Human Rights, Sustainability Reporting and Responsible Business Conduct
What does business need to know?

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Centro VINCULAR - PUCV
Arusha, Tanzania
17 & 18 October, 2017
The UN Guiding Principles on Business and Human Rights:
What it is all about and why is it relevant for SMEs?

Dante Pesce
Centro VINCULAR - PUCV
Arusha, Tanzania
17 & 18 October, 2017
1. HUMAN RIGHTS – WHAT ARE THEY?
Governance
Economic
Environment
Social

Human Rights

Workers
Suppliers
Clients
Community

Sustainability focus points

Human Rights

Governance
Economic
Environment
Social

Workers
Suppliers
Clients
Community

Sustainability focus points
What are human rights

- Universal Declaration of Human Rights (1948)
- International Covenant on Civil and Political Rights (1966)
- International Covenant on Economic, Social & Cultural Rights (1966)
- ILO Declaration on Fundamental Principles and Rights at Work (1998)

Key human rights:
- Forced labour
- Freedom of Association
- No Discrimination
- Child Labour
2. UN GUIDING PRINCIPLES ON BUSINESS & HUMAN RIGHTS
UN Framework on business and human rights

2005:
- Special Representative appointed to ‘identify and clarify’ existing standards and practices with regard to business and human rights

2008:
- UN Protect, Respect and Remedy Framework

2011:
- UN Guiding Principles on Business and Human Rights articulating the corporate responsibility to respect human rights and human rights due diligence

2011 – 2017:
- UN Working Group on Business and Human Rights
International sustainability instruments

- **ILO** Tripartite declaration of principles concerning multinational enterprises and social policy
- **UN** Guiding Principles on Business and Human Rights
- **UN** Global Compact
- **OECD** Guidelines for Multinational Enterprises
- **ISO26000** Social Responsibility
- **UN** Agenda 2030 & Sustainable Development Goals
UN Working Group on Business and Human Rights

Mandate:

- promote the effective and comprehensive dissemination and implementation of the Guiding Principles on Business and Human Rights
- identify, exchange and promote good practices and lessons learned on the implementation of the Guiding Principles
- provide support for efforts to promote capacity-building and the use of the Guiding Principles
- continue to explore options and make recommendations at the national, regional and international levels for enhancing access to effective remedies available to those whose human rights are affected by corporate activities, including those in conflict areas
- develop a regular dialogue and discuss possible areas of cooperation with Governments and all relevant actors
- among others

Members:

- Mr Michael Addo (Ghana)
- Mr. Surya Deva (India)
- Mr Dante Pesce (Chile)
- Ms. Anita Ramasastry (USA)
- Mr. Pavel Sulyandziga (Russian Federation)
UN Guiding Principles on Business and Human Rights

• what?

31 principles to implement the “Protect, respect and RemEDIATE” Framework

• why?

Clarify the duties and responsibilities of States and businesses to protect and respect human rights in the context of business activities and ensure Access to effective remediation for individuals and groups affected by the activities.

• for who?

States
Businesses
UN Guiding Principles on Business and Human Rights

Guiding Principles on Business and Human Rights (UNGP)

Interpretive Guide

Frequently Asked Questions about the Guiding Principles on Business and Human Rights
Do no harm: Avoid causing/contributing to abuses

Prevent/mitigate negative impacts committed by suppliers or business partners

Address direct & indirect impacts related to the company

Includes all companies

Includes all internationally recognised human rights

Does not imply a new legal obligation – elaborates the consequences of existing obligations and practices in relation to the actions of companies

Human rights can’t be compensated: doing good in one aspect does not compensate for damage caused in another aspect
UN Guiding Principles on Business and Human Rights

PILLAR

1: STATE

- Protect against human rights abuses by actors, including business

2: BUSINESS

- Respect human rights throughout the value chain

- Acting with due diligence
- Addressing adverse impacts

3: VICTIM

- Ensure access to remedies in the case of human rights abuses

NEED

PROTECT

- Policies
- Legislation
- Regulation
- Adjudication

UNGPG: 1 - 10

RESPECT

UNGPG: 11 - 24

REMEDY

UNGPG: 25 - 31

Based on report to the Human Rights Council by John Ruggie, 2011
UN Guiding Principles on Business and Human Rights

**PILLAR**

1: STATE

**NEED**

PROTECT

- Protect against human rights abuses by actors, including business

**ACTORS**

Respect human rights throughout the value chain

- Acting with due diligence
- Addressing adverse impacts

**ACTION**

- Policies
- Legislation
- Regulation
- Adjudication

**Woody**

2: BUSINESS

- Based on report to the Human Rights Council by John Ruggie, 2011

3: VICTIM

REMEDY

- Ensure access to remedies in the case of human rights abuses

- Judicial remedies
- Non-judicial remedies

**UNGPs**

- 1 - 10
- 11 - 24
- 25 - 31
Principle 15:

