health problems or injuries. Women of the affected families carry a double burden as they both have to support their families and care for sick family members.

30 years after the disaster, survivors of the Bhopal disaster are still awaiting fair compensation, full redress for their sufferings, and for the land to be decontaminated. Trials within the Indian and American legal systems have given extremely limited results. To date, the Union Carbide Indian subsidiary has been fined INR 500 000 (approximately 80 000 SEK) and seven Indian citizens were fined and sentenced to two years in prison for involuntary manslaughter.

The Dow Chemical Company has continuously dodged justice by failing to comply with Indian court summons, and UCC has repeatedly ignored orders to appear before the Indian courts to answer criminal charges.

## WANT TO READ MORE?

For more information about the Bhopal tragedy, see the Amnesty International reports 'Injustice incorporated - Corporate abuses and the human right to remedy' (2014) and 'Clouds of injustice - Bhopal disaster 20 years on' (2004).

# THE BANKS' INVESTMENTS AND ACTIONS CONCERNING THE DOW CHEMICAL COMPANY

## DANSKE BANK

Danske Bank invests in the Dow Chemical Company through some of its funds.

*Funds that invested in the Dow Chemical Company 2014-12-31*

Danske Invest Global Index	6 500 000 kr
Danske Invest SRI Global	2 400 000 kr
<b>Total:</b>	<b>8 900 000 kr</b>

### Danske Bank's explanation for its investment in the company:

Danske Bank has not found that the Dow Chemical Company violates international conventions and standards. The bank's survey response describes the reason for this judgment as follows:

*"When Dow Chemical Co acquired Union Carbide Corporation (UCC) in 2001, it did not acquire the entity responsible for the tragedy, namely Bhopal plant owner and operator Union Carbide India Limited (UCIL). UCC had already sold off its shares in UCIL in 1994 to another party. No court has yet attributed responsibility for the Bhopal disaster to Dow."*

## HANDELSBANKEN

Handelsbanken invests in the Dow Chemical Company through some of its funds.

*Funds that invested in the Dow Chemical Company 2014-12-31*

Handelsbanken MSCI USA Index	19 200 000 kr
Handelsbankens Stiftelsefond	1 300 000 kr
<b>Total:</b>	<b>20 600 000 kr</b>

### Handelsbanken's explanation for its investment in the company:

Handelsbanken has not found that the Dow Chemical Company violates international conventions and standards. The bank's survey response describes the reason for this judgment as follows:

*"Enligt uppgifter från Dow Chemical förvärvade man inte Union Carbide India Limited i samband med förvärvet av UCC. UCC avyttrade sitt ägande i UCIL 1994. I de analysdatabaser som vi använder för att samla in information om hur företagen vi investerar i förhåller sig till t ex mänskliga rättigheter finns inte heller någon indikation på att Dow Chemical skulle bära ansvaret för Bhopal-katastrofen."*

## LÄNSFÖRSÄKRINGAR

Länsförsäkringar invests in the Dow Chemical Company through some of its funds.

*Funds that invested in the Dow Chemical Company 2014-12-31*

Länsförsäkringar USA Index	15 600 000 kr
Länsförsäkringar Sverige och Världen	12 700 000 kr
Länsförsäkringar USA Aktiv	10 100 000 kr
Länsförsäkringar Trygghetsfond	5 200 000 kr
Länsförsäkringar Pension 2030	4 100 000 kr
Länsförsäkringar Pension 2025	3 800 000 kr
Länsförsäkringar Pension 2020	3 400 000 kr
Länsförsäkringar Pension 2035	3 000 000 kr
Länsförsäkringar Pension 2015	2 600 000 kr
Länsförsäkringar Pension 2040	2 300 000 kr
Länsförsäkringar Pension 2010	1 400 000 kr
Länsförsäkringar Global Index	1 200 000 kr
Länsförsäkringar Pension 2045	1 100 000 kr
<b>Total:</b>	<b>66 500 000 kr</b>

### **Länsförsäkringar's explanation for its investment in the company:**

Länsförsäkringar does not have a dialogue with Dow regarding the Bhopal disaster. The bank's consultancy firm has held talks with the company but ended these in 2008, which Länsförsäkringar describes in their survey responses made in connection with this report: Konsulten "bedömde 2008 att det inte går att fastställa om Dow Chemical Company kan hållas ansvarigt för Bhopalolyckan så länge de utdragna rättsprocesserna i Indien inte når en slutpunkt. Om avgörande nya fakta tillkommer finns möjligheten att denna bedömning ändras."

## NORDEA

Nordea Asset Management invests in the Dow Chemical Company through some of its funds.

*Funds that invested in the Dow Chemical Company 2014-12-31*

Nordea Generationsfond 60-tal	9 100 000 kr
Nordea Generationsfond 70-tal	7 500 000 kr
Nordea US Equity Market Fund	5 000 000 kr
Nordea Generationsfond 50-tal	4 300 000 kr
Nordea Generationsfond 80-tal	2 900 000 kr
Nordea Stratega 100	2 600 000 kr
Nordea Avtalspensionsfond Midi	1 600 000 kr
Nordea Stratega 70	1 500 000 kr
Nordea Donationsmedelsfond	700 000 kr
Institutionella Aktiefonden Världen	700 000 kr
Nordea Stratega 50	300 000 kr
<b>Total:</b>	<b>36 100 000 kr</b>

### **Nordea Asset Management's explanation for its investment in the company:**

Nordea Asset Management has not found that the Dow Chemical Company violates international standards. This judgment is based on a screening, as stated in their written response: "Through this independent 3<sup>rd</sup> party process, Dow Chemical has been identified as not involved in violation of international norms."

### **SEB**

SEB invests in the Dow Chemical Company through some of its funds.

*Funds that invested in the Dow Chemical Company 2014-12-31*

SEB Världenfond	197 300 000 kr
SEB Aktiesparfond	116 000 000 kr
SEB Stiftelsefond Utland	19 500 000 kr
SEB Trygg Placeringsfond	13 200 000 kr
SEB Etisk Globalfond	2 400 000 kr
<b>Total:</b>	<b>348 400 000 kr</b>

### **SEB's explanation for its investment in the company:**

SEB has not found that the Dow Chemical Company violates international standards. This assessment is based on the research provided by a consultancy firm. SEB refers to the fact that Union Carbide sold their shares in UCIL in 1994 and that courts have not yet found Dow to be legally liable for Bhopal: "*Det handlar om att få klarhet i det juridiska ansvaret avseende Bhopal. Hittills har inte Dow Chemical tillskrivits som ansvariga.*"

### **SKANDIA FONDER**

Skandia invests in the Dow Chemical Company through some of its funds.

*Funds that invested in the Dow Chemical Company 2014-12-31*

Skandia USA	54 000 000 kr
Skandia Nordamerika Exponering	5 900 000 kr
Skandia SMART Balanserad	5 300 000 kr
Skandia SMART Offensiv	3 200 000 kr
Skandia Global Exponering	2 800 000 kr
<b>Total:</b>	<b>71 200 000 kr</b>

### **Skandia's explanation for its investment in the company:**

Skandia has not found that the Dow Chemical Company violates international standards. This judgment call is motivated in Skandia's survey response.

*"Skandias etiska riktlinjer är framåtblickande och syftar framförallt till att Skandia inte som ägare medverkar till pågående brott mot mänskliga rättigheter. Den tragiska händelsen i Bhopal, ligger över 30 år bak i tiden och det är alltför länge sedan för att*

*Skandia som investerare i Dow Chemical 2015 ska anses ansvarig och vi ser inte heller att det idag finns en förhöjd risk för kemiska utsläpp i bolaget.”*

## SWEDBANK ROBUR

Swedbank Robur invests in the Dow Chemical Company through some of its funds.

*Funds that invested in the Dow Chemical Company 2014-12-31*

Swedbank Robur Transfer 80	37 500 000 kr
Swedbank Robur Transfer 70	31 200 000 kr
Swedbank Robur Indexfond USA	14 800 000 kr
Swedbank Robur Transfer 60	7 500 000 kr
Swedbank Robur Mixfond Pension	4 500 000 kr
Folksams Förvaltningsfond	4 200 000 kr
KPA Etisk Blandfond 2	3 300 000 kr
Swedbank Robur Transfer 50	3 100 000 kr
<b>Total:</b>	<b>106 100 000 kr</b>

### **Swedbank Robur’s explanation for its investment in the company:**

Swedbank Robur has not found that the Dow Chemical Company violates international standards. The assessment is based on advice from two external screening firms. The asset manager points to its limited holdings and otherwise responds in the same way as Danske Bank.

