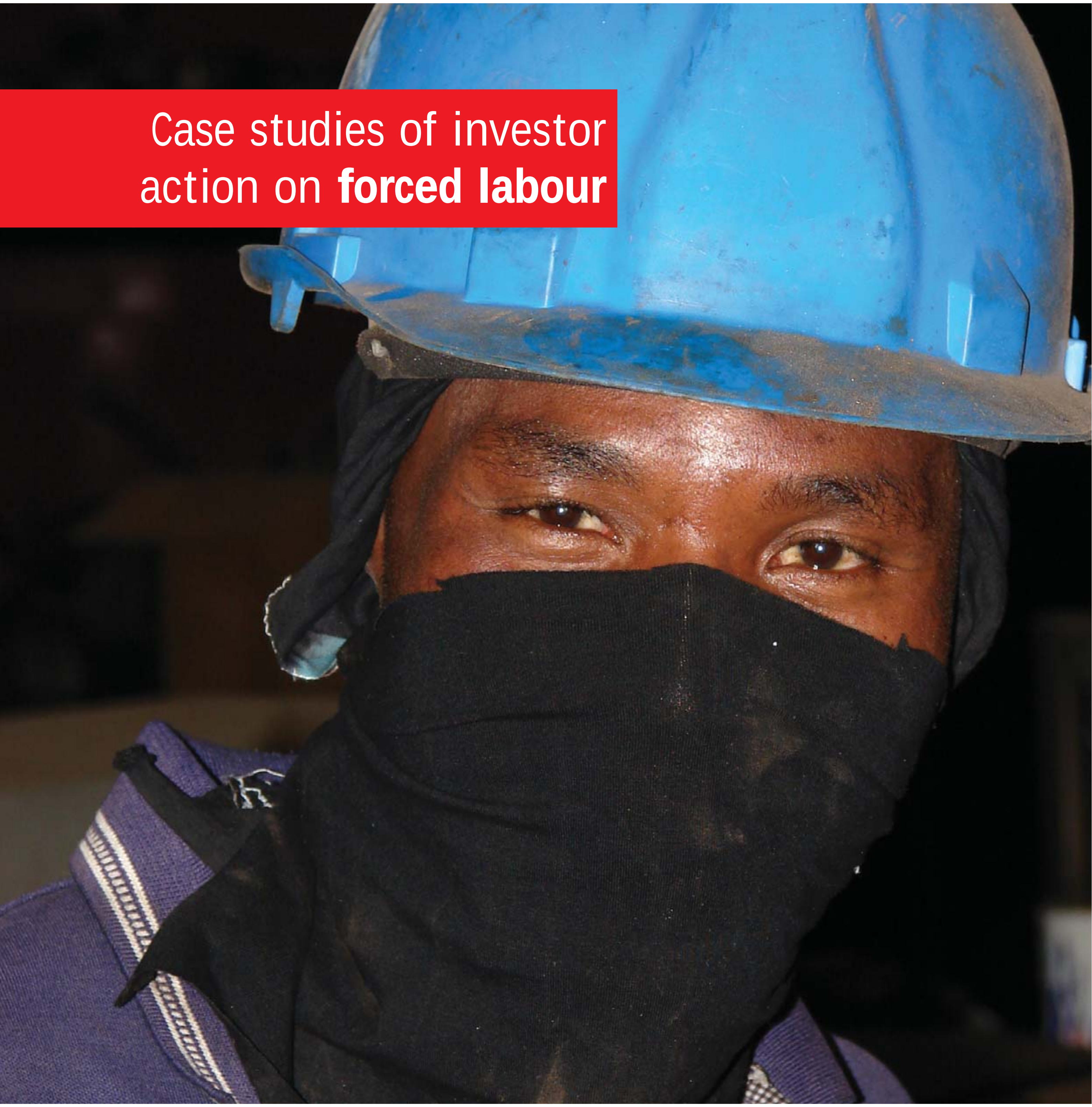
CWC BRIEFING PAPER #2

Investing in Decent Work



Case studies of investor action on **forced labour**

committee on workers' capital

About the CWC

The Global Unions Committee on Workers' Capital (CWC) is an international labour union network for dialogue and action on the responsible investment of workers' capital. It is a joint initiative of the International Trade Union Confederation (ITUC), the Global Unions Federations (GUFs), and the Trade Union Advisory Committee to the OECD (TUAC).

The CWC works to educate union pension trustees on responsible investment issues, monitor global trends and policies related to corporate and financial market governance and examine ways in which the responsible investment of workers' capital can yield economic and social value in our communities.

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Investing in Decent Work:
Case studies of investor action on forced labour

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Investing in Decent Work

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Introduction

Forced labour is one of the most pressing workers' rights challenge of our time. Over 12.3 million workers are forced to work in conditions that contradict our values of decent work for all. In 2010, the Global Unions' Committee on Workers' Capital (CWC) Working Group on Shareholder Activism began work to foster an investor initiative on forced labour.

