

RIO TINTO UNSUSTAINABLE BUSINESS PRACTICE

Claiming to abide by good corporate practice, mining giant Rio Tinto's behaviour includes major disputes with trade unions, communities, regulatory authorities, as well as over indigenous people's rights.

TEXT:
Glen Mpufane, Armelle Seby

special report

MAIN PHOTO:
IndustriALL Global Union joined a diverse group of civil society activists, NGOs and community-based organizations in London to protest against Rio Tinto and Anglo American unsustainable business practices on the occasion of their Annual General Meetings on 18 and 19 April 2013.
Amy Scaife/London Mining Network

- ▶ Rio Tinto has its headquarter in the UK, combining Rio Tinto plc, a London and New York Stock Exchange listed company, and Rio Tinto Limited, which is listed on the Australian Securities Exchange. The company employs around 71,000 people in more than 40 countries.
- ▶ Rio Tinto's business is finding, mining, and processing mineral resources. Major products are aluminum, copper, diamonds, thermal and metallurgical coal, uranium, gold, industrial minerals (borax, titanium dioxide and salt) and iron ore. Activities span the world; represented in Australia and North America with significant businesses in Asia, Europe, Africa and South America.
- ▶ Rio Tinto is a profitable mining company that delivers consistent dividends to shareholders. Over the last five years, underlying earnings have exceeded US\$55 billion. On average, from 2008 through 2012—during a global financial crisis—Rio Tinto earned more than US\$30 million per day, or US\$1.26 million per hour.





In the midst of the worst global recession ever to hit the world in 2008, the mining industry experienced a commodity boom. This boom, driven largely by the growth of India and China, created unprecedented demand for coal, mineral resources and precious stones. Against the background of the financial crisis, mining companies continued to outperform the overall market, as consumer sector dependent on demand from developed economies struggled to recover. Most mining companies came through the crisis with robust balance sheets. However, the mining boom has not delivered for workers – mining is the most unsafe industry in the world, and it is tough work.

The Way we Work, Rio Tinto's global code of conduct, is promoted as an expression of good corporate citizenry and an expression of the company's values. Rio Tinto is considered by many ethical business rankings as leading in the mining sector, and it continues to enjoy high accolades by ethical indices such as the FTSE4good ethical share index. Yet Swiss-based REPRISK, a firm specializing in assessing the possible environmental, social, governance and reputational risks of companies, listed Rio Tinto as the sixth most controversial mining company of 2011.

Before being accepted as provider of the metals for the 2012 Olympic medals, Rio Tinto went through an audit and certification process. The company was subsequently the first to be certified as a responsible mining company by the Responsible Jewellery Council (RJC), an organization of companies in the industry and which includes Rio Tinto as a founding member.

However, the certification attesting to the company's highest ethical, social, and environmental standards, raises questions about Rio Tinto's influence over the RJC. The London Olympics organizers were subjected to criticism for choosing Rio Tinto without following service provider protocols for auditing and certification. It also appears to have been a rushed-through process which conveniently made Rio Tinto the first mining company to receive this recognition.

The award was widely condemned by human rights NGOs, as well as by IndustriALL Global Union and its affiliates. IndustriALL joined thousands of activists around the world to vote for Rio Tinto as the worst company linked to the London Olympics in the Greenwash awards.

Direct engagement cuts out trade unions

Rio Tinto prefers to avoid negotiations with mineworkers' unions and find solutions with the workers themselves instead of having a third party involved. They call the practice direct engagement. As articulated by David Peever, a senior company executive in 2012, legislation must take account of the need for 'direct engagement between management and the work force'. It is best to limit 'the influence of third parties in areas of the business in particular that are more properly the province of management.'

Since trade unions fall in the category of third parties, they have no place in Rio Tinto's world and are perceived as an obstacle and a threat to flexibility and the need for improved productivity. Rio Tinto

successfully de-unionised its workforce in Australia in the 1990s, becoming the first major mining company to place its workforce on individual contracts and refuse to deal with unions. At the time, Bell Bay was the first significant plant in Australia to stand without a recognised trade union.