15. In order to meet their responsibility to respect human rights, business enterprises should have in place policies and processes appropriate to their size and circumstances, including:

(a) A policy commitment to meet their responsibility to respect human rights;

(b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;

(c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.
POLICY COMMITMENT

16. As the basis for embedding their responsibility to respect human rights, business enterprises should express their commitment to meet this responsibility through a statement of policy that:

(a) Is approved at the most senior level of the business enterprise;
(b) Is informed by relevant internal and/or external expertise;
(c) Stipulates the enterprise’s human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services;
(d) Is publicly available and communicated internally and externally to all personnel, business partners and other relevant parties;
(e) Is reflected in operational policies and procedures necessary to embed it throughout the business enterprise.
Anglo American
Human Rights Policy

Anglo American has a strong commitment to human rights. Respect for human rights informs our guiding values as a business, and is stated explicitly in our Business Principles. Our commitment to human rights is further expressed through our being a signatory to the United Nations Global Compact and the Voluntary Principles on Security and Human Rights (VPSHR), and through being a supporter of the UN Guiding Principles on Business and Human Rights. Human rights principles are embedded in a number of internal policy documents, including those related to employment practices, exploration, environmental practices, social performance and security.

We accept and support the corporate responsibility to respect human rights and actively seek to avoid involvement with human rights abuses. We aim to identify, assess and minimize potential adverse human rights impacts that we cause or contribute to, or that are linked to our business, through on-going due diligence and appropriate management, as stated in the UN Guiding Principles on Business and Human Rights. We also recognise that our host governments have a duty to protect human rights of everyone within their jurisdiction and, where appropriate, we will work with states to build capacity in support of that objective.

RESPECTED RIGHTS

Our commitment to respect human rights includes recognition of all internationally-recognised human rights, in particular: those contained in the International Bill of Human Rights (which includes the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights); the International Labour Organisation’s Declaration on Fundamental Principles and Rights at Work; and international humanitarian law, where applicable.

We commit to address both adverse human rights risks and impacts and to contribute positively to an enabling environment for human rights to be respected. We are also committed to paying special attention to the rights of potentially vulnerable groups.

We recognise that the nature of mining operations, from the earliest stages in the life of our mines, creates the potential for a wide range of human rights risks and we seek to mitigate the risk of any breaches. As part of our commitment to respect human rights and to a comprehensive approach, we will also undertake appropriate due diligence throughout the lifecycle of mining operations. Where we have caused or contributed to adverse human rights impacts we will contribute to their remediation as appropriate. We will inform and engage appropriately with affected and potentially affected persons on risks, impacts and management measures and keep them involved in monitoring performance.

We will make particular effort to ensure that we engage with those most vulnerable, in particular where they encounter challenges in voicing their opinions or having them heard, and to identify any additional specific measures to avoid, prevent or mitigate impacts on them.

DELIVERY AND IMPLEMENTATION

We commit to embed this policy into our corporate culture and practices. Our efforts will be guided by the relevant sections of the UN Guiding Principles on Business and Human Rights and will include:

- actively communicating this policy to internal and external stakeholders, including awareness raising and training on human rights related issues;
- incorporating ongoing human rights due diligence into relevant business processes as appropriate, such as impact assessments;
- engaging with relevant, potentially affected stakeholders in assessing and addressing impacts;
- including human rights-related requirements within contractual arrangements with business partners and host governments as appropriate; and
- collaborating with or providing access to remedy through effective complaints and grievances procedures.

We will continue to play an active and constructive role in relevant human rights-related multi-stakeholder initiatives, including the VPSHR whose continued implementation is an important pillar of the human rights approach set out in this policy.

Anglo American will always comply with applicable laws and respect the rule of law. In situations where there is a conflict between domestic legal requirements and international human rights norms, we shall seek to uphold our company values. In doing so we will consider all options; this may include refraining from new, or exiting from existing, investments in the respective jurisdiction.