The overall aim of this initiative is to better understand how workers' retirement savings can meet their financial goals, while at the same time, be used to improve working conditions in accordance with the International Labour Organisation's core labour standards.

The specific goals of the initiative are to:

1) Raise awareness among institutional investors, and trade union trustees in particular, on the risks of investing in companies that employ forced labour
2) Provide trustees with information on how to engage companies that may use of forced labour
3) Facilitate information-sharing on previous efforts by investors to alleviate forced labour conditions, paying attention to challenges and lessons learned
4) Work collaboratively with institutional investors, the international trade union movement and other like-minded actors in calling for companies to improve risk management strategies with regard to forced labour.

Project outputs

To improve investor awareness of the investment risks associated with forced labour, the CWC produced the briefing paper *Investing in Decent Work: The case for investor action on forced labour*. It provided an overview of key concepts, the scale of forced labour in the global economy and explored sources of investment risk associated with forced labour. Furthermore, the paper highlighted some barriers that investors face in taking action on forced labour and provided suggestions for mitigating these challenges. The paper also included a clear action plan for investors seeking to engage companies on forced labour and was widely disseminated through trade union and capital stewardship networks.

There is much to learn from the past experience. This paper analyses three investor- initiatives on the subject of forced labour. In particular, it highlights the dynamics involved in labour-focussed shareholder activism, from an investor perspective. Both briefing papers are shared through the CWC's international trustee network.

The final goal of the Investing in Decent Work program is to translate knowledge-sharing into practical action. With this in mind, the CWC will work with institutional investors to improve corporate policies and practices regarding forced labour in the consumer-goods sector.

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Case studies

This project focuses on the following cases:

Case 1: State-sanctioned forced labour in Burma [Oil and Gas]

Case 2: Child labour and forced labour in West Africa [Cocoa]

Case 3: Slave labour in Brazil [Iron and Steel]

Aside from providing a brief background to each investor initiative, the following practical aspects are explored in further detail within each case:

1) Drivers - What motivated action?

2) Strategies - What strategies were used to engage companies?

3) Impacts - How successful were the strategies?

4) Lessons learned - What challenges, responses and opportunities emerged?

Methodology

These cases cover a broad range of strategies and outcomes that emerge when engaging companies on forced labour. They also reflect the use of forced labour in different geographic regions and economic sectors.

The small sample of cases and interviewees pose some limits to the generalizability of this paper's conclusions. Increasing the number of cases and interviews, as well as employing quantitative techniques for assessing the impact of engagement efforts or media exposés of forced labour on share price could provide fruitful avenues to extend the analysis presented here.

Nevertheless, this paper's qualitative approach offers a starting point for institutional investors and trade union trustees to share information and experiences on how best to use workers' capital to improve and scale-up future investor-led initiatives to foster sustainable labour practices.

Note: Company responses and voluntary initiatives referenced in this document are not necessarily endorsed by the CWC or its members.

Case 1:
State-sanctioned forced labour in Burma [Oil and Gas]

"My country is the worst place in the world to be a worker. The regime uses slave labour, rape, and torture to stay in power. Unions are banned and the jails are overflowing with those who have dared to speak out. With sham elections happening in November the military looks like [it will be] there for decades to come - especially if foreign financial institutions are keeping them afloat."

Maung Maung
General Secretary of the Federation of Trade Unions in Burma (FTUB)[1]

Forced labour in Burma

Burma has been condemned internationally for its use of slave labour, forced displacement, and repression of ethnic minorities. With an unstable regulatory framework, endemic corruption and gross violations of human and labour rights, Burma is subject to increasingly stringent international sanctions and heightened public and media scrutiny. For instance, in March 2010, the United Nations (UN) Special Rapporteur on Burma, Tomas Quintana urged the UN to establish a commission of inquiry with a specific fact finding mandate to address the question of international crimes [against humanity] in the country.[2] The 13 countries that have expressed support for the establishment of a Commission of Inquiry include Australia, Canada, the Czech Republic, Estonia, France, Hungary, Ireland, Lithuania, the Netherlands, New Zealand, Slovakia, the United Kingdom, and the United States.[3] Consequently, companies with ties to Burma face significant financial, reputational and legal risks.

The role of foreign investment

Foreign companies play a key role in maintaining a steady flow of capital to the Burmese military dictatorship. The leader of Burma's pro-democracy movement Aung San Suu-Kyi has consistently maintained that if multi-national companies (MNCs) want to help develop a democracy and free-market economy in Burma, they need to divest until a democratically elected government is established.[4] This position is echoed by the Federation of Trade Unions in Burma (FTUB)[5] and the International Trade Union Confederation (ITUC).[6] As noted in the CWC briefing paper, Investing in Decent Work (July, 2010), over the past few years, a number of institutional investors from Canada, Denmark, Sweden, Australia and the USA have, in response to the junta's poor labour rights record and other human rights abuses, either engaged or divested from companies that operate in Burma.

