

# Investor Briefing

## PRECARIOUS WORK, HEALTH AND SAFETY AND FATALITIES AT RIO TINTO

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### **The use of short-term contracts and precarious terms of employment for workers in extractive industries...denies workers job security and the confidence to advocate for unionization and other rights.”<sup>1</sup>**

In October 2015, the leaders of unions of the Rio Tinto Global Union Network, representing thousands of Rio Tinto workers in 14 countries, demanded that the company limit **precarious work** and improve the **working conditions** of its precarious workers. Precarious labor includes temporary, casual and contracted-out work that generally has poorer wages and working conditions, less job security, fewer social protections and lower health and safety standards than regular, direct employment.

Rio Tinto appears to be increasingly using precarious labor around the world, a threat to workers, their unions and their communities. Unions have attempted to raise this issue with the company but Rio Tinto's response has been inadequate.<sup>2</sup> We are therefore reaching out to investors to engage the company.

We believe these issues are of concern to investors for a number of reasons:

- **An increase of outsourcing and contracting puts workers' safety at risk while weakening workers' rights**, social protections and the responsibility of the employer.<sup>3</sup>
- **The growing use of precarious work contradicts Rio Tinto's claim to invest in its people “over the long term” and raises questions about the company's cost-cutting measures and whether it is compromising human capital in a way that jeopardizes long-term shareholder value.**
- **Precarious work is one of the factors behind growing inequality in many countries, both developed and developing, and has helped lead to the phenomenon of the “working poor.” Contributing to this problem is hardly what is expected of companies, like Rio Tinto, that tout themselves as “socially responsible.”**



Indeed, specific cases (see below) may indicate a de-unionization strategy by Rio Tinto: as union density is generally lower among contractors, replacing permanent with casual workers has the effect of weakening unions representing the company's workforce.

Investors are taking an interest in workforce-related issues, too. The **National Association of Pension Funds (NAPF)** in the UK has explicitly called for better corporate reporting on the workforce, including type of contract.<sup>4</sup> Despite its claim to be a leader in sustainability reporting, Rio Tinto trails its peers (e.g. Glencore, BHP Billiton, Anglo American) on this type of disclosure. And research by IndustriALL Global Union, looking at past GRI checklists from Rio Tinto, has revealed that the company has backtracked on its promises to improve data collection in this area. **Standard Life Investments** has taken up as a focus area the precarious working practices of UK companies, which encompass not only supply chain practices but also treatment of direct employees (such as through zero hours contracts), and how these can bring risks to both companies and workers.<sup>5</sup>

Drawing on surveys of affiliates and other material, IndustriALL has gathered evidence of a serious problem of precarious work at Rio Tinto's operations. For example, a 2014 survey found that at certain Rio Tinto operations (e.g. Richards Bay Minerals in South Africa; QMM in Madagascar; Grasberg in Indonesia; and Oyu Tolgoi in Mongolia), precarious workers outnumbered permanent workers. Most survey respondents reported an increase of precarious work at their worksites, with up to 70% precarious labor at some facilities. And several affiliates reported important gaps between health and safety and working conditions of precarious and permanent workers.

Examples include the following:

**NAMIBIA:** in October, employees at Rio Tinto's Rössing uranium mine held a demonstration and petitioned management for better treatment of contract workers. The petition points out that security contractors earn one-seventh of what permanent employees earn, despite doing the same work. The petition states that contract workers often lack benefits such as medical aid (a priority, given the hazards of uranium mining), housing allowances and social security; when injured on site, contract workers are simply replaced with other contractors. Lacking written contracts, these workers are dismissed without fair hearings and subject to arbitrary changes in working conditions by the employer. The petition also complains of retaliation against contractors who belong to the union. The union at Rössing previously reported that following retrenchments in 2013 and 2014 combined with outsourcing, ex-retrenched employees were being contacted to work on six-month contracts – suggesting a strategy on the company's part to replace parts of the permanent workforce with outsourced or casual workers.

