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Investigation into human rights concerns raised in letter to PTVI investors

EXTERNAL SUMMARY REPORT PREPARED FOR VALE BASE METALS

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This is a summary of a more detailed report outlining the results of an investigation led by twentyfifty Ltd into concerns raised in a letter to investors regarding potential human rights impacts relating to PTVI operations in South Sulawesi, Indonesia.

twentyfifty has a well established international team with over 20 years experience of working with companies to put their commitments to respecting human rights into practice. It has a strong record in community engagement practices to identify and assess human rights impacts.

This investigation was limited to specific concerns raised in the letter and the communities involved, representatives that made themselves available and information provided.

Summary Report

INTRODUCTION

PT Vale Indonesia (PTVI) Sorowako mine is one of the largest open-pit nickel mines in Indonesia, producing substantial quantities of nickel matte. The current mine is within a concession of 118,017 hectares in South, Southeast and Central Sulawesi granted in 1968. Nickel matte is used in several industries, including in the production of batteries for electric vehicles and in renewable energy markets. The increased demand for nickel in recent years has seen PTVI conduct further exploration and plan developments within the concession, and there has been a substantial increase in nickel mining and associated activities conducted by nickel mining companies across Sulawesi as a whole.

In August 2023, PTVI and Vale S.A. (Vale) shareholders received a letter from Friends of the Earth (FoE) Japan, Indonesian organization WAHLI, and other organisations, setting out serious concerns about social and environmental impacts related to PTVI's mining and exploration activities in the Sorowako concession area ("the letter").

The letter included the following allegations:

- For residents of the area surrounding the Sorowako mine, deprivation of farmland and livelihood, with inconsistent and potentially inadequate levels of compensation;
- Water pollution and lack of provision of clean safe water to a community in Asuli;
- Potential loss of livelihood, environmental concerns and lack of consultation in the Tanamalia block where exploration activities were being conducted;
- Suppression of Freedom of Expression of local communities as a result of a visible private and public security presence, allegations of threats and harassment to evict farmers, including intimidation, interrogation and unjust arrests.

To understand if the concerns raised in the letter were shared by the relevant communities Vale Base Metals (VBM) commissioned an investigation by consultancy twentyfifty Ltd

THE INVESTIGATION

The investigation team comprised of international and Indonesian consultants. It visited Sorowako in the week 20th-24th November 2023. The investigators met with community members in the locations identified in the letter – in Sorowako, Asuli and Tanamalia [see graphic] - and in total the investigation team spoke with over 40 community members in group discussions and in-depth interviews. They explored with heads of village, farmers, women and other community members their experiences of living and working near PTVI operations as well as the concerns raised in the letter.

twentyfifty sought a dialogue with WALHI prior to, during and after the site visit but WALHI did not wish to engage with the investigation team directly.

twentyfifty did interview PTVI employees and reviewed a substantial number of documents to gain insights into the operational systems in place at PTVI for human rights and environmental due

diligence. The investigation team found PTVI management and staff cooperative and willing to engage with the investigation and the findings.

The investigation was undertaken in alignment with the UN Guiding Principles on Business and Human Rights, human rights-based approaches and guidelines for conducting effective investigations.



Graphic: Project locations in scope

FINDINGS

The investigation confirmed that concerns raised in the letter are, for the most part, concerns held by community members. A summary of findings relating to concerns raised the letter are outlined below.

1. Deprivation of farmland, livelihood, and compensation

The concession is divided into blocks with separate mining plan schedules up to the end of the mine’s productive life. This means that different communities surrounding the concession will be (potentially) affected at different times as different blocks are progressively mined. In the locations visited, PTVI installed concession boundary signs in 2020. However, interviewees said that previously they had been unaware of the precise boundary of the concession, and they have been farming, and in some instances have constructed buildings/homes, within the concession.

Interviewees who live around the Sorowako mine spoke of farmland being cleared without notice of the scheduled date, the loss of land and trees, and of differing levels and types of compensation: payments made as promised, payments promised but not documented or paid, inconsistent compensation over time, clear offers that were insufficient to cover loss of income, and sometimes no payment, or payment in the form of livestock.

The current practice is that potentially affected communities are engaged with approximately a year in advance of mining, and all negotiations and agreements are recorded and signed by relevant parties. Agreements have typically included jobs for community members, project works such as

boreholes, and donations / social investment e.g. towards costs of building materials for mosques, and since 2018, agreed rates of compensation for farming land.