But IndustriALL affiliate the Australian Workers' Union, AWU, scored a historic victory by winning back the collective bargaining rights at the Bell Bay plant in 2013. This was the result of two years of strategic and systematic trade union work.

Rio Tinto prefers to avoid negotiations with mineworkers' unions and find solutions with the workers themselves instead of having a third party involved. They call the practice direct engagement.

In 2012 events along the same lines unfolded in Alma, Québec, where 780 workers were locked out at an aluminium smelter. Workers were effectively being punished for rejecting management attempts to halve salaries and outsource the workforce. The lock-out lasted for six months, but after taking on the mining giant the United Steelworkers, USW, won the fight and saw a new collective agreement ratified.

In August 2013, Redpath Mongolia, a contractor that employs workers at the Rio Oyu Tolgoi copper and gold mine owned jointly by Rio Tinto and the Mongolian government, fired about 1,700 workers. The reason for firing the workers was never disclosed but was apparently linked to revenue sharing of the mine with the government of Mongolia. Turquoise Hill

Swiss-based REPRISK, a firm specializing in assessing the possible environmental, social, governance and reputational risks of companies, listed Rio Tinto as the sixth most controversial mining company of 2011.



LANDMARK JUDGEMENT AGAINST RIO TINTO IN MONGOLIAN COURT

Resources, a subsidiary of Rio Tinto, announced on 12 August 2013 that until “matters can be resolved with the Mongolian government and a new timetable has been agreed”, the funding and development of the mine’s underground expansion would be delayed. Redpath Mongolia was involved in the building of the underground portion of the mine.

In Australia, Rio Tinto has been involved in a run in with authorities over the future of the Gove alumina refinery in Australia, which employs about 1400 workers. In the midst of negotiations with authorities over the security of energy (gas) supply to the refinery and an apparent rejection of the government’s offer, Rio Tinto subsidiary Pacific Aluminium went ahead and warned Gove workers of an uncertain future. Chief Minister, Adam Giles said, while the Government had been conducting negotiations in good faith with Rio Tinto, “the Northern Territory Government is disappointed Rio Tinto has chosen to scare its employees by discussing curtailment of its Gove refinery before all its options have been exhausted and a final decision has been made”.

In New Zealand, IndustriALL affiliate the New Zealand Engineering, Printing & Manufacturing Union Incorporated (EPMU), brought a case to the courts that involved New Zealand Aluminium Smelters Limited, a Rio Tinto Alcan majority owned smelter. The company was ordered to pay back workers owed annual leave that they were legally entitled to but never received.

IndustriALL affiliate, the International Longshore and Warehouse Union (ILWU), endured a bitter dispute with Rio Tinto in 2010 at an exclusively owned subsidiary of Rio Tinto, the Borax mine in southern California. Rio Tinto attempted to impose new precarious contracts on workers that would have increased overtime, scrapped the seniority system in place at the time, given managers discretion to cut jobs and hours, and with little benefits for the workers. After the ILWU put the issue to a vote that unanimously rejected the new conditions, workers who turned up for work the next day found they were locked out by the company. The ILWU mounted a successful global campaign that forced Rio Tinto to withdraw.

Solidarity actions in Indonesia and Mongolia

In May 2013 the roof on a non-operational underground tunnel collapsed during a training session at the Freeport-McMoran’s Grasberg copper mine in Indonesia killing 28 miners. The accident, which can only be described as an industrial homicide, killed 28 members of CEMWU FSPKEP-SPSI. On 15-18 September, Andrew Vickers, chairperson of the mining sector at IndustriALL and General Secretary of CFMEU in Australia, led a high-level global solidarity mission to Indonesia to lend international support to CEMWU FSPKEP-SPSI.