*”When Dow Chemical Co acquired Union Carbide Corporation (UCC) in 2001, it did not acquire the entity responsible for the tragedy, namely Bhopal plant owner and operator Union Carbide India Limited (UCIL). UCC had already sold off its shares in UCIL in 1994 to another party. No court has yet attributed responsibility for the Bhopal disaster to Dow.”*

## RECOMMENDATIONS TO DOW

Amnesty International urges The Dow Chemical Company to comply with the Indian court summons to appear before it and account for the failure of its wholly-owned subsidiary UCC to respond to the criminal charges against it and to cooperate with the Indian government to remedy all outstanding human rights abuses associated with the Bhopal disaster.

## RECOMMENDATIONS TO THE BANKS

All of the banks invest in Dow despite the fact that Dow, through its ownership of UCC, is in breach of many of the international standards for business and human rights the banks commit to in their policies. Dow’s dodging of responsibility for the Bhopal tragedy and ongoing contamination is especially in breach of people’s right to remedy.<sup>5</sup>

The banks seem to take Dow’s justification for not acting at face value and simply

5 Human Rights Principles 2 and 5 in Table 2.

repeat, sometimes literally, the company's arguments in their own statements. The issue of Dow's liability for UCC's Bhopal legacy has been debated for years, both within and outside the courts. However, the serious and ongoing human rights concerns around Bhopal and Dow's connection with this case are too well-known to be simply dismissed in the screening process. Regardless of the legal intricacies, it is undeniable that Dow exercises effective control over UCC and as such, bears responsibility for UCC's current conduct regarding Bhopal and the ongoing contamination. The fact that the tragedy occurred over 30 years ago is not an acceptable excuse not to act, rather it strengthens the argument that the people of Bhopal, after 30 years of living with pollution, should finally have access to adequate reparations including full compensation. In addition, the area remains contaminated today and has yet to be fully cleaned up, and the responsible companies have yet to be brought to justice. Banks investing in the Dow Chemical company should at a minimum exert pressure on the company to comply with court summons in India.



## GOLDCORP

### Human rights at stake in the context of the Marlin mine in Guatemala:

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

### THE COMPANY

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

### REPORTS OF HUMAN RIGHTS ABUSES

Mining in Guatemala is marked by protest and controversy. Guatemala is still struggling with the legacy of past human rights violations by the internal armed conflict (1960-1996), when over 200,000 people were killed, including an estimated 40 000 people who were forcibly disappeared. Indigenous communities remain economically and socially marginalized. Their loss of land is a particular problem.

Goldcorp's gold mine in Guatemala is placed in a rural area in the department of San Marcos. The area has around 52,000 residents, a majority of whom are Mayan Indige-

nous peoples. Since the mine began operating in 2003 there have been on-going tensions around its presence. The root causes of the protest are described by community members and local NGOs as a lack of consultation before the mine began operating, disagreements over land acquisition and the failure of the company to address risks associated with the mine. Tensions have been exacerbated by the way in which the security forces have dealt with protests and by attacks, carried out by unknown persons, on anti-mining activists. One of the local activists, who opposes Goldcorp's mine, Diodora Hernández, was shot in her home on the evening of 7 July 2010. She survived but lost the sight in her right eye and the hearing in her right ear. She believes she was attacked for speaking out against the mine. In January 2005, Raúl Castro Bocel was fatally shot when police and soldiers broke up a protest against the transportation of heavy equipment to the mine site. Many more were injured. No one has been arrested or brought to justice for either of these events.

The UN Special Rapporteur on the rights of Indigenous peoples reported in June 2011 that there had been no consultation process around the Marlin mine that was consistent with the United Nations Declaration on the Rights of Indigenous Peoples. The company's own 2010 Human Rights Assessment concluded that consultation was largely inadequate and often times confusing for community members. Protests erupted in December 2013 when local communities set up road blocks on a major highway to oppose new exploration activities in the nearby area of Sipacapa. Since 2011, Goldcorp says it has sought the approval of municipal mayors and councils, auxiliary Indigenous mayors, and local development councils in carrying out its operations. However, former UN Special Rapporteur on the rights of Indigenous Peoples, James Anaya, stated that this form of consultation is insufficient as it does not take sufficiently into account the complexity of internal indigenous organisation, including of their traditional leaders. He advised the State to enact a Consultation law that would bring the country in line with its international obligations regarding the right to consultation under ILO convention 169 and the UNDRIP.

## **WANT TO READ MORE?**

Read more about Goldcorp and the impacts the corporation has had on human rights in Guatemala in the Amnesty International report 'Mining in Guatemala – Rights at risk' (2014).

# THE BANKS' INVESTMENTS AND ACTIONS CONCERNING GOLDCORP

## DANSKE BANK

Danske Bank invests in Goldcorp through two of its funds.

*Funds that invested in Goldcorp 2014-12-31*

Danske Invest Global Index	1 700 000 kr
Danske Invest SRI Global	1 100 000 kr
Totalt:	2 800 000 kr

### **Danske Bank's explanation for its investment in the company:**

Goldcorp is one of the companies that have been flagged in the screening of Danske Bank's funds. Danske Bank has since chosen to be a part of the joint engagement activity that its consultancy firm offers.

In practice, this means two contacts with Goldcorp during the past two years. One of the contacts was a conference call with the company and other stakeholders. The consultancy firm also had contact with NGO networks to get their view on the human rights situation on the ground.

According to Danske Bank, the contacts have aimed to encourage Goldcorp in its efforts to respect international conventions and standards in particular regarding the rights of indigenous peoples to engage in "free, prior and informed participation". Indigenous people however have the right to "free, prior and informed consent" (FPIC), not only participation. A principle that has not been respected by Goldcorp. After pointing this out to Danske Bank, the bank made a correction and stated that the approach by the consultancy is indeed guided by the International Labour Organization (ILO)'s Convention 169 for Indigenous and Tribal Peoples and the principle of and free, prior and informed consent.

The consultancy firm's assessment of why it believes in continued dialogue with Goldcorp is described in Danske Bank's response to the survey conducted for this study.

*"The company has displayed its commitment to report on its human rights due diligence processes and efforts to mitigate the risks and potential adverse impacts associated with its operations. The company has publicly and actively expressed a policy commitment to meet its responsibility to respect principles recognised in the International Labour Organization (ILO)'s Convention 169 for Indigenous and Tribal Peoples. Moreover the company demonstrates a willingness to engage on challenges arising in its management of human rights risks associated with its operations in Guatemala. These measures underscore the company's disposition and willingness to assume responsibility for addressing the human rights risks that are associated with its operations.*

Danske Bank has not published any publicly available information about the on-going dialogue with Goldcorp.

## HANDELSBANKEN

Handelsbanken invests in Goldcorp through one of its funds.

*Funds that invested in Goldcorp 2014-12-31*

Handelsbankens Flermarknadsfond

500 000 kr

### **Handelsbanken's explanation for its investment in the company:**

Goldcorp is one of the companies that have been flagged in the screening of the bank's investments. Handelsbanken lets a consultancy firm handle the advocacy process. In practice, this means two contacts with Goldcorp during the past two years. One of the contacts was a conference call with the company and other stakeholders. The consultancy firm also had contact with NGO networks to get their view on the situation.

Handelsbanken assesses that a continued dialogue is worthwhile and refers to the fact that Goldcorp has publicly and actively expressed a policy commitment to meet its responsibility to respect principles recognised in the International Labour Organization (ILO)'s Convention 169 for Indigenous and Tribal Peoples. Moreover, Handelsbanken asserts that Goldcorp demonstrates a willingness to engage on challenges arising in its management of human rights risks associated with its operations in Guatemala. The focus of the continued dialogue is to ensure that action is taken.

Handelsbanken has not published any publicly available information about the ongoing dialogue with Goldcorp.

## LÄNSFÖRSÄKRINGAR

Länsförsäkringar invests in Goldcorp through three of its funds.

