

Relationships with security forces

Violence and instability has made it necessary for extractive companies to take measures to protect their personnel and assets by using their own armed guards, or by entering into arrangements with private security firms or with state security forces. These arrangements can be dangerous in terms of contributing to human rights violations and result in harm to reputation as a number of companies have discovered to their cost.

- Both Shell in Nigeria and BP in Colombia suffered reputational damage because of the alleged impact of their security arrangements on local communities.
- ExxonMobil's relationship with the Indonesian army in Aceh has come under scrutiny from the human rights community and has led to litigation against the company in the US.
- Talisman Energy, a Canadian oil company with a 25% interest in a major oil development in Sudan, has attracted adverse publicity because of its security co-operation with the field's co-owner, the Sudanese government, which Amnesty International has accused of grave and systematic violations towards populations in the area.

Indigenous rights

The growth of oil and gas exploration and mining in remote regions has given rise to demands that companies take account of indigenous claims to land and resources. Convention No.169 of the International Labour Organisation calls for the consultation of indigenous peoples over the exploration or exploitation of any resources in their lands. The Convention also calls for the peoples affected to participate in the benefits of such activities and to receive compensation for damage. Failure to consult with indigenous peoples or address compensation questions may heighten levels of risk exposure.

- Occidental Petroleum have been the target of an international campaign over their alleged lack of adequate consultation of the U'wa people, an indigenous group in north-east Colombia that have opposed drilling on what they consider to be their ancestral lands. The spotlight on Occidental may intensify following the announcement of plans in 2001 to drill 47 oil wells in the remote rainforest of Ecuador, a venture that would threaten the cultural rights of indigenous communities, if managed poorly or not accompanied by the highest standards of consultation.
- Litigation is currently being pursued in the US against Texaco, accused by Amazonian communities of contaminating their environment and involvement in human rights violations.
- During the 1990s, the US company Freeport-McMoRan, in which Rio Tinto had a 10% stake, was the target of an international campaign to prevent the destruction of the tribal lands of the Amungme people of Papua (formerly Irian Jaya). The Indonesian army, which was protecting company assets, dealt brutally with Amungme protests. This led to NGO campaigns against both companies and to allegations of being associated with torture and extra-judicial killings.

