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Introduction

This technical annex is published alongside the 2019 CHRB results to provide additional information about the assessment process, methodology, and decisions that were made in the context of the 2019 Benchmark. It is intended as a tool to support benchmarked companies but also other stakeholders who are interested in understanding certain aspects of the 2019 assessment that are deemed too detailed or technical to be included in the CHRB Key Findings report.

1. The 2019 Assessment Process and Timeline

In 2019 the CHRB assessed 200 companies and split these companies into three research groups to spread the research and engagement demands over the assessment period. The first research group (‘Group 1’) consisted of companies previously assessed by the CHRB (i.e. ‘repeat’ companies), the second group (‘Group 2’) consisted of companies added in 2019 and being assessed in the Agricultural Products, Apparel or Extractives sectors, and the third group (‘Group 3’) consisted of ICT Manufacturing companies (see Annex 1 for the full list of companies in each group).

The CHRB assessment process follows a set structure with several phases and associated cut-off dates, which vary slightly depending on the research group a company is in. These are explained for 2019 as follows:

1) The CHRB asks companies to send a list of relevant sources. This is an optional step, but it helps guide the research team towards relevant materials. This year the deadline for companies to send a list of relevant sources was 13th February for Group 1, 22nd February for Group 2 and 29th March for Group 3.
2) The CHRB research team then starts the initial review, assessing company information against the 2019 Methodology requirements.
3) Following this initial assessment phase, the CHRB team sends each company their draft scorecard, with draft scores at indicator level as well as explanations relating to the different requirements and the sources used.
4) Companies are able to review their draft scorecard, and if they wish to do so they can schedule an engagement call to ask questions about their assessment or the CHRB process more generally.
5) Regardless of whether they take part in an engagement call, companies have the opportunity to send written feedback and additional information that they would like the CHRB to consider in the second review period. The deadline for sending feedback and new information was 21st June for Group 1, 28th June for Group 2 and 19th July for Group 3. Any information published after these cut-off dates will not have been taken into consideration in the 2019 assessment and will instead be reviewed in the initial review in 2020.
6) This CHRB research team then undertakes the second review, finalising the scores based on company feedback and additional sources (where those were highlighted by companies during the engagement and feedback phase), consistency checks across the entire dataset, and quality checks.

As part of CHRB’s systematic process, the publication of the results is followed by an appeals process which allows companies to appeal a scoring decision if they believe there was an error in the assessment. Formal appeals are reviewed by an Appeals Committee which includes external, independent reviewers. The appeals process is described in detail on the CHRB website.
The CHRB team would like to emphasise that, in light of the above process, the CHRB assessment is a **snapshot in time** and does not reflect company disclosures that were published after the relevant cut-off dates. These sources will be reviewed at the beginning of the following research cycle.

### 2. Possible Explanations for Score Downgrades

Score downgrades, whether at the indicator, Measurement Theme or overall levels, can be due to a number of different factors and do not necessarily represent a worse human rights performance for the company in question. The most common causes for score downgrades in 2019 compared to previous years are listed and explained in this section.

#### Quality and consistency checks (e.g. language, ILO, health and safety)

As part of the CHRB quality process, the research team pays particular attention to ensuring consistency in the treatment of company information. This effort to ensure that the CHRB Methodology requirements are applied consistently to all benchmarked companies was reinforced in 2019 as the number of companies doubled.

These checks apply to, for example, the use of specific language in relation to policy commitments as described in section 1 above. As a consequence of the enhanced focus on consistency and strict application of the CHRB Methodology requirements, some companies have seen their score decrease on certain indicators during the final assessment stage. As stated above these downgrades do not necessarily represent a worse human rights performance for the company in question. Instead they reflect a more consistent application of the Methodology criteria. Where the same information was marked as sufficient in previous iterations, we would encourage companies to recognise that every effort has been made to ensure that their new score is consistent with both the intent of the methodology and the other companies being assessed.

#### Knock-on effects of specific indicators (A.1.2)

For some indicators in the CHRB Methodology, points can only be obtained if a certain score is achieved in a related indicator; there are pre-requisites that must be met in order to meet the indicator requirements. For example, in order to receive full marks on indicator **B.1.5. Training on Human Rights**, a company must meet the requirements of indicator **A.1.2** which sets out the minimum to be covered by a company’s policy commitments (i.e. a company can only achieve full marks on training if the materials that it is training its employees on meet certain criteria). The justification, in this case, is that companies should not be credited for training employees on a human rights policy, when the policy itself doesn’t meet the basic criteria expected by CHRB.

Downgrades in indicator A.1.2 have been seen to have had a knock-on effect on other indicators, particularly in Theme B, for several companies.

#### Changes to the CHRB Methodology for Agricultural Products, Apparel and Extractives sectors

There were a few minor changes that were made to the 2018 CHRB Methodology for the Agricultural Products, Apparel and Extractives industries to obtain the 2019 version of the Methodology. These minor changes were for the most part to clarify the CHRB’s expectations and ensured consistency across the Methodology, but did not affect the requirements or scoring.
A table listing those changes was communicated to ‘repeat’ companies that had previously been included in the benchmark (and therefore were familiar with previous versions of the CHRB Methodology) when the 2019 Methodology was published. The table can also be provided upon request to the CHRB (info@corporatebenchmark.org).

