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**The Center for International Law & Policy
Operational Grievance Mechanism
Research Project**

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INTRODUCTION

The Operational Grievance Mechanism Research Project (OGM Project) began in 2015 with the aim of providing data on the development of internal grievance mechanisms created by companies around the world. In particular, the OGM Project seeks to identify companies that have committed to following the United Nations Guiding Principles on Business and Human Rights (UNGP) and are creating grievance mechanisms pursuant to the UNGPs.

This report features companies that have advanced significantly with the creation and operation of an OGM drawing from the project’s database of ninety companies. The general criterion for selecting companies was based on the finding of an online human rights policy as well as a well-established grievance mechanism that appears to offer a minimum of due process to hear complaints and the ability to result in reparative measures.

This research is largely based on desktop research of company websites although where available including information gathered from secondary sources. The OGM Project does not provide an evaluation nor an endorsement of these company examples. Rather it presents a factual account of the mechanisms as reported by the company. The project shares its data with the aim of encouraging more in-depth ethnographic research by others in order to learn of the actual experience of individuals and communities that engage with these mechanisms to provide a more comprehensive evaluation as well as contribute to the collection of lessons learned and best practices.

The OGM Project is a student led endeavor sponsored by the Center for International Law and Policy (CILP) at New England Law | Boston. For further information about the OGM Project contact Professor Lisa Laplante, Director of CILP at llaplante@nesl.edu.

ADIDAS

Adidas has had a human and labor rights program since 1997 that includes a focus on stakeholder outreach and engagement.¹ Adidas Group supports the UN Business and Human Rights Framework by incorporating key elements of the guiding principles into its general practice in managing the human rights impacts of its business.² They also cite the United Kingdom's Modern Slavery Act as part of their efforts to prevent slavery and human trafficking from occurring in their own operations and supply chains.³ Adidas Group holds a direct dialogue with governments and offers support to civil society and non-governmental organizations.⁴ They engage with governments when the following rights have been at stake discrimination, freedom of association, unlawful detention, forced labor, child labor, indigenous people's rights, and issues over livelihoods and the payment of minimum wages.⁵ At an operational level, the company seeks to implement human rights and core labor standards through their Human Resources function, the program for Legal Compliance and Social and Environmental Affairs. In 2014, Adidas Group released a new operational-level grievance mechanism, called "the process", as a response to four separate accusations in 2012 for violating London Organizing Committee for the 2012 Summer Olympic Games'.⁶

Adidas Group handles complaints in different ways depending on the nature and severity of the impact.⁷ Complaints are taken from their own due diligence, external complaints, campaigns, or protest actions.⁸ Depending on the connection of Adidas to the complaint/violation it will work with governmental agencies, judicial authorities, or non-governmental bodies to remedy the issue.⁹ The in-house grievance channels include hotlines for workers and established channels to handle consumer and other stakeholder enquiries.¹⁰ Adidas Group also has paired with the Fair Labor Association (FLA) who works as a third party complaint mechanism.¹¹ The company allows for the affected parties to decide how to pursue matters through judicial or non-judicial processes of their choosing.¹²

With regard to the procedure for filing a grievance, the company requires a complaint alleged by the complaining party to be a breach of an international human rights norm (or Adidas' Workplace Standards). Anyone directly affected by Adidas or its supply chain can make a complaint (or any organization representing such a party), complaints can be made via hotline or email (sustainability@adidas-group.com), if a complaint is accepted, all parties will be contacted

¹ HUMAN RIGHTS | ADIDAS GROUP: <https://www.adidas-group.com/en/sustainability/compliance/human-rights/#/uk-modern-slavery-act/our-progress/> (Accessed September 27, 2019).

² *Id.*

³ UK MODERN SLAVERY ACT | ADIDAS GROUP: <https://www.adidas-group.com/en/sustainability/compliance/human-rights/#/uk-modern-slavery-act/> (Accessed September 27, 2019).

⁴ *Id.*

⁵ *Id.*

⁶ Adidas Creates Human Rights Complaint Process, November 6, 2014: <http://www.triplepundit.com/2014/11/adidas-announces-human-rights-complaint-process/> (Accessed September 28, 2019).

