

INTERNATIONAL RIGHT TO KNOW:

Empowering Communities Through Corporate Transparency



You Have a
Right to Know



INTERNATIONAL
RIGHT TO KNOW
CAMPAIGN

This Report Was Produced by:

AFL-CIO, Amnesty International USA, EarthRights International, Friends of the Earth, Global Exchange, Oxfam America, Sierra Club, Working Group on Community Right to Know

ACKNOWLEDGMENTS

The initial IRTK coalition members came together in the midst of vigorous public debate over economic globalization and its impacts on the environment, workers, and communities around the world. IRTK was launched as a means of providing a positive agenda on these issues. This report is a major step toward our goal of empowering communities at risk around the world to demand what is right and just for them and for us.

So much time and effort have gone into producing this report since participating groups first met in February 2000 to discuss corporate disclosure issues that it is easy to lose track of individuals who have contributed to its production. There is not enough space and human memory gigabytes to identify every organization and individual that has contributed to this process, but we will try. The following organizations and their representatives contributed to the development of this report:

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Workers for NIKE subcontractor in Indonesia

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Recent protest in Bhopal

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– President George W. Bush, referring to the need to regulate U.S. corporations, July 9, 2002

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INTRODUCTION

THE UNKNOWN KILLS

Shortly after midnight on December 3, 1984, one of the world's worst industrial disasters unfolded in Bhopal, India. Under the cloak of night, over 40 tons of lethal gases, including methyl isocyanate, which contains cyanide, leaked from a pesticide plant in the northern part of the city.

The streets of Bhopal filled with the bodies of thousands of victims, many suffering violent deaths in the grip of the potent poisonous gas. Today, hundreds of thousands of people still suffer debilitating health effects. By some estimates, the death toll has risen to 16,000 or more.

In addition to the human toll, the Bhopal tragedy is shocking for two reasons. First, the pesticide factory was owned and operated by an American company, the Union Carbide Corporation, now owned by the Dow Corporation. Second, it was entirely preventable. In order to cut costs, Union Carbide ignored numerous public warnings and avoided safety precautions that the company would have had to follow in the United States.

However, the single biggest factor in the Bhopal disaster, beyond the dangerous process in us, was the failure of Union Carbide to adequately inform the Indian government, its workers, and the surrounding community of the dangers. In order to avoid stringent safety regulations, Union Carbide hid information about the toxicity of the chemicals used at the plant. The price of this failure to disclose critical information was ultimately paid in thousands of lives.

Even more disturbing, what happened in Bhopal is not unique. As this report will describe, many other cases around the world demonstrate the urgency of providing critical information about a company's operations in order to protect the environment and the lives and human rights of local communities and workers.

The Bhopal accident led to the creation of U.S. law requiring disclosure of some key information, but even these laws do not apply to the Bhopal case, or to any U.S. company's operations abroad.

The International Right to Know coalition believes that it is time to address this critical gap in information about U.S. company practices that damage the environment, violate human rights, and endanger workers in countries around the world.

THE NEED FOR INTERNATIONAL RIGHT TO KNOW

The scope of the Bhopal disaster, the lives lost and the victims who continue to suffer health consequences, shocks people around the world to this day. Many wonder, "How could an American company behave so recklessly?"

Making matters worse, while Bhopal is an extreme example, there are numerous other cases of U.S. companies and their subsidiaries and contractors behaving recklessly, endangering communities, and collaborating with oppressive governments to increase profits. Foreign investment by U.S. companies can bring benefits to communities abroad. Yet, too often, American companies have been implicated in environmental abuses, human rights violations, and poor labor practices. At a time when financial scandals have undermined faith in U.S. companies at home, these abuses by American companies doing business abroad have compromised America's reputation around the world.

These conditions call for more public disclosure, more transparency, and more accountability. Without information, local communities live in the dark, employees unknowingly work in harms way, shareholders make uninformed investments, and U.S. consumers are unaware of the true costs of their purchasing decisions.

With the 100 largest U.S.-based multinationals taking in \$1.44 trillion in combined revenue from overseas operations in 2000, according to Forbes Magazine, and with America responsible for about one quarter of all natural resource consumption on the planet, the need for U.S. leadership on this issue is clear. That is why more than 200 environmental, labor, human rights, faith-based, community, and social justice organizations have united to promote International Right to Know standards.

CONSUMER RIGHTS

Do you know under what conditions the clothes you wear were manufactured, the gas you burn in your car was extracted, the gold in the jewelry you own was mined, or the television set you watch was assembled? As a consumer of these and other products, don't you have a right-to-know?

American consumers who buy products from overseas too often become unwitting accomplices in destructive activities. The right-to-know loophole makes it all but impossible for U.S. consumers to know how products were manufactured abroad.

AMERICA'S DOMESTIC RIGHT TO KNOW

In the wake of the Bhopal disaster, public demand in the U.S. grew for better domestic standards. Communities worried, "Could something similar happen here?" Concerned citizens mobilized to support their "right-to-know" what chemicals were being used at local facilities.

In 1986, the U.S. Congress responded by passing the Emergency Planning and Community Right to Know Act (EPCRA). This law, the cornerstone of U.S. right-to-know laws, requires companies to disclose information about the chemicals they use, store, and release from their facilities. The U.S. government provides this information in a publicly accessible database known as the Toxic Release Inventory. These disclosures help to safeguard communities in the United States, giving people better tools to monitor companies, protect themselves, and promote strong health and safety standards.

"I am convinced that ecology cannot be kept secret. Environmental openness is an inalienable human right. Any attempt to conceal any information about harmful impact on people and the environment is a crime against humanity."

– Alexandr Nikitin,
Russian environmentalist

DISCLOSURE HAS WORKED IN THE U.S.

In the United States, the Toxic Release Inventory has been hailed as a model by both citizens and businesses. TRI requires companies in a wide range of industries to publicly disclose their annual emissions of toxic chemicals into land, air, and water.

The TRI program provides communities and workers essential information about the conditions they face, information that has often been used to take action. For example, TRI has been used to convince IBM to phase out ozone depleting CFCs, and has helped a local community obtain a commitment from BF Goodrich to reduce its toxic airborne emissions by 70%.

Many other businesses have improved their practices in response to the toxics right-to-know law, following the dictum that "what gets measured gets managed." According to EPA data, industries reduced releases by almost 50% in just the first decade of TRI. In 1995, the Chemical Manufacturers Association lauded TRI as a "very successful venture."