3. Insights Into the 2019 Assessment

Commitment Language

Whenever a CHRB indicator requires a policy commitment, the CHRB researchers look for an explicit commitment or any form of promise that companies will uphold the specific rights, instruments and/or standards listed in the indicator description. This means that language that is ambiguous, vague or weak is considered insufficient to qualify as a clear expression of commitment.

The examples listed below would typically be accepted by the CHRB analysts as a clear expression of commitment:

- The company commits to respect X
- The company is committed to respecting the rights under X
- The company adheres to X
- The company upholds X
- The company endorses the principles enshrined in X
- The company follows the principles of X

By contrast, the examples listed below would be considered insufficient:

- The company’s commitments are consistent with X
- The company’s commitments are in line with / aligned with X
- The company’s commitments are informed by / based on X
- The company strives to ensure X is respected
- The company recognises the principles of X

The reason for insisting on specific language in relation to policy commitments is that formal policy commitments set the “tone at the top” of the company to continually drive respect for human rights into the core values and culture of the business. Policy commitments set out top management’s expectations of how staff and business relationships should act, as well as what others can expect of the company. And, crucially, policy commitments should trigger a range of other internal actions that are necessary to meet the commitment in practice.

Weak or ambiguous language may therefore fail to set these clear expectations (internally and externally) and may also fail to trigger the range of measures and procedures that would otherwise have been required to fulfil a strong policy commitment. In some instances, the CHRB observes general statements (such as “our policies are consistent with the ILO core labour principles”) but these are problematic, especially as they are normally then couched in terms of compliance with local regulations. The CHRB sees a clear distinction between a formal and explicit commitment to respect certain rights (such as the rights to freedom of association and collective bargaining) regardless of context, and policy language that is more open to interpretation and would not necessarily guarantee active measures to follow through.
Serious allegations

This section includes a recap of how companies are assessed in Measurement Theme E – Response to Serious Allegations, as per the CHRB Methodology and also highlights some additional information on how the indicator requirements are applied in practice (these are highlighted in bold).

In Measurement Theme E, companies are assessed on how they address allegations of severe negative impacts for which they are reported to be responsible for/directly linked to.¹ Severe negative impacts are defined in the UN Guiding Principles as those impacts that would be greatest in terms of:

- Scale: The gravity of the impact on the human right(s); and/or
- Scope: The number of individuals that are or could be affected; and/or
- Remediability: The ease with which those impacted could be restored to their prior enjoyment of the right(s).

The CHRB has used this definition when determining the type and severity of impact required for an allegation to be included.² Companies against which no serious allegations meeting the CHRB thresholds are identified receive a score that is the average of their scores in other measurement themes.

Where allegations are found that meet the threshold, the CHRB does not determine the merit of the claim(s) made against a company. Instead companies are scored against the following criteria:³

- E.1 (Response): The company has responded publicly to the allegations
- E.2 (Policies): The company has appropriate policies in place
- E.3 (Remedy): The company has taken appropriate action

In E.1, companies are expected to respond publicly to the allegations against them, with the level of detail provided determining whether they receive a score of 1 or 2. The purpose of this indicator is to ensure that companies publicly acknowledge the concerns of workers and communities and keep those groups informed about any activities which may impact upon their rights/livelihoods. In certain contractual arrangements or joint venture agreements, a company may be legally prevented from commenting publicly on an allegation. In these circumstances, for the benchmarked company to receive points on this indicator, the CHRB expects the company to refer publicly to a response issued by the company/corporation with the relevant authority.

In E.2, companies are assessed on whether they have the appropriate policies in place to prevent the type of allegation made against them. Depending on the allegation, the company will receive score 1 if they have a generally relevant policy, and score 2 if the policy addresses the specific impacts alleged and applies to the relevant area of the business and/or business relationship (i.e. if an allegation occurs

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¹ The CHRB only considers sources from RepRisk (Reprisk due diligence on ESG and business conduct risks, www.reprisk.com), Vigeo Eiris and the Business and Human Rights Resource Centre.
³ For detailed scoring requirements, see pp.104 of the ‘Methodology 2019 for the Agricultural Products, Apparel and Extractives Industries’ (available on www.corporatebenchmark.org).
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in the supply chain, does the company also expect its business partners and suppliers to abide by the policy?

In E.3, companies are assessed on whether they engage in dialogue with the stakeholders reportedly affected in the allegation(s) (or if the company is alleged to be directly linked, it encourages its business relationships to do so). Additionally, the company is expected to demonstrate how it has taken appropriate action to address the identified impacts, including through providing remedies to the affected people or by demonstrating an improvement to the related management systems. The company receives a score of 2 if it satisfies the above requirements and provides evidence that the remedy(ies) provided are satisfactory to victims.

Alternatively, a company may deny the allegation, on the basis of either:
   a) Denying that the event happened; or
   b) Denying that it is linked to the event.
In both situations, the company is expected to demonstrate that it has engaged in a dialogue with the stakeholders reportedly affected and provide evidence of having reviewed its related management systems.

In circumstances where a company does not deny the allegation but is unable to locate the relevant stakeholder(s) to have a dialogue or provide remedy for reasons of anonymity, the CHRB still expects the company to review its management systems and to engage in a dialogue with stakeholders, interpreted as the stakeholder type, not the specific alleged victims (e.g. individuals in similar working and living conditions in the same region, depending on the allegation).