*Funds that invested in Goldcorp 2014-12-31*

Länsförsäkringar Global Index	400 000 kr
Länsförsäkringar Trygghetsfond	1 900 000 kr
Länsförsäkringar Sverige och Världen	4 500 000 kr
<b>Total:</b>	<b>6 800 000 kr</b>

### **Länsförsäkringar's explanation for its investment in the company:**

Goldcorp is one of the companies that Länsförsäkringar's consultancy firm has classified as being linked to abuses of human rights during its screening process. Länsförsäkringar agrees that Goldcorp can be linked to abuses of human rights and that they have a responsibility to address these abuses as investors in the company. In practice, a consultancy firm manages the dialogue with Goldcorp and Länsförsäkringar is part of the pooled engagement since 2012.

The consultancy firm has been in contact with Goldcorp roughly once a month during the last year. The consultants have met the company, and representatives from the local community in Guatemala and they have had a couple of telephone conferences.

According to Länsförsäkringar, Goldcorp has become more transparent and is working to improve its impact on the local community in Guatemala. Länsförsäkringar make the assessment that it is worth while to continue the dialogue, as there is still room for improvement. Länsförsäkringar relies on the analysis done by its consultants who in turn use several different sources, although the bank itself lacks other independent sources.

There is no public information on Länsförsäkringar's website or in their sustainability report about their dialogue with Goldcorp.

## NORDEA

Nordea Asset Management invests in Goldcorp via Nordea Indexfond Global.<sup>6</sup>

Nordea Indexfond Global

1 400 000,00 kr

### **Nordea Asset Management's explanation for its investment in the company:**

Nordea Asset Management has chosen not to engage in dialogue with Goldcorp, since the company, through the screening process, has been identified as undergoing remediation of alleged abuses of indigenous rights in Guatemala.

## SEB

SEB invests in Goldcorp via SEB Etisk Globalfond Lux.<sup>7</sup>

SEB Etisk Globalfond Lux

7 000 000,00 kr

### **SEB's explanation for its investment in the company:**

Goldcorp has been flagged in the screening of SEB's investments. SEB made the decision to let a consultancy firm handle the advocacy process. In practice, this means two contacts with Goldcorp during the past two years. One of the contacts was a conference call with the company and other stakeholders. The consultancy firm also had contact with NGO networks to get their view on the situation.

SEB assesses that a continued dialogue is worthwhile and refers to the fact that Goldcorp has shared information on its relationships with local communities and updates on its efforts to address the findings of the Human Rights Assessment (HRA). Moreover, SEB asserts that Goldcorp publicly and actively expressed a policy commitment to meet its responsibility to respect principles recognised in the International Labour Organization (ILO)'s Convention 169 for Indigenous and Tribal Peoples. It is SEB's assessment that these measures underscore the company's disposition and willingness to assume responsibility for addressing the human rights risks that are associated with its operations.

SEB has not published any publicly available information about the on-going dialogue with Goldcorp.

<sup>6</sup> Nordea Indexfond Global Annual Report 2014.

<sup>7</sup> SEB Etisk Global Indexfond Lux Annual Report 2014.

## SKANDIA

Skandia invests in Goldcorp through four of its funds.

*Funds that invested in Goldcorp 2014-12-31*

Skandia SMART Offensiv	1 300 000 kr
Skandia SMART Balanserad	2 100 000 kr
Skandia Nordamerika Exponering	1 300 000 kr
Skandia Global Exponering	900 000 kr
<b>Totalt</b>	<b>5 700 000 kr</b>

### **Skandia's explanation for its investment in the company:**

Skandia does not find that Goldcorp violates international standards and does not engage in dialogue with the company regarding these matters.

A quote from Skandia's survey response:

*"Vi anser att Goldcorps agerande sedan åtminstone 2012 följer internationella konventioner runt mänskliga rättigheter och ursprungsbefolkningens rättigheter. Skandia har inte fört någon dialog med företaget."*

## SWEDBANK ROBUR

Swedbank Robur invests in Goldcorp through eight of its funds. Seven of these have a sustainability profile and are branded Folksam or KPA but they are managed by Swedbank. According to Swedbank the funds follow the ethical decisions of Folksam and KPA Pension. However, according to Folksam it has no influence or ownership of the funds after they were taken over by Swedbank.

*Funds that invested in Goldcorp 2014-12-31*

Swedbank Robur Råvarufond	10 300 000 kr
Folksam LO Världen	40 400 000 kr
Folksam LO Världen	18 600 000 kr
Folksam Tjänstemannafond Världen	4 900 000 kr
Folksam Tjänstemannafond Världen	2 200 000 kr
Folksam Fövaltningsfond	1 100 000 kr
KPA Etisk Blandfond 1	100 000 kr
KPA Etisk Blandfond 2	800 000 kr
<b>Totalt:</b>	<b>78 400 000</b>

### **Swedbank Robur's explanation for its investment in the company:**

Goldcorp is one of the companies that have been flagged in the screening of Swedbank Robur's investments and is on the Watch List. Due to the asset manager's limited and fluctuating holdings, Swedbank Robur has relayed the advocacy process to a consultan-

cy firm. In practice, this means two contacts with Goldcorp during the past two years. One of the contacts was a conference call with the company and other stakeholders. The consultancy firm also had contact with NGO networks to get their view on the situation.

Swedbank Robur assesses that a continued dialogue is worthwhile and refers to the fact that Goldcorp has publicly and actively expressed a policy commitment to meet its responsibility to respect principles recognised in the International Labour Organization (ILO)'s Convention 169 for Indigenous and Tribal Peoples. Moreover, Swedbank Robur asserts that Goldcorp demonstrates a willingness to engage on challenges arising in its management of human rights risks associated with its operations in Guatemala. The purpose of the dialogue is to ensure that action is taken.

Swedbank Robur's dialogue with Goldcorp via consultant is included in its public dialogue list.

## RECOMMENDATIONS TO GOLDCORP

Given the serious inadequacies in both the law and practice around consultation in Guatemala, it is vital that Goldcorp conduct meaningful consultation with mine affected communities about its ongoing mining activities and future plans. At the same time, the company must act with due diligence to ensure that the way security is provided to mining activities does not result in human rights violations. Cases of serious human rights abuses such as the shooting of Diodora Hernandez, must be resolved by the authorities so that human rights defenders and community leaders feel confident that they can freely express themselves without fear of repercussion. Goldcorp must monitor the status of investigations and press for their proper resolution.

## RECOMMENDATIONS TO THE BANKS

All of the banks invest in Goldcorp despite the fact that Goldcorp, according to its own 2010 human rights assessment, has breached many of the international standards for business and human rights the banks commit to follow in their policies. Of particular relevance for this case is the responsibility to prevent conflicts over land by engaging in serious consultations with local communities about both the benefits and risks of proposed operations and obtaining Indigenous people's free, prior and informed consent, a principle that SEB and Swedbank Robur have explicitly committed to in their policies.<sup>8</sup>

For the situation of the affected communities to improve, it is crucial that the banks continue to exert pressure so that Goldcorp engage in direct and meaningful consultations with the communities. This includes obtaining indigenous peoples' consent to its plans and activities as required by international law. Adequate consultations must also be conducted around closure plans and post-closure remediation.

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8

Human Rights Principles 2, 5 and 8 and Mining Principles 1, 2 and 19 in Table 2.



## **SHELL**

### **Human rights at stake in the context of oil spills in the Niger Delta:**

- The right to water
- The right to food
- The right to health
- The right to a safe environment
- The right to gain a living through work
- The right to an adequate standard of living
- The right to an effective remedy

## **THE COMPANY**

Royal Dutch Shell plc is an oil and gas corporation headquartered in the Netherlands. Shell is one of the world's largest companies in terms of revenue and has operations in more than 70 countries worldwide.

The Shell Petroleum Development Company of Nigeria (also referred to as Shell Nigeria) is the major onshore oil company operating in the Niger Delta.

## **REPORTS OF HUMAN RIGHTS ABUSES**

Since oil was first discovered in the Niger Delta in 1956, Shell has been involved in extracting it from the ground. Oil production dominates the entire region, with thousands of kilometres of oil pipelines running across the villages, farmlands and the rivers where people fish and get their drinking water. Hundreds of oil spills occur every year and this

has gone on for decades. The consequences for the people living in the area are shortages of food and clean water, destroyed livelihoods, a poisoned environment and serious health implications.

In 2011, the UN Environment Programme (UNEP) published a major report on the effects of oil pollution in Ogoniland. The report finds that the Ogoni people have been living in chronic pollution throughout their lives. The scientists detected extremely high levels of carcinogenic substances in people's wells for drinking water. UNEP even found that collected rainwater is contaminated by oil and stresses the need for emergency drinking water supplies. The report also documents Shell's systematic failure to clean up oil spills. In more than half of the investigated sites that had completed clean up according to Shell's records, oil was found to have contaminated groundwater.