Investors in the stock market have also benefited. Statistical analyses show that valuations of companies have been affected by TRI data, with the benefits going to more responsible companies.

A RIGHT-TO-KNOW LOOPHOLE

Ironically, domestic right-to-know laws drafted partly in response to Bhopal, do nothing to prevent another Bhopal outside the United States. U.S. companies operating abroad are not required to disclose information that they are required to disclose when they operate in the U.S. The lack of disclosure has resulted in environmental, labor, and human rights abuses, which have given rise to public distrust of the U.S. in communities around the world.

In a world that has grown exponentially more interdependent (see Foreign Direct Investment chart), this disclosure gap is a dangerous imbalance that challenges global economic and political stability and contributes to a growing number of people who have limited means of protecting and empowering themselves.

This report documents several recent cases where U.S. companies have engaged in irresponsible and destructive practices. The costs are not just felt by the endangered and victimized communities around the world. They are felt here at home. When U.S. companies act irresponsibly, America's reputation is on the line.

In the modern world of integrated markets and political interdependence, we cannot afford to have U.S. companies acting as poor ambassadors of America's ideals. America has a responsibility, rooted in our own self-interest, to promote more transparency and accountability around the world so that communities are empowered and civil society has the chance to flourish.

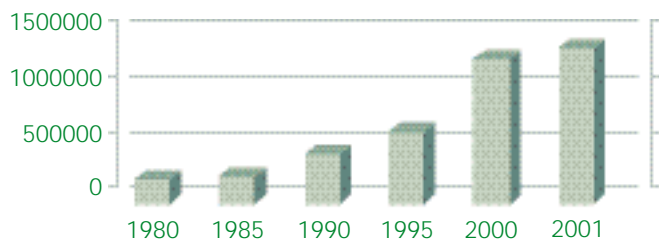
This starts with establishing International Right to Know disclosure standards based on the principles of existing domestic disclosure standards that protect communities in the U.S.

WHAT IS INTERNATIONAL RIGHT TO KNOW?

Put simply, International Right to Know (IRTK) is an effort to close the right-to-know loophole by requiring companies based in the U.S. or traded on U.S. stock exchanges and their foreign subsidiaries and major contractors to disclose information on overseas operations along the lines of domestic disclosure standards. IRTK would apply to facilities like Union Carbide's former pesticide plant in Bhopal, giving the local residents the same rights as Americans to obtain well-organized information about toxic chemicals in their communities.

IRTK goes beyond environmental disclosures and includes information relating to labor and human rights practices. This is because there have been too many cases, such as those mentioned in this report, where U.S. companies have been complicit in human rights abuses, forced relocations, forced labor, child labor, and a wide range of other unsafe operating practices. In the United States, right-to-know laws primarily cover toxic chemicals as well as aspects of workplace safety. Other aspects of operations, such as the employment of children or the conduct of secu-

U.S. FOREIGN DIRECT INVESTMENTS Outward Stock (in millions US\$) 1980 – 2000



Source – United Nations Conference on Trade and Development

WHAT'S MISSING? INTERNATIONAL DISCLOSURE STANDARDS ON:

- **Environmental impacts** – data on toxic releases and health risks to the local community,
- **Labor standards** – information on worker exposure to dangerous chemicals and basic labor practices including child labor,
- **Human rights practices** – terms of agreements between U.S. companies and local security forces, and
- **Community relocation** – information on whether and how many people were forcibly relocated from their homes to accommodate U.S. business interests.

rity firms, may not require disclosure, but are regulated in the United States.

While IRTK does not attempt to extend U.S. restrictions on these activities, it does include disclosure requirements for practices that, if done in the United States, would be regulated. IRTK also reflects the spirit of existing and emerging international standards and practices, including the Universal Declaration of Human Rights, the labor standards embodied in the International Labor Organization, and the United Nations Code of Conduct for Law Enforcement Officials.

The main purpose of this initiative is to empower communities around the world with information, a vital tool for promoting community rights in decision-making processes pertaining to economic development.

THE FOREIGN CORRUPT PRACTICES ACT

Enacted in 1977, the Foreign Corrupt Practices Act (FCPA) was designed to combat the once widespread practice of U.S. corporations bribing foreign officials; the FCPA makes such bribes a crime.

By all accounts, the FCPA has been a success. In the 1970s, over 400 American corporations admitted making corrupt payments to foreign officials to secure business contracts. Since the FCPA was passed, this practice has come to a virtual standstill, and American corporations are widely regarded as the among most ethical players in international commerce.

This experience has several lessons for IRTK. First, enforcing a law involving American corporations overseas is not impossible. Second, criminal prosecutions are not necessary to change behavior. In fact, in the first 18 years of the FCPA, there were only 16 prosecutions for bribery. The primary means of enforcement has been through the FCPA's reporting provisions, which require companies to keep better records of expenses and payments. Finally, the United States can provide leadership internationally by raising its own standards. Since passing the FCPA, the U.S. has promoted a strong anti-bribery treaty, which will ensure that European and other companies behave as honestly as their American counterparts.

WHAT INTERNATIONAL RIGHT TO KNOW IS NOT

IRTK is not a "Code of Conduct" and would not extend U.S. operational standards to foreign operations. It would not impose any limitations or requirements on the conduct of U.S. companies in other countries.

American corporations would still be able to conduct their operations like any other company. The difference would be that the American people and the local communities in which the corporations operate, would have a right-to-know basic facts about the impact of company operations.

Some U.S. laws, such as the Foreign Corrupt Practices Act, which prohibits bribery in foreign countries, already regulate the activities of U.S. businesses operating abroad. FCPA in many respects is a model for the success of extending American values to U.S. companies operating overseas. IRTK would complement these laws.

WHY DO WE NEED INTERNATIONAL RIGHT TO KNOW?

There are practical and ethical reasons for empowering communities around the world through IRTK disclosure standards. These reasons include standing up for the planet's natural resources, defending people's health and safety, promoting labor rights, and championing human rights. There are also principled ideas that promote good governance, including a belief in transparency, responsibility, accountability, and fairness.

