



**BROT FÜR ALLE
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Mr. David Fransen
Vitol SA
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PO Box 384
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Berne, 8 September 2015

Re: your letter of 21 August 2015

Dear Mr Fransen,

We thank you for your letter of 21 August 2015, which we read with great interest and which contains some new information on Vitol and its Corporate Social Responsibility (CSR). We appreciate the fact that Vitol finally agreed to respond to some of the issues the report raises, but we would also like to underscore that we regret that you waited until 21 August 2015 to share a minimum of information with Bread for all (BFA). In May 2015, BFA sent Vitol a letter offering to start a dialogue via a face-to-face meeting. We also sent Vitol a five-page questionnaire allowing you to share information on your human rights and environmental policies and your management practices. In the questionnaire, we presented the main findings of our research on Coal of Africa Limited (CoAL) in South Africa and we asked whether Vitol was aware of the human rights and environmental risks that CoAL poses. Vitol did not answer any of those questions and did not accept our invitation for a face-to-face meeting.

In your reply of 29 May 2015, you refer to the stakeholder working group for the implementation of the UN Guiding Principles on Business and Human Rights in the commodity trading industry launched by the Federal Department of Foreign Affairs, the Federal Department of Finance and the Federal Department of Economic Affairs, Education and Research. You stated: "We believe this group to be the appropriate place to discuss CSR principles, [...] and we look forward to continuing this common process with you in the coming months". But, as you know, this government-led working group discusses general policies. There is no space to discuss Vitol's specific human rights policies and the situation of CoAL in South Africa.

In this letter we would like to address some of the issues you raise in your letter.





Leverage over CoAL

In your letter you write that: “The terms of contract between Vitol and CoAL are such to allow third parties to export as well, hence Vitol does not have the leverage which a truly exclusive marketing agreement might give.”

BFA is aware that Vitol owns only 1.4% of the shares of CoAL and that third parties can export as well. However, we do not believe that Vitol can conclude from this situation that it has no leverage and no responsibility towards CoAL.

First, we note the following: Vitol “had been appointed as CoAL’s **exclusive marketing agent for all export thermal and coking coal for a period of eight years.**” This means that:

- With this offtake agreement, Vitol has a **contractual relationship** with CoAL;
- The contractual relationship between Vitol and CoAL will last **8 years**;
- In 2013 and in 2014, **40% and 30%** respectively **of the coal produced by CoAL was exported**. The **share of export coal as a percentage of total turnover is even higher** as export coal has a higher value than coal for the domestic market. As CoAL is exporting a significant share of its coal, we think that a significant share of its coal will be traded by Vitol. Otherwise it would not have signed an offtake agreement.

Considering the three points above, we consider that **Vitol does have leverage over CoAL** and that, in line with the UN Guiding Principles, Vitol should exercise its leverage “to prevent or mitigate the adverse impact” that may be caused by CoAL.

Second, we would like to underscore, that according to the UN Guiding Principles, a company must conduct human rights due diligence with respect to all of its business relationships. Principle 13 of the UN Guiding Principles is very clear: “The responsibility to respect human rights requires that business enterprises [...] seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.” This principle clearly refers to the supply chains of companies. Further the UN Guiding Principles emphasise that the scale of the human rights due diligence a company has to undertake depends mainly upon the risk the company poses to human rights. Given the risk that coal extraction poses to human rights in South Africa, it is clear from the UN Guiding principles that Vitol should “seek to prevent or mitigate adverse human rights impacts” of its suppliers by adopting adequate due diligence processes towards its supplier, CoAL.

UN Global Compact and EITI

In its letter, Vitol claims “to conduct its business in accordance with the UN Global Compact’s ten principles”. But at present Vitol is neither **a signatory to the UN Global Compact** (which comprises over 12,500 signatories worldwide) nor a member of the Swiss Global Compact Network. For the sake of transparency and coherence, if a company follows a standard, it should also be a signatory of it and make this information public. Vitol also affirms that it adopted a code of conduct based on the UN Global Compact principles, but the company does not publish the content of this code of conduct on its website. Human right issues concern **employees, communities and external stakeholders** of the company. Therefore communication and transparency are central aspects of any credible human rights policy. Further, a company should not only communicate what its policy or





code of conduct is. It is also expected to communicate on its human rights impacts. This has been underlined in UN Guiding Principle 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.” Bread for all therefore asks Vitol to publish public information on its human rights policies and impacts.