The current situation

A report by the Burmese Ministry of National Planning and Development shows that overseas investment fell 68 percent, or US$670 million, in the 2009-10 fiscal year.[7] Analysts suggest that the fallout from the global recession, combined with tightening economic sanctions could have contributed to this decline. While overseas investment figures may have fallen, the junta has remained focussed on attracting foreign investment in its energy and extractive industries sectors, largely from neighbouring China, India and Thailand. For example, the Shwe dual-pipeline project, which will carry oil and gas from Burma's western shores to southern China, is likely to generate some US$30 billion over the three decades after it becomes operational in 2012.[8]

Given the significance of the energy and extractive sectors to the regime's plans for staying in power, future investor initiatives aimed at addressing labour rights violations in Burma must focus greater attention on engaging companies from these sectors. The shareholder strategies deployed by institutional investors seeking to hold Chevron to account for its operations in Burma illustrate the challenges and opportunities that arise in such engagement efforts. The case study focuses next on the role played by US investors, in order to distil key lessons for future shareholder campaigns on forced labour.

US shareholder engagement with Chevron

The US sanctions regime in Burma began with an arms embargo in 1988, and was extended to include all new investment in 1997.[9] However, existing investments – including Unocal's (now Chevron's) gas project – were exempted. As a result, Chevron was the only major US company to continue its operations in the country. Shareholder pressure on the company crystallized around two major flashpoints in 2005 and 2007.

In the first instance, Chevron was considering acquiring Unocal along with its minority stake in the Yadana Pipeline project operated by the French company Total. Civil society groups such as Earth Rights International had already exposed the use of forced labour in this project[10] and in response, the American Federation of Labor and Congress of Industrial Organisations (AFL-CIO) spearheaded efforts to highlight the investment risks associated with the oil and gas sector in Burma. In July of that year, AFL-CIO Secretary-Treasurer Richard Trumka wrote to Chevron CEO Dave O'Reilly noting that acquiring Unocal's stake in the Yadana Project would expose Chevron to significant reputational and legal risks due to the associated human rights abuses.[11] A few weeks later, Trumka followed up with a letter to Chevron's Public Policy Committee Chair Sam Nunn, again expressing concern that "the Yadana pipeline is an unacceptable legal and political risk."[12] Although the letters shed light on the condition of workers toiling under forced labour conditions in Burma, they did not deter Chevron from pursuing its acquisition strategy in Burma.

The second flashpoint followed the Burmese junta's brutal repression of pro-democracy protests in 2007 during the "Saffron Revolution". This event re-focussed investor attention on the role of foreign investment in the country's socio-economic landscape. In October 2007, long-term shareholders and their representatives, including the AFL-CIO Office of Investment and Teamsters, co-signed a letter to Dave O'Reilly, requested a meeting regarding concerns over Chevron's relationship with Burma's military regime and its investment in the Yadana project. Human rights abuses and the possibilities of a toughened sanctions framework were cited as key issues by the letter's co-signers, who co- collectively owned approximately $118 million worth of stock in Chevron.[13] The United Steelworkers issued a statement the following month calling on Chevron and Total to withdraw from the Yadana project, citing concerns over the continued use of forced labour.[14] Chevron did not respond to the requests of shareholders for a meeting.

In an effort to scale up their efforts, the Teamsters General Fund and United Steelworkers joined a shareholder coalition that requested Chevron's Board to review and develop guidelines for country selection and report these guidelines to shareholders and employees in 2008. Keeping up the pressure in 2009, they called on the company to disclose the criteria it uses to start and end investments in high-risk countries such as Burma. This latter resolution received support from more than 25 percent of the shares cast at the company's annual meeting.

The next section goes into further detail about the motivations, challenges and impacts of filing shareholder resolutions on this issue, as reflected in the interview responses provided by the Teamsters General Fund.

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The Insider View

Reflections from the Teamsters General Fund[15]

What motivated Teamsters to use shareholder pressure in response to labour rights abuses in Burma?

The shareholder proposal we filed in 2008 was set in a historical context that saw a broader coalescing of civil society actors concerned about the plight of the Burmese people living under the rule of the military junta. Our reputation as an active investor on issues of corporate governance and labour standards, as well as our role as representative of Chevron employees, were key drivers in motivating engagement with companies operating in Burma.

Why focus on Chevron?

Teamsters shareholder campaigns normally concentrate on companies where U.S. Workers are employed and/or own stock. Chevron's operations in Burma were exempt from the prevailing sanctions regime. For this reason, Chevron was the only US company operating in Burma, was therefore an obvious focus.

How did your efforts frame labour and human rights in the Burmese investment context?

Although the Burmese government was seen to be undertaking systematic violations of human rights and democracy, it has been difficult to emphasise only labour rights and forced labour within our shareholder proposals. Labour rights are a core concern for Teamsters, but our proposal focused on the reputational and other pertinent investment risks associated with companies operating in Burma. This may not be the case in all financial markets or companies. Our experiences in Europe suggest that some investors can be more receptive to taking immediate and forceful action on labour rights abuses.

Why did the proposals focus on disclosure of Chevron's operational policies?

Requests for company disclosure by itself are not an effective strategy. However, it does create a factual basis for shareholders to weigh in on specific issues, and the reality puts companies on the hook to explain their actions.