The mission included delegates from the United Steelworkers of America and the National Union of Mineworkers in South Africa. During the three days, the mission delegates met with the management of PT Freeport Indonesia, as well as government representatives from the Ministry of Energy, Natural Resources and Minerals, and the Ministry of Manpower and Transmigration.

“We learned with horror that the cause of the accident was that the roof collapsed due to faulty lines along the rooftop and deterioration of ground support bolts. As such no one could be held accountable,” Andrew Vickers says.

The mission’s conclusion, supported by the CEMWU FSPKEP-SPSI, was that the cause of the accident was management negligence. No evidence of inspections or risk assessment performed before the accident could be provided.

Last year Sukhgerel Dugersuren of the Mongolian NGO Oyu Tolgoi Watch, addressed the Rio Tinto AGM on behalf of herders who live around the Oyu Tolgoi mine, saying that Rio Tinto was diverting the Undai River – the sole river that supports life in this Gobi desert region – without local community consent and the necessary government permits. It is on this site that Rio Tinto has chosen to dump its waste rock.

IndustriALL’s recent mission to Mongolia to investigate claims of unethical conduct on the part of Rio Tinto discovered that as a result of a flawed investment agreement signed by a former government, Mongolia will not reap the benefits from the Oyu Tolgoi mine for another 20 to 30 years.

A Rio Tinto worker was dismissed for protesting against discrimination over the remuneration paid to Mongolian employees. The unequal remuneration pay between Mongolian nationals and expatriates employed by Rio Tinto translate into a disparity of MNT 3 million for local Mongolian, to MNT 30 million for expatriates a month on average.

The Ministry of Labour has confirmed that Oyu tolgoi and Rio Tinto were in violation of Clause #8.1 of the OT IA “in the most blatant, wanton manner and never made a single step towards enforcing this obligation”. The Supreme Court ruled that the termination of the employment was unjust and unlawful.

The ruling of the Supreme Court was the final arbiter over Rio Tinto’s intransigence and arrogance to refuse two lower court judgements in favour of the employee. Rio Tinto took the matter on appeal to the Supreme Court and lost.

IndustriALL applauds this important victory, and Assistant Secretary General Kemal Özkan says:

“This is a huge victory not only for Sainkhuu Gantuya, but for all workers in Mongolia, especially at Oyu Tolgoi. This is a significant and important pushback against Rio Tinto, particularly in the context of IndustriALL Global Union’s global corporate campaign against Rio Tinto.”



3

PHOTO 1:

IndustriALL and Swiss local union UNIA “Off the Podium” planned action at the International Olympic Committee in Lausanne Switzerland. May 14 2012. *IndustriALL*

PHOTO 2:

Activists protest against Rio Tinto and Anglo American at their Annual General Meeting, April 2013. *Amy Scaife/ London Mining Network*

PHOTO 3:

IndustriALL

PHOTO 4:

Olympic medals exposed at the Rio Tinto Annual General Meeting in London, April 2012. *IndustriALL*



4

The current government is involved in a fierce battle with Rio Tinto to review the terms of that investment agreement. As described earlier, it is a battle that has resulted in the termination of 1,700 workers.

Rio Tinto and IndustriALL Global Union

IndustriALL finds Rio Tinto being in contravention of both national labour laws and international labour standards, which it claims to subscribe to. In order to address this untenable situation, IndustriALL and its affiliates have created a Global Network composed of its affiliates with a presence at Rio Tinto operations worldwide. The main objective and purpose of the Rio Tinto Global Network is to highlight and combat these violations.

Rio Tinto must be held accountable for its conduct and behaviour. Rio Tinto has enormous resources to drag out disputes with individual trade unions in collective bargaining negotiations. It has resources to lobby for its interests with legislative process that are aimed at addressing some of the excesses of its practices. Rio Tinto succeeds in portraying a practice of good corporate governance and sustainable development.