But there are also direct impacts on day-to-day life in the U.S. that ought to compel Americans to support IRTK. Here are some examples:

- **Companies as Good Ambassadors** – American companies represent our country. They are engines for economic growth, but they are also informal ambassadors of our country and our ideals. IRTK is one way to ensure that U.S. companies represent positive U.S. values abroad.
- **Faith in U.S. Companies** – Financial scandals here in the U.S. have rocked faith in American companies. IRTK would be just one way to rebuild confidence in American companies by proving to the world that we take seriously not only disclosure and transparency, but also the well-being of others in the world.
- **Consumer Choice** – The free market only works when consumers are informed about the products they purchase. IRTK will help build awareness among American consumers about how our purchases impact communities around the world.

- **Economic Sustainability** – The United States, as the world’s biggest consumer and greatest beneficiary of the global economy, has a tremendous stake in the long-term viability of global economic integration. IRTK will help build constructive information-sharing relationships with communities around the world.
- **Level Playing Field** – U.S. companies will benefit from uniform disclosure standards when operating abroad.
- **Legal Liability** – U.S. companies such as Unocal and ExxonMobil have been sued in U.S. courts for harmful practices overseas. IRTK will help improve business behavior so foreign nationals do not have to seek justice in court.
- **U.S. Leadership** – European companies have recently taken the lead in promoting corporate social responsibility. IRTK will be a major step in putting American companies out front on these issues.
- **Support for U.S. Companies** – By sharing information with communities around the world, IRTK will help U.S. companies gain the confidence of people living near and working for U.S. facilities abroad.
- **Improve U.S. Companies** – As the old saying goes, what gets measured gets managed. Disclosure standards can help ensure greater efficiency and better management at U.S. facilities overseas.
- **Complement to Foreign Aid** – One of the goals of foreign aid is to help empower communities to take control of their own development. IRTK will attain these goals in a cost-effective way.



Ashley Gilbertson, OxfamCAA ©

Security guard at NIKE subcontractor in Indonesia

ENRON: THE FCPA AND IRTK

In the wake of the Enron accounting scandals, the U.S. government is taking a closer look at Enron’s international operations. Federal investigators are trying to determine if Enron violated the Foreign Corrupt Practices Act in securing several of its overseas projects, including the Dabhol power plant in India. Under the FCPA, Enron was required to keep records of all of its payments, making the investigation much easier.

This alleged corruption, however, is only one element of Enron’s questionable behavior at Dabhol. Human Rights Watch and Amnesty International have documented Enron’s complicity with human rights violations committed by police forces that the company had hired to protect the Dabhol power plant. Unlike payments to government officials, there is currently no requirement that Enron keep records of, or disclose, the nature of its relationship with local security forces or human rights complaints against them. IRTK would close this loop-hole, ensuring that companies like Enron cannot keep their misdeeds from surfacing.

Americans like to think of themselves as good neighbors in the global community and that American companies behave responsibly in ways that reflect well on our country. Unfortunately, American companies have not always lived up to those ideals.

The following stories offer a sample of instances where U.S. companies have engaged in environmental, labor, and human rights abuses. While International Right to Know standards would not fix all the problems of the global economy, they would help prevent the types of incidents documented here.

NEWMONT: TOXIC WASTE AND THE REAL PRICE OF GOLD

The self-proclaimed “gold standard for the 21st Century,” Denver-based Newmont Mining recently became the largest gold mining corporation in the world following its acquisition of two other major international mining companies. With operations in Australia, Peru, Indonesia, New Zealand, North America, Turkey, and Uzbekistan, Newmont had revenues of \$1.66 billion in 2001 and \$1.82 billion in 2000.

Newmont claims to be committed to corporate responsibility by “building trust through partnerships with stakeholders, and demonstrating integrity, creativity and excellence in all behaviors.” The company also claims to be committed to “excellence with regard to environmental matters.” Yet its history involving toxic waste belies these claims.

In June 2000, almost 300 pounds of mercury from the company's Yanacocha mine in Peru accidentally spilled from a truck onto the road. Newmont had failed to warn local residents in advance of the danger of the mercury shipments through their communities, and many of them picked up the metallic liquid after the spill and took it home, thinking it was valuable. Within three weeks, between 200 and 300 people were hospitalized with mercury poisoning. The community of Choropampa is still feeling the devastating aftermath of the spill, and many residents believe that Newmont has not adequately compensated them for the economic and social costs that the community has incurred.

In fact, Newmont's Yanacocha mine, spotlighted on the company's website as an example of the company's commitment to social development, has been a longstanding



Project Underground ©

Newmont's Yanacocha mine in Peru

focal point for concerns about the mining giant's toxic waste. Located at a high altitude near the city of Cajamarca in northern Peru, Yanacocha is the second largest gold mine in the world and Latin America's largest. The mine's equity is owned 51.35 percent by Newmont, 43.65 percent by Buenaventura of Peru, and five percent by the International Finance Corporation of the World Bank Group. In 2001, Yanacocha produced 1.9 million ounces of gold.

As at Newmont's other mining sites, the Yanacocha operation uses “cyanide heap leaching” to extract gold from the ore. Local residents allege that toxic releases generated by the mining process have entered the streams and rivers in the Cajamarca region around Yanacocha. According to a study by the Peruvian government's Technical and Scientific Commission in 2000, levels of aluminum, zinc, copper, iron, and manganese significantly exceeded World Health Organization (WHO) guidelines at multiple river and stream sites in the area. At one site, aluminum concentrations exceeded WHO limits by more than 15 times.

Newmont has failed to disclose critical information about its toxic releases to the Peruvian public, but information concerning the company's operations in the U.S. underscore the likely extent of its toxic impact in Peru and elsewhere around the world. Under the Emergency Planning and Community Right to Know Act (EPCRA), Newmont has been forced to tell the American public that the company released 260,600,210 million pounds of arsenic compounds, 9,920,143 million pounds of lead compounds, and 1,363,000 million pounds of mercury compounds in the United States alone.

Yet Newmont has thus far failed to respond to a request from Friends of the Earth in April 2002 to release comparable data for its overseas operations, including the Yanacocha mine. Because this information is not being disclosed, it is simply unknown how many millions of pounds of toxins Newmont Mining Corporation, and the entire mining industry for that matter, are releasing outside the United States.

International Right to Know would require corporations like Newmont Mining to:

- Disclose certain toxic releases to land, air, and water comparable to information that is required under the Toxics Release Inventory of the Emergency Planning and Community Right to Know Act of 1986 (EPCRA, Section 313).
- Disclose information on hazardous chemicals in the workplace, in accordance with U.S. law under EPCRA and OSHA.