SCOPE AND GOVERNANCE

This policy applies to our relationships with our employees, contractors and other public and private sector business partners in what they do on our behalf. In those situations where Anglo American does not have full management control, we will exercise our available leverage to influence compliance with this policy. This policy has been approved by Anglo American’s Corporate Committee and will be reviewed periodically. Accountability for implementation of this policy lies with the Group Chief Executive and with the Chief Executives of the business units. In case of questions, or for guidance on reporting on suspected / alleged human rights-related incidents, please contact Group Government and Social Affairs.
HUMAN RIGHTS DUE DILIGENCE

17. In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. Human rights due diligence:

(a) Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships;

(b) Will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations;

(c) Should be ongoing, recognizing that the human rights risks may change over time as the business enterprise’s operations and operating context evolve.
Due diligence process

Policy commitment to human rights

- Assessing impacts
- Communicating and reporting
- Tracking & monitoring
- STAKEHOLDER ENGAGEMENT & ACCESS TO REMEDY
- Integration & acting upon findings

Process of continuous improvement

Adapted from Danish Institute for Human Rights
Principle 21:

21. In order to account for how they address their human rights impacts, business enterprises should be prepared to communicate this externally, particularly when concerns are raised by or on behalf of affected stakeholders. Business enterprises whose operations or operating contexts pose risks of severe human rights impacts should report formally on how they address them. In all instances, communications should:

(a) Be of a form and frequency that reflect an enterprise’s human rights impacts and that are accessible to its intended audiences;

(b) Provide information that is sufficient to evaluate the adequacy of an enterprise’s response to the particular human rights impact involved;

(c) In turn not pose risks to affected stakeholders, personnel or to legitimate requirements of commercial confidentiality.
Disclosure

All industries
UN Guiding Principles on Business and Human Rights

**PILLAR**

1: STATE

- Need: PROTECT
  - Protect against human rights abuses by actors, including business

2: BUSINESS

- Need: RESPECT
  - Respect human rights throughout the value chain

- Need: REMEDY
  - Acting with due diligence
  - Addressing adverse impacts

3: VICTIM

- Need: REMEDY
  - Ensure access to remedies in the case of human rights abuses
    - Judicial remedies
    - Non-judicial remedies

**ACTORS**

- Protect
- Respect
- Remedy

**ACTION**

- Policies
- Legislation
- Regulation
- Adjudication

**UNGP: 1 - 10**

**UNGP: 11 - 24**

**UNGP: 25 - 31**

Based on report to the Human Rights Council by John Ruggie, 2011
States and Businesses have the obligation to ensure Access to remediation mechanisms for victims of human rights abuses.
Effectiveness criteria:
“A grievance mechanism can only serve its purpose if the people it is intended to serve know about it, trust it and are able to use it.”

a) **Legitimate**: enable trust from stakeholder groups
b) **Accessible**: known by all stakeholders, no barriers to access
c) **Predictable**: Clear and known procedure for investigation
d) **Equitable**: reasonable access to information, advice & expertise to ensure a fair conduct
e) **Transparent**: report on progress and performance of the mechanism
f) **Rights-compatible**: outcomes accord with internationally recognised human rights
g) **Continuous learning**: identify lessons and improvements
h) **Dialogue and engagement**: consultation with stakeholders on design & functioning
Welcome to Speak Up

Speak Up is a confidential reporting service for all employees and stakeholders of the Anglo American Group. It is independently managed by Deloitte Tip-offs Anonymous.

What is Speak Up?

Speak Up is a confidential reporting service for employees, business partners and other stakeholders of business units and group functions in the Anglo American Group. It offers a route to raise concerns about potentially unethical, unlawful or unsafe conduct or practices involving the Group. It is independently managed by Deloitte Tip-offs Anonymous.

Speak Up was established in 2001.

Why is it Important?

At Anglo American Group we are committed to conducting our business in a way that is consistent with our values and principles.

It doesn’t matter whether you’re an employee, contractor, customer, supplier, manager or shareholder - we want to know when you see things that concern you about the way in which the Group and its people do business. Speak Up provides you with an easy and secure way to tell us about your concerns.
3. BUSINESS CASE FOR HUMAN RIGHTS
Business case for human rights

- **Concrete:** Prescribe specific actions for companies to manage their human rights impacts

- **Define expectations:** Require companies to refrain from harming human rights; development initiatives are not an offset

- **Facilitate dialogue:** Companies can begin discussions with governments, workers and communities on the basis of shared values and expectations

- **Manage risks:** Ignoring human rights involves costs to companies (e.g. reputational, financial, legal, operational)
Business case for human rights

• **Operational risk:** includes project delays or cancellation, community grievances, increased difficulty to obtain or renew permits, or loss of the license to operate, among others

• **Reputational risk:** A company’s involvement in human rights violations is often accompanied by negative media coverage, which may result in consumer boycotts, loss of brand value, or difficulty to attract new talent, among others. In addition, a company’s reputation can be damaged as a result of an alleged or perceived human rights violation, regardless of whether it actually took place.