How did Teamsters view the strategic choices available for engaging Chevron (engagement, shareholder proposals or divestment)?

Direct company engagement has to be productive. Companies may not want to talk with shareholders about these issues (as in the case of Chevron), and it can be very difficult to get the right company representatives to have the discussion with. Sometimes, going straight to top executives and company boards is the only way to get directly to the heart of an issue and take concrete steps. Filing shareholder proposals can put additional pressure for this dialogue to take place. However, a proposal should be a starting point, and not an end unto itself. For Teamsters, divestment is a measure of last resort. Most long-term shareholders should try to push for reform rather than take a "cut and run" approach because maintaining shares in a company gives voice to labour rights issues.

Did your strategic choices evolve over the course of this campaign?

Over the two years, we learnt about the importance of crafting the "right" wording for shareholder proposals. In 2008, our proposal asked Chevron to develop guidelines for country selection in its investments and disclose these guidelines to shareholders and employees. Chevron responded by challenging this proposal with the regulator, the Security and Exchange Commission (SEC). Although Teamsters won the challenge, a further reservation was that many of the proxy voting guidance firms were not on board with our proposal since they felt it was too prescriptive. The support of these firms can significantly increase the level of support a proposal receives from shareholders.

Wanting to ensure we crafted a proposal that not only would get past legal loopholes that Chevron may raise, but also generate the support of the proxy voting guidance firms, particularly Risk Metrics and Proxy Governance, this initial experience made us cautious the following year. For this reason, in the second year, we focussed on the disclosure of country-selection and transparency criteria. The wording was more concrete and had the benefit of broader application beyond Burma.

Can you elaborate on the role of trade unions and labour-appointed pension trustees in this campaign?

There are over one hundred Teamsters Pension Funds, and relationships with these funds are key to our shareholder campaigns. The awareness and effectiveness of pension trustees on investment issues related to Burma has visibly increased over the past two years. In addition, union leaders and trustees with larger funds provided access to key decision makers of relevance to this issue. Our trustee education programs can link changes and trends in retirement security and with activism and help to make pension trustees effective advocates for the integration of workers' issues in investment decision-making.

How do you evaluate the impact of shareholder proposals filed with Chevron?

Despite decreasing vote count on the relevant proposals and Chevron's continued refusal to meet with shareholders, shareholder pressure has forced the company to deal with this issue in the public eye. The company's response (or lack thereof) has galvanized the broader civil society coalition working on democracy in Burma. For instance, the company's refusal to allow valid proxy holders to enter the last AGM has only increased the resolve to engage Chevron in the future.

What trends will shape your future shareholder campaigns on Burma?

Regulators have a role to play in enabling how corporations are held to account. The recent US financial reforms (the Dodd-Frank Act) have enhanced the oversight role of the SEC and investors can now go to them for greater company-related disclosures.

Case 2:
Forced Labour and Child labour in West Africa [Cocoa]

> ***"It has been nearly ten years since the industry vowed to eliminate child labour. It needs to make good on that promise."***
>
> Magdalena Kettis
> (Norges Bank Investment Management) and Anna Pot
> (All Pensions Group)
> 21 May 2010[16]

Slavery in the cocoa supply chain

In 2000, an investigative documentary by the BBC led to high profile media coverage of human trafficking, forced labour and child labour in the cocoa industry.[17] The documentary focussed on Cote d'Ivoire, which produces nearly half the world's supply (over 100 million tons) of cocoa. This cocoa is grown on thousands of small plantations where young men and boys may work up to eighteen hours a day, for little or no pay and are beaten if they try to escape.[18] Two-thirds of all cocoa products are consumed in Europe and North America, and the media exposé left many consumers in these countries unsure as to whether their chocolate was tainted by inhumane labour practices.

Unfortunately, forced labour in the cocoa supply chain is linked to a long history of human trafficking throughout West Africa since the first commercial production in the late 19th century when enslaved people were transported from Angola to the islands of São Tome and Principe to work on cocoa estates.[19] Forced labour and child labour in the cocoa sector is also indicative of larger global labour trends affecting agricultural production. According to the International Labour Organization (ILO), more than 211 million children between the ages of 5 and 14 work globally and about 70% of them are in agriculture.[20] Working for long hours, they are exposed to harmful pesticides and suffer from workplace injuries from handling dangerous tools and equipment.

Many of the children work on commercial farms producing food for export to developed countries' markets. These farms in turn are either managed by or sell their produce to large multinational agro-business corporations engaged in multi-billion dollar trade. When world prices of commodities fluctuate or are already very low, such as cocoa, farmers in developing countries are pitted against each other to compete to produce for the lowest costs.[21] The result is a trend where children replace adult workers for cheaper labour or are simply used as slave labour.