Forced labour

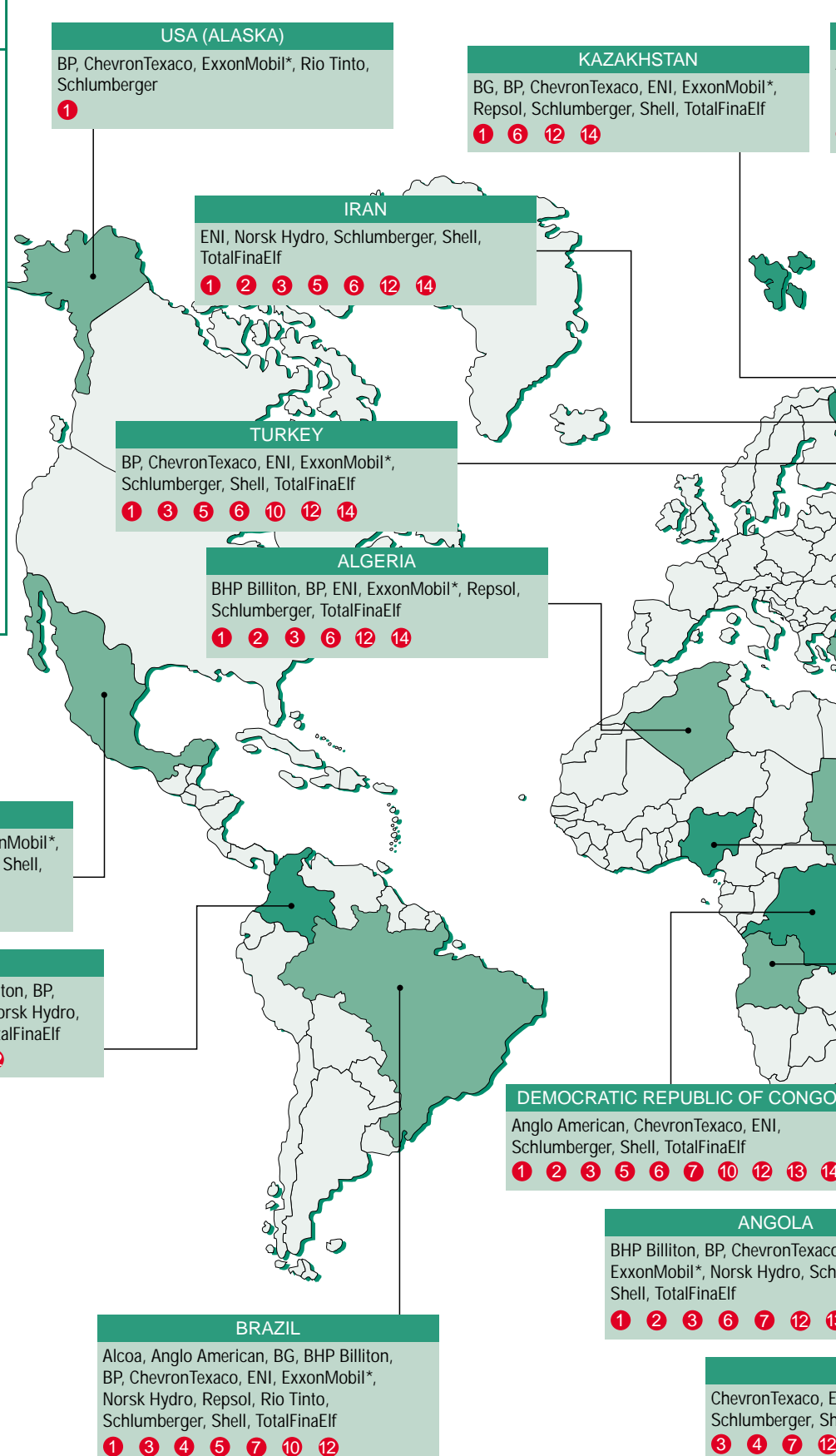
The International Labour Organisation documents the persistence of forced labour in its Global Report for 2001. Forced labour, namely "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily" is prohibited under two core ILO conventions, except during times of war or national emergencies. Forced labour is a form of slavery and is outlawed by UN legislation. Any companies found complicit in the use of forced labour may be subject to intense media or public scrutiny. Litigation in the US has demonstrated the risk run by firms operating in Myanmar (Burma), where forced labour has been used to build infrastructure such as roads, bridges and airstrips. Some US state and city governments have passed selective purchasing laws which prevent them from dealing with companies doing business in Myanmar. A lawsuit has been filed in the US against Unocal Corporation on behalf of Burmese citizens alleging that Unocal's Yadana project was using forced labour to construct its gas pipeline.