**MADAGASCAR:** also in October, the union FISEMA reported that at Rio Tinto's QMM ilmenite mine, despite high productivity, workers at some of QMM's subcontractors make abysmally low wages. In recent testimonials, workers at Rio Tinto QMM talk of being unable to meet their basic needs with their current salaries, with sub-contractors receiving worse healthcare and working in poorer conditions than those of permanent workers. In October 2015, over 100 contracted security guards went on strike, demanding reinstatement of two union leaders and the dismissal of a verbally abusive manager. Management at Rio Tinto's contractor agreed to the demands and the strike ended after three weeks.

**AUSTRALIA:** the union CFMEU has pointed out that the company's claim to use contractors and labor hire only to manage fluctuations in production is clearly not borne out by reality: "In Rio Tinto's coal mines in New South Wales and Queensland permanent jobs are steadily declining even when production is increasing."<sup>6</sup> In May 2014, the company kept on 250 labor hire employees at Hail Creek and fired 56 full-time employees (22 of them union members), adding to IndustriALL's concern that Rio Tinto is transitioning toward more contract labor. Workers at Hail Creek report that the company has stated periodically that it uses labor hire because the workers are more flexible and get paid a lower rate. And at the company's Hunter Valley mines, although it varies, in general casual contractors are paid significantly less to do the same work as Rio Tinto permanent workers.

**CANADA:** the union at Iron Ore Company of Canada (IOC) in Labrador has denounced the extensive use of contractors by the company and the replacement of bargaining unit employees by contractors, in violation of the existing collective agreement. The union has indicated that 42 contractor companies are currently doing the jobs of Operator/Maintainers in the place of bargaining unit employees, some of whom are laid off. Many of the contractors work overtime (up to 15 hours a day) incurring health and safety risks linked to fatigue. In addition, despite the high level of unemployment in the community, Rio Tinto is resorting to a "fly-in fly-out" system for contractors.



There is a link between the use of precarious workers in the mining industry and fatalities, and possibly other health and safety incidents as well. A 2014 article in the *Australian Journal of Mining* reported that, for Australia's mining industry in general, contract workers "made up more than two-thirds of the mine site fatalities" in 2013. CFMEU general secretary Andrew Vickers was quoted in the article as saying that the union has found contract workers to be reluctant to report safety problems to either the mining company or its contractor for fear of losing their jobs. And mining companies tend to blame the contracting company for these fatalities when in fact legal liability generally lies with the former.<sup>7</sup>

Evidence from IndustriALL's survey points to a greater incidence of health and safety problems among contract employees than among direct employees at Rio Tinto. Rio Tinto's own sustainability report in 2014 on the Weipa mine in Australia noted that "the majority of injuries sustained in 2014 involved contractors, indicating that whilst Rio Tinto Alcan Weipa has improved their safety performance our contractors remain challenged."<sup>8</sup> And the CFMEU has pointed to statistics from the Hunter Valley mines in Australia, for example, that show that in 2014 contract workers represented 35 to 40% of the workforce but 66% of lost time injuries.<sup>9</sup>

We would also like to bring to investors' attention the disturbing number of **fatalities** at Rio Tinto operations in 2015. The company's most recent annual report states that "our goal is zero harm, including, above all, the elimination of workplace fatalities."<sup>10</sup> And yet, in 2015, Rio Tinto has had seven fatalities in seven separate incidents in six countries (Canada, Chile, Guinea, Indonesia, Madagascar, South Africa).

At least 3 of the workers who died were contractors. And while it is difficult to draw concrete conclusions due to lack of information about the deaths, this record calls for a serious investigation into why the company is so clearly failing to reach its "zero fatalities" goal and whether the company's high use of contractors makes that goal unachievable.

In addition to posing a risk for workers, the excessive use of contractors increases **risks for the company**. Although Rio Tinto might outsource the work, the ultimate liability for health and safety generally remains with the mine operator, not with the contractor. Rio Tinto's apparent reliance on outsourcing, in an industry marked by significant health and safety risks even for permanent and well-trained workers, is worrisome in this sense. To what degree is it handing over control of a vital factor, such as the well-being of its workers, to another firm?