(Primary Sources: Friends of the Earth and Oxfam America)

DOE RUN: LEAD POISONING LEGACY

St. Louis-based Doe Run, the world’s second largest lead mining and smelting company, claims on its web site to have an environmental commitment to “[c]ontinual improvement to make workers and community [sic] safe.” For two communities on opposite sides of the equator, one in the U.S. and the other in Peru, these are just words.

According to the EPA, Doe Run is the biggest polluter in the state of Missouri, largely due to emissions from its 110-year old lead smelter in Herculaneum, a town along the Mississippi River south of St. Louis. Emissions from the site have caused lead poisoning in 30 percent of the town’s children. Former U.S. House of Representatives minority leader Richard Gephardt, whose district includes Herculaneum, has called the situation a “public health emergency.” In 2000, the EPA ordered the company to clean up lead contamination and pay to relocate families living in the most polluted areas.

As hazardous as the Herculaneum site is, the situation in the Peruvian town of La Oroya is immeasurably worse, literally. Because Doe Run is not required to disclose the same toxic emission data at its Peruvian facility, it is impossible to get a full picture of the problems.

Researchers have found that 90 percent of children in the city have blood-lead levels above acceptable international standards; nearly 20 percent have lead levels that should require hospitalization. Emissions of sulfur dioxide, cadmium, and arsenic are also dangerously high. Exposure to these substances can have potentially fatal impacts on human health.

Community organizers have found that the company is protected by the government, which has granted authority to Doe Run to direct its own environmental oversight.

The parallel examples of Doe Run’s operations in Herculaneum and La Oroya show how companies do not always respect the health and safety of local communities. The difference is that thanks to disclosure standards in the U.S., the residents of Herculaneum have empowered themselves with information. The people of La Oroya deserve no less.

(Primary Source: Oxfam America)



Keith Slack, Oxfam America ©

Doe Run Smelter in Peru

UNOCAL: SECURITY CONTRACTS WITH HUMAN RIGHTS ABUSERS

With operations in 14 countries around the world and \$6.7 billion in revenue in 2001, the California-based Unocal Corporation is one of the largest independent oil and gas exploration and production companies headquartered in the United States.

Unocal claims to respect human rights and the environment in all of their activities, even referencing the Universal Declaration of Human Rights on their website. Unocal, however does not advertise that it uses the Burmese military, with its abysmal human rights record, as a security force for its investment in Burma.

Human rights groups have gathered copious evidence that Burmese military battalions have committed countless human rights abuses. Soldiers have relocated villages, tortured innocent villagers, murdered people without reason, and raped women. The most pervasive abuse is forced labor, in which ordinary villagers are regularly conscripted to work for the military. This work includes carrying heavy loads of food and ammunition for the soldiers on their patrols.

In 1993, Unocal joined the French oil giant Total (now TotalFinaElf) in developing the Yadana gas pipeline, which would transport gas from offshore Burmese reserves across Burma and into Thailand. Another member of the Yadana consortium is the state oil company of military-ruled Burma; thus, Unocal is in a direct partnership with the Burmese government.

From the beginning, Unocal denied that there were any human rights abuses associated with the Yadana project. A 1994 report to Unocal shareholders touted "absolute respect for human rights" on the project. What Unocal did not disclose, however, was that the project used the Burmese military to provide security and other services, a military that was notorious for torture, murder, rape, and the pervasive use of forced labor.

Unocal's relationship with the military became public only after it was sued by alleged victims of the pipeline project. Lawyers for the plaintiffs obtained U.S. State Department cables under the Freedom of Information Act, which told of how Unocal officials stated that they had "hired the Burmese military to provide security for the project," and that they paid the army through the state oil company. Internal Unocal documents, including correspondence with Total, revealed that Burmese troops had been "assigned to provide security" on the pipeline project and that "four battalions of 600 men each" were used to protect the pipeline corridor.

"Unocal knew or should have known that the military did commit, was committing and would continue to commit human rights abuses."

- U.S. Federal Judge Ronald S. Lew

Federal judge Ronald S. Lew found that the plaintiffs suing Unocal had evidence that "Unocal knew that the military had a record of committing human rights abuses; that the [Yadana] Project hired the military to provide security for the Project, a military that forced villagers to work and entire villages to relocate for the benefit of the Project; that the military, while forcing villagers to work and relocate, committed numerous acts of violence; and that Unocal knew or should have known that the military did commit, was committing and would continue to commit" human rights abuses. A U.S. Federal Appeals Court agreed with this description, characterizing the forced labor as "a modern variant of slavery."



EarthRights International ®

[The decisions in *Doe V. Unocal* so far have ruled only on jurisdiction and standard of liability matters. In the course of hearings for those rulings, Federal and State judges have found that there is "some evidence" of abuses for which Unocal might be held liable. No trial has been held in the case. A trial in California State Court is scheduled for February 2003.]

The revelation that Unocal is using the Burmese military, well known for its abusive methods, to provide security for its project has serious implications for Unocal's moral and legal obligations regarding the behavior of security forces it employs. If Unocal had been required to disclose this relationship from the beginning, it might have considered other options rather than admit that it was hiring a military known for committing serious human rights violations.

International Right to Know would require corporations like Unocal to:

- Disclose whether they have formal or informal arrangements with any security force, including military, police, paramilitary, or private security forces.
- Disclose whether they have policies or agreements relating to respect for human rights and use of force by their security personnel, and what they have done to implement such policies.
- Disclose whether they are aware of any complaints against them or their security forces for human rights violations.

(Primary Source: EarthRights International)



EarthRights International ®

NIKE: SACRIFICING HEALTH TO MAKE EXERCISE GEAR

Nike is one of the largest and most profitable sports shoe, clothing, and equipment companies in the world with more than 700 factories producing Nike products in over 50 countries. In 2001, the company netted \$589 million in income from nearly \$9.5 billion in sales.

The company likes to say that it strives to be a responsible global citizen and supports transparency in its operation. Nike has made some improvements in the past decade, mainly in response to criticism from labor rights and human rights groups, such as signing on to voluntary initiatives, disclosing factory locations, and eliminating the use of toxic glues at the workplace. Yet much of this is mere window dressing.