Shell reported 204 Niger Delta spills in 2014. To put that figure in perspective, oil operations in Europe caused about 10 spills a year over the last few decades. The spills are caused by corrosion, poor maintenance of oil infrastructure, equipment failure, sabotage and theft of oil. Shell blames sabotage and theft for the vast majority of the spills, but this is widely disputed and there is no independent assessment of what may have caused spillages. Shell has updated its oil spill investigation process in 2011, but weaknesses in the underlying evidence used to attribute spills to sabotage remain. In oil spill investigations, women are often excluded from consultations with affected communities. How abuses impact on different groups in society, including women and children, is rarely discussed.

Two devastating oil spills from Shell's pipelines in the community of Bodo have left the fishermen and farmers without a livelihood and whole villages living in crude oil contamination. The citizens of Bodo managed to get their case tried in UK courts, where they recently reached an out of court settlement with Shell. The lawsuit against Shell documented that the company has repeatedly come up with false claims about the size and impact of the oil spill to try to minimize damages costs, and that the company was aware that parts of oil pipelines were in such poor condition that it constituted a "major risk and hazard". According to the settlement earlier this year, Shell must pay £ 55 million (SEK 710 million) in damages for the spills in Bodo.

*"When a company has to pay £55 million for two oil spills it originally tried to pass off as minor, it should raise serious questions for investors about the hidden liabilities Shell may be carrying in the Niger Delta."*

-Audrey Gaughran, Global Issues Director, Amnesty International

Oil pollution in the Niger Delta is one of the biggest corporate scandals of our time. A settlement has been reached for the 15,000 citizens of Bodo, but the spills have still not been fully cleaned up and millions of Nigerians in other areas face the effects of the devastating oil contamination. UNEP estimates that it may take 30 years for the entire region to recover from oil spills and suggests that a special fund of initially \$ 1 billion (SEK 8.4 billion) be set up to begin the clean up.

## WANT TO READ MORE?

Read more about Shell's impact on the human rights situation for the people in the Niger Delta in the Amnesty International press releases, reports and joint reports: 'Investor Warning: Shell profits won't count true cost of Niger Delta oil spills' (2015), 'No progress – an evaluation of the implementation of UNEP's Environmental assessment three years on' (2014), 'Bad information – Oil spill investigations in the Niger Delta' (2013), 'Another Bodo oil spill – Another flawed oil spill investigation in the Niger Delta' (2012), 'The true 'tragedy' – Delays and failures in tracking oil spills in the Niger Delta' (2011) and 'Nigeria: Petroleum, pollution and poverty in the Niger Delta' (2009).

# THE BANKS' INVESTMENTS AND ACTIONS CONCERNING SHELL

## DANSKE BANK

Danske Bank invests in Shell through some of its funds.

*Funds that invested in Shell 2014-12-31*

Danske Invest Europa	33 300 000 kr
Danske Invest Global Index	9 100 000 kr
Danske Invest Sverige/Europa	18 400 000 kr
Danske Invest Global Index	14 600 000 kr
<b>Total:</b>	<b>75 500 000,00 kr</b>

### Danske Bank's explanation for its investment in the company:

Shell is one of the companies that was flagged in the screening of Danske Bank's funds.

The bank has chosen to outsource the engagement dialogue to consultants.

The consultants have been in contact with Shell three times in the past two years about their actions in Nigeria. Two of these occasions have been teleconferences. The consultants have also had a teleconference with Amnesty regarding Shell's actions in Nigeria. The stated aim for the process is:

*"to encourage the company to demonstrate its approach to ensuring that its operations are aligned with international environmental standards and abide by UNEP's recommendations, including the development of an 'Asset Integrity Management Plan for Ogoniland".*

The consultancy firm's assessment of why it believes in continued dialogue is described by an extract from Danske Bank's response to the survey made in connection with this study:

*"The trajectory is assessed to be positive; the company has enhanced its transparency, which increases its accountability and third-party scrutiny. It remains too early to tell whether the company will be successful in its endeavour to remediate contaminated land, or even to be able to claim to have the aspirational goal of having a zero-leak policy in*

*Nigeria. The environmental impact caused by the oil industry in Nigeria is considerable. We will continue to observe the company and review our engagement strategy. “*

Danske bank has not publicly published any information about the dialogue with Shell.

## HANDELSBANKEN

Handelsbanken invests in Shell through some of its funds.

*Funds that invested in Shell 2014-12-31*

Handelsbankens Europafond Index	52 900 000 kr
Handelsbankens Europafond	129 600 000 kr
Handelsbankens Europafond Index	89 500 000 kr
Handelsbanken Sverige/Världen	56 100 000 kr
<b>Total:</b>	<b>328 200 000 kr</b>

### **Handelsbanken's explanation for its investment in the company:**

Handelsbanken agrees with the assessment that Shell does not comply with international conventions and standards on human rights and has initiated a dialogue with the company on this basis.

The dialogue takes place between the portfolio manager and corporate governance manager (*ägaransvarig*) of Handelsbanken Fonder and representatives of Shell. Human rights is one of several issues raised during these meetings. The dialogue has been going on for several years and the last two years they have been in contact with the company three times. Handelsbanken did not provide any records of these meetings for this study, nor do they have internal systems to ensure that human rights issues are actually discussed. Handelsbanken's aim for the process is that Shell follow the recommendations of the UNEP report.

Handelsbanken is aware of the criticisms against Shell and monitors the company but presents Shell's description of the situation on the ground, namely that weak governance in the Niger Delta restricts Shell's influence. The bank also states that it believes in the company's ability to generate returns for its shareholders. The bank states that demands from other investors have yielded results and believe in continued change. This is an extract from Handelsbanken's survey response about the bank's assessment of Shell's willingness to take responsibility:

*” Sett över en längre period är tendensen positiv. Företaget är öppet i sin information och man är mycket villig att diskutera frågeställningarna med olika intressenter. I den mycket utmanande miljö företaget verkar i, återstår det att se i vilken mån man lyckas sanera och återställa de skador som åsamkats miljön. Man kan naturligtvis ställa sig frågan vad som skulle hända om Shell drar sig ur området och vilka aktörer som då skulle ta över drift. Vår uppfattning är att Shell bör stanna kvar och ta sitt ansvar.”*

Handelsbanken has not publicly published any information about the dialogue with Shell.

## LÄNSFÖRSÄKRINGAR

Länsförsäkringar invests in Shell through some of its funds.

*Funds that invested in Shell 2014-12-31*

Länsförsäkringar Europa Index	28 100 000 kr
Länsförsäkringar Europa Aktiv	93 800 000 kr
Länsförsäkringar Pension 2035	4 100 000 kr
Länsförsäkringar Pension 2040	3 300 000 kr
Länsförsäkringar Trygghetsfond	6 000 000 kr
Länsförsäkringar Pension 2045	1 500 000 kr
Länsförsäkringar Sverige och Världen	16 500 000 kr
Länsförsäkringar Pension 2010	1 800 000 kr
Länsförsäkringar Pension 2015	3 700 000 kr
Länsförsäkringar Pension 2020	4 700 000 kr
Länsförsäkringar Pension 2025	5 400 000 kr
Länsförsäkringar Pension 2030	5 800 000 kr
Länsförsäkringar Europa Index	35 200 000 kr
Länsförsäkringar Global Index	2 100 000 kr
Länsförsäkringar Pension 2035	5 500 000 kr
Länsförsäkringar Pension 2040	4 300 000 kr
Länsförsäkringar Pension 2045	2 000 000 kr
Länsförsäkringar Pension 2010	2 400 000 kr
Länsförsäkringar Pension 2015	4 800 000 kr
Länsförsäkringar Pension 2020	6 300 000 kr
Länsförsäkringar Pension 2025	7 300 000 kr
Länsförsäkringar Pension 2030	7 600 000 kr
Länsförsäkringar Europa Index	26 700 000 kr
Länsförsäkringar Global Index	2 800 000 kr
<b>Total:</b>	<b>281 700 000 kr</b>

### **Länsförsäkringar's explanation for its investment in the company:**

Shell is one of the companies that was flagged when Länsförsäkringar's funds were screened. Länsförsäkringar has chosen to outsource the engagement process to a consultancy firm and has been part of the consultants' pooled engagement since 2012.