Scoring

The CHRB scoring system is relatively complex, with different weightings being applied at indicator and measurement theme level and the scoring templates having to be adapted according to a company’s classification (sector and operational). Annex 2 of the 2019 Methodology document provides some guidance on scoring. However, the CHRB would like to bring some further clarification on the scoring, based on some corrections of the scoring annex and additional information not currently featured in the CHRB Methodology.

Errors in the scoring annex

CHRB has noticed that in Annex 2 of the methodologies, there are errors in the written sums for calculating the total theme scores from the individual indicator scores. The current sums do not account for the sub-theme scoring (for example, Theme A is split into A1 (5%) and A2 (5%)). This will be corrected in the 2020 methodology. Where companies want more information, they are encouraged to contact the CHRB team directly.

Additional scoring rule

Under the CHRB Methodology, for each indicator a company may score zero, one or two points as well as 0.5 and 1.5 for certain multi-criteria indicators. Half points are available in cases where the company is asked to fulfil more than one requirement to get a full score of 1 or 2. Where this is the case, the indicator description will include an ‘AND’ in capital letters to separate those requirements. The scoring for each indicator is based on a gated scoring system, requiring companies to achieve all necessary elements of Score 1 before they can be credited with 1.5 or 2 points.
In the 2018 and 2019 Benchmarks, an additional rule was introduced to allow companies to score 0.5 points if they meet some/all the conditions of Score 2, but fail to meet all necessary requirements of Score 1. This rule was introduced to enable the CHRB assessment to give credit to companies that fulfil some of the Score 2 requirements even if they do not fulfil the more basic requirements of Score 1. Companies are still unable to receive 1.5 or 2 points if they do not meet the Score 1 requirements, but they can receive 0.5 points if they demonstrate good practice under Score 2.

Supplier Mapping

In the course of the 2019 assessment, the CHRB has received questions from a few companies on indicators D.1.3 / D.2.3 / D.4.3 - Mapping and disclosing the supply chain. Given that there has been interest from companies in better understanding what is expected with regards to mapping the supply chain, the CHRB decided to share some of these questions and responses from the CHRB Methodology Committee.

Mapping the supply chain

In the 2017 and 2018 CHRB Methodologies, Score 2 of indicators D.1.3, D.2.3 and D.4.3 read as follows (emphasis added):

The Company also discloses the mapping for the most significant parts of its supply chain and explains how it has defined what are the most significant parts of its supply chain.

Following requests from companies for clarifications on what was meant by “mapping”, the CHRB Methodology Committee decided to alter the wording of Score 2 in the 2019 Methodology, so that “mapping” became “name and addresses,” as follows (emphasis added):

The Company also discloses the names and addresses of suppliers for the most significant parts of its supply chain and explains how it has defined what are the most significant parts of its supply chain.

The CHRB is therefore looking for companies to disclose the names and addresses of suppliers for the most significant part of their supply chain. GPS mapping may be used to provide the specific location of a supplier, but in order to meet the full requirements of this indicator the name of the supplier should also be disclosed. By contrast, under Score 1, the CHRB is not asking for this information to be disclosed but is looking for the company to indicate that it identifies its suppliers, including direct and indirect suppliers, and to describe how it goes about this.

Most significant parts of the supply chain

The CHRB also received questions on what counts as the “most significant” parts of the company’s supply chain. The CHRB Methodology deliberately does not include a specific definition of “most significant” and asks instead that companies explain how they define what are the most significant parts of their supply chain.

However, what the CHRB Methodology Committee expects “most significant” to be understood in terms of the level of human rights risk or the proportion of the supply chain covered, but not what is most convenient or easiest for the company.
Social Media Platforms and Grievance Mechanisms

The CHRB also received questions on the use of social media to collect grievances. More specifically, some companies highlighted the fact that allegedly affected stakeholders increasingly use social media channels to voice their grievances and asked whether or how these could be incorporated into the company’s formal grievance mechanisms.

The CHRB Methodology Committee discussed this question and considers that social media platforms can be used as tool to receive and identify complaints, especially if these are tools that stakeholders are comfortable with and have easy access to. However, this should be explained by the company in the wider context of its grievance mechanisms, so that users of social media can be directed to and included in the formal channels available, with the ultimate objective of ensuring that grievances are processed and effective remedy provided as required. In summary, social media may be a useful tool to receive complaints, but it is not equivalent to a grievance mechanism that meets the UNGPs effectiveness criteria.

4. Minor Changes to the Methodology for ICT Manufacturing

During each assessment process, questions are raised by benchmarked companies and by the CHRB analysts which require the CHRB Methodology Committee to provide clarification on the expectations of the Methodology and, in some cases changes to the requirements – particularly when a Methodology is applied for the first time, as was the case this year for ICT Manufacturing.

These changes are typically small edits, introduced to provide clarity, ensure consistency between the different sectors and maintain a robust set of requirements. They were communicated to ICT Manufacturing companies during the course of the assessment and for the purposes of transparency, they are also included here.

ICT Manufacturing:

- **Indicator A.1.2, Score 2**: In addition to the requirements that currently appear in the Methodology document, we are also expecting companies to commit to respecting the ILO conventions on labour standards on working hours for their own workers. This is to align with the requirements for companies in other sectors and to ensure consistency between the own operations and supply chain requirements.