While some factories have witnessed improvements, most workers at Nike contractors still suffer routine abuses of their basic labor rights. For the more than 500,000 overseas workers making Nike shoes and apparel, excessive work hours, poverty wages, harassment, and restrictions on organizing are still the norm. Although Nike's own code of conduct states that the company respects the right to freedom of association, it operates in numerous countries where labor rights abuses are widespread and not easily documented, such as Vietnam, Indonesia, and China.

Nike's contractors in Indonesia have brought the company bad media exposure. In September 1999, a U.S. student delegation observed Indonesian soldiers stationed at the PT Nikomas Gemilang factory at a time when wage negotiations were being conducted. When this was brought to Nike's attention, company representative Dusty Kidd responded that Nike had "specifically instructed factories not to allow military personnel to be stationed on factory premises." The factory then replaced the soldiers with non-military security.

Subsequently, during a peaceful strike action by workers at PT Nikomas Gemilang on December 18, 1999, armed police were called into the factory and together with factory security guards threatened and provoked workers. As recently as January 2002, workers at PT Nikomas Gemilang reported that soldiers were again being employed by the factory and were stationed in front of the plant. The soldiers' presence at the factory increases workers' fear that union involvement or participation in industrial action could put their livelihoods and safety at risk.

Restrictions on organizing are not the only labor rights violations that workers at Nike factories face. Unless properly managed, the processes involved in sport shoe production can pose very serious risks to workers' health and safety. Potential problems include exposure to dangerous chem-



Ashley Gilbertson, OxfamCAA ©

Workers for NIKE subcontractor in Indonesia

"Factory managers abuse and harass us because they think it will increase our productivity. They don't understand that people work better when they are treated in a way that respects their needs. Humans cannot work like that. We are not machines."

- Translation of comments by Nike worker. Focus group discussion, 21 January 2002. Name of worker and factory concealed at worker's request.

icals used in glues that can cause respiratory and neural illnesses; musculoskeletal disorders from repetitive motion injuries and heavy lifting; acute injury hazards such as lacerations, amputations, crush injuries, or falls; and exposure to excessive heat or noise.

But few of the countries where Nike operates require records about work-related injuries or illnesses. Indonesia, where Nike subcontractors employ more than 100,000 people, does not require that companies keep any health and safety records. Visits to Nike factories by American health and safety experts indicate that the company has done little to minimize these workplace hazards and provide workers with protective equipment and adequate health and safety training.

Incredibly long hours and forced overtime represent another threat to workers' health. At the PT Pratama Abadi plant in Indonesia, employees generally work ten hours a day, six days a week. According to American health and safety experts, studies have shown a clear link between excessive overtime, worker fatigue, and injuries—when workers are tired, they are more likely to become careless and injure themselves.

Nike has already publicly made it clear that transparency and disclosure of work conditions in its factories are important for socially responsible businesses. But labor rights violations persist and often only come to light because of the determined efforts and sustained public pressure of non-governmental organizations. International Right to Know would provide a consistent framework for Nike to report on the health and safety at its factories and its use of security personnel. It would empower local communities to ensure that Nike is living up to its self-proclaimed standards and would allow consumers around the world to know under what conditions their sporting goods are produced.

International Right to Know would require corporations such as Nike to:

- Disclose what sort of arrangements—informal or formal—the company's contractors have with any public or private police, military, or security forces.
- Provide information on the hazardous chemicals used at the workplace.
- Submit a summary of work-related injuries and illnesses, as defined by the U.S. Occupational Safety and Health Administration.

(Primary Source: Global Exchange)

THE TOY INDUSTRY: MADE FOR CHILDREN BY CHILDREN

It is a right of passage of sorts for children around the world and a brilliant marketing technique for the world's largest fast food chain: the McDonald's Happy Meal, which entices young customers by offering a free toy, is a routine part of the lives of families with young children around the world.

Normally, McDonald's goes to great lengths to publicize its Happy Meal toy, which McDonald's often uses for cross-marketing purposes to help advertise a new movie or television show.

In the summer of 2000, however, headlines out of Southeast Asia threatened to take some luster off the golden arches. A report in Hong Kong's Sunday Morning Post in late August 2000 revealed that a Happy Meal toy manufacturer, China-based City Toys Limited employed children as young as 13 to assemble the "Happy Meal" toys. These young teenagers were reportedly forced to work 16-hour days, seven days a week, and lived in crowded on-site dormitories for a salary of less than \$3 per day.

This press exposure presented McDonald's with a public relations disaster of global proportions. Over the next couple of weeks, McDonald's scrambled to distance itself from City Toys, a subsidiary of a McDonald's contractor. McDonald's denied any knowledge of the use of child labor, quickly severed its ties to City Toys, and moved its toy production line elsewhere. This "cut-and-run" decision left hundreds "of age" workers without work. Since McDonald's is not required to disclose information related to its overseas contractors, it is difficult to trace where McDonald's moved its operations and what the working conditions are like at the new facilities.

McDonald's is not the only U.S. company that has been accused of employing child labor through contractors in the manufacture of toys. A January 2002 report by the National Labor Committee found that brand-name companies like Wal-Mart, Toys 'R' Us, Disney, Mattel, and Hasbro contract with companies in China where working conditions are harsh, work days long, and child labor widespread.

Other human rights groups including the Hong Kong-based Christian Industrial Committee have produced similar reports on widespread use of child labor in China. In August 8, 2002, the Chinese government ratified International Labor Organization (ILO) Convention 182, which calls for immediate action to ban the worst forms of child labor and recently issued a directive banning the use of child labor effective December 1, 2002. It is, however, too early to access the impact of this directive, and there is generally a wide disparity between legal reforms in China and their actual implementation.



"It's a game to them, when the bosses come to check the factories they make everything look good for the inspection. But after they leave it's back to business as usual."

– Anonymous Chinese labor official quoted in a story by United Press International, 2/25/02

Numerous obstacles in obtaining information at these facilities, which include the fear of reprisals from factory workers, render it impossible to accurately assess the full scope of the problem. The nature of the abuses researchers have been able to document should, however, worry every toy-purchaser in the U.S.

According to the National Labor Committee, 71 percent of all toys imported into the United States are made in China, where labor laws are extensively ignored as a matter of routine and where health and safety regulations are also inadequate. Toy manufacturers in Guangdong, China, the toy assembly hub of the world, employ more than one million workers. Many of these workers are forced to work excessively long days and handle toxic substances in enclosed facilities with few safety precautions. In many cases, when workers try to organize, government officials unleash a variety of repressive tactics, including detention and harassment of labor activists. Amnesty International reports have also documented and expressed concerns about cases of labor activists detained in psychiatric hospitals.