In your letter, you also state that Vitol behaves “in accordance with EITI (Extractive Industry Transparency Initiative) standards.” But unlike Trafigura, another trading company, Vitol is not an official member of the EITI initiative. We would like to emphasise that the **heart of the EITI is engagement on transparency**. Members of the initiative commit to publishing information on the payments they make to governments, on a project-by-project basis. Further, they commit to publishing this financial information in accordance with EITI criteria. The aim of this transparency is to allow non-governmental organisations and society at large to monitor (part of) the financial flows of the extractive sector. It is therefore a contradiction for Vitol to state that it follows EITI requirements if it does not make public the required financial information.

Not a major coal player

You state that Vitol is a „very small participant in the global coal industry” and that “it is incorrect to suggest that Vitol is “a key player in the value chain of coal.” At the same time, you state on your website that you are **one of the top five coal traders worldwide**.¹

In your letter, you state that Vitol “trades 0.5% of all the coal consumed globally each year.” This figure is low because you refer to the total coal consumed and not to the coal traded (according to the World Coal Association, “overall international trade in coal reached 1142 Mt in 2011; it still only accounts for about 16% of total coal consumed.”²) Our **calculation is that Vitol trades approximately 2.6% of internationally traded coal**.

Moreover, the following points should be taken into consideration:

- “Vitol’s logistics network uses a dedicated fleet of **40 dry bulk vessels**”³ for coal
- Vitol is “investing in the development of port and loading facilities serving the **key coal trading routes**, most notably through our 35% shareholding in Motola Coal terminal in Maputo, Mozambique.”⁴

Therefore, we believe that it is correct to qualify Vitol as a “**key player in the value chain of coal**.”

¹Vitol Corporate Brochure, <http://www.vitol.com/brochures/vitol-energy-2013/files/assets/common/downloads/publication.pdf>

²World Coal Association website. <http://www.worldcoal.org/coal/market-amp-transportation/>

³Vitol Corporate Brochure. 2014, p. 30.

⁴Vitol Corporate Brochure. 2014, p. 30.





Private company

You state: “As a private company with no external equity or bond holders, Vitol does not publish financial information. This is common practice for private companies globally.”

We think that there should be a **public debate on the largest Swiss company** and the largest independent energy trader worldwide and its impacts on human rights. Decisions with potential negative human rights impacts should not be taken behind closed doors but should be subject to public scrutiny.

CSR and philanthropy projects

We welcome the CSR projects and measures in Ghana and Côte d’Ivoire that Vitol presented in the letter. CSR measures are important and they can contribute to the well-being of local communities. But we would like to stress that CSR measures do not replace a robust and credible human rights policy and approach.

Conclusions

Vitol states that the “report is full of false information and incorrect assumptions and the conclusions which are drawn are consequently wrong.”

The main conclusions of the report are the following:

- “From publicly available documents and information, it appears that Vitol’s **human rights approach at Group level is weak.**”
- “Given, however, that Vitol has a high turnover, works with numerous suppliers and trades high-risk commodities, such as coal and oil, we believe Vitol **should put in place a comprehensive human rights approach.**”

We still believe these conclusions are valid and we hope that Vitol will reconsider some of its positions in the near future. In any case Bread for all is interested in and open to discussing those questions further in a face-to-face meeting with Vitol’s representatives.

We look forward to continuing the dialogue with Vitol within the stakeholder working group for the implementation of the UN Guiding Principles on Business and Human Rights in the commodity trading industry.

Yours sincerely,

Beat Dietschy
General Secretary

Yvan Maillard Ardent
Programme Officer Business & Human Rights