⁷ HUMAN RIGHTS | ADIDAS GROUP: <https://www.adidas-group.com/en/sustainability/compliance/human-rights/#/uk-modern-slavery-act/our-progress/> (Accessed September 27, 2019).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

and briefed on the process. The Adidas' Social and Environmental Affairs (SEA) division will then conduct an investigation into the complaint including in-person interviews and potentially engagement with community and/or civil society stakeholders. The SEA's findings will be shared with all parties. Where an Adidas entity is found to have caused or directly contributed to a violation it will cease or alter the offending behavior and engage in remediation where necessary, SEA will continuously monitor the remediation activities.¹³

ALDI GROUP SOUTH

The Aldi Group is a discount supermarket chain based in Germany and operates in 20 countries.¹⁴ It was formed in 1946, and split into two companies in 1960: Aldi Nord (Aldi North) and Aldi Sud (Aldi South). Aldi South is the chain that has expanded in the United States, while both companies are expanding overseas. Aldi North purchased Trader Joe's, a United States based grocery chain, in 1979. This summary focuses on Aldi South.

Aldi South operates more than 1,900 stores in 36 states within the United States, they employ a cost-effective approach to grocery shopping by providing Aldi exclusive brands that claim to save shoppers up to 50% on their grocery expenses. The company states that it is committed to respecting human rights and preventing human rights violations. Aldi South states that it respects all internationally recognized human rights, and acknowledges there are human rights risks of increased relevance to them as a food retailer and a vendor of non-food. These human rights risks include discrimination; health and safety; freedom of association; remuneration; working hours; child labor and forced labor.¹⁵

Aldi South has also made an online commitment to the United Nations Guiding Principles on Business and Human Rights. In 2017, to strengthen their commitment to respect and support the protection of human rights, the ALDI Group (both North and South) became the first discount retailer to join the United Nations Global Compact.¹⁶ Aldi South uses third party social audits as a first step in gathering social compliance information about production sites and initiating improvement. Because these audits may not always provide an accurate assessment of working conditions and may fail to identify hidden issues such as forced labour, discrimination or harassment, they also adopted an approach to ethical trade that goes beyond compliance and does not rely solely on social audits. The additional activity they engage in includes on-site visits, supplier and producer communication and training, participation in multi-stakeholder initiatives, capacity building and projects on the ground.¹⁷

¹³ *Id.*

¹⁴ Business Insider, "Here's How Aldi's Explosive Growth Transformed It From A Corner Store In Germany To One Of The Biggest Supermarket Chains In The World" August 12, 2018: <https://www.businessinsider.com/aldi-store-growth-history-2018-8> (Accessed September 28, 2019).

¹⁵ Aldi South Group, Human Rights Policy Statement, October 2018: <https://cr.aldisouthgroup.com/sites/default/files/dd-page-pdf/2018%20-%20Human%20Rights%20Policy%20Statement%20EN.pdf> (Accessed September 28, 2019).

¹⁶ Aldi South Group, UN Global Compact and SDG's: <https://cr.aldisouthgroup.com/en/cr-2017/facts-and-figures/un-global-compact-and-sdgs#make-sure-that-they-are-not-complicit-in-human-rights-abuses> (Accessed September 28, 2019).

¹⁷ Aldi South Group, Human Rights at Aldi South Group: <https://cr.aldisouthgroup.com/en/cr-portal/simply-responsible/human-rights#measures-taken-and-review-of-effectiveness> (Accessed September 28, 2019).

The internal monitoring system of Aldi South performs regular audits by investigating any irregularities detected and adhere to a zero-tolerance policy with respect to violations of their Code of Conduct. If a supplier or service provider is found to have committed a serious violation, they reserve the right to terminate the business relationship. Serious misconduct by an employee may result in termination of the employment contract and claims for damages.¹⁸

In order to comply with the UNGPs, Aldi South created independent points of contact within all national organizations involved with the company. Employees and third-party service providers and suppliers can contact these alert lines in order to report potential instances of non-compliance, discrimination, or other forms of misconduct. To ensure that incidents are in fact reported and the individuals remain anonymous, all information is anonymized and treated as confidential on request before being forwarded to the responsible parties within the company.¹⁹

Aldi South monitors working conditions and social standards at the production facilities used throughout their supply chain. They supplement external audits with internal reviews and work together with business partners to improve social and environmental standards in production.²⁰ Aldi South is currently on track to become the third-largest grocer in the United States by store count, behind Walmart and Kroger, by 2022.²¹