In its response to the letter, PTVI sets out that it complies with prevailing laws and internationally recognised practice guidelines, and that restoration calculations are mutually agreed upon with the community involving local government. However, community members spoken to were not aware of the basis on which compensation was calculated. This lack of understanding about how final compensation and other decisions were arrived at and changes in arrangements over time, has led to the perception that compensation has been unclear and inconsistent, contributing to a rise in frustration and a factor in subsequent protests.

2. Access to clean and safe water

The water sources in Asuli mentioned in the letter were observed as a series of three holes dug into the hillside, into which water pools, and from which it is piped to nearby houses. These water sources were observed to be muddy at the time of the investigation.

Interviewees stated that the water had been clear before mining started, and one resident said that they use the water for washing but no longer trust the water is safe enough for drinking. By contrast, PTVI cites a report from June 2022 quoting local residents of Kuari as saying that water from the pools is used by households but not for consumption, and that the pools are often empty during the dry season and become cloudy during and after rainfall. There is no concrete evidence to confirm the state of the water sources prior to mining activity. The discolouration of the water could have been caused by mining-related land clearance and disturbance, or it could have been caused by natural soil erosion during rainfall, or by a combination of the two.

In relation to water access, PTVI has provided two boreholes for this community. However, according to interviewees, they do not serve all community members and certain residents still experience issues with access to clean water. PTVI states that the boreholes have widened access to clean water for the community. Both can be true. From a human rights perspective, however, any loss of access to clean water by some needs to be addressed regardless of whether other community members have benefited from PTVI's boreholes.

Further, the review found in this specific case that members of the community were ill-informed of the possible impacts of mining on their community, especially its possible impacts on water, of the actions PTVI are taking to address them, and did not feel they were receiving feedback to the concerns they had raised.

Note: Hexavalent Chromium contamination was not raised by the communities during site visits, and PTVI provided sample results which were compliant with Class II quality standards for Hexavalent Chromium. WALHI declined to comment so the investigation was unable to confirm the concerns raised as described in the letter.

3. Potential loss of livelihood, environmental concerns and lack of consultation in Tanamalia

These concerns relate to Tanamalia which is located in a concession area where PTVI resumed exploration activities in early 2022, having begun outreach and socialisation in second half of 2021. At the time of the investigation, the exploration licence was awaiting renewal, and activity had been suspended since August 2023 with the mining camp remaining in situ and guarded.

Most farmers in Tanamalia live in villages outside the concession area but have cleared land that is within the concession area and within protected forest area, to plant pepper trees, without authorisation. The scale of the area being farmed is significant, by some estimates it covers 30% of the mining concession. The pepper farmers employ workers from other parts of Sulawesi and all

over Indonesia, with these migrant workers either permanent or seasonal. The numbers of people involved, the lack of clarity over concession and forest boundaries, alongside the international expectations to respect human rights and the right to a decent livelihood, presents a complex and sizeable challenge if PTVI decide to mine these lands.

Pepper farming has been lucrative in recent years and there are pepper farmers who do not wish to give up their livelihood. One such community presented to the investigation team a petition which contained the signatures of hundreds of growers, asking PTVI not to clear their plantation area. Their views are outlined in Annex 1 – this text has been agreed by the farmers and represents their voices.

Community members in Tanamalia say that exploration activities have damaged tracks and bridges and in one village they reported that the stream that runs through their village turned brown and muddy when exploration activity was taking place. At the time of the site visit, the team noted that water sources in the community were clear. The locals attributed this clarity to the cessation of exploratory activities in the area. The concern for flora and fauna was not raised although some community members said that saw the value in protecting the forest.

The investigation encountered a range of responses in Tanamalia with respect to PTVI, with some goodwill and support for potentially mutually beneficial arrangements, but others with ambivalence and in some cases animosity reflecting insufficient engagement.

4. Suppression of freedom of expression:

PTVI has a responsibility to ensure the safety and health of its employees, contractors, and suppliers and to safeguard its assets, as well as a responsibility to community safety and to prevent misuse of force. Past incidents have included threats to, and detention of, PTVI employees in local communities. PTVI current practices are that PTVI employees are generally accompanied by security in their engagements with communities. Community members confirmed there is a highly visible presence of both private and public security and often security is present for community consultations. PTVI argues that this is necessary to protect PTVI employees. It does, however, risk community voices and opinions being suppressed.