The role of multinational companies

The chocolate industry worldwide, however, is controlled by a few key players. Three companies (Cargill, Archer Daniels Midland and Barry Callebaut) are responsible for almost 40% of the world's cocoa grindings. The grinding companies supply cocoa products to chocolate manufacturers further along the supply chain. Five companies - Mars Incorporated, Nestle, Kraft, Hershey and Ferrero control 60% of the global chocolate market.[22]

According to Global Exchange, corporations contribute to the root causes of forced labour conditions on cocoa farms in two main ways: 1) denying responsibility for producer poverty and thus failing to take actions to ensure stable and sufficient prices and; 2) engaging in trading practices that lead to low market prices and instability, such as speculation and stock manipulation.[23] For instance, in the Ivory Coast, foreign cocoa importers have increased their power through consolidation while small Ivorian firms have consequently lost their leverage. The most recent example of this trend towards consolidation is the 2010 acquisition of Cadbury by Kraft Foods. The combined company will be the market leader in the chocolate and confectionary industry (by revenue), overtaking Mars-Wrigley.[24] This level of consolidation in the cocoa supply chain suggests that major cocoa importers need to use their considerable influence on the cocoa market to bring about the kind of systemic changes necessary to eliminate child slavery.

The Cocoa Industry Protocol

In 2001, major cocoa companies made a voluntary commitment (the Cocoa Industry Protocol) to work toward eliminating the worst forms of child labour (ILO Convention 182) and forced labour (ILO Convention 29) in cocoa production by July 2005.[25] As little progress was achieved, ambitions were scaled down and the deadline for meeting the Protocol's commitments was extended so that the industry committed to ending the worst forms of child labour in only 50% of farms in Cote D'Ivoire and Ghana by July 2008.

The cocoa companies cited difficulties in tracing the origins of cocoa because they purchase from commodities exchanges where cocoa from various sources, including those that employ child labour and forced labour, are mixed. Not surprisingly, the industry has focused its attention on verification processes in their respective supply chains.

In its critique of the Protocol process in 2008, the International Labour Rights Forum (ILRF) argued that "None of the activities undertaken under the auspices of the 'protocol' have attempted to monitor or improve labour conditions within the cocoa supply of any chocolate company."[26] Nonetheless, the ILRF acknowledged that there had been some significant developments outside of the 'protocol' process, as major corporations began to take up voluntary certification initiatives, principally in the environmental and fair trade sectors. The experiments of note include Kraft Foods' partnership with Rainforest Alliance to certify cocoa produced in Cote d'Ivoire; agreements by Cargill, Nestle and Mars to work with Utz Certified; ED&F Man's short-lived 'Corigins' project to act as a trader of organic and Fair Trade cocoa; and the development of new Fair Trade certified cooperatives in Cote d'Ivoire, covering some 14,000 cocoa farmers.[27] However, the ILRF also found that none of the monitoring systems associated with these codes contain the expertise needed to monitor labour rights violations, and none of the systems provide detailed guidance for rescue, removal, and rehabilitation of children found in this sector.

Investor initiatives

The slow progress of the cocoa industry in eliminating child labour and forced labour caught the attention of some long-term investors. For example, Norges Bank Investment Management (NBIM) and APG Asset Management identified forced child labour as a risk to their long-term investments.[28] As a result they initiated talks in 2009 with some of the world's largest cocoa suppliers and chocolate producers to learn how they monitor the risk of forced child labour in West Africa.

The response from companies has been varied, and APG and NBIM conclude that more needs to be done since the overall risk of forced child labour in cocoa production remains high. For example, while industry leaders repeated their commitment to sustainable cocoa production at the 17th World Cocoa Foundation Partnership Meeting in Utrecht, the Netherlands, on May 19 and 20, few proposed concrete measures to prevent forced child labour in the cocoa supply chain.[29] Likewise, in March 2010, BBC's investigation into the supply chain that delivers much of the chocolate sold in the UK found evidence of human trafficking and child slave labour.[30]

The next section presents APG's interview responses as a tool to provide further detail about the motivations and impacts of engaging companies on forced labour and child labour.

The Insider View

APGs engagement with cocoa suppliers and chocolate producers[31]

What motivated APG to engage companies in the cocoa sector on the issue of forced labour in West Africa?

In 2008 we started a shareholder engagement with the world's largest chocolate manufacturers about conditions for the farmers, from whom they buy their cocoa, either directly or indirectly. We were motivated to do this because we wanted these companies to take a far more active stance against forced child labour in their supply chain and to be transparent about their performance in this area. As shareholders, we expect them to monitor their suppliers, not only to guarantee the quality of the cocoa they buy, but also to ensure that the cocoa is produced responsibly.

The cocoa supply chain is tremendously complex, as you are aware. How did you decide which companies to engage?

Our efforts focused on Nestle, Hersheys, Archer Daniels and Midland (ADM) and Olam International because they are seen as market leaders.

Did your engagement efforts frame child labour in West Africa as an investment issue?

We are aware that the supply of good quality cocoa has diminished in recent years. Aside from the labour rights issues, aging tree stocks, climate change and less than efficient business models involving smallholder producers has made cocoa supply vulnerable to shortages. This is a business risk for companies that depend on the cocoa crop. For this reason, our engagement with these companies took a broader focus on the appropriate oversight mechanisms by these companies to ensure a sustainable supply of good quality cocoa. This is certainly a case that demonstrates how environmental and social issues pose an investment risk with financial impacts.