The consultancy firm has been in contact with Shell approximately every six weeks for the past two years. Four meetings and a teleconference have been arranged with the company. One of the meetings took place in Nigeria. The consultants have also raised questions at Shell's annual sustainability seminar and they have brought other investors to meetings with Shell.

The stated aim for the process is that Shell follow the recommendations of the UNEP report, that the company be transparent in its reporting, and use its influence towards all stakeholders to stop oil theft and its consequences.

Länsförsäkringar states that Shell is making progress and that it is worthwhile to continue the dialogue. The bank's assessment of the outlook for the company to take responsibility is described in the survey response:

*”Vi ser att Shell fortfarande har mycket arbete att göra i Ogoniland samt att bolaget kan förbättra planering och transparens kring detta. Shell är också beroende av andra aktörer som måste agera enligt UNEP (exempelvis statens oljebolag, myndigheter och samarbetspartners). Vi ser dock positivt på att bolaget har en vilja att fortsätta med sitt miljösaneringsarbete i Ogoniland och andra förorenade områden i deltat.”*

Länsförsäkringar has not publicly published any information about the dialogue with Shell.

## NORDEA

Nordea Asset Management invests in Shell through some of its funds.

*Funds that invested in Shell 2014-12-31*

Nordea Avtalspensionsfond Midi	3 200 000 kr
Nordea Generationsfond 50-tal	8 000 000 kr
Nordea Generationsfond 60-tal	18 000 000 kr
Nordea Generationsfond 70-tal	13 700 000 kr
Nordea Generationsfond 80-tal	5 300 000 kr
Nordea Stratega 70	2 900 000 kr
Nordea Stratega 50	500 000 kr
Nordea Stratega 100	5 000 000 kr
<b>Total:</b>	<b>56 500 000 kr</b>

### **Nordea Asset Management’s explanation for its investment in the company:**

Nordea Asset Management has made the assessment that Shell violates international standards and has prioritized to initiate its own dialogue with the company.

In 2011, representatives from Nordea Asset Management conducted a fieldtrip to Nigeria. No documentation on the purpose or outcome of this trip were shared for this report. In 2014, the bank had three meetings with Shell but these were not to discuss the Niger Delta but focused instead on shale gas, which is one of the Nordea Asset Management’s prioritized thematic areas within responsible investment.

Nordea Asset Management has not acted to influence Shell to take responsibility in the Niger Delta in recent years.

## SEB

SEB invests in Shell through some of its funds.

*Funds that invested in Shell 2014-12-31*

SEB Generationsfond 70-tal	6 000 000 kr
SEB Generationsfond 60-tal	7 200 000 kr
SEB Generationsfond 50-tal	2 700 000 kr
SEB Europafond Offensiv	3 700 000 kr
<b>Total:</b>	<b>19 500 000 kr</b>

### SEB's explanation for its investment in the company:

Shell is one of the companies that has been flagged in the screening of SEB's funds. SEB made the decision to transfer the advocacy process to a consultancy firm.

The consultants have been in contact with Shell three times in the past two years about their actions in Nigeria. Two of these occasions have been teleconferences. The stated aim for the process, is that Shell follow the recommendations of the UNEP report.

According to SEB, Shell has been taking steps to improve its environmental performance in Nigeria since 2010, before the release of the UNEP report. SEB points to a number of steps that Shell has taken to meet UNEP's recommendations.

SEB's assessment as to why it believes in continued dialogue is described in their written answer to our survey:

*"The trajectory is assessed to be positive; the company has enhanced its transparency, which increases its accountability and third-party scrutiny. It remains too early to tell whether the company will be successful in its endeavour to remediate contaminated land, or even to be able to claim to have the aspirational goal of having a zero-leak policy in Nigeria. The environmental impact caused by the oil industry in Nigeria is considerable. We will continue to observe the company and review our engagement strategy."*

SEB has not publicly published any information about the dialogue with Shell.

## SKANDIA

Skandia invests in Shell through some of its funds.

*Funds that invested in Shell 2014-12-31*

Skandia Europa Exponering	27 500 000 kr
Skandia Global Exponering	6 100 000 kr
Skandia Europa Exponering	43 500 000 kr
Skandia SMART Offensiv	20 500 000 kr
Skandia SMART Fösiktig	1 900 000 kr
Skandia SMART Balanserad	22 500 000 kr
Skandia Global Exponering	7 500 000 kr
<b>Total:</b>	<b>129 500 000 kr</b>

### Skandia's explanation for its investment in the company:

At the time of the interview with Skandia, it did not consider that Shell breached international standards and had no contact with the company regarding these issues.

Excerpts from Skandia's survey response:

*"Shell har sedan 50-talet borrhål olja i Nigerdeltat i Nigeria. Under denna period med svag eller ingen miljölagstiftning har Shell haft åtskilliga oljeläckor och andra miljöförstörande utsläpp. Man har dock förbättrat sig under senare år; "flaring" är ner 80% sen 2004 och oljeläckorna har också stadigt minskat. Shell arbetar också aktivt med att uppfylla rekommendationerna i den UNEP-rapport som ni hänvisar till ovan. Man*

*har nu erkänt 125 oljeläckor från åren 1969–1993 som man säger att man ska sanera. Skandia förväntar sig och litar på att Shell kommer ta sitt ansvar för att städa upp i deltaområdet.”*

Skandia has since then informed us that it will initiate a dialogue with Shell.

## SWEDBANK ROBUR

Swedbank Robur invests in Shell through some of its funds.

*Funds that invested in Shell 2014-12-31*

Swedbank Robur Råvarufond	2 800 000 kr
Folksam LO Världen	112 600 000 kr
Folksams Tjänstemannafond Världen	12 700 000 kr
Folksams Förvaltningsfond	4 800 000 kr
Swedbank Robur Mixfond Pension	11 300 000 kr
KPA Etisk Blandfond 1	600 000 kr
KPA Etisk Blandfond 2	7 400 000 kr
Swedbank Robur Transfer 50	4 300 000 kr
Swedbank Robur Transfer 60	13 400 000 kr
Swedbank Robur Transfer 70	53 100 000 kr
Swedbank Robur Transfer 80	64 000 000 kr
Swedbank Robur Indexfond Europa	26 500 000 kr
Swedbank Robur Global High Dividend	7 500 000 kr
Swedbank Robur Råvarufond	23 700 000 kr
Folksams Aktiefond Europa	50 800 000 kr
Swedbank Robur Globalfond MEGA	111 900 000 kr
Swedbank Robur Globalfond	53 300 000 kr
Swedbank Robur Europafond MEGA	95 600 000 kr
Swedbank Robur Europafond	341 700 000 kr
Folksams Förvaltningsfond	3 800 000 kr
Swedbank Robur Mixfond Pension	3 200 000 kr
KPA Etisk Blandfond 1	300 000 kr
KPA Etisk Blandfond 2	6 400 000 kr
KPA Etisk Aktiefond	13 500 000 kr
Swedbank Robur Transfer 50	7 900 000 kr
Swedbank Robur Transfer 60	18 600 000 kr
Swedbank Robur Transfer 70	79 000 000 kr
Swedbank Robur Transfer 80	83 400 000 kr
Swedbank Robur Indexfond Europa	41 400 000 kr
Swedbank Robur Företagsobligationsfond	10 000 000 kr
Swedbank Robur Företagsobligationsfond	18 400 000 kr
Swedbank Robur Företagsobligationsfond	10 700 000 kr
<b>Total:</b>	<b>1 294 400 000 kr</b>

### Swedbank Robur's explanation for its investment in the company:

Swedbank Robur assesses that Shell does not follow international standards and the bank is in dialogue with the company both directly and through consultants. Swedbank Robur participates in a pooled engagement through a consultancy firm, which has led to three contacts with Shell in the past two years, two of which were teleconferences. The consultants have also had a teleconference with Amnesty regarding Shell's actions in Nigeria. In addition to that dialogue, Swedbank Robur has had meetings with Shell at the Shell's London office where the country chairmanship for Nigeria participated. Swedbank planned to vote on a resolution concerning environment and climate at the AGM this year along with other investors.

The aim of the dialogue is that Shell must demonstrate that its activities are in line with international environmental standards and that the company follow UNEP's recommendations.

