

Dear Mr. Scholz,

We are writing with regard to the activities of Rio Tinto International Holdings Limited and Ivanhoe Mines Ltd. Rio Tinto is listed on the London Stock Exchange but Ivanhoe Mines Ltd, is registered in Australia and Canada. IVN is also listed on NYSE and NASDAQ and therefore should be considered as falling under the jurisdiction of the US NCP.” We are asking you to work with US counterparts in bringing a resolution to the concerns about non-compliance with the OECD Guidelines.

Ivanhoe Mines Ltd together with Rio Tinto International Holdings Limited are about to begin operations of the Oyu Tolgoi gold/copper mine in the South Gobi region of Mongolia. The Investment Agreement signed with government of Mongolia will come into force on April 6, 2010. The TEFS was accepted by government with a number of recommendations, including a recommendation to carry out detailed study of water resources and environmental impact assessment. The investors have not been able to demonstrate availability and access to water resources that can support this project.

Q1. The identity of the complainant (or the identity of the lead complainant where a number of organisations or persons are involved) including your identity, the contact person, name of the organisation, contact details (including email).

OT Watch is the lead complainant acting on behalf of the following organizations: Center for Citizens' Alliance, Center for Human Rights and Development, Steps without Border, Drastic Change Movement and National Soyombo Movement.

My contact info:

Ms. SUKHGEREL, Dugersuren

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Q2. If you are bringing a complaint on behalf of others (e.g. on behalf of a local union or community), explain your interest in this case and mandate or reason for bringing the complaint.

OT Watch or Oyu Tolgoi Watch is an NGO recently established and in process of getting formal registration. The purpose of this NGO is to monitor compliance of investors Ivanhoe Mines Ltd and Rio Tinto International Holdings with the terms and conditions of the Investment Agreement, national law but most importantly with international laws and standards. Members of its Steering Committee have long years of experience in working on human rights and environmental issues. However, Mongolian civil society organization have no experience in dealing with foreign /transnational companies and therefore request your kind assistance in addressing the concerns stated in this complaint.

Q3. The identity and location of the company offices and why you consider this company is relevant to the UK National Contact Point. Provide relevant information on the company' corporate structure and location that you consider will assist the NCP in this regard.

Rio Tinto International Limited is a company registered in UK and therefore relevant to UK National Contact Point. Please see below information on the company. **RIO TINTO INTERNATIONAL HOLDINGS LIMITED**
Registration No 00425864

Registered Office	2 Eastbourne Terrace London W2 6LG	Incorporated	17 Dec 1946
Telephone Number			
Company Type	Private Limited	Accounts Year End	31/12
Latest Accounts	31 Dec 2008	Account Type	Full Accounts
Last Annual Return	04 Jun 2009	Last Document Filed	05 Nov 2009
Name Changes	12/06/1997	R.T.Z. INTERNATIONAL HOLDINGS LIMITED/RIO TINTO INTERNATIONAL HOLDINGS LIMITED BARRIER CORPORATION LIMITED (THE) /R.T.Z. INTERNATIONAL HOLDINGS LIMITED	
	31/12/1978		

While Ivanhoe Mines is of relevance to the Canadian NCP details are provided for completeness of information.

Ivanhoe Mines Ltd
999 Canada Place
Suite 654
Vancouver
British Columbia V6C3E1
Canada
Attention: Corporate Secretary
Fax No: +1 604-682-2060

Q4. Provide detailed information on the alleged breaches of the Guidelines and provide relevant information on developments. List the chapter(s) and paragraph(s) in the Guidelines that you consider the company to be breaching.

It is believed that the signatories to the Oyu Tolgoi Investment Agreement Rio Tinto and Ivanhoe Mines are in breach of the following provisions of the Guidelines:

Article II (i) whereby enterprises should: Contribute to sustainable development

Article V (3) states that enterprises should:

"Assess, and address in decision-making, the foreseeable environmental, health, and safety-related impacts associated with the processes, goods and services of the enterprise over their full life cycle. Where these proposed activities may have significant environmental, health, or safety impacts, and where they are subject to a decision of a competent authority, prepare an appropriate environmental impact assessment."

Q5. Provide detailed evidence and information that supports the allegations. Official documents, reports, studies, articles, witness statements can all be considered. The NCP requires enough information to substantiate what has taken place – anecdotal statements or unsubstantiated allegations are not sufficient.