How did APG decide between the strategic choices (engagement, shareholder proposals or divestment) available for dealing with chocolate companies once the use of forced child labour in the cocoa supply chain became more apparent?

This initiative was in line with APG's Responsible Investment Policy, which stipulates that companies should meet specific standards on labour rights. If we are in doubt about their compliance, we start engaging them, as in the cocoa sector. We became aware of the problems in the cocoa sector through the mainstream news, the work of Amnesty International and various investment houses. So, along with Norges Bank Investment Management, we decided to engage companies in this sector because we felt it was possible to influence them as shareholders, and because the companies seemed willing to engage on the issue.

We feel that shareholder proposals and engagement can be quite effective because they generate public pressure on a company to improve its performance. On the other hand, divestment is difficult and can be counter-productive. We base our strategy on a realistic assessment of what we can change through playing our role as a large investor with some influence. For this reason, our research on sustainability or corporate governance provides the basis for our decisions on whether or not to make an investment, to sell an investment, or to reduce or increase the size of an investment.

In what ways did your approach evolve over the course of this engagement?

This engagement showed that industry associations and the mainstream press could be helpful "magnifiers" for an ESG issue. For example, after two years of engaging with companies in the cocoa sector, we participated in an industry meeting where the lack of progress on forced child labour was criticized, and followed this up with an article in the mainstream media. Together, these actions helped to put additional pressure on the companies to take action.

We also had some cross-learning from other engagement projects (such as with companies operating in Burma and Sudan) to better understand what works when engaging companies in the equities markets, compared to real estate, for example. Our internal processes of evaluation help to improve our engagement strategies.

What were some challenges that arose during this engagement?

Accessing accurate information about forced labour and child labour conditions in West Africa was a challenge. However, we worked closely with NGOs with local contacts and also with the International Labour Organisation, which provided good quality research.

How do you evaluate the impact of your efforts to address labour rights violations in the cocoa sector?

It is hard to measure the impact of investor action for the lives of ordinary workers on the ground in the cocoa farms. However, it is possible to detect discernable impacts closer to our sphere of influence as investors, particularly in terms of how companies are managing risk in order to ensure a sustainable supply of good quality cocoa.

We are already seeing the first evidence of the success of our engagement approach, for example, with the Swiss food giant Nestlé. Although Nestlé was already taking various steps to tackle forced child labour in cocoa production, we felt their approach lacked structure. Over the last year, we have spoken to Nestlé on several occasions about how it organises its supply chain monitoring. Following the example of some of its competitors, Nestlé has now changed the way the supply chain is organized by grouping small farmers into cooperatives and buying from these cooperatives. This new approach will not only improve farmers' circumstances and alleviate forced child labour, but also guarantee supplies of good-quality cocoa.

Nestlé has also recently published an action plan on its website, promising more training for cocoa farmers and an expansion of its certification programme. For one of its products, the KitKat bar, Nestlé has switched to using only Fairtrade cocoa. In 2010, we will continue engagement with Nestlé and other companies in the sector to ensure that they do not relax their efforts to tackle problems in the cocoa supply chain.

What trends will shape your future shareholder campaigns on child labour?

Overall, we feel that regulatory initiatives in West Africa, the US and Europe are positive. For example, the European Commission is considering policy options to ban products made with forced child labour. Until these proposals are in place, companies must do more to address forced child labour in the cocoa sector, and as investors we will need to maintain our engagement effort to ensure this happens.

Case 3:
Slave labour in Brazil [Iron and Steel]

"These are people who have absolutely no economic value except as cheap labour under the most inhumane conditions imaginable. And none of it would exist without multi-national companies demanding the products they produce. They are a key part of the globalized, export-oriented economy Brazil thrives upon."

Marcelo Campos
Brazilian Labour Ministry
Anti-Slavery Special Mobile
Enforcement Group[32]

The persistence of slavery in Brazil

For more than three centuries, African slaves were shipped to Brazil to work on sugar plantations and other large agricultural estates or *fazendas*.[33] Although Brazil abolished slavery in 1888, slave labour is still a major problem in the country. Recent estimates by the International Labour Organisation suggest that that between 25,000 and 40,000 people are subject to slavery in Brazil.[34] This is especially true in the vast Amazon region in the north, which is still frontier territory that the state cannot always police.[35]

Despite the challenges, Brazil is often cited as a positive example of progressive anti-slavery policies and enforcement. After the establishment of a Commission for the Eradication of Slavery in Brazil, well-trained mobile anti-slavery squads began to follow up reports of enslavement. At the same time, a "dirty list" of all firms and individuals found to be using slave labour was established in Portuguese and English on the Internet.[36]

Slave labour in the iron and steel supply chain

One such raid by the Brazilian anti-slavery squad featured in the December 2006 Bloomberg report on slavery in Latin America. The report shed light on Brazilian workers who had not collected wages in several months and were 800 km from home, working in extreme heat without access to medical facilities and clean water.[37, 38] These workers were burning hardwood to make charcoal, which in turn was used to produce the pig iron and steel needed to make auto parts, kitchen sinks and appliances.