EXTRACTIVES

Exposure to human rights violations

KEY Violation Types Occurring in Countries Featured

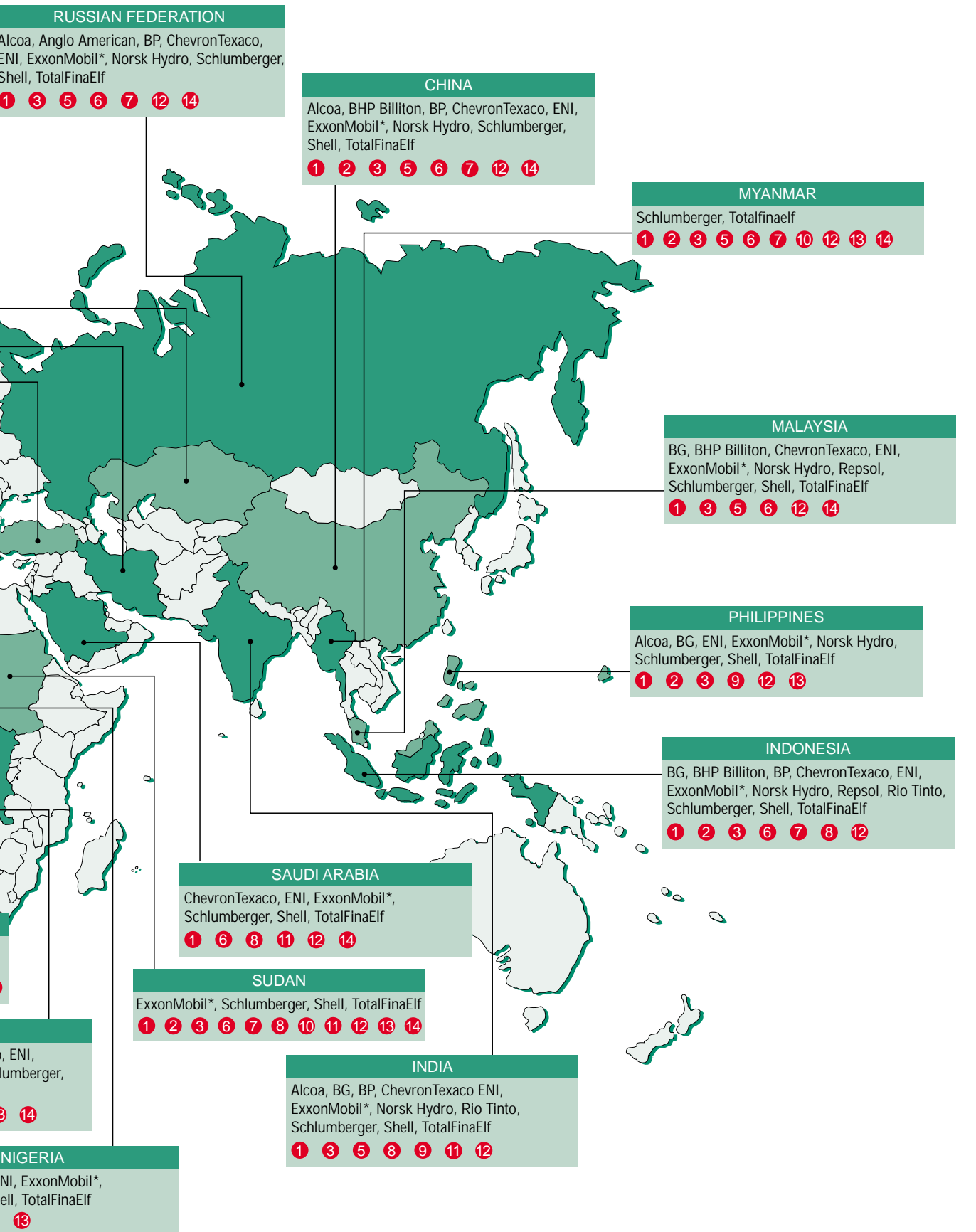
- 1 Torture
- 2 'Disappearances'
- 3 Extra-judicial killing
- 4 Hostage-taking
- 5 Harassment of human rights defenders
- 6 Denial of freedom of assembly & association
- 7 Forced labour
- 8 Bonded labour
- 9 Bonded child labour
- 10 Forcible relocation
- 11 Systematic denial of women's rights
- 12 Arbitrary arrest and detention
- 13 Forced child labour
- 14 Denial of freedom of expression



*Unconfirmed

WE SECTOR

Human rights risk



Complicity in third party abuses

Complicity may arise when companies are perceived to turn a blind eye to human rights violations or fail to use their legitimate influence to protect human rights. In 1995 when the Nigerian government sentenced Ken Saro Wiwa and eight Ogoni activists to death, Shell's public silence and policy of non-interference at the time were widely interpreted as complicity, causing the company considerable reputational damage. This led to an internal review and a subsequent change in policy. The issue for Shell and many other companies is not whether business has any responsibility for human rights, but where the boundaries of responsibility should be drawn.