- **Indicator D.4.7.a, Score 1**: This becomes “The Company discloses quantitative information on health and safety for its workers related to injury rates or lost days (or near miss frequency rate) and fatalities and occupational disease rates.” This is to align with the level of requirement for companies in other sectors, where we ask for either injury rates or lost days (not both). The addition of occupational disease rates is to ensure consistency between the requirements on own operations (D.4.7.a) and supply chains (D.4.7.b).

- **Indicator D.4.7.b, Score 1**: The second requirement becomes “(...) AND it discloses quantitative information on health and safety for workers at suppliers related to injury rates or lost days (or near miss frequency rate) and fatalities and occupational disease rates.” This is to align with the level of requirement for companies in other sectors, where we ask for either injury rates or lost days (not both).

These changes will be reflected in the 2020 version of the CHRB Methodology for ICT Manufacturing.
5. Decisions Relating to Specific Companies

This section lists the decisions that were made in relation to specific companies, as well as supporting explanations. These relate to mergers/demergers, the removal of two companies, reclassifications of certain companies by sector and type of operations (supply chain only or supply chain and own operations), as well as an update on the suspension of Vale following the dam collapse at its Córrego do Feijão mine in Brumadinho, Brazil in January 2019.

They relate to the following companies:

- Anadarko Petroleum and Occidental Petroleum (merger)
- Coles and Wesfarmers (demerger)
- Fast Retailing (operations classification)
- Franco Nevada (removal)
- Glencore (sector classification)
- Goldcorp and Newmont (merger)
- Microsoft (operations classification)
- Nintendo (operations classification)
- Nokia (operations classification)
- Qualcomm (operations classification)
- Vale (update on suspension)
- Valero Energy (removal)
- Wesfarmers (sector classification)

Mergers and Demergers

Anadarko Petroleum and Occidental Petroleum

In August 2019, shareholders of Anadarko Petroleum Corp. approved the sale of the company to Occidental Petroleum Corp., also featured in the 2019 Benchmark. In light of this merger, the CHRB determined that Anadarko Petroleum should be removed from the benchmark. It will be assessed as part of Occidental Petroleum going forward. Furthermore, any serious allegations attached to Anadarko Petroleum Corp. in Measurement Theme E – Responses to Serious Allegations have been applied to Occidental Petroleum Corp.

Goldcorp and Newmont

In April 2019, shareholders of Goldcorp Inc. approved the sale of the company to Newmont Mining Corp., also featured in the 2019 Benchmark. In light of this merger, the CHRB determined that Goldcorp should be removed from the benchmark. It will be assessed as part of Newmont Goldcorp going forward. Furthermore, any serious allegations attached to Goldcorp in Measurement Theme E – Responses to Serious Allegations have been applied to the newly created entity Newmont-Goldcorp Corporation.

Coles and Wesfarmers

In November 2018, shareholders of Wesfarmers approved the de-merger of Coles Group Limited from the company. Wesfarmers was already included in the benchmark in 2018 and Coles was included as part of the 100 new companies added to the benchmark in 2019, classified as an Agricultural Products
company. Since Coles was in the process of building out its standalone website and reporting during 2019, and was assessed as a separate entity to Wesfarmers, the CHRB accepted a public statement from the company as evidence that its human rights commitments remained as they were under Wesfarmers.4

Removals from the list

Franco-Nevada
Franco Nevada Corp. was included as part of the 100 new companies added to the benchmark in 2019.5 In 2019 the company wrote to the CHRB to clarify that it does not operate any mineral or oil properties and only possesses a small interest in each of the operations it generates a revenue stream from. As the CHRB assessment is focused on the exploration, development, production, decommissioning and closure aspects of the Extractives sector,6 the CHRB determined that Franco-Nevada would not be included in the 2019 benchmark or future iterations.7

Valero Energy
Valero Energy was originally included in the 2017 Pilot benchmark. In 2019 the company wrote to the CHRB to clarify that its operations only cover the processing and refining elements of petroleum production. As the CHRB assessment is focused on the exploration, development, production and closure aspects of the Extractives sector,8 the CHRB determined that Valero Energy should be removed from the 2019 benchmark and future iterations.9

Sector reclassifications

Glencore
In the 2017 and 2018 benchmarks, Glencore was classified as only an Extractives company. In 2019, the CHRB determined that Glencore would be re-classified as both an Extractives and Agricultural company based on the company’s 49.9% stake in Glencore Agriculture (i.e. an associated company) as per the 2019 Methodology.10

A number of other benchmarked companies are assessed in more than one sector (Aeon Company, Associated British Foods, Costco Wholesale, Falabella, Marks and Spencer Group, Target, Tesco and

4 See statement from Coles Group Human Rights Steering Committee (available on https://www.business-humanrights.org/sites/default/files/webform/Coles%20Group_additional%20disclosure_June%202019.pdf)
7 The CHRB reserves the right to re-include Franco-Nevada in future benchmarks, should any of its activities fall within the scope of the CHRB assessment.
9 The CHRB reserves the right to re-include Valero Energy in future benchmarks, should any of its activities fall within the scope of the CHRB assessment.
Walmart are all assessed in both Agricultural Products and Apparel, whilst Amazon is assessed in Agricultural Products, Apparel and ICT Manufacturing).

For all these diversified companies, the assessment is based on the indicators and requirements that relate to the different sectors the company is benchmarked in. This means that their total score is based on how they manage human rights issues in the different parts of the business that are covered.