Swedbank Robur describes the results the bank has seen from Shell in its survey response for this report:

*"Vår bedömning är att bolaget har vidtagit åtgärder för att förbättra sin miljöprestanda i Nigeria. Enligt UNEP hade bolagets 'Remediation Management System' som antogs i januari 2010 förbättrats, men mötte då fortfarande inte lokala myndighetskrav. Sedan dess har Shell vidtagit åtgärder för att möta UNEP:s rekommendationer och arbetar med International Union for Conservation of Nature för att se över sanering och saneringsmetoder. Vidare har Shell minskat fackling av gas (så kallad "flaring") och mängden spill i Nigeria. Bolaget har anlitat Bureau Veritas för att granska bolagets hantering av oljespill.*

*Sammantaget förefaller Shell transparenta mot oss som investerare och visar på förändringsvilja. Vi har under de senaste två åren märkt en positiv förändring i Shells förhållningssätt, där man gått från ett reaktivt beteende till att ha ett mer proaktivt arbete i Nigeria. Problemen är dock fortfarande långt ifrån lösta."*

Swedbank Robur mentions in its public reporting that the bank is trying to influence Shell regarding the company's conduct in Nigeria.

## RECOMMENDATIONS TO SHELL

Amnesty International urges Shell to take urgent and decisive action to implement UNEP's recommendations in full, including an overhaul of its inadequate clean up method. It also recommends Shell to make a clear public commitment to addressing pollution and its human rights impacts – promptly, transparently and in consultation with key stakeholders, particularly affected communities. Shell should undertake, as a matter of corporate due diligence, a transparent review of all its operating practices in the Niger Delta, including in relation to oil spill investigations and compensation payments, and bring these processes into line with Shell's stated General Business Principles and Code of Conduct.

## RECOMMENDATIONS TO THE BANKS

All of the banks invest in Shell despite the fact that Shell has breached many of the international standards for business and human rights the banks commit to follow in their

policies. Of particular relevance for this case is the responsibility to provide remedy and compensation, a principle all banks have committed to both generally, and specifically for the oil and gas sector. SEB has committed to paying special attention to how the rights of women are affected and both SEB and Swedbank Robur have an explicit commitment to children's rights.<sup>9</sup> However, the extent to which oil spills affect women's and children's lives are rarely recorded and addressed and women are often excluded from important processes around clean up and compensation.<sup>10</sup>

All banks point to certain steps taken by Shell to clean up and remediate the situation in the Niger Delta. The information is either outdated or does not take into account the assessments made by UNEP or the International Union for Conservation of Nature (IUCN). UNEP stated in its report that:

*"[t]he current approach by SPDC to clean up contaminated sites through remediation by enhanced natural attenuation (RENA) should be discontinued. Even SPDC's revised Remediation Management System does not address the issues observed in UNEP's assessment."<sup>11</sup> Despite this, Shell continues to use RENA.*

*In 2013, IUCN confirmed many of UNEP's findings: "Based on the observations by the Panel, the current remediation practices in oil impacted areas in the Niger Delta are not satisfactory. Oil spill responses and remediation are not implemented fast enough and the methods and regulatory standards for biodiversity and habitat rehabilitation have not been adequately established. Some of the issues that are not properly addressed in the current context need a different approach consistent with best practice in the industry."<sup>12</sup>*

In August 2014 Amnesty International together with other organisations published a report entitled "No Progress" showing how little progress Shell has made in implementing UNEP's recommendations.<sup>13</sup>

Finally, court proceedings in the UK in the fall of 2014 established that Shell made false claims about the extent of oil spills in Bodo, Nigeria. This should convince the banks, if they were not convinced before, that Shell cannot be considered a credible source of information concerning the situation in the Niger Delta. Banks must invest more resources and more efforts into ensuring they gain a correct picture of what is happening on the ground. In order to do this, banks should consult independent sources of information which reflect the views of the communities that are affected by Shell's operations. If continued investment in Shell is justified with engagement dialogue, the quality of the dialogue needs to improve significantly. More pressure and asking the right questions based on correct information is necessary.

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9 Human Rights Principles 2, 5, 6 and 7 and Oil and Gas Principles 1 in Table 2.

10 Amnesty International, *Bad information – Oil spill investigations in the Niger Delta*, 2013, pages 13, 41-42.

11 UNEP, *Environmental Assessment of Ogoniland*, August 2011, ISBN: 978-92-807-3130-9, p 206.

12 IUCN, *Sustainable Remediation and Rehabilitation of Biodiversity and Habitats of Oil Spill Sites in the Niger Delta*, Executive Summary, 2013, p. 7.

13 Amnesty International, et al., *No progress – an evaluation of the implementation of UNEP's Environmental assessment three years on*, 2014.



## VEDANTA

### **Human rights at stake in the context of the refinery in Odisha:**

- The right to a safe environment
- The right to health
- The right to water
- The right to food
- The right to an adequate standard of living
- The right to an effective remedy
- The rights of indigenous communities

### **THE COMPANY**

Vedanta Resources Plc is a metals and mining corporation, listed on the London Stock Exchange. The corporation mines and refines bauxite, copper and silver and also produces power, oil and gas. Vedanta has its main operations in India. The Vedanta refinery that is associated with human right abuses, an alumina refinery in the Indian state Odisha, is owned by the Vedanta company Sesa Sterlite. Sesa Sterlite is a public company listed on the Bombay Stock Exchange and the National Stock Exchange in India, with Vedanta as the majority shareholder. Swedish banks can be associated with Vedanta's operations in India through investments in Vedanta Resources or through investments in Sesa Sterlite.

## REPORTS OF HUMAN RIGHTS ABUSES

The state of Odisha in eastern India is one of the country's poorest areas. About half of the population in Odisha live below the poverty line. Groups from several indigenous peoples in Odisha are struggling with the harsh reality of living in the same area as Vedanta's alumina refinery.

The alumina refinery began operating in 2006. Since then there have been periodic reports of human rights abuses associated with the refinery's construction and operation. Pollution and poor management of the waste produced by the refinery has left people with contaminated air and drinking water. Local authorities have recorded recurrent leakages of highly alkaline wastewater into the adjacent Vamsadhara river. Amnesty International's visit to Odisha has found that the company's operations led to serious consequences for the human rights of local communities, including their rights to water, food, health and an adequate standard of living.

Vedanta was also planning for a bauxite mine by the Niyamgiri Hills. The mining project would have been located on the traditional lands of the Dongria Kondh, an indigenous community. Vedanta's Environmental Impact Assessment did not even acknowledge that people were living in the area. When presented with the case, UK authorities found that Vedanta had not complied with the OECD Guidelines for Multinational Enterprises, as 'Vedanta failed to engage the Dongria Kondh in adequate and timely consultations about the construction of the mine'.<sup>14</sup> Vedanta's plans to mine for bauxite have now been stopped by the Indian government.

Despite widespread community concerns, Vedanta has initiated plans for a six-fold expansion of their alumina refinery. Clearances for the expansion are still pending. Local communities have not received adequate information about the project's potential impacts and the consultation process is seriously flawed.<sup>15</sup>

Vedanta's operations in India has ignored community concerns, breached state and national regulatory frameworks and failed to adhere to accepted international standards and principles in relation to the human rights impact of business.

## WANT TO READ MORE?

Read more about Vedanta and the impact the corporation has had on lives in India in the Amnesty International reports 'Generalisations, Omissions and Assumptions – The failings of Vedanta's Environmental Impact Assessments for its bauxite mine and alumina refinery in India's state of Orissa' (2011), 'Don't mine us out of existence – Bauxite mine and refinery devastate lives in India' (2010) and Amnesty India's Press Release (1<sup>st</sup> Aug, 2014) 'Vedanta refinery expansion should not be approved without remediation, genuine consultation'.

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14 Final Statement by the UK National Contact Point for the OECD Guidelines for Multinational Enterprises. Complaint from Survival International against Vedanta Resources plc. p.1, September 2009.

15 Amnesty India Press Release, 'Vedanta refinery expansion should not be approved without remediation, genuine consultation', August 1, 2014.

# THE BANKS' INVESTMENTS AND ACTIONS CONCERNING VEDANTA

## LÄNSFÖRSÄKRINGAR

Länsförsäkringar invests in Vedanta through one fund.

Länsförsäkringar Tillväxtmarknad Index

900 000 kr

### **Länsförsäkringar's explanation for its investment in the company:**

Länsförsäkringar assesses that Vedanta does not comply with international conventions and standards and that the company has been involved in abuses of human rights. The bank's consultancy firm has been in dialogue with Vedanta for several years and Länsförsäkringar is part of the pooled engagement. Representatives of Länsförsäkringar attended a meeting with Vedanta in 2013 and participated in a phone meeting in March 2015. The consultancy firm has had contact with Vedanta approximately every six weeks and have met representatives of Vedanta both in India and in Sweden over the past two years.