There is currently no way of knowing precisely how many out of the one million workers are child laborers. However, news reports indicate that child labor is widespread and factory managers go to great lengths to hide to hide the problem.

A Chinese provincial labor official, speaking with United Press International on condition of anonymity, admitted that when inspections are scheduled, factory managers are routinely tipped off and send child workers home. "It's a game to them, when the bosses come to check the factories they make everything look good for the inspection," the official told UPI. "But after they leave it's back to business as usual." [UPI, 2/25/02]

Child labor is by no means isolated to China. A 2002 ILO report estimates that worldwide 211 million children between the ages of five and 14 are employed. While the majority of these laborers, 127 million, are from Asia, other trouble spots include Africa, Central and South America, and South Asia.

Foreign contractors have developed sophisticated techniques to hide their child labor practices, which has frustrated labor rights organizations throughout the world. Complicating the problem, U.S. companies that hire foreign contractors too often fail to independently investigate working conditions at the facilities. As a result, the rate of child labor used to manufacture products sold by U.S. companies and purchased by U.S. consumers is all the more difficult to track. IRTK would help lift the veil of secrecy and expose the extent of child labor around the world.

International Right to Know would require U.S. toy distributors to:

- Disclose how many workers under 16 are employed by subsidiaries and contractors.
- Disclose information about and the location of all overseas facilities, making "cut-and-run" tactics more difficult.

(Primary Sources: National Labor Committee and the U.S. Department of Labor)

FREEPORT MCMORAN: PROFIT BY LAND GRAB

Freeport McMoRan, based in Louisiana, is one of the largest gold and copper producers in the world. Its largest asset is a massive open-pit mine in Papua, the Indonesian-controlled half of New Guinea. Freeport boasts that this mine produces high volumes of ore at very low cost.

What Freeport does not publicize is that its mining operations in Papua have caused the displacement of entire communities and widespread environmental destruction. Instead, Freeport claims that it is dedicated to “the protection of human rights.” Its social policies indicate that the company consults with “local populations about important operational issues that will impact their communities.”

The Amungme and Kamoro peoples tell a different story. In 1995, leaders of these indigenous communities discovered that government records indicated they had ceded thousands of square miles to the government for Freeport’s mining operations. They are seeking the return of these lands, and compensation for property that has been taken and destroyed by Freeport.

When Freeport began its operations on Kamoro and Amungme lands in 1967, these communities numbered several thousand people, who depended on the area’s forests and rivers for their livelihood. In the face of stiff community opposition and backed by the Indonesian military, Freeport confiscated their territory, without consultation with or consent by local landowners.

Freeport’s contract with the Indonesian government, written by the company itself, gave it broad powers over the local population and resources, including the right to confiscate land, timber, water, and other natural resources without paying taxes and to resettle indigenous inhabitants. The company gave no compensation for taking gardens, hunting and fishing grounds, and other areas that sustained the lives of the Kamoro and Amungme.

As Freeport constructed its mining base camp, port site, milling operations, roads and other infrastructure, Kamoro and Amungme villages were forcibly relocated, and the villagers were barred from lands now under the company’s control. According to affected community members, former Freeport employees, and academic researchers, tactics from bombing to bulldozing resulted in the displacement of villagers. Freeport’s operations have devastated indigenous communities’ economic, social, cultural, and political fabric as local people have been internally displaced, brutalized by the Indonesian military, and dispossessed of their lands.

In one case, highland villagers were relocated to lowland camps. A malaria epidemic ravaged the community, which was weakened by hunger and illness, killing an estimated one-fifth of the children.

“For all this time many problems have occurred in our land, the Amungsa area, which have never been completely or thoroughly resolved. Then our land has been occupied by PT Freeport Indonesia from 1967 to the present. Since this giant American-owned mining company has been operating on the land of our ancestors we have experienced much suffering.”

– Written statement by more than 45 Amungme community leaders, February 2000.

The company has never disclosed to shareholders or financial analysts how its operations caused the displacement of these communities or included in its financial accounting the costs of the destruction it has caused. Instead, corporate management boasts of Freeport's social conscience and reap huge profits from the mining operation.

In addition to displacing communities, Freeport's operations have wreaked havoc on the environment. Freeport's mine is leveling a mountain sacred to the Amungme, and the company has dumped millions of tons of mining waste ("tailings") into local river systems. In an unprecedented move spurred by Freeport's waste dumping, the U.S. Overseas Private Investment Corporation (OPIC) revoked Freeport's \$100 million political risk insurance in October 1995, stating that the mine had "created and continues to pose unreasonable or major environmental, health or safety hazards with respect to the rivers that are being impacted by the tailings, the surrounding terrestrial ecosystem, and the local inhabitants." Despite this move, Freeport continues its destructive practices and has doubled its daily tailings dumping since the OPIC decision.

Finally, the Indonesian military has cracked down violently on those who resist Freeport's operations. Indonesia's National Commission on Human Rights has concluded that clear and identifiable human rights violations have occurred in and around Freeport's project area, including indiscriminate killings, torture, and inhumane or degrading treatment, unlawful arrest and arbitrary detention, disappearance, excessive surveillance, and destruction of property. The commission noted that these violations "are directly connected to [the Indonesian army]...acting as protection for the mining business of PT Freeport Indonesia."

Freeport is not required to disclose whether it has a formal security arrangement with the Indonesian military. Documents leaked by company insiders, however, show Freeport expenditures of nearly \$10 million for military and police headquarters, recreational facilities, guard posts, barracks, parade grounds, and ammunition storage facilities. Knowledgeable observers state that this is just the tip of the iceberg. In response, company officials claim that Freeport's contract requires the provision of logistical support to the Indonesian military and police, an assertion that a careful reading of the contract belies.



Project Underground ©

Freeport McMoRan in Indonesia.

International Right to Know would require corporations like Freeport McMoRan to:

- Disclose whether their operations will require the displacement of any communities, the concerns raised by those communities, and what steps have been taken to consult with local communities and address their concerns.
- Disclose their policies for engaging local indigenous and tribal groups in decision-making processes, and the steps taken to implement these policies.
- Disclose their discharges of toxic wastes into the environment.
- Disclose whether they have formal or informal arrangements with any security force, including military, police, paramilitary, or private security forces.