• **Legal risk:** include drawn-out lawsuits or punitive fines stemming from the government’s enforcement of domestic legislation such as UK’s Modern Slavery Act.
Business case for human rights

Key benefit.....

“Preventive approach”

Eg. Health & safety
Bahrain Declaration

The global employer community reaffirms its

- Support for the SDGs and its readiness to work and cooperate at national and international level to reach the targets.

- Commitment to engage with trade unions and all other stakeholders in dialogue and negotiations that contribute to more and better jobs, growth and prosperity.

- Endorsement of the UN Guiding Principles on Business and Human Rights, the ILO MNE Declaration and firm commitment to their implementation.

Bahrain, 7 October 2015
We, the undersigned organizations, reaffirm our commitment to the UN Guiding Principles and to continuing to promote their implementation among our business networks (including at the national level) and the global business community. We urge companies everywhere to scale up their efforts to respect universally accepted human rights throughout their operations, value chains and business relationships. Meeting the corporate responsibility to respect human rights is a key contribution and vehicle through which business can help achieve the broader vision of peaceful and inclusive societies embraced by the SDGs.
Role of industry associations

- Sharing vision and ambition regarding B&HR
- Setting expectations to members (due diligence, engagement, transparency, etc)
- Tracking “evidence of progress”
- Facilitate peer learning and “race to the top”
- Exercise visible leadership, using leverage on collective actions
What do international investors ask?

60 industries, 2,473 companies, 42 countries
Where are the world’s most sustainable companies located?

- Companies listed in the Sustainability Yearbook
- Number of Gold Class companies
- () Indicates change in number of Yearbook Members between 2016 and 2017
Figure 2: Average human rights criterion score* by region

Global Average Score: 60

Region: Europe, Africa, North America, Latin America, Asia Pacific

*Score between 0 and 100

Source: RobecoSAM
### Average Human Rights Criterion Score by Industry Group

<table>
<thead>
<tr>
<th>Industry Group</th>
<th>Average Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Utilities</td>
<td>66</td>
</tr>
<tr>
<td>Household &amp; Personal Products</td>
<td>65</td>
</tr>
<tr>
<td>Telecommunication Services</td>
<td>65</td>
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<tr>
<td>Banks</td>
<td>64</td>
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<tr>
<td>Materials</td>
<td>63</td>
</tr>
<tr>
<td>Technology Hardware &amp; Equipment</td>
<td>62</td>
</tr>
<tr>
<td>Commercial &amp; Professional Services</td>
<td>61</td>
</tr>
<tr>
<td>Automobiles &amp; Components</td>
<td>61</td>
</tr>
<tr>
<td>Semiconductors &amp; Semiconductor Equipment</td>
<td>61</td>
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<tr>
<td>Insurance</td>
<td>60</td>
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<tr>
<td>Capital Goods</td>
<td>60</td>
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<tr>
<td>Average Score</td>
<td>60</td>
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<tr>
<td>Energy</td>
<td>59</td>
</tr>
<tr>
<td>Consumer Services</td>
<td>58</td>
</tr>
<tr>
<td>Food, Beverage &amp; Tobacco</td>
<td>58</td>
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<tr>
<td>Food &amp; Staples Retailing</td>
<td>58</td>
</tr>
<tr>
<td>Transportation</td>
<td>57</td>
</tr>
<tr>
<td>Consumer Durables &amp; Apparel</td>
<td>57</td>
</tr>
<tr>
<td>Software &amp; Services</td>
<td>57</td>
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<tr>
<td>Pharmaceuticals, Biotechnology &amp; Life Sciences</td>
<td>57</td>
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<tr>
<td>Diversified Financials</td>
<td>56</td>
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<tr>
<td>Real Estate</td>
<td>54</td>
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<tr>
<td>Media</td>
<td>54</td>
</tr>
<tr>
<td>Health Care Equipment &amp; Services</td>
<td>53</td>
</tr>
<tr>
<td>Retailing</td>
<td>53</td>
</tr>
</tbody>
</table>

Source: RobecoSAM
6.2.1 Human Rights – Commitment

**Question Rationale**
The purpose of this question is to identify companies that have an active commitment to respect and protect human rights in their business relationships in line with the UN guiding principles or another internationally accepted standard. The policy needs to be company specific with a company-wide commitment and not just for a single site, business unit, or project.

Only referring to or being a signatory to external entities such as the UN Global Compact (UNGC) or International Labour Organization (ILO) is not sufficient. A letter from your company to the UNGC is also not sufficient.

**Question Structure**
Do you have a company-specific policy in place for your commitment to respect human rights in accordance with the UN Guiding Principles on Business and Human Rights or other internationally accepted standards? Please provide supporting evidence.