IVN's Failure to carry out a full Environmental Impact Assessment and crucial study of water resources

Water availability: IVN's own Technical and Economic Feasibility Study (TEFS) does not demonstrate available access to and existence of sufficient water resources in the South Gobi Desert to carry this project. The TEFS states that for production capacity of 110,000/day OT will need to pump water at 627.5 liters per second, while bringing it up to 150,000 tons/day (IMMI's preferred capacity) will require to pump water at 856 l/sec rate. The total OT Project need, including infrastructure and social needs is 3,801 l/sec water sources for which have not been secured at present. Water sources identified at present may be utilized to support other mines including those of IVN's subsidiaries operating in this same region. IMMI proposes to utilize **fossil** water located at Gunii Hooloi in Galbyn Gobi (SPA) which is according specialists is of high environmental risk. The World Bank funded Sothern Gobi Regional Environmental Assessment concludes that "Depletion of nonrenewable resource in the absence of adequate data... may have high level, irreversible impact, which requires further study. Moreover, if the estimated rate of recharge is correct at 1 millimeter per year, water table aquifers cannot sustain heavy drawdowns, because a recharge area of 1 square kilometer would only add 1,000 cubic meters of new water in one year. Finally, the shallow aquifers are vulnerable to pollution from wastewater, leachate from solid waste dumps, and chemical spills. The potential for pollution, while low at present, will increase with population growth and urban development¹.

¹ <http://siteresources.worldbank.org/INTEAPREGTOPENVIRONMENT/Resources/SouthernGobiREAtext.pdf>, pages 26-28.

According to the World Bank assessment the Herlen-Gobi Pipeline and Orhon-Gobi pipeline projects which will divert waters of these rivers to provide surface water resources will require in addition to feasibility studies, environmental impact assessments, and ...should be analyzed with respect to three “big picture” development planning concerns: a) sustainability of development in arid regions; b) large-scale water resource management and impacts on the flow regime and consequently on the ecology of the rivers; and c) impacts of and adaptation to climate change. The implications of climate change are not clear or simple in Mongolia; there is little doubt that average temperatures are rising but the implications for precipitation could vary across the country. Milder winters in SGR could, for example, result in more winter precipitation and earlier thawing. Droughts are likely to be more frequent and to last longer. In view of the uncertainty in exactly what ways climate change will affect Mongolia, a precautionary approach is essential in making major natural resource allocation decisions such as allocating surface water for inter basin transfers². In addition, drawing water from these rivers may have adverse affect on rivers of Selenge-Orhon basin, which feed lakes Huvsgul and Baikal –the two largest fresh water sources and protected resource areas of international importance.

Other Problems related to Sustainable Development

Impact on Protected Areas: The Technical Council recommended IVN to include in the Technical and Economic Feasibility Study an assessment of ecological impact of the proposal to transport copper concentrate and construction materials through Gashuun Sukhait port located in the Gobi Small Strictly Protected Area and that the transportation plans are in compliance with the Land Law, which prohibits building of roads in protected areas. In response, Ivanhoe reiterates its intent to use this road for the first five years of mining justifying its plan by the fact that this “road” is already being used by other companies and that they intend to use only 8.75 km through the Gobi Small SPA³. According to specialists any type of improved road will crumble under 80-100 ton trucks in no time bringing all back to driving on bare desert soil. *“Emissions of air pollutants and CO₂ will increase at a rate that is higher than one that would be directly proportional to the increases in traffic volume, at least on the road from Tavan Tolgoi to Gashuun Sukhait”*⁴ concludes the World Bank funded Southern Gobi Regional Environmental Assessment.

IVN’s Inadequate Response

In its TEFS Response Ivanhoe Mines states that it intends to support and finance a long-term research project on migratory routes and natural habitats of Mongolian khulans and gazelles. “Because these two species are listed as regionally endangered, and because Small Gobi Strictly Protected Area is a main part of their remaining habitat, the impact is high intensity, regional, and long term” is another conclusion of the World Bank funded assessment. Unfortunately the damage may have already been done and is having a regional impact as reported by RIA Novosti article⁵ about a state of emergency declared by Chita (RF) region due to influx of Mongolian antelope. Severe winter is not the only factor affecting livestock and wildlife this winter as both are suffering from hunger due to loss and contamination of pasture land.