CERREJON

Cerrejón is a mining and transport complex in La Guarjira, Colombia.²² Cerrejón is independently operated, but belongs in three equal parts to subsidiaries of BHP Biliton, Anglo American, and Glencore.²³ The Complaints Office is a mechanism to log claims from communities, workers, and staff associated with contractors.²⁴ The Complaints Office does not replace the mechanisms established by the company in addressing issues of labor, occupational health, meals and transportation of workers, ethical issues or disciplinary issues in place at Cerrejón, by Colombian law, or agreed upon with the Union via the Collective Bargaining Agreement.²⁵

The process begins with the presentation of the claim by the complainant.²⁶ It is then logged and a direct dialogue between the company and the complainant begins to gather

¹⁸ *Id.*

¹⁹ Aldi South Group, Compliance and Risk Management: <https://cr.aldisouthgroup.com/en/cr-2017/company/compliance-and-risk-management> (Accessed September 28, 2019).

²⁰ *Id.*

²¹ Business Insider, “Here’s How Aldi’s Explosive Growth Transformed It From A Corner Store In Germany To One Of The Biggest Supermarket Chains In The World” August 12, 2018: <https://www.businessinsider.com/aldi-store-growth-history-2018-8> (Accessed September 28, 2019).

²² Cerrejón | English version, Our Company CERREJÓN Responsible Mining | Our Company, <https://www.cerrejon.com/?lang=en> (last visited September 26, 2019).

²³ *Id.*

²⁴ CERREJON, 2016 Performance Brief (2016). http://www.cerrejon.com/wp-content/uploads/2018/Cerrejon_2016_Sustainability_Report-min.pdf (last visited September 26, 2019).

²⁵ *Id.*

²⁶ *Id.*

information and attempt to clarify the events.²⁷ All of these activities are filed and documented.²⁸ The results of this process are presented to a Management Committee of Complaints Response (MCCR) that makes the decisions.²⁹ If applicable, MCCR makes recommendations as to the company's policies and practices with the aim of preventing future occurrences of this type of events.³⁰ In 2017, 264 complaints were logged, 39 were in process and 225 were closed.³¹ In 2016, 274 were logged, 62 were in process, and 212 were closed.³² In 2015, 370 were logged, 94 were in process, and 276 were closed.³³

In accordance with Cerrejón's due diligence process, they carried out a second study in 2016, prepared by the consulting firm TRUST. This study covered 100% of their operation and entailed conducting 50 interviews with representatives of communities in the area of direct influence (ADI), departmental and municipal governments, academic sector, research centers and civil organizations. This study also entailed 350 interviews with Cerrejón employees, 1 focus group with the participation of 11 Cerrejón contractors. The positive impacts of this study include payment of royalties to affected people, citizen participation and social oversight of the investment of royalties, support for the modernization of public administration, and education in public administration.

CHEVRON

Chevron is an Extractive and Energy company that deals with exploration, production, midstream transportation, manufacturing and retail. Chevron works to advance initiatives related to business and human rights, including through groups such as IPIECA, the global oil and gas industry association for environmental and social issues. The company has set forth a human rights policy consistent with international standards, and is informed by the United Nations Guiding Principles on Business and Human Rights (UNGPs).³⁴

Chevron has committed to responsible security as a founding member of the Voluntary Principles on Security and Human Rights Initiative (VPI), which launched in 2000. The VPI is an initiative where government, civil society and company participants promote implementation of a set of principles that guide oil, gas, and mining companies on how to provide security for their operations in a manner that respects human rights.

Chevron acknowledges the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and is committed to interacting with indigenous communities in a way that respects their history, culture and customs, within applicable legal and constitutional frameworks.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ CERREJON, 2017 Sustainability Report (2017). http://www.cerrejon.com/wp-content/uploads/CERREJON_IS2017-ENG-Web.pdf (Accessed September 26, 2019).

³² *Id.*

³³ *Id.*

³⁴ Chevron – Human Rights. <https://www.chevron.com/corporate-responsibility/people/human-rights> (Accessed September 28, 2019).