Community members spoken to stated that they felt in general PTVI had given them less attention in recent years and cited examples of concerns they had raised and were not satisfactorily resolved. As frustrations increase, they saw protests as a means to get PTVI's attention to their concerns, and multiple protests have taken place over the last decade in Sorowako and more recently in Tanamalia.

Most protests have been non-violent. However, in Sorowako in March 2022, there was a protest which PTVI recalls as relating to land ownership in which there was conflict between community groups. This resulted in an escalation of tension and violence that could have impacted the safety of people caught up in the protest including PTVI employees. As a result, arrests were made by the police. Interviewees gave conflicting stories of why arrests were made and how long they were detained for and we were not able to substantiate the specific concerns raised in the letter relating to the justness of arrests, or to the reports of interrogation. This experience has left some community members feeling intimidated and fearful of protesting again.

ADDITIONAL INSIGHTS & ACTIONS

In all the areas visited, PTVI carried out community engagement evidenced through documentation and substantiated by interviewees. However, despite this, there were community members that felt uninformed about future plans, complained of a lack of feedback or response when they raise concerns and a discontent about the fairness and consistency in the distribution of the economic

benefits or jobs. It appears that this has worsened in recent years, and they described a feeling of neglect, leading to frustration and protest. Yet there is still an underlying level of goodwill towards PTVI from provision of jobs, community development efforts to date, and hoped for future investments in their communities.

The community team currently has significantly less resources than those dedicated to security and operates under pressure to secure humanitarian agreements with communities and secure the land for mining. Unless there is a reset of community engagement, it is foreseeable that tensions will continue to rise and protests increase. This reset can be achieved by PTVI shifting towards more proactive, participatory community engagement, with improvements in monitoring and evaluation approaches. Engagement will need to happen with care and sensitivity, until the outstanding issues are resolved, to avoid escalating the existing tensions and conflicts. As it does so, PTVI’s priority should be to ensure that the consultations can take place in an atmosphere of mutual respect and safety. This can be achieved through a process of sustained engagement and trust-building, including, where appropriate, through the use of independent third parties (faith leaders, community organisations, NGOs) acting as facilitators or observers. Over time, this can help reduce and eliminate any need for a security presence during consultations and reassure all community members that their concerns can be freely voiced.

In Tanamalia, the scale of pepper farming, the numbers of farmers and workers involved and the impacts on their lives and livelihoods poses a significant and complex challenge to PTVI and the local authorities. Whether or not their presence on the land can be challenged legally, they have human rights and in today’s world PTVI is expected to respect those rights. Assessing the potential full costs and risks of taking relocation and/ remediation should be incorporated into decision-making and alternatives explored - for example the recent stakeholder forum in Makassar heard about social forestry approaches.

It could be that the distance enforced by the pandemic lockdowns is still to be recovered and yet at the same time the nickel rush is accelerating the pace of development and the expectations on PTVI, above all to identify and address human rights impacts have evolved. Whilst PTVI has in place commitments, policies and guidance relating to human rights due diligence, its engagement has, historically and until recently, appeared to be reactive, and lacking a proactive, consistent, and transparent approach in engaging with communities, within an overarching Human Rights and Environmental Due Diligence strategy and framework.

Based on international frameworks such as the UNGPs, PTVI will need to develop a comprehensive plan of action. The following recommendations were provided for consideration by PTVI:

Topic	Initial recommendations for consideration
1. Deprivation of farmland, livelihood and compensation (Sorowako)	<ul style="list-style-type: none"> • Compensation: Develop a transparent and consistent compensation framework, as part of a social and human rights management plan, to form the basis of a participatory approach to reviewing payments and remediating any loss of livelihoods. • Consultation: Ensure consultations and agreements are proactive, timely, recorded and in line with guidance; separate mitigation and remediation of impacts from social investment activities, and ensure the process is transparent and understood by stakeholders.
2. Access to clean & safe water (Asuli)	<ul style="list-style-type: none"> • Water quality: Ensure site risk assessment includes water impacts and is updated regularly based on monitoring, corrective actions and control effectiveness. Consider a more participatory approach to water testing and monitoring. • Water access: Review affected households access to water from a human rights lens; in particular, households located within the protected forest. Clarify roles and