According to a chapter in a recent academic book, after a year (2008) in which 66% of fatalities at its worksites were contractor deaths, Rio Tinto began a program to focus on contractor safety data. The company found a "consistent gap" between regular and contract workers, with contractors regularly sustaining more injuries.<sup>11</sup> Rio Tinto created a contractor management system (CMS) in response to an extensive review, and according to the book's authors, with whom the company shared data, Rio Tinto has adopted the system globally. IndustriALL is skeptical of the injury rates reported in the book, as we have received reports from affiliates that the company discourages injury reporting at some sites. At the same time, it is noteworthy that the company admitted to the higher injury rates among contractors. It is not clear, however, what the impact of the new CMS has been and why there are continued fatalities. Rio Tinto does not appear to provide this information in its public reporting.

## Investor Role

Better disclosure by Rio Tinto is needed to allow for proper assessment of its workforce development strategy and its safety performance (especially with regard to fatalities), as well as to understand better the link between precarious work and health and safety breaches. We ask investors to engage the company by seeking the following from Rio Tinto:

- **Greater disclosure on these issues, including (a) the number – and proportion – of contractors, as many of its peers already disclose,<sup>12</sup> and (b) its policy on the use of contractors.**
- **Publication of a report explaining workplace fatalities this year, why it has failed to reach its "zero fatality" goal, and whether there is a relationship between contracting practices and fatalities or injuries.**
- **A change in practice to ensure that Rio Tinto's contractors have their rights respected and are paid at least a living wage and not less than Rio Tinto employees doing equal work.**
- **Better control by Rio Tinto of how contractors implement health and safety standards that the company has committed to.**

1 Maina Kiai, "Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association," A/HRC/29/25, UN Human Rights Council, 28 April 2015, p. 19, [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session29/Documents/A\\_HRC\\_29\\_25\\_en.doc](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session29/Documents/A_HRC_29_25_en.doc)

2 <http://www.industriall-union.org/rio-tinto-telling-lies-on-precarious-work>

3 According to the UN Guiding Principles on Business and Human Rights, companies' responsibility to respect human rights refers at a minimum to the International Bill of Human Rights and the ILO "core conventions" – which include the right to freedom of association and collective bargaining.

4 National Association of Pension Funds, "Where is the Workforce in Corporate Reporting?" June 2015, <http://www.napf.co.uk/PolicyandResearch/DocumentLibrary/-/media/Policy/Documents/0439-Where-is-the-workforce-in-corporate-reporting-An-NAPF-discussion-paper.pdf>

5 See for example [http://www.standardlifeinvestments.com/RI\\_UK\\_Precarious\\_Working\\_Practices/getLatest.pdf](http://www.standardlifeinvestments.com/RI_UK_Precarious_Working_Practices/getLatest.pdf) and [http://www.standardlifeinvestments.com/RI\\_Report/getLatest.pdf](http://www.standardlifeinvestments.com/RI_Report/getLatest.pdf)

6 <http://cfmeu.com.au/disaster-for-safety-mineworkers-to-confront-rio-tinto-over-casualisation-of-mining-jobs>

7 Australian Journal of Mining, "Contractors Represented Heavily in 2013 Fatality Figures," January/February 2014, pp. 14-16.

8 Rio Tinto, Alcan Weipa 2014 Sustainable Development Report, p. 22, [http://www.riotinto.com/documents/RT\\_Weipa\\_SD\\_Report\\_2014.pdf](http://www.riotinto.com/documents/RT_Weipa_SD_Report_2014.pdf)

9 <http://cfmeu.com.au/disaster-for-safety-mineworkers-to-confront-rio-tinto-over-casualisation-of-mining-jobs>

10 Rio Tinto, 2014 Annual Report, p. 12.

11 G. Pease, B. Byerly and J. Fitz-enz, *Human Capital Analytics: How to Harness the Potential of Your Organization's Greatest Asset*, Wiley & Sons, 2013.

12 The Global Reporting Initiative guidelines (both the G3 and G4 versions) require reporters to provide figures for total employment by employment type.