In 2016, Chevron introduced a *Grievance Mechanism Guidance* to encourage best practice in community feedback systems and to enable their business units to identify and respond to community concerns that may call for remedy. Chevron's guidance helps business units design or update a grievance mechanism that strives to be legitimate, accessible, predictable, equitable, transparent, and rights-compatible. Chevron does not publish their grievance mechanism outcomes or reparations.

FREEMPORT MCMORAN COPPER & GOLD, INC.

Freeport-McMoRan Copper & Gold Inc. is the world's largest publicly traded copper company that works in the Americas, Europe, Asia, and the Caribbean. Their Human Rights Policy, first established in the late 1990s and most recently updated in 2017, establishes their commitment to respecting human rights, conducting business in a manner consistent with the Universal Declaration of Human Rights and implementing the United Nations Guiding Principles on Business and Human Rights.³⁵

During 2018, 226 community grievances were recorded at their global operations in addition to approximately 630 grievances related to dust events at their Sierrita operation in Arizona. Regardless of the type and credibility of the allegations, all cases reported are documented, reviewed and closed once a final decision is made and subsequent action is taken.³⁶

To settle grievances, each site has a Human Rights Compliance Officer that communicates to community groups, employees and contractors. There may be drop boxes or hotlines as well, but the procedure goes through these Human Rights Compliance officers as they assess the allegation(s), review all relevant facts, and interview witnesses. The report is then sent to the Corporate Human Rights Compliance Officer and the HRC Legal Counsel, the site management, complainant, and individual respondent. The company strives to achieve consistency with its grievance processes. If the complainant is unsatisfied with the outcome, they may take their complaint to the local officials.³⁷

Freeport McMoRan is currently reviewing their community grievance procedures against the effectiveness criteria (Principle 31) outlined in the UN Guiding Principles. In addition to conducting internal benchmarking, they are engaged with a set of community stakeholders to obtain their feedback via their formal Community Partnership Panel meetings in the U.S. as well as their site-level HRIA processes. These inputs are informing updates to their community grievance process, which they expect to be completed in 2020.³⁸

³⁵ HUMAN RIGHTS | FREEPORT MCMORAN COPPER GOLD INC. <https://www.fcx.com/sustainability/human-rights#grievance> (Accessed September 26, 2019).

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

RIO TINTO

Rio Tinto is a multinational company that is a metal and minerals supplier that operates in 35 countries across six continents. The company states that it is committed to safety and progress for a better future and that they seek to benefit the people and communities in which they operate. Their commitment extends to responsible production of materials: “all underpinned by an absolute commitment to safety for “our people, contractors, and the communities in which we operate – and to minimizing our environmental impact.” Rio Tinto strives to partner with the communities it operates in to address and prevent grievances.

Rio Tinto has a human rights policy that addresses the UN Guiding Principles on Business and Human Rights. It also mentions a commitment to the following human rights instruments: The Universal Declaration of Human Rights, UN Declaration on the Rights of Indigenous Peoples, and the Voluntary Principles on Security and Human Rights. Rio Tinto further mentions that all of its sites have a “complaints, disputes, and grievance mechanism that meets the UN Guiding Principles on Business and Human Rights criteria”.

In 2012, the company made a commitment to the UN Guiding Principles by creating an operational-level grievance mechanism.³⁹ The purpose of their grievance mechanism was for a way to ensure that all sites must have complaints, disputes and grievance mechanism in line with the UNGPs Criteria of Effectiveness for Non-Judicial Grievance Mechanisms. The company publishes many of their complaint mechanism outcomes within their *Community Development* and *Sustainable Development* reports. Rio Tinto also outlines negative impacts and human rights related issues that mining, metals, and associated operations may face with a non-exhaustive list which includes: right to housing; right to health; right to education; right to an adequate standard of living; right to participate in cultural life; right to security of person; right to freedom of opinion and expression; right to non-discrimination; right to potable water and sanitation; right to work including right to safe working conditions.⁴⁰

³⁹ Rio Tinto – Grievance Mechanism Procedure (Internal), Published March 10, 2012. https://www.riotinto.com/documents/P_An01G_Grievance_EN.pdf (Accessed September 28, 2019).

⁴⁰ Rio Tinto - Why Human Rights Matter, January 2013: http://www.riotinto.com/documents/ReportsPublications/Rio_Tinto_human_rights_guide_-_English_version.pdf (Accessed September 28, 2019).