International initiatives and standards

US-UK voluntary principles on security and human rights

These principles stem from a tripartite initiative between business and civil society groups, led by the US and UK governments. They were embodied in a joint government statement issued in December 2000. The principles are designed to provide practical guidance to ensure that the security arrangements of the extractive industry are managed in accordance with human rights standards. They address matters relating to risk assessment and engagement with private and public security forces.

www.iblf.org/humanrights and www.bsr.org

The Global Mining Initiative (GMI)

Ten of the world's top mining, minerals and metals companies, including Anglo American, BHP Billiton and Rio Tinto, started the Global Mining Initiative with the stated purpose of establishing a model for sustainable development. It has three components. One is the Mining, Minerals and Sustainable Development (MMSD) project, which is examining ways of addressing the sustainability of the industry including its role in promoting human rights and dealing with corruption and conflict. Another is a conference, 'Resourcing the Future', to be held in Canada in May 2002. It will review the results of MMSD research and look at ways forward. The third involves the creation of structures and groups to bring about change in the mining industry.

www.globalmining.com and www.ied.org/mmsd

Diamond certification - Kimberley Process

The diamond industry took steps during 2001 to develop a tracking and certification scheme that would suppress the illegal trade in diamonds that has helped to finance conflict in countries such as Angola, Sierra Leone and the Democratic Republic of Congo. An agreement supported by 32 countries was reached in November 2001 concluding more than a year of talks referred to as the 'Kimberley Process'. This will go to the UN General Assembly for endorsement.

www.diamonds.net/selectednews.asp?list=1

International standards on security arrangements and corruption

- UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- UN Code of Conduct for Law Enforcement Officials.
- OECD Convention on Combating Bribery of Foreign Officials in International Business.
- UN Declaration Against Corruption and Bribery in International Commercial Transactions.

International standards on indigenous rights

- ILO Convention 107 on Indigenous and Tribal Populations.
- ILO Convention 169 on Indigenous and Tribal Peoples.
- UN Draft Declaration of Indigenous Rights.

Relevant sources

The Business of Peace: The private sector as a partner in conflict prevention and resolution (2000)

www.iblf.org

Human Rights and the Oil Industry (2000)

www.intersentia.be

Why are extractive companies at risk?

The drive for new resources can lead extractive firms into association with human rights violations. Unlike some aspects of political risk, companies cannot readily insure themselves against this, except through having effective policies to deal with the human rights issues confronting them. Experience has shown that problems are most likely to arise when resources are located in zones of conflict, in territories with indigenous populations where land rights are contested or inadequately protected, or in countries with oppressive or corrupt governments. There have been a number of instances in which the sector has been heavily criticised for its record on human rights, in particular when operating in less developed countries.

Conflict

Companies are only too aware of their vulnerability in zones of conflict, where high costs may arise from acts of sabotage, lost production, extortion, kidnapping, security provision, higher insurance premiums and reputational damage. There is an emerging consensus that the human rights impact of a company operating in a zone of conflict or under an oppressive government can never be neutral. The need to protect and defend facilities and operations frequently leads to interactions with security forces and armed groups that are party to the conflict or repression. In this way the company may contribute to its dynamics.

Oil and diamond producing companies in particular have come under scrutiny for their operations in zones of conflict. Nigeria, Colombia, Indonesia, Myanmar, Sudan, Liberia, Sierra Leone and Angola are all centres of conflict in which oil or diamonds have played an important role. In most cases the key issue is that the extraction and trading of resources has helped fuel conflict, because the income from these resources has been inequitably distributed or has been used to purchase arms. In some cases territorial control of the areas where the resources are extracted has itself been a source of conflict.

There is likely to be growing pressure from a range of stakeholders for companies to consider how their operations may contribute to conflict and human rights violations, and what they might do to avoid this. A central issue is the security arrangements protecting a company's installations and employees, often involving the company in relationships with private security personnel or government forces that have a poor record on human rights. Inadequate handling of security arrangements, real or perceived, underpins many criticisms of the industry's human rights performance.