	<p>responsibilities for maintaining community water sources (installation, maintenance and operational costs for boreholes) within community agreements.</p> <ul style="list-style-type: none"> • Engagement: Routinely incorporate the assessment of potential impacts of mining on community water sources into planning of community engagement.
<p>3. Potential loss of livelihood, environmental concerns and lack of consultation in Tanamalia</p>	<ul style="list-style-type: none"> • Land access, exploration activity and consultation: Develop a clear long-term land access strategy and management plan, to include sharing of relevant information relating to potential further exploration and related compensation framework. Further the dialogue initiated at the stakeholder forum to find participatory solutions for livelihoods. • Water access: Identify potential disruption to water courses and to communicate carefully to potentially affected communities in advance and make appropriate provision for clean water as part of exploration plan
<p>4. Suppression of freedom of expression</p>	<ul style="list-style-type: none"> • Engagement and negotiations: Conduct community engagement without police or military presence, replace the security presence in negotiations with an independent facilitator (e.g. faith leader, community organization or NGO). Re-focus efforts on community dialogue, relationship and trust building. • Security: Explore community-led security approaches. • Training: Conduct training for all security forces in line with the VPSHRs, and for communities in security management and grievance channels.

Appendix

TANAMALIA FARMERS

The following is a summary of our discussions in Tanamalia. The farmers interviewed as part of the investigation were keen for us to include an accurate record of our discussions within our report, and this summary of our discussions, reviewed by them, is included with their express encouragement and consent. We did not verify the accuracy of their statements but did validate that this represents their views. Pepper farmers in the Rante Angin Village area told us the following:

Pepper farming around Rante Angin

There are around 700 farming families in 5 villages in the area and a labour influx of around 15,000 workers per year who come to work for pepper farmers. Pepper farmers in this area are themselves mostly migrants from several regions, those we spoke to had been in the area for between 12-50 years.

The land is considered exceptionally good for pepper farming. Usually pepper trees are productive from 4 years up to 10 years old, but here there are pepper trees that are 25-50 years old and still producing. The price of pepper has fluctuated considerably over the last 10 years, the price being such that the community currently considers themselves prosperous from the sale of peppers.

History

Around 1930, the people in Rante Angin Village earned their livelihood as resin cutters, rattan seekers, wood collectors and rice farmers. In 1968 PT INCO arrived in Sorowako which built a Hydroelectric Power Plant (PLTA). When the dam was built for the hydroelectric power plant, some of the community's rice fields were flooded. Around this time pepper trees were planted.

They continued to cultivate pepper and expand their plantations with no complaints from the government. After 20+ years, when PTVI arrived, complaints started coming in from the government that the land they used to plant/farm pepper was protected forest. No one knew which areas were part of the protected forest area because there had been no government outreach regarding protected forests and the government did not inform the public about the boundaries of protected forest areas. In 2023 the forestry installed signage. Previously there were no such signs/signposts.

Impact of exploration PTVI

The Rante Angin community acknowledged the positive impact of PTVI in the construction of roads in the Malili area, and Sorowako, but the positive impact of PTVI is not felt by the people in the Loeha Raya area. The people in Rante Angin are Toraja and Bugis and said they cannot get jobs at PTVI because they cannot speak Sorowako. The impact of PTVI's exploration in Rante Angin is that the water source is polluted (muddy) so that it cannot be consumed.

Fear of the future

The farmers told us that PTVI has not carried out communication or outreach with some members of the community, and they suspect PTVI is only building their communication with people who support their activity.

The community heard that PTVI is considering a resettlement for the village community. The people of Rante Angin do not know where they will be resettled because the area around Rante Angin is already occupied with mining business permits from other companies. It is also located on three provincial borders, namely: South Sulawesi, Central Sulawesi and Southeast Sulawesi Provinces. The people of Rante Angin village feel that resettlement is impossible because it will take a long time to move the community's 7,000,000 pepper plants to a new place.

The people in Loeha village & Rante Angin village do not entirely reject mining but they want to exclude an area of ±17,000 hectares in the Tanamalia Block from the PTVI concession, and they delivered a petition to us which they said had been signed by 1,000 people to this effect.

“Don't include our area of ± 17,000 hectares in the PTVI concession. It's just 1 point, no need to ramble all over the place, it's just 1 point. There is no need to discuss the impact of PTVI. We are prosperous with the pepper plantation we currently have. We promise not to disturb PTVI.”