Workers organized by IndustriALL affiliates have been subject to Rio Tinto's worsts form of abuse. IndustriALL affiliates have on many occasions, separately and individually, responded to these attacks with the might of organized labour and global solidarity. Organized workers cannot be defeated. In 2014, IndustriALL and its affiliates are coordinating a comprehensive response to Rio Tinto's unsustainable behaviour. This corporate campaign involves a broad alliance of civil society actors such as NGOs, communities and other global union federations. The objective is to force a seismic shift in Rio Tinto's relationship and attitude towards trade unions, and to recognize trade unions as formal counterparts.

RIO TINTO AND PRECARIOUS WORK IN MADAGASCAR: A WAY TO AVOID RESPONSIBILITIES

Rio Tinto's actions in Madagascar illustrate the company's strategy to use outsourcing to reduce operation costs and to escape from its responsibilities as an employer. Communities and workers pay the cost. Rio Tinto's voluntary commitment to the OECD Guidelines on Multinationals and the UN Guiding principles on Business and Human Rights appears to be a facade. Rio Tinto claims no responsibilities, while this policy generates clear adverse impact in its supply chain.

QIT Madagascar Minerals (QMM) is a joint venture between Rio Tinto (who owns an 80 per cent stake) and the Government of Madagascar. Since the end of 2008, the joint venture has been producing limonite near Fort Dauphin, in southern Madagascar.

In July 2013, QMM ended its contract with the security company OMEGA Risk Solutions. Instead, they opted for two cheaper security companies, Protech Service and G4S, naming cuts in operation costs as the reason for terminating the contract.

300 workers were collectively dismissed with merely one month's notice. When IndustriALL Global Union affiliate, the Fédération des Syndicats des Travailleurs de l'Energie et des Mines (FISEMA), tried to engage in social dialogue with QMM regarding the breach of duties concerning social planning for the dismissed workers, the company's response was flat - it refused to enter into a dispute as the matter concerned human resource management of a subcontractor.

In August 2013, a regional tripartite labour committee was established to facilitate the dialogue between the workers and OMEGA. As a result of this committee, mediation agreements on the collective labour dispute of former employees of the company OMEGA were concluded. However, representatives of the FISEMA expressed their reservations in relation to the agreement because of procedural irregularities in the process. Regional tripartite labour committees are not allowed to conclude such agreements. In this kind of negotiations workers are allowed to be represented by their elected staff reps. In this case only two reps were participating in the negotiations. The workers' representatives were not provided with all the relevant contracts and information prior to the process. But maybe more astoundingly, the QMM was not represented as an employer but acted as one of the mediators.

A proposal was made to 85 per cent of the dismissed workers to be hired by the new security companies. It was also proposed that the remaining workers would have access to relevant training. The dismissed workers who are hired by the new security companies are earning 20 per cent less than they were earning when employed by OMEGA. By October 2013, no training had yet been provided to the remaining workers, and these workers are today unemployed with no social planning. There is no longer an on-going social dialogue and OMEGA is no longer present in Fort Dauphin. FISEMA has tried to make an appeal to the Labour Inspectorate and the Labour Court, only to be given the answer that as the employer, OMEGA, is absent there is no possibility of appeal.

The case in Madagascar is a far cry from Rio Tinto's public commitment to conduct its activities in compliance with environmental, health, safety and the well-being of its employees and the community. A commitment repeated in the establishment convention of QMM: "QMM SA undertakes to carry out its various activities in the environmental, health, safety and well-being of its employees and the community."

The case in Madagascar is not an isolated case; Rio Tinto is increasingly resorting to outsourcing, leading to the casualization of labour in many of its operations.

PHOTO:

The Fédération des Syndicats des Travailleurs de l'Energie et des Mines (FISEMA) at Rio Tinto operations at Fort-Dauphin distributed flyers on 7 October to mark the World Day for Decent Work and their current struggle concerning the settlement of the mass dismissals in the plant. FISEMA