Länsförsäkringar believes that it is worthwhile to continue the dialogue and describes the aim of the dialogue in the survey response:

*“Vedanta måste visa att de standarder gällande konsultation med lokalbefolkning, konsekvensanalyser, förflyttningar och ursprungsfolksrättigheter, och som antagits i verksamheten implementeras. Dels i bolaget globalt och dels specifikt i aluminiumraffinaderiet, i samband med expansionen av raffinaderiet samt vid utvinningen av bauxit. Vi kan notera att bolaget har blivit öppnare för dialog och att de har tagit steg för att förbättra sin hantering av frågorna i form av antagna policies och processer, vilket tyder på en möjlighet till vidare dialog och förbättring från företagets sida.”*

Länsförsäkringar does not publish any publicly available information about its dialogue with Vedanta.

## NORDEA ASSET MANAGEMENT

Nordea Asset Management invests in Vedanta through Fund Emerging Market Corporate Bond HB.<sup>16</sup>

Emerging Market Corporate Bond Fund

2 800 000,00 kr

### **Nordea Asset Management's explanation for its investment in the company:**

The bank has been in dialogue with Vedanta but ended it in 2012 when Nordea judged that the company had made sufficient progress to comply with international standards on the environment and on human rights.

Nordea Asset Management describes the reason for its decision in the survey response:

16 Nordea Emerging Market Bond Fund Annual Report 2014.

*“The company has made satisfactory progress on the targets for our engagement. Since 2010 Vedanta has taken significant measures to address stakeholder concerns and to align operations with relevant international norms. The drivers for this assessment include the following achievements:*

- *Vedanta implemented several of the recommendations set out by an independent report, to address environmental and human rights aspects in its operations. It also made significant progress against another set of recommendations made on behalf of investors in 2010. Update: In October 2013 URS concluded that Vedanta’s operations are substantively consistent with the requirements by the International Finance Corporation.*
- *Since then Vedanta has reported on its outreach programme to indigenous groups in Lanjigarh and developed a credible group sustainability framework, including a technical standard for indigenous peoples and vulnerable groups. The company appointed an experienced Chief Sustainability Officer who committed to audit current sustainability practices and public reporting to ensure the latter reflects what is happening on the ground. The advisor and CSO continued stakeholder/investor input in how to effectively achieve change at the company and consultation on CSR action plan.*
- *At the time, December the 5th 2012, the company also announced that it would close the Lanjigarh alumina refinery. Update: Following a vote by the Dongria Konh, the company committed to abstain from the Niyamgiri mining project without community consent”*

## RECOMMENDATIONS TO VEDANTA

Amnesty International urges Vedanta Resources to immediately address the negative impacts on the environment and human rights caused by its refinery and engage in genuine consultation with the local communities about the planned expansion of the refinery.

## RECOMMENDATIONS TO THE BANKS

Länsförsäkringar and Nordea Asset Management invest in Vedanta despite the fact that Vedanta has breached many of the international standards for business and human rights the banks commit to follow in their policies. Of particular relevance for this case is Vedanta’s failure to perform human rights due diligence and its failure to provide remedy, a principle both banks have committed to both generally, and specifically for the mining sector.<sup>17</sup>

The banks that invest in Vedanta point to progress made by the company as a reason to continue investing and engaging. Although Vedanta has adopted some improved policies, very little has changed in practice. Continued pressure and gaining an accurate picture of the situation is crucial to a credible engagement dialogue that can lead to improvements in the lives of the people whose human rights have been violated due to Vedanta’s operations in Odisha.

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17 Human Rights Principles 2, 4 and 5 and Mining Principles 1 in Table 2.

# ANALYSIS

## DANSKE BANK

Danske Bank does not work actively to exercise influence over, nor does the bank display any greater knowledge of, any of the companies included in this study except for a black-listing of Vedanta. The engagement dialogues presented by the bank are conducted by an external consultancy firm that has provided the bank with an update on the process.

- **Dow** Chemical Company has not been flagged in the bank's screening and is not the subject of an engagement process.
- A dialogue process is in place with **Goldcorp** via a consultancy firm, but the intensity and credibility is low and the bank has no direct involvement or greater knowledge of the case.
- A dialogue process is in place with **Shell** via a consultancy firm, but the intensity and credibility is low and the bank is not directly involved in the dialogue. The bank's description of the situation in the Niger Delta is an uncritical version of Shell's.
- Danske Bank has blacklisted **Vedanta** and the bank has published this list publicly. It is the only bank that has blacklisted any of the four companies in this study.

**Conclusion:** Danske Bank's investment policy expresses commitments to several of the human rights principles that the companies in this report have breached. Yet the bank invests in three of the companies without demonstrating a credible engagement process to justify its investments. There are therefore gaps between the bank's policy and its conduct in practice.

## HANDELSBANKEN

Handelsbanken does not work actively to exercise influence over, nor does the bank display any greater knowledge of, any of the companies included in this study. The engagement dialogues presented by the bank are conducted by an external consultancy firm that has provided the bank with an update on the process, and in the case of Shell, by the bank's portfolio manager.

- **Dow** Chemical Company has not been flagged in the bank's screening and is not the subject of an engagement dialogue.
- A dialogue is in place with **Goldcorp** via a consultancy firm, but the intensity and credibility is low and the bank has no direct involvement or greater knowledge of the case.
- Handelsbanken's portfolio manager and corporate governance manager are in dialogue with **Shell**. Human rights abuses in the Niger Delta is one of the topics that is discussed during these meetings, but the bank could not provide any documentation showing that the issues were raised or that the meetings led to change. The bank's description of the situation in the Niger Delta is an uncritical version of Shell's.
- Handelsbanken has no holdings in **Vedanta**.

**Conclusion:** Handelsbanken's investment policy expresses commitments to several of the human rights principles that the companies in this report have breached. Yet the bank invests in three of the companies without demonstrating a credible engagement process to justify its investments. There are therefore gaps between the bank's policy and its conduct in practice.

## LÄNSFÖRSÄKRINGAR

Länsförsäkringar possesses a greater knowledge of the companies in this study than the majority of the representatives from the other banks, despite the fact that it lets a consultancy firm manage most of its dialogue with companies. Länsförsäkringars structure however, with external managers, weakens the bank's ability to influence companies it invests in.

- **Dow** Chemical Company has not been flagged in the bank's screening and is not the subject of an engagement dialogue.
- A dialogue is in place with **Goldcorp** via a consultancy firm and the engagement process is active, structured and has clear objectives. The consultancy firm has met with both the company and representatives of local communities in Guatemala. Länsförsäkringar could also provide an updated and informed description of the situation on the ground.
- A dialogue is in place with **Shell** via a consultancy firm and the engagement process is active, structured and has clear objectives. Länsförsäkringar could provide an updated description of the situation in the Niger Delta.
- Länsförsäkringar is part of an ongoing pooled engagement with **Vedanta** and the engagement process is active, structured and has clear objectives. The bank has participated in one meeting and one teleconference with the company during the past two years.

**Conclusion:** Länsförsäkringar's investment policy on human rights is relatively weak but the bank has committed to several of the principles that the companies in this report have breached. The bank's engagement processes in three of the cases are deemed credible enough to justify these investments.

## NORDEA

Nordea Asset Management has a different approach than the other banks in the study and conducts all engagement dialogues in-house. The staff that work with responsible investments have also been working closely with fund managers who have more direct contacts with the companies and who make the investment decisions. This may on the one hand create greater pressure on companies, but another consequence is that the bank exerts influence over far fewer companies. Many of the companies that have been flagged in the screening for involvement in human rights abuses are left without action from the bank.

- **Dow** Chemical Company has not been flagged in the bank's screening and is not

the subject of an engagement dialogue.

- **Goldcorp** has been flagged in the bank's screening process, but is not the subject of an engagement dialogue.
- **Shell** has been flagged in the bank's screening and Nordea has been in dialogue with the company in recent years and has even visited the Niger Delta. However, the engagement dialogue now focuses solely on the issue of shale gas extraction and not on Shell's activities in the Niger Delta.
- Nordea ended its dialogue with **Vedanta** 2012 when it judged that the company had made sufficient progress.