(Primary source: "The Amungme, Kamoro & Freeport: How Indigenous Papuans Have Resisted the World's Largest Gold and Copper Mine," Cultural Survival Quarterly, Volume 25.1, March 2001.)

EXXONMOBIL: CORPORATE GIANT IGNORES PEOPLE AND THE PLANET

In 1998, Exxon and Mobil merged to become the largest energy and petrochemical company in the world, with an annual revenue of more than \$213 billion in 2001 and operations in over 200 countries and territories around the world. On its website ExxonMobil projects an image of a “good corporate citizen” that contributes to programs to promote the well-being of the environment and the communities in which it produces. The reality on the ground, however, tells another story.

For many Americans, the horrific events of the 1989 Exxon Valdez catastrophe are permanently imprinted in their memories: the crippled vessel, the nearly 11 million gallons of thick black crude oil oozing into the sea, the devastation of the coastal wildlife and habitat, the oil-soaked carcasses of sea otters, harbor seals, and cormorants. While the tanker tragedy along the U.S. shore continues to reverberate in the American consciousness, very few Americans are aware of the many other environmental and human rights problems associated with ExxonMobil investments overseas.

ExxonMobil has a history of working in politically unstable regions with governments that have a record of committing human rights abuses against their own people such as Chad, Cameroon, Colombia, Nigeria, Indonesia, Angola, and most recently China. Yet ExxonMobil has been slow to respond to appeals by major human rights groups to adopt a company-wide human rights policy and to reveal the arrangements under which it hires security forces to protect its facilities.

ExxonMobil's operations in Aceh, Indonesia, have been the subject of particular scrutiny among human rights and indigenous rights organizations around the world. The International Labor Rights Fund has filed a suit against the company in U.S. court for human rights violations committed by the Indonesian military hired by the company.

The suit alleges that ExxonMobil contracted with the Indonesian military to provide security for its natural gas project and offered its facilities to the military, which used them to torture and interrogate possible guerillas. The ILRF accuses ExxonMobil of allowing the military to use the company's construction equipment for harrowing purpose. Namely to dig mass graves for those murdered by the military. ExxonMobil is also charged with knowingly benefiting from the forced relocation of villagers in order to accommodate the company's facilities.

Indonesia is not the only place where ExxonMobil benefited from similar abuses. In Colombia, the entire village of Tabaco was forcibly relocated and the homes demolished to

“Exxon Mobil understood from the day it decided to begin its project in Aceh that the army units, Tentara Nasional Indonesia (TNI), assigned to protect company wells were notoriously brutal in their treatment of Indonesia’s ethnic minorities”

– Terry Collingsworth, general counsel of the DC-based International Labor Rights Fund

make way for the expansion of the world's largest coal strip mine at El Cerrejon Norte, which was majority owned by ExxonMobil's wholly-owned subsidiary Intercor. During the forced relocation, hundreds of soldiers and police forces were deployed, and there were numerous reports of violence with some villagers beaten and hospitalized.

In Chad and Cameroon, two countries with poor human rights records, ExxonMobil heads a consortium of companies involved in building a pipeline from oil fields in southern Chad to the Atlantic coast of Cameroon. Opponents of the pipeline have been harassed and imprisoned by government forces, and the Chadian government refuses to grant legal recognition to a community environmental group critical of the project.

Ongoing civil strife in the region worries many community leaders that increased militarization of the pipeline area will result in more frequent clashes between government



Martin Zin ©

ExxonMobil in Chad and Cameroon.

forces and armed resistance groups, which would leave local communities in the crossfire. Repeated requests from local communities and from international NGOs for ExxonMobil to disclose its security arrangements have been denied, leaving many in the pipeline's path fearing for their safety.

On the environmental front, while ExxonMobil claims to be "committed to maintaining high standards of safety, health and environmental care," it refuses to publish its environmental policies and how it implements them. Rather than take concrete steps to protect the environment, ExxonMobil has worked to undercut attempts to stop global warming while investing little in renewable energy.

ExxonMobil refuses to engage in even the most widely-endorsed forums for corporate social responsibility such as the Global Reporting Initiative and the United Nations Global Compact. It is a company with a record of corporate arrogance and abuse that declines to submit voluntarily to oversight of its overseas operations, its human rights practices, and its environmental policies.

International Right to Know would require corporations like ExxonMobil to:

- Disclose its security arrangements and human rights policies.
- Disclose its environmental policies and practices.
- Disclose whether communities were forcibly relocated to accommodate its business interests.

(Primary Source: International Labor Rights Fund)

IRTK IS NOT TOO ONEROUS

The only argument one can make against IRTK is that the disclosure requirements would be too onerous and costly and would put an unfair burden on U.S. companies. As we have highlighted earlier in the report, there are many reasons that U.S. companies should support better disclosure standards, whether to help improve management at overseas facilities or to improve U.S. business standing in the world.

The claim that IRTK would be too burdensome is contradicted by the fact that some of this reporting is already taking place at various development projects. ExxonMobil's Chad-Cameroon oil development pipeline project is one example.

ExxonMobil began construction on the World Bank-sponsored project in 2000. One of the terms of the World Bank agreement requires ExxonMobil's subsidiary, Esso Chad, to produce a progress report four times a year. The report documents many aspects of construction, including environmental, labor, community consultation, and human rights issues, all of which are part of the IRTK concept.

Many supporters of the Chad-Cameroon pipeline, including officials in the U.S. government and at the World Bank, tout the project as a "model for development." While the IRTK coalition disagrees with this assessment and stands with local communities organizing to improve conditions, Esso Chad's disclosure requirements prove two things. First, that such reporting is not too difficult and second that reporting standards are generally recognized as important aspects of successful projects.

Aren't voluntary initiatives sufficient?

Legally binding disclosure requirements are an important part of the International Right to Know Campaign. But why not simply rely on voluntary disclosure?

Unfortunately, voluntary right-to-know initiatives have always failed to produce uniform and complete information. For example, when non-governmental organizations and governments alike have sought unilateral disclosure of pollutant releases through voluntary reporting initiatives, most companies have refused to provide data. Despite disclosure by some groundbreaking firms, no precedent has been set for comprehensive voluntary reporting of toxic pollution across an entire industry. In Mexico, where reporting of toxic emissions has been voluntary, only about five percent of companies release data. IRTK is necessary precisely because multinational corporations have so frequently refused to disclose information about their environmental, human rights, and labor rights impacts.