Glencore’s 2019 assessment and total score are therefore based on the indicators and requirements that apply to Extractive as well as Agricultural Products. The CHRB would caution readers and users of the data against making direct comparisons between Glencore’s 2019 overall score and previous scores without looking at the detail of the assessment, given that changes in Glencore’s results may be related to reclassification of the company in 2019.

Wesfarmers

In the 2018 Benchmark, Wesfarmers was classified as an Agricultural Products company. Following the de-merger of the company from Coles Group Limited (the agricultural arm of the business), Wesfarmers was re-classified as an Apparel company for the 2019 Benchmark.

Supply chain and own operations reclassifications

Companies assessed in the Agricultural Products, Apparel and ICT Manufacturing sectors are either classified as supply chain only or as both own operations and supply chain. This classification determines how companies are assessed under Measurement Theme D – Company Human Rights Practices: if a company is classified as only supply chain, it will only be scored against the supply chain element of an indicator, whereas if it is classified as both own operations and supply chain it will be assessed against both elements of an indicator, receiving 50% of its score from each. To determine whether to assess a company on its own operations as well as its supply chain, the CHRB uses the following thresholds:

- Agricultural Products companies are considered to have their own operations if they are thought to own or lease land for the purposes of crop farming or animal husbandry.
- Apparel companies are considered to have their Own Operations if at least 25% of their apparel output is thought to be derived from their own manufacturing facilities or workshops.
- ICT Manufacturing companies are considered to have their Own Operations if at least 25% of their electronics output is thought to be derived from their own manufacturing facilities.

Each company’s classification is specified at the top of its individual scorecard. For a few companies, listed below, this classification was changed mid-way through the 2019 assessment process based on additional information provided by the company.

Nokia

In the 2019 benchmark, Nokia was originally classified as having both its own operations and supply chain. During the 2019 research cycle, the company clarified that it did not meet the production threshold to be considered as having its own operations. Therefore, the CHRB determined that the company would be re-classified as supply chain only for the purposes of the assessment.
Microsoft Corporation

In the 2019 benchmark, Microsoft was originally classified as having both its own operations and supply chain. During the 2019 research cycle, the company clarified that it did not meet the production threshold to be considered as having its own operations. Therefore, the CHRB determined that the company would be re-classified as supply chain only for the purposes of the assessment.

Qualcomm

In the 2019 benchmark, Qualcomm was originally classified as having both its own operations and supply chain. During the 2019 research cycle, the company clarified that it did not meet the production threshold to be considered as having its own operations. Therefore, the CHRB determined that the company would be re-classified as supply chain only for the purposes of the assessment.

Nintendo

In the 2019 benchmark, Nintendo was originally classified as having both its own operations and supply chain. During the 2019 research cycle, the company clarified that it did not meet the production threshold to be considered as having its own operations. Therefore, the CHRB determined that the company would be re-classified as supply chain only for the purposes of the assessment.

Fast Retailing

In the 2017 and 2018 benchmarks, Fast Retailing was previously classified as having both its Own Operations and Supply Chain. During the 2019 research cycle, the company clarified that it did not meet the production threshold to be considered as having its own operations. Therefore, the CHRB determined that the company would be re-classified as supply chain only for the purposes of the assessment.

Suspension - Vale

Overview

Due to the devastating dam collapse at Vale’s Córrego do Feijão mine in Brumadinho, Brazil, the Corporate Human Rights Benchmark (CHRB) removed Vale’s scores from the 2018 benchmark rankings, excluded their scores from the CHRB downloadable dataset and suspended Vale from the 2019 Benchmark.

The CHRB assessment provides a snapshot in time looking at an entire year, but this tailings dam tragedy highlights the need for CHRB to be able to respond to exceptional circumstances at ranked companies that occur between the yearly scoring periods where such tragedies have such a severe impact on human rights. It would not be correct for CHRB to continue to rank Vale in the higher performance bands in the wake of such a tragedy.

It would also not be correct for CHRB to re-admit Vale in 2020 without taking account of the tragedy, by ranking Vale solely according to the standard CHRB indicators. CHRB is therefore working on a set of “response to major human rights incident indicators” that Vale will also be scored against in 2020 as part of the re-admission.
More detailed response

In 2017, the CHRB scored Vale in the lower end of the 30-40% band on their human rights performance. Eighteen months later, in the CHRB’s 2018 assessment, Vale’s score had improved by almost 30%. The CHRB recognised at the time of the CHRB launch in November 2018 that there would be sensitivities around Vale, particularly with the ongoing legal action to achieve redress for the 2015 Bento Rodriguez dam disaster (referred to here as ‘Samarco’, which Vale was linked to via a joint venture). But the CHRB assessment against the CHRB methodology showed a level of improvement in several areas, with changes being implemented in the wake of the Samarco incident. In particular, Vale’s scores improved in terms of their systems for providing remedy and in demonstrating how they responded to allegations of serious human rights impacts. Most of the improvements in scores were related to high level commitments/systems and better disclosure, but they were also backed up in part by conversations around a positive change in attitude within the company, in part linked to the new CEO and pressure from joint venture partners. They did however continue to score poorly against identifying human rights risks and impacts, integrating risk assessment findings and turning them into actions and monitoring and tracking those actions. As with many companies, there is a lag between commitment and achieving the intent of the commitment. The CHRB scores these dimensions independently, to give credit to the importance of commitments but this does not guarantee the commitments have been embedded throughout the company.