Corruption

Another key issue is transparency of the use of revenues from resource extraction. The more that corrupt government officials can siphon off the wealth generated from extraction of their country's resources, the more opposition there may be from communities who gain little from the presence of oil and mining companies. This is especially likely to be the case when these communities are faced with the consequences of any environmental damage, increased presence of security forces, as well as any encroachment on their social and cultural rights.

The lack of transparency in the agreements reached between companies and governments is closely linked to corruption, and represents an area of risk to which extractive companies are particularly exposed. Bribes to smooth business transactions or win favours are common in some countries where oil and mining firms do business. Endemic corruption creates uncertainty, may perpetuate cycles of poverty and bad governance, and can be particularly detrimental to human rights when the police or judiciary are involved. Bribery and corruption can increase the costs of doing business and lead to adverse publicity.



Amnesty International's vision is of a world in which every person enjoys all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. In pursuit of this vision, Amnesty International's mission is to undertake research and action focused on preventing and ending grave abuses of the rights to physical and mental integrity, freedom of conscience and expression, and freedom from discrimination, within the context of its work to promote all human rights.

Amnesty International UK
99-119 Rosebery Avenue, London EC1R 4RE United Kingdom
Tel: 44 (0)20 7814 6200;
www.amnesty.org.uk/business

The Prince of Wales International Business Leaders Forum (IBLF) is a not for profit organisation, which was founded in 1990 to promote international leadership in responsible business practices, to benefit business and society. The Forum works with over 60 of the world's leading multinational companies, and is active in over 50 emerging and transition economies. One of the IBLF's core programmes is engaging with companies on the subject of business and human rights.

The Prince of Wales International Business Leaders Forum
15-16 Cornwall Terrace, London NW1 4QP United Kingdom
Tel: 44 (0)20 7467 3600
www.iblf.org/humanrights





HUMAN RIGHTS & BUSINESS RISK IN THE **EXTRACTIVE SECTOR**



UNDER THE SPOTLIGHT

- Relationships with security forces
- Indigenous rights
- Forced labour
- Complicity in third party abuses

What the map shows

This map illustrates the exposure of some major transnational extractive corporations in certain countries where human rights violations are prevalent. The violations associated with each country are not a comprehensive list, but have been selected because of their relevance to corporate risk. The countries featured are not necessarily those with the worst record of human rights violations. They have been chosen because of their stock of inward foreign direct investment, coupled with the human rights challenges they present to companies.

Oil, gas and mining companies appear together on the same map under the 'extractive' heading because they share some similar human rights challenges. The classifications used have been taken from 'FTSE', one of the leading providers of international financial market indices. The companies researched were limited to those in the FTSE 100 UK, the top 100 members of the FTSE Eurotop 300 ex-UK, and the top 100 members of the FTSE All-World North American index as of June 2001. Information about their presence in a particular country was obtained from publicly available company sources relating to the period 1999-2001. 'Presence' is defined as the existence of a subsidiary, associate or joint venture, or at least 50 personnel under contract. This information was sent to all companies concerned for verification. Where companies confirmed, their presence complies with our definition. Those that did not respond by the deadline are marked with an asterisk.

Boundaries of this study

This is not a comprehensive study in so far as there are other risk areas that companies need to be alert to. While this exercise is limited to larger companies, small to medium-sized companies may be exposed to similar challenges. Many of the issues profiled in this map are enormously complex and require much more detailed analysis than is provided. Some have been extensively researched elsewhere, including by companies themselves. Similarly, the contentious issue of the boundaries of responsibility between business and government is not addressed. The primary focus is on the risks and costs of 'getting it wrong', rather than on the policies and procedures that companies can adopt to manage these risks.

While it is not intended to imply that any of the companies featured in this report are complicit in human rights violations, there is a risk that people will conclude that they are contributing to such abuses given the locations and industries in which they operate. The most effective way to combat this is to have appropriate human rights assurance mechanisms and practices in place which are both transparent and properly enforced. The main conclusion to be drawn from this mapping is that in the absence of such policies, significant costs and damage to corporate reputation may be incurred.