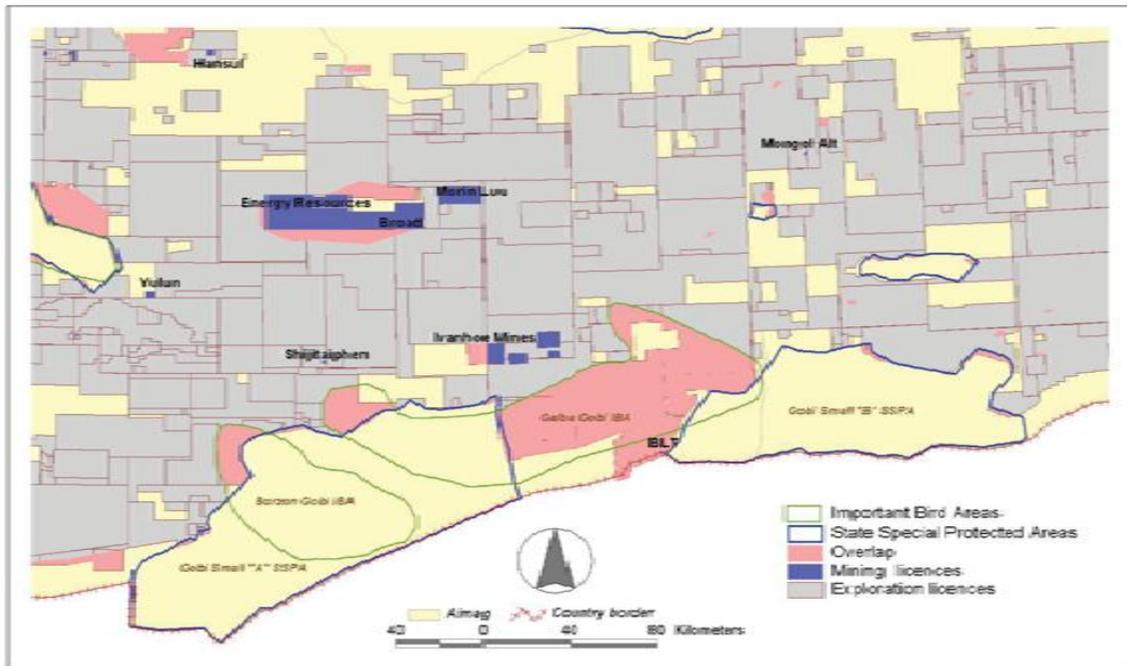
² Same document, pp-51-52.

³ Response to Technical Review of the TEFS by Technical Council, para 2.3, page 21 (unfortunately available only in Mongolia).

⁴ <http://siteresources.worldbank.org/INTEAPREGTOPENVIRONMENT/Resources/SouthernGobiREAtext.pdf>

⁵ <http://en.rian.ru/russia/20100126/157685404.html>

The World Bank report⁶ **Safeguarding Important Areas of Natural Habitat Alongside Economic Development** and its maps speak most clearly about the threats from mining to the environment, especially to protected areas, critical natural habitat, important bird areas, wildlife and human health. These maps show overlap of mining exploration and extraction licenses with protected areas and critical natural habitats, including Mongolia's Ramsar and World Heritage sites.



Civil society believes that there is need for more in-depth environmental impact evaluation related to water resources looking water needs of all mines in this region.

Conclusion

In addition to environmental concerns legal professionals list a numbers of problems with the legality of the mining license, proposed royalty transfers among current and former owners of this license. There are also issues with regard to proposed mining plan in TEFS of extracting only the high content and easy access copper/gold mineral leaving almost half of the 45 million tons of copper in the ground. This strategy suggests that Ivanhoe Mines/Rio Tinto intend to mine as much as possible within 5-10 year period within which all water resources may well be depleted and impact will start showing on the environment. In the articles available at the links below the CEO of South Gobi Energy Resources, a subsidiary of Ivanhoe Mines which mines coal in this same region, presents the strategy, which we suspect may be applied to Oyu Tolgoi project as well⁷.

⁶ Safeguarding Important Areas of Natural Habitat in Mongolia alongside Economic Development, January 2009, maps, www.worldbank.mn

⁷ <http://www.mongolianviews.com/2010/02/mining-mongolia.html>,
<http://www.bloomberg.com/apps/news?pid=newsarchive&sid=aYNXRCdqw2F4>

We urge the UK and Canadian NCPs to intervene as a matter of urgency so that irreparable environmental damage can be averted. The NCPs should make clear that before any mining begins the company needs to fulfill the requirements to undertake a full environmental impact assessment and water study as recommended by the Technical Council of the Mongolian Government.