Since the Brumadinho tragedy, the CHRB has been in periodic contact with Vale which has provided regular updates on its multifaceted responses on the ground, on regulatory and legal proceedings and discussions with stakeholders. The company has also sought inputs and reflections from a wide variety of stakeholders about how it can better link its human rights and health and safety performance.

The CHRB scores provide a proxy for good performance overall, a snapshot in time of how the company is doing, with a strong focus on governance, commitments and implementing the processes for managing human rights, including remedy but it is not possible to review human rights performance at the site level with an institution-wide benchmark analysis such as CHRB’s. Even before the second disaster linked to Vale (Brumadinho) CHRB had already decided that the current approach for assessing human rights allegations against companies (Measurement Theme E of the CHRB methodology) was not particularly well suited to dealing with rare, large scale harm events, such as the Samarco disaster.

Supporting our recognition of the limitations of the current approach to assess harm via the company response to allegations, peer companies in the extractives sector also expressed their discontent that a company such as Vale could score almost full marks in their ‘response to allegations’ assessment, despite having had a huge negative impact on people through something like the Samarco incident, when compared with companies without such allegations. This underlines some key challenges in the necessary task of assessing negative human rights impacts and a company’s responses to them, particularly in the context of questions about ‘failures to act’ and the search for remedy which may include (sometimes long-term) legal action. In addition, a negative scoring
approach for allegation has shown its own limitations.\textsuperscript{11}

As part of the 2020 review, the CHRB will consider whether it needs to strengthen Measurement Theme E and related Measurement Themes, including Measurement Theme C on remedies, to respond to these concerns and will also consider whether new rules are needed to deal with larger scale impacts and/or longer-term responses that do not rise to the level of tragedy in the Brumadinho case. The CHRB will retain the option of suspending companies that have caused large-scale catastrophes, building on the Vale precedent.

In 2020, the CHRB will construct a specific set of indicators that address Vale’s response to the Brumadinho disaster. These indicators are justified given the exceptional nature of the disaster, its severity, and the fact that Vale was responsible for the disaster (which it has not yet disputed).

CHRB will assess Vale’s responses against the new indicators and score them, which will provide a weighting factor for their scores on the normal A-F indicators. Vale will not be able to get back to its 2018 score (or better) unless it also does very well on all the response indicators.

CHRB will not be developing cross-cutting indicators for all disasters as it is our firm belief that the indicators should be crafted to the particular circumstances - in order to test how a company is responding to the particular disaster, and as a counterbalance to our other indicators that focus on overall performance. The indicators need to be grounded in the reality of the situation and informed by expertise in the sector. With that in mind, the CHRB has been waiting for the Global Tailings Review, co-convened by the International Council on Mining and Metals (ICMM), the United Nations Environment Programme (UNEP) and the Principles for Responsible Investment (PRI), that will evaluate current global good practices in the mining industry, and beyond, to establish an international standard for the safe management of tailings storage facilities that can be applied to all tailings dams wherever they are located and whoever operates them.\textsuperscript{12} The CHRB recognises the importance of the review, does not want to pre-empt its outcome, and will incorporate the findings and the standards in an appropriate way in the construction of its approach. In addition, CHRB has been following the Investor Mining & Tailings Safety Initiative,\textsuperscript{13} led by the Church of England Pensions Board and Swedish Council of Ethics, requesting data from 683 mining companies on each of their tailing storage facilities. The CHRB takes note that Vale has made the requested disclosures.\textsuperscript{14} CHRB is also waiting on the outcomes of the ongoing investigations into the disaster, to identify root causes and responsibilities.

In developing this set of indicators, the CHRB:

- Will focus on the human rights dimensions of the tragedy, and in particular on remedy, in line with its grounding in the UNGPs
- Will seek to align with the structure of the current CHRB indicators

\textsuperscript{12} https://globaltailingsreview.org/
\textsuperscript{13} https://www.churchofengland.org/investor-mining-tailings-safety-initiative/
\textsuperscript{14} https://www.churchofengland.org/sites/default/files/2019-10/PUBLIC%201st%20October%20disclosure%20database.pdf
• Will endeavour to consult with affected stakeholders in constructing the indicators
• Recognises and must flag to stakeholders that we do not have the capacity to independently verify Vale's responses or engage with stakeholders on the ground on a yearly basis to verify their satisfaction with remedy so will need to construct indicators that can refer to other processes that are established or at least better placed to do so
• Considers that governance, transparency, and contributing to the improvement of standards are also important dimensions of considering a response to this disaster – or any disaster
• Expects that it would take the company several years to complete the actions set out in the indicators

Once further progress has been made regarding the investigations, the tailings initiatives and the tailings review, CHRB will be better placed to create the framework for Vale and will, as usual, disclose the final approach.

6. Approach to RBA Membership in the 2019 Assessment and Note about Collective Initiatives

General Note on Collective Initiatives and Membership Organisations

The CHRB does not give automatic credit to companies for being part of industry initiatives or business associations, unless specified in the CHRB Methodology. Being part of a collective initiative or membership organisation is not considered a proxy for good performance.

However, the CHRB does recognise the value of collective initiatives and industry cooperation to promote better corporate human rights performance, particularly given the systemic nature of many human rights issues. Moreover, information that is hosted on third party websites or documentations, such as industry associations, can be used as the basis to meet CHRB requirements, as long as:

• The materials are publicly available and referenced on company websites or disclosures.
• The information meets the specific CHRB requirements.
• With the caveat that in Measurement Theme A, which looks at the companies' policy commitments, the CHRB is looking for commitments in the companies' own formal policy documents.