According to the Bloomberg report, modern-day slaves in Latin America are lured from impoverished cities in Brazil's northeast or from the Andean highlands of Bolivia and Peru. Recruiters dispatched by slave camp owners promise these workers steady-paying jobs. However, once at the Amazon camps, some workers are forced—at times at gunpoint—to work off debts to their bosses for food and clothing bought at company stores. Many go months without pay or see their wages whittled to nothing because of expenses such as tools, boots and gloves. Lack of money, an impenetrable jungle and a long distance/trek? to get home make it impossible for the slaves to leave.[39]

The Citizen's Coal Institute

The Brazilian government, domestic steel industry and civil society actors have taken some steps to address the widespread use of slave labour in this sector. A prominent example is the 2004 Citizen's Coal Institute (ICC), which was created by the Steel Industry Pact, signed by 15 companies, the ILO, the Association of Steel Industries in the Region of Carajas, Instituto Ethos, Instituto Observatorio Social and the National Confederation of Steel Workers, the trade union for the sector.[40]

The ICC was created to conduct monitoring to ensure that the companies abide by the pact. Where slave labour is found, the suppliers' certification is withdrawn and ICC companies no longer work with that provider. In addition, the ICC rehabilitates the workers and provides skills training. This includes working with the Ministry of Labour and Employment (MTE) to find job placements for workers who have been rescued.[41]

Notable investor responses

The Bloomberg report conclusively linked the steel used by leading automotive and appliance manufactures with slave labour in Brazil. Investors such as Domini Social Funds and Hermes (owned by the BT Pension Scheme) were quick to respond to the allegations presented in the media exposé, and initiated engagements with several of the named companies.

Domini and Nucor

Nucor is the largest buyer of Brazilian pig iron. In response to the Bloomberg report, Nucor's general counsel said, "Any amount [of pig iron] that is sold with the use of slave labour is too much"[42] and the company announced it would monitor the government's "dirty list" of employers found to use slaves, and require its direct suppliers to certify that slaves were not used.[43]

Over the three-year period that followed, Domini Social Funds pressed Nucor for a more comprehensive and transparent system for addressing poor labour conditions in Brazil. In response, Nucor adopted a policy prohibiting forced labour in its supply chain and published details about its response to slavery for the first time.[44] Domini continued to believe that this system could be strengthened, and their 2009 shareholder proposal on this issue received a 27% vote.[45]

Domini and Nucor entered into a written agreement in exchange for the withdrawal of the shareholder proposal. Nucor will require its top-tier Brazilian pig-iron suppliers to either join the Citizens Charcoal Institute (ICC), or sign and adhere to the National Pact for the Eradication of Slave Labor. As part of this negotiation, Nucor agreed to become a financial patron of ICC, and ICC has agreed to open itself to new members for the first time. Nucor also agreed to publish annual progress reports on implementation of these policies.

Taking a different approach, Hermes raised the issue of slavery in the Brazilian pig iron supply chain with fourteen companies in the course of a collaborative engagement process involving a group of institutional investors and implemented through the United Nations Principles for Responsible Investment (UNPRI) clearinghouse.

The engagement was led by Hermes' Equity Ownership Service (EOS) department, which helps institutional shareowners to meet their fiduciary responsibilities and become active owners of public companies.

Hermes' engagement with companies sourcing Brazilian iron and steel[46]

What motivated Hermes to engage with companies on the issue of slave labour in the Brazilian pig iron sector?

The Bloomberg report on slave labour in Brazil (December 2006) drew attention to unacceptable labour practices in the supply chains of large companies owned by our clients. We were concerned that unsustainable labour costs were built into their business models and that companies needed to address the significant risk of being associated with inappropriate labour practices in their supply chains.

The report named not only specific labour rights issues in the Brazilian pig iron supply chain in considerable detail, but also highlighted some gaps in our knowledge as investors in the relevant companies. Hermes believes investors must hold Boards to account for ensuring the company has appropriate risk management processes and practices in place.

How did this investor coalition decide which companies to engage with and what strategy to pursue?

The article suggested companies that were implicated via their supply chains in inappropriate labour practices. Hermes EOS undertook further research to identify a target list for engagement based on companies that known to have sourced raw materials from Brazil, mainly US and Japanese companies. We felt that the issue was sufficiently serious that other investors would also have concerns. We have found that by forming a coalition and speaking for a higher percentage of shares, shareholders are able to have more influence on companies.

We therefore sought to build an investor coalition through the UNPRI with significant assets to obtain adequate leverage for approaching the companies. We succeeded in constructing a coalition of nine separate asset managers. For Hermes, divestment was not an option because we wanted to achieve positive change in the management of labour rights in the Brazilian pig iron supply chain, and use our ownership of company shares to act as a lever.