**Conclusion:** Nordea's investment policy expresses commitments to several of the human rights principles that the companies in this report have breached. Yet, the bank invests in four of the companies without demonstrating a credible engagement process to justify its investments. There are therefore gaps between the bank's policy and its conduct in practice.

## SEB

SEB conducts in-house engagement dialogues with a number of Nordic companies but does not work actively to exert influence over, nor does the bank display any greater knowledge of, any of the companies included in this study. The engagement dialogues presented by the bank are conducted by an external consultancy firm that has provided the bank with an update on the process.

- **Dow** Chemical Company has not been flagged in the bank's screening and is not the subject of an engagement dialogue.
- A dialogue is in place with **Goldcorp** via a consultancy firm, but the intensity and credibility is low and the bank has no direct involvement or greater knowledge of the case.
- A dialogue is in place with **Shell** via a consultancy firm, but the intensity and credibility is low and the bank has no direct involvement or greater knowledge of the case. The bank's description of the situation in the Niger Delta is an uncritical version of Shell's.
- SEB has no holdings in **Vedanta**.

**Conclusion:** SEB's investment policy expresses commitments to several of the human rights principles that the companies in this report have breached. Yet the bank invests in three of the companies without demonstrating a credible engagement process to justify its investments. In addition, it is noteworthy that Goldcorp and Dow can be found in a fund branded as "ethical". There are therefore gaps between the bank's policy and its conduct in practice.

## SKANDIA

Skandia has no engagement dialogue with any of the companies in this study.

- **Dow** Chemical Company has not been flagged in the bank's screening and is not the subject of an engagement dialogue.
- An engagement dialogue with **Goldcorp** has not been deemed necessary, as Skandia considers the company to have made sufficient progress.
- Skandia has no engagement dialogue with **Shell** at the time of writing the report but informed us that it would begin engaging with Shell.
- Skandia has no holdings in **Vedanta**.

**Conclusion:** Skandia's investment policy expresses commitments to several of the human rights principles that the companies in this report have breached. Yet the bank invests in three of the companies without demonstrating a credible engagement process to justify its investments. There are therefore gaps between the bank's policy and its conduct in practice.

## SWEDBANK ROBUR

Swedbank Robur has combined direct engagement and pooled engagement using a consultancy firm. During our interview, the bank displayed a greater knowledge of and involvement with the companies in this study than most other banks.

- **Dow** Chemical Company has not been flagged in the bank's screening and is not the subject of an engagement dialogue.
- A dialogue is in place with **Goldcorp** via a consultancy firm and the bank could display an updated and informed description of the situation on the ground.
- Swedbank Robur participates in engagement dialogues with **Shell** both as part of a pooled engagement and directly regarding the situation in the Niger Delta. The bank has met with the company several times during the last two years and has clear objectives for the process. The bank also demonstrated an updated and informed description of the situation on the ground.
- Swedbank Robur has no holdings in **Vedanta**.

**Conclusion:** Swedbank's investment policy expresses commitments to several of the human rights principles that the companies in this report have breached. Swedbank Robur invests in three of the companies but the bank could also demonstrate credible engagement processes with one of them. Swedbank Robur demonstrated good knowledge of human rights issues within its investments and has credible systems in place. However, it is questionable how a company like Dow Chemical can be found in a fund branded as "ethical", especially when there is no ongoing engagement. For these funds, Swedbank claims to follow decisions by Folksam and KPA Pension but the management of the funds is the bank's responsibility.

# CONCLUSION

This report is a spot check on how well seven Swedish banks adhere to human rights standards and guidelines in practice. The study focuses on the banks' links to a small number of companies whose involvement in serious human rights abuses are well documented by Amnesty International and other human rights and environmental organizations. These companies were selected on the basis of there being a high probability that the banks knew of their involvement in abuses, in order to assess the bank's actions as shareholders.

International standards on business and human rights state that companies, including banks, have a responsibility to use their influence to mitigate and prevent abuses of human rights caused by companies with whom they have a business relationship. The banks are directly linked to the companies they invest in or lend money to. Indeed, investors through their financing are an enabling factor for corporations' activities. Shareholders have the ultimate power over a company and as investors they have many opportunities to exercise influence. In many large multinational corporations, even the largest shareholders only hold a few percentage of the holdings and the power is subsequently spread over many owners with joint responsibility. The UN Guiding Principles and the OHCHR are unequivocal when it comes to describing corporate responsibility in cases of human rights abuses, even with respect to minority shareholdings by institutional investors. Institutional investors are expected to act to prevent or mitigate any adverse human rights impacts and, if they lack the leverage and cannot increase it, they should consider terminating the business relationship. For banks, this involves not investing in, or lending money to, companies that contribute to human rights abuses, if they cannot get the company to stop ongoing abuses, prevent future abuses from occurring and remedying the harm caused by the abuses.

In breach of these principles, some of the banks fail to act even though they, through their management of shares in the companies, are linked to the human rights abuses. Some of the banks justify this with prioritizing engagement with the companies they have a greater chance of influencing. Justifying passivity in the face of abuses in one place with efforts to stop abuses in another does not hold. Banks should act in all cases in which they are directly or indirectly linked to violations. A parallel can be drawn to the garment industry. Today major clothing companies cannot excuse child labour occurring among any of their thousands of suppliers by asserting that they have conducted checks in other factories. The expectations on the garment sector from civil society, their customers and the media have forced some of the companies to put adequate resources into owning up to their responsibility for their whole supply chain. It is time to raise the bar for investors' responsibilities.

The banks analysed in this report have different attitudes to blacklisting companies and were in varying degrees passive or active in trying to influence the companies in this report to change their behaviour. Many of the banks have outsourced the whole responsibility and have put an external consultant in charge of the entire process, from screening the bank's funds to deciding if the bank should try to influence the company or disinvest when international standards have been breached. Some of the engagement dialogues that are meant to influence the companies are limited to letters and emails with vague goals and no timelines. Bringing in expertise through consultants is an acceptable step but there

is a risk that the dialogue has less impact when the banks' own representatives do not participate. Regardless of whether engagement is conducted in-house or not, clear aims, timelines and enough resources must be set aside in order to exert real pressure. It is questionable whether a consultant who communicates with a company twice a year, although representing a wide range of investors, actually exerts influence. The direct participation of banks, however, shows that there is weight behind the demands for change.

In the makings of this report, we have witnessed a vast difference in the banks' proficiencies and knowledge of human rights issues and a great disparity in the awareness of the company cases covered by this study. A clear link between how well informed the banks are and how far they take their responsibility to combat human rights abuses is obvious. We have also seen that when a bank lacks proficiency in this area, there is a tendency to give greater weight to the corporate version of the situation on the ground than to the people affected by the human rights abuses. The result and the risk is that companies only make cosmetic adjustments to satisfy their investors, while human rights continue to be violated.

The Fair Finance Guide (FFG) initiative and assessments are based on the international principles the banks mention in their policy documents and the information given to customers through the websites. It has been divided into a number of themes, and for each theme a number of criteria. For more information, see "The Fair Finance Guide International Methodology & Swedish bank's policy scores" from January 2015, which is available through the FFG website. This report focuses on the theme of human rights and compares banks' actions with the guidelines they mention in their policies and communications. Warning symbols, that will be displayed on the FFG website, are given to the banks whose actions do not square with their international standards they claim to adhere to.

# RECOMMENDATIONS

- If banks want to continue their ownership in companies involved in human rights abuses, they should engage in credible engagement dialogues for example by setting time specific goals, by self-representation at meetings with the companies and actively collaborating with other investors in order to increase leverage. In cases of gross human rights abuses, all forms of relationships should be ceased.
- Investors must exert enough pressure in their dialogues to influence companies in a positive direction. If all efforts to achieve a positive change fail, banks should end all financial relationships with companies that are involved in human rights abuses.
- Investors should develop an integrated approach that focuses not only on key holdings, but on serious breaches as well as high risk sectors (mining, oil & gas, apparel, electronics, weapons) and/or regions (including conflict zones or occupied territories) or countries where the use of security forces, or disregard of indigenous peoples' rights have the highest risk of linkage to potential human rights abuses.
- Banks need to improve their awareness and expertise on human rights and corporate responsibility throughout the organisation.
- In order to gain a complete picture of the situation on the ground, banks need to source information from the concerned local communities, their legitimate representatives and human rights defenders.
- Banks should be more transparent and openly report on their engagement dialogues and the response from companies that contribute to abuses.
- Banks should blacklist companies publicly when they contribute to abuses and insufficient improvement is being made.