Therefore, although the CHRB does not automatically credit companies for taking part in collective initiatives or being in a membership association, the commitments that companies make, and the work that they undertake, as part of these collective initiatives may be recognised in the CHRB assessment provided the requirements outlined above are met.

Approach to RBA Membership in the 2019 CHRB Assessment

The addition of 40 ICT Manufacturing companies to the list of benchmarked companies in 2019 meant that a number of companies assessed in 2019 were members of the Responsible Business Alliance ('RBA'). At the request of the RBA and several RBA members, the CHRB Methodology Committee reviewed RBA materials to determine where credit may be given to RBA member companies in the

15 http://www.responsiblebusiness.org/
CHRB assessment. The approach adopted by the CHRB in the 2019 assessment is outlined below and was also shared with the RBA earlier in the year.

Based on a review of the RBA Membership Compliance Program Document (2017), the CHRB Methodology Committee established that automatic credit could be given to RBA members in the 2019 assessment, with more or less credit being given depending on their membership level, as follows:

a) **Supporters**: No credit - Supporters are only expected to "support the overall mission and vision of the RBA as part of the membership application."

b) **Affiliates**: Credit based on the fact that Affiliates are required to have a senior executive sign a commitment to the RBA Code of Conduct as well as a public commitment to the Code of Conduct on the company’s website.
   - A.1.2 - Score 2 – Forced labour element (On its own, insufficient to receive points but if other ILO Core Labour Standards are met then 0.5 points).
   - A.1.3.b - Score 1 – Commitment to respect migrant worker rights (0.5 points).

c) **Regular Member and Full Member**: Credit based on the fact that Regular Members and Full Members are required to have a senior executive sign a commitment to the RBA Code of Conduct as well as a public commitment to the Code of Conduct on the company’s website. In addition, to be a Regular Member or a Full Member requires company-wide adoption of the RBA Code as well as adoption of the RBA Code as supplier code of conduct.
   - A.1.2 - Score 2 – Forced labour element (On its own, insufficient to receive points but if other ILO Core Labour Standards are met then 0.5 points).
   - A.1.3.b - Score 1 – Commitment to respect migrant worker rights (0.5 points).
   - D.4.5.b - Score 1 – Requirements linked to bonded labour in supplier code (1 point).
   - D.4.5.d - Score 1 – Requirements linked to restrictions on workers in supplier code (1 point).

**NB**: The CHRB requirement regarding ‘bank payment cards or similar arrangements for accessing wages or other measures to physically restrict movement’ is not covered by the RBA Code. The lack of this sub-requirement on its own has not so far been considered sufficient not to award points in the assessment, but this may change in future (in which case automatic credit based on the RBA code would no longer be possible).

- D.4.7.b - Score 1 – Requirements linked to health and safety in supplier code (0.5 points).

The CHRB analysts always look for a clear statement from the companies’ websites confirming that they are an RBA member, including their level of membership, and a reference to the RBA Code, to be able to award credit automatically.

The CHRB Methodology Committee determined that the RBA VAP Manual could not be used as a basis to automatically credit companies – even where we require companies to ‘indicate they do something’ (as opposed to ‘describing how they do it’, which was already ruled out for automatic credit). This is because:

- The Validated Assessment Program (VAP) is “a collaborative approach to auditing to reduce the burden on supply chain companies from multiple requests for social audits” (p. 1 of VAP

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16 http://www.responsiblebusiness.org/media/docs/EICC_membercompliancereqs.pdf
17 http://www.responsiblebusiness.org/media/docs/RBACodeofConduct6.0_English.pdf
document) – As such the VAP Manual is a set of requirements that are used in audits, but not a set of requirements that are *systematically* applied.

- Even for Full Members (the highest level of membership), there is no requirement to audit all their operations and suppliers using the VAP (understandably). Instead, Full Members are required to audit 25% of ‘high-risk major suppliers and/or applicable owned facilities’, and this may be a non-VAP audit, whilst “only VAP enables site level recognition from the RBA” according to the RBA Membership Compliance Program Document (2017).

- A concrete example to illustrate this: Under indicator C.1 Score 1 we require a company to “indicate it has one or more channel(s)/mechanism(s), or participates in a shared mechanism, accessible to all workers to raise complaints or concerns related to the Company”. Even though the VAP requirements match these requirements, being a Full RBA member would only guarantee that these requirements are *used in audits*, and only on the operations & suppliers that are being audited. Which is quite different to having the company state that it has a channel mechanism available to all workers.

### 7. 2020 Methodology Review

The CHRB is committed to ensuring the continuous improvement of its Methodology and approach, in consultation with stakeholders. With the publication of the third iteration of the Benchmark in 2019, there is sufficient experience of applying the CHRB Methodology to reflect on the CHRB approach to date and learn from the past few years. In 2020, the CHRB will therefore undertake a review of its Methodology to determine where changes are required to improve its approach and ensure that it meets its objectives.

This Methodology review will take place at the same time as the 2020 assessment (which will continue to use the current Methodology) and will involve public consultations to collect the views of a variety of stakeholders. The revised Methodology will be published at the end of 2020 or in early 2021 and will be applied for the first time in 2021. The timeline for the review will be communicated externally in late 2019 – early 2020.