We initially wrote a letter setting out our concerns, which was signed by other investors in the coalition and sent to the Chair of each company on the target list. Companies responded in different ways, some formally by letter. Others expressed willingness to participate in conference calls with us. We sought to discuss the issue with board-level representatives in all instances. This strategy was effective in starting a conversation with company executives about the issues of concern. We achieved this through a number of calls and meetings with senior management, which we invited other investors to join.

Did this engagement effort frame slave labour in Brazil as an investment issue?

EOS' approach is always to frame ESG issues of concern to investors from the perspective of value to share price performance. For long-term investors, issues that have a negative impact on a company's reputation or environmental and social performance are very significant and can damage the value of our investment. The engagement process explained the possible impact on share price and long-term risk associated with poor labour standards.

In what ways did Hermes' approach evolve over the course of this engagement, and what were some of the challenges that arose?

Our approach did not necessarily change over time, but it did vary depending on the response of the target companies to the initial letter. As this engagement included several companies, the responses varied a great deal. Some companies were keen to talk, others less so. For each company, we had to establish a baseline and to understand carefully to what extent they were implicated in the use of slave labour.

This meant we conducted our engagement on a very company-specific basis. The advantage of adopting this approach was that we could be 100% relevant all the time through detailed and bespoke conversations and questions.

One difficulty was getting companies to commit to genuine dialogue rather than providing a generic response. We wanted to get past vague public-relations statements and get into the heart of the company's practices and systems for managing supply chain risks associated with slave labour.

What role did labour unions and pension funds play in this collaborative engagement?

Hermes EOS sets targets for all engagements and monitors its effectiveness for achieving these. In this engagement, we were pleased to note that we gained reassurance at three companies and saw significant progress at a further eight as a result of our engagement.

Our engagement was focused on changing company relationships with their suppliers in Brazil through a disclosure of their risk management policies and practices for dealing with slave labour. Disclosure encourages companies to re-think their approaches and engage in a self-improving process by developing robust policies and accountability structures. Our experience in this case shows that effectiveness can take time to impact workers on the ground.

We were joined by a number of other asset owners, including pension funds, in this engagement and the presence of so many long-term owners enabled us to achieve some important successes.

Aside from the affecting changes in company policies, this engagement was a seminal case for testing out the mechanics of running collaborative engagements through the UNPRI clearinghouse (which had only recently been established). Hermes' experience with this engagement emboldened us to lead other large coalitions on a variety of ESG issues. For us, it has confirmed the value of working collaboratively where possible.

Concluding observations

This section of the paper draws together a few concluding observations based on the three cases highlighted in the paper. These observations are presented as a set of questions to signal an invitation for further debate and discussion, rather than a definitive set of findings about investor initiatives on forced labour.

From these three cases highlighted several important observations can be made. These observations are presented as a set of questions to signal an invitation for further debate and discussion about investor initiatives on forced labour.

1. Forced labour: behind the scenes or center stage in investor initiatives?

Investors do not always emphasise forced labour as the central focus in their engagements with companies. Although concerns about sub-standard working conditions can often be a powerful motivating factor for approaching companies, investors are keenly aware that they must be able to relate labour rights abuses to issues of investment risk and long-term value. Often the latter issues are the primary entry point to begin a conversation with relevant companies. For instance, in the case of Burma, Teamsters' shareholder proposal put an emphasis on Chevron's policies for investing in at-risk countries, without explicitly referring to their concerns about the junta's poor human rights record. Similarly, APG's engagement with chocolate companies and cocoa suppliers astutely bridged the long-standing problem of forced child labour with industry-wide concerns about ensuring a sustainable supply of high-quality cocoa.

2. Shareholder coordination on forced labour: resource intensive but worthwhile?

It may take several years to convince a company to address the concerns of its shareholders seriously – as demonstrated by Chevron's repeated refusal to meet with investors regarding its operations in Burma. Likewise, in the case of Nucor's exposure to slave labour, Domini Funds devoted three years obtain a commitment from the company to improve its policies and level of transparency. Meanwhile, APG spent over two years in its engagement with Nestle before the company committed to making tangible improvements. Consequently, investors who want to support the eradication of forced labour need to be prepared for sustained engagement and devote the necessary time and resources required to affect real change.

3. Investor engagement strategies on forced labour: incremental improvements or systemic shifts?

Related to the above point, is the observation that engagement on forced labour tends to result in incremental improvements at the company level, but may not affect immediate large-scale systemic shifts. The investors interviewed for this paper explained this outcome by emphasising the importance of taking action within one's sphere of influence. They suggest that the impact of shareholder actions should be evaluated primarily at the company level, as this is where investors have the most leverage.

4. Fiduciary duty and labour rights: Can investors reconcile the two?

Finally, the three case studies demonstrate how investors are finding innovative ways to bring labour rights issues into the investment decision-making context. In each case, investors identified specific investment risks related to forced labour and demonstrated how the concept of decent work and core labour standards provide a framework for reconciling the concept of decent work with their fiduciary duty to ensure sustainable long-term returns.

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