Will IRTK be technically feasible?

International Right to Know reporting will require the U.S. government to manage information on environmental, human rights, and labor conditions from thousands of companies. Fortunately, modern computer databases are capable of easily storing, integrating, and presenting this data in an efficient, cost-effective manner.

IRTK envisions a data-management system in which companies submit the required information electronically. This will enable government agencies—such as the Environmental Protection Agency, which already has experience managing large databases—to make the information available to the public over the Internet and by other means. Technical studies done by the IRTK coalition and others, as well as experience with existing right-to-know programs, have demonstrated the feasibility of low-cost public data inventories.

Will IRTK be cost-effective?

Opponents of the International Right to Know claim that it will be prohibitively expensive, both to industry and to government. While IRTK will certainly cost money—nothing is free—the costs are not great.

Electronic filing and management of data, as noted above, will make IRTK efficient and cost-effective for the government. Cost analyses suggest that the amount the government will need to spend will be relatively small. While it will cost money for industry to gather this informa-

tion, the process of information-gathering may generally benefit corporations in the long run. Only what is measured can be managed—studies of domestic right-to-know laws suggest that when companies are required to collect data, they discover ways to improve the efficiency of their operations and their performance.

Finally, it is important to consider the potentially enormous costs of not having a right-to-know. Even apart from tragedies on the scale of the Bhopal disaster—tragedies that could have been prevented by IRTK—the lack of adequate information disclosure harms consumers, shareholders, workers, and the environment every day, and contributes to a dangerous resentment of American multinational corporations.

Will IRTK affect small businesses or companies that do little business abroad?

International Right to Know exempts small businesses—even medium-sized businesses—from reporting requirements. While the costs of reporting will not be great, IRTK will only impose those costs on larger multinational corporations that can easily afford them. As currently envisioned, IRTK would only apply to corporations with annual income greater than \$5 million.

Similarly, IRTK is designed to impose reporting requirements only on those corporations with significant international operations. Companies with only a small international presence will also be exempted from reporting requirements.

How will IRTK affect the competitiveness of U.S. corporations abroad?

Corporations may claim that their competitiveness will be harmed if they are required to engage in environmental, human rights, and labor rights reporting. At first, this may seem like a valid argument, but there are important reasons why it is not persuasive.

First, IRTK applies not only to corporations based in the U.S., but to any corporation traded on U.S. stock exchanges. Thus, any corporation that has access to American capital markets will need to engage in the same IRTK reporting that corporations based in the U.S. do.

Second, it is important to remember that IRTK is merely a set of reporting requirements—not standards for corporate behavior. Reporting will only be harmful to a corporation if that corporation has been taking advantage of the lack of

transparency and disclosure to gain a competitive advantage. We do not believe many corporations are doing so. IRTK will demonstrate this fact and shed light on those few companies that are not behaving as good corporate citizens.

Shouldn't each country have its own right-to-know laws?

Opponents of International Right to Know may argue that the U.S. should not impose reporting requirements throughout the world; instead, each country should pass its own domestic right-to-know laws that apply to corporations operating there.

In fact, IRTK would be unnecessary if each country had passed its own right-to-know laws. The problem is that many countries are competing to attract U.S. corporate investment, and none of them wants to impose additional requirements that might deter investors. This is sometimes called a "race to the bottom," in which each country keeps trying to relax its own environmental and labor regulations in a destructive cycle intended to attract investment.

A similar problem exists among states in the U.S.; each state is hesitant to impose reporting or other requirements out of a fear that corporations will relocate to another state. Federal laws have thus been necessary to prevent this "race to the bottom." Similarly, the U.S., as home to many large multinational corporations, has a special responsibility to lead the way in setting disclosure requirements internationally.

Eventually, we hope that each country will pass its own right-to-know laws. Organizations such as the European Union and the Organization for Economic Cooperation and Development have already urged their member countries to do so. In fact, parts of the IRTK initiative will not apply in countries that have passed their own right-to-know laws that mandate similar disclosure to IRTK.

Can U.S. laws extend to companies operating abroad?

Congress has the power to enact laws that apply outside the U.S. to companies that fall under U.S. jurisdiction. U.S. laws can apply abroad to companies incorporated in the U.S. or those registered with the Securities and Exchange Commission (SEC) to sell stocks—i.e., companies that are traded on U.S. stock exchanges. For example, the Foreign Corrupt Practices Act prohibits such companies from bribing foreign officials and requires them to track any payments they make to foreign governments. International Right to Know standards would similarly apply to companies incorporated in the U.S. and those registered with the SEC.

Will IRTK affect the security or trade secrets of U.S. corporations?

Some corporations may claim that IRTK requirements may jeopardize their trade secrets, or even their physical security. Security is always a concern in the modern world, but the fact is that IRTK will not harm either trade secrets or the security of international operations.

With respect to trade secrets, IRTK has the same protections for trade secrets as domestic right-to-know laws. Experience with these domestic laws suggests that disclosure of trade secrets has not been a problem, and in fact, relatively few corporations actually seek trade secret protections. Less than one percent of companies reporting information to the Toxics Release Inventory, a domestic right-to-know database, have ever requested trade secret protections.

Similarly, IRTK will require only the disclosure of potential impacts on the environment, human rights, and workers' rights and safety, not the vulnerabilities of corporations to criminal activity. IRTK reporting of many of these impacts, such as toxic chemical releases and storage, is no more extensive than required under domestic right-to-know laws. These domestic laws have not been a security hazard to corporations, and there is no reason to suspect that the IRTK initiative would, either. Furthermore, the vast majority of information covered by IRTK—such as environmental policies, or human rights claims against the corporation, or the ages of child laborers—is utterly irrelevant to site security.

This IRTK report is dedicated to the thousands of grassroots activists whose struggles are profiled in the pages of this report. Their courage and heroic efforts have motivated and inspired us to come together. Without them, there would be no IRTK campaign.

HERE'S WHAT YOU CAN DO TO SUPPORT IRTK:

Go to www.irtk.org to take action.

Contact President George W. Bush and tell him American companies operating overseas should foster good will, not ill will around the world.

Contact your public officials. Urge them to empower communities around the world with corporate disclosure and transparency.

Stay Informed! Join the IRTK Action E-List at www.irtk.org to receive updates and action alerts.

Urge the companies featured in this report to adopt IRTK standards and give communities around the world the right-to-know.

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