The CHRB would particularly welcome the views of benchmarked companies that have had a first-hand experience of the Methodology, but also investors, civil society, trade unions, workers and other impacted stakeholders, governments, international organisations, industry associations, academics, lawyers, human rights experts, etc. and welcomes feedback from anyone who would like to provide inputs.

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18 [http://www.responsiblebusiness.org/media/docs/EICC_membercompliancereqs.pdf](http://www.responsiblebusiness.org/media/docs/EICC_membercompliancereqs.pdf)
Annex – Company Research Groups

In 2019 the CHRB assessed 200 companies and split these companies into three research groups to spread the research and engagement demands over the assessment period. The first research group (‘Group 1’) consisted of companies previously assessed by the CHRB the second group (‘Group 2’) consisted of companies added in 2019 and assessed in the Agricultural Products, Apparel or Extractives sectors, and the third group (‘Group 3’) consisted of ICT Manufacturing companies. The companies in each research group are listed below.

**Group 1**
- Adidas
- Aeon Company
- Ahold Delhaize
- Alimentation Couche-Tard
- Anglo American
- Anheuser-Busch InBev
- Archer Daniels Midland
- Associated British Foods
- BHP Billiton
- BP
- BRF
- Canadian Natural Resources
- Carrefour
- Chevron Corporation
- China Petroleum & Chemical
- China Shenhua Energy
- CNOOC
- Coal India
- Compass Group
- ConocoPhillips
- Costco Wholesale
- Danone
- Devon Energy
- Diageo
- Ecopetrol
- ENI
- EOG Resources
- Equinor
- Exxon Mobil
- Falabella
- Fast Retailing
- Freeport-McMoRan
- Gazprom
- General Mills
- Glencore
- Grupo Mexico
- Hanesbrands
- Heilman Home
- Heineken NV
- Hennes & Mauritz
- Hermes International
- Inditex
- Kellogg
- Kering
- Kohl's
- Kraft Heinz
- Kroger
- Kweichow Moutai
- L Brands
- Lukoil
- LVMH
- Macy's
- Marathon Petroleum
- Marks & Spencer Group
- McDonald's
- Mondelez International
- Monster Beverage
- Nestle
- Next
- Nike
- Nordstrom
- Norilsk Nickel
- Occidental Petroleum
- Oil & Natural Gas Corporation
- PepsiCo
- Pernod-Ricard
- Petrobras
- PetroChina
- Phillips 66
- Prada
- PTT
- Repsol
- Rio Tinto
- Rosneft Oil
- Ross Stores
- Royal Dutch Shell
- Sasol
- Shoprite
- Starbucks
- Suncor Energy
- Surgutneftegaz
- Sysco
- Tapestry
- Target
- Tesco
- The Coca-Cola Company
- The Gap Inc
- The Hershey Company
- TJX Companies
- Total
- Under Armour
- Unilever
- VF
- Walmart Inc
- Wesfarmers
- Woolworths
- Yum! Brands
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Group 2

• Anhui Conch Cement Company
• ANTA Sports Products
• ArcelorMittal
• Asahi Group Holdings
• Barrick Gold Corporation
• Brown-Forman Corporation
• Burberry
• Capri Holdings
• Carlsberg
• Carter’s
• Coles
• Columbia Sportswear
• Conagra Brands
• Constellation Brands
• FamilyMart Co., Ltd
• Foot Locker
• Gildan Activewear
• HeidelbergCement
• Hormel Foods Corporation
• Hugo Boss
• INPEX Corporation
• JXTG Holdings
• Kerry Group
• Kirin Holdings Company
• LafargeHolcim
• Lindt & Spruengli
• Loblaw Companies
• LPP
• Lululemon Athletica
• McCormick & Company
• Mr Price
• Newmont Goldcorp Corporation
• Nippon Steel Corporation
• Novolipetsk Steel
• OMV
• Page Industries
• POSCO
• Puma
• PVH
• Ralph Lauren
• Salvatore Ferragamo
• Seven & I Holdings
• Severstal
• Shenzhou International Group Holdings
• Siam Cement Public
• Skechers
• Suntory Beverage & Food
• TATNEFT
• Teck Resources
• Tyson Foods
• UltraTech Cement
• Vulcan Materials
• Wilmar International
• Woodside Petroleum
• Yili Group
• Youngor
• Yue Yuen
• Zhejian Semir Garment

Group 3

• Amazon.com, Inc.
• Amphenol Corporation
• Analog Devices
• Apple Inc
• Applied Materials
• ASML Holding
• BOE Technology Group
• Broadcom
• Canon Inc.
• Cisco Systems, Inc.
• Corning Inc
• Ericsson
• Hewlett Packard Enterprise
• Hitachi Ltd.
• Hon Hai Precision Industry Co., Ltd. (Foxconn)
• HOYA Corporation
• HP Inc.
• Infineon Technologies AG
• Intel Corporation
• Keyence Corp.
• Kyocera
• Lam Research
• Largan Precision
• Microchip Technology
• Micron Technology
• Microsoft Corporation
• Murata Manufacturing
• Nintendo
• Nokia
• NVIDIA Corporation
• NXP Semiconductors
• Qualcomm
• Samsung Electronics
• SK Hynix
• Skyworks Solutions
• Taiwan Semiconductor Manufacturing
• TE Connectivity
• Texas Instruments Inc.
• Tokyo Electron
• Western Digital