- Yes. We have a policy for our commitment to human rights. The policy covers the following:
  - [multiple options can be selected]
  - A statement of commitment to respect human rights in accordance with internationally accepted standards
  - Expectations in our own operations (employees, direct activities, products or services)
  - Expectations of our suppliers
  - Expectations of our partners
  - Actions and procedures we undertake to meet our commitment
Figure 4: What do companies’ human rights policies cover?

Source: RobecoSAM
6.2.2 Human Rights – Due Diligence Process

**Question Rationale**
The purpose of this question is to assess whether your company has a due diligence process to proactively and systematically identify what potential issues and where they could occur. Here we ask how risks are identified and periodically reviewed. The outcomes of conducting the analysis should be provided in the following “Human Rights – Assessment” question. A passive approach such as a whistle blowing or confidential reporting system is not sufficient for this question.

**Question Structure**
Has your company developed a due diligence process to proactively identify and assess potential impacts and risks relating to respecting human rights?

- Yes, and our process covers the following. Please provide supporting evidence of a risk mapping or other form of assessment to identify areas of potential risk:
  - Risk identification (usually in the form of risk mapping)
  - Identification of where potential human rights issues could occur in our own operations
  - Identification of where potential human rights issues could occur in our value chain or activities related to our business
  - Identification of what actual or potential human rights issues could be of concern
  - Systematic periodic review of the risk mapping of potential issues
- We are developing a process, but we have not yet conducted any assessments. Please provide information indicating the status and expected completion date.
6.2.3 Human Rights – Assessment

Question Rationale
The purpose of this question is to assess the extent your company is proactively identifying where risks are and managing them. The process should consider the country contexts in which the organization operates, the potential and actual human rights impacts resulting from the organization’s activities, and the relationships connected to those activities. (source: https://www.unglobalcompact.org/docs/news_events/8.1/human_rights_translated.pdf).

Question Structure
Has your company conducted an assessment of potential human rights issues across your business activities in the past three years?

- Yes. We have proactively conducted an assessment of potential human rights issues in the last 3 years. Please complete the table below related to the portion of activities assessed, the portion of activities where risks have been identified, and the portion of activities with mitigation actions taken. If any of the business categories are not material to your company, select "Not relevant" and provide an explanation.
For the basis of reporting, please provide the denominator used to calculate the extent of your assessment of your own operations, suppliers, and joint ventures. Please see the information button for definitions and examples.

<table>
<thead>
<tr>
<th>Category</th>
<th>A. % of total assessed in last 3 years</th>
<th>B. % of total assessed (column A) where risks have been identified</th>
<th>C. % of risk (column B) with mitigation or remediation process implemented</th>
<th>D. Basis for reporting % (denominator, e.g. costs, FTEs, number of suppliers)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Own Operations (including Joint Ventures where the company has management control)</td>
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<tr>
<td>Not relevant</td>
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<tr>
<td>Contractors and Tier I Suppliers</td>
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<tr>
<td>Not relevant</td>
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<tr>
<td>Joint Ventures with no management control</td>
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<tr>
<td>Not relevant</td>
<td></td>
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</tbody>
</table>
Which groups have been specifically assessed? Check all that apply and provide reference for each tick box.

- Own employees
- Children
- Indigenous people
- Migrant labor
- Third-party contracted labor
- Local communities
- Others, please specify
Vulnerable groups identified by companies:

- Children (46%)
- Immigrant workers (27%)
- Indigenous people (26%)

In addition, women and religious minorities were identified as vulnerable groups.
6.2.4 Human Rights – Disclosure

**Question Rationale**
The purpose of this question is to assess the extent to which companies are publicly disclosing their human rights efforts.

**Question Structure**
Does your company publicly disclose its commitments and the status of its human rights assessment? The following is publicly available:

- Yes, our company publicly reports on our human rights commitments. The following are publicly available:
  - Commitment
  - Process to identify and mitigate risks
  - The number of sites with mitigation plans
  - The main issues and vulnerable groups identified
  - Remediation actions taken
Figure 6: Companies reporting on human rights topics

- Human rights policy in place: 543 companies reporting, 201 companies not reporting.
- Due diligence process carried out: 365 companies reporting, 210 companies not reporting.
- Human rights issues and vulnerable groups identified: 225 companies reporting, 145 companies not reporting.
- Number of sites with mitigation plans: 243 companies reporting, 40 companies not reporting.
- Remediation actions taken: 150 companies reporting, 53 companies not reporting.
- Publicly disclose on human rights-related issues: 634 companies reporting, 233 companies not reporting.

Source: RobecoSAM