



**OMCT acts to prevent further violence  
in connection with a large scale open-pit coal mine in  
Phulbari, Bangladesh and  
welcomes the Asian Development Bank's  
suspension of support for this project**

*Geneva, 3 July 2008:* The project for an open-pit coal mine in Phulbari – promoted by British company GCM Resources - has provoked widespread concern over its potential socio-economic, environmental and human rights impact. Protests against this project have already resulted in loss of life and injury. OMCT has contacted all parties involved, including the Government of Bangladesh, private financial institutions and the Asian Development Bank, to express its deep concern at the risk of further violence associated with the project. OMCT has insisted that a decision on the future of the Phulbari mine should only be taken once a thorough, transparent and independent investigation into its human and environmental impact has been carried out, with the full and informed participation of all local communities.

**The mining project, human rights and violence**

In December 2007 and January 2008 OMCT acted to prevent further killings and violence in connection with the Phulbari mining project - Dinajpur District of **Bangladesh** - and to ensure respect for the human rights of the local communities and indigenous peoples directly affected. In August 2006, several persons had been killed and many injured as a result of action by police and personnel of the Bangladesh Rifles against demonstrations of opposition to the proposed large scale open-pit coal mine. Local NGOs approached OMCT to express their serious concern that further violence, ill-treatment and even deaths could result from Government reaction to the expression of opposition by the local communities and indigenous people directly affected.



Preventing violence, in particular torture, ill-treatment, extrajudicial and arbitrary killings by acting on their economic, social and cultural root causes is of high importance to OMCT and its network of some 280 national human rights NGOs and OMCT has developed a specific project to address those root causes. The European Union through the European Initiative for Democracy and Human Rights has provided substantial support for this project which is also supported by Swiss Agency for Development and Cooperation, the Karl Popper Foundation and the Fondation des droits de l'homme au travail

The information reported to OMCT stated that if the proposed Phulbari mine was carried out it would negatively affect between **50,000 and 500,000 people** through mass evictions, destruction of agricultural land and the pollution that would result from extraction activities. The mine would also seriously compromise the rights to health and to an adequate standard of living of those affected (including access to housing, land, adequate food and clean water). In addition, concern was expressed at the failure to carry out serious environmental impact assessments, and the lack of adequate information and consultation with the affected communities about the project and its potential consequences was criticised.

### **OMCT acts to prevent further violence**

OMCT carried out in-depth research into the mining project itself, its implications for the human rights of the affected populations, local resistance to the project, the limits imposed by the Government on expression of opposition and the specific impact on the economic, social and cultural rights of those affected. OMCT identified how those human rights violations were connected to past violence and created the risk of further violence in the future.

OMCT also investigated the corporate structure of the mining operation, the planned support of the Asian Development Bank (ADB) and that of private banks as shareholders in the mining company in order to identify the specific responsibilities of each.

This research resulted in an OMCT **Action File (BGD 21 12 07)** (annex 1). This Action File focussed attention on preventing violence by addressing the economic, social and cultural root causes and was seen by OMCT as adding a crucial dimension to the efforts of other organisations objecting to the potentially negative impacts of the proposed mine.

OMCT's Action File called on the Government of the Peoples' Republic of Bangladesh to suspend the mining project and to initiate a thorough and independent investigation into the human and environmental impact of the project and to request the assistance of the Office of the United Nations High Commissioner for Human Rights in that connection. It also called on the Government to ensure the full and informed participation of all local communities in the investigation, to make the report public and abide by its recommendations. It also called on the Government to lift restrictions on public demonstrations and take all necessary steps to prevent future violence. See annex 1 for further recommendations to the Government.

The Action File called on Global Coal Management Resources Plc (GCM), the company responsible for the project, to suspend its activities pending the human and environmental impact report, to fully respect the land rights, resources and livelihoods of all affected communities and to provide fair and adequate compensation. The File also called on the major shareholders in GCM (UBS, RAB Capital and Barclays) to ensure that GCM abided by the impact report and respected national laws and international human rights standards.

The Asian Development Bank (ADB) was scheduled to approve in June 2008 a US\$ 100 million loan and a US\$ 200 million political risk guarantee for the project. This led OMCT to contact the ADB, transmit the Action File and request the Bank to recognise the discontent of the majority of the local population at the manner in which the preparatory phases of the Phulbari project have been conducted. OMCT asked the ADB to insist on the production of a comprehensive human rights and environmental impact study with the full and informed participation of all local communities as a fundamental condition for financial support.

OMCT transmitted the Action File along with requests for specific action to the President of Bangladesh and relevant Government ministers, the Chief Executive of the mining company GCM, the Chief Executives of the above mentioned financial institutions, together with that for Credit Suisse, another shareholder (calling attention to the Equator Principles and the UN Global Compact) and the President of the ADB (see annex 1).

The Action File was also transmitted to the UN Special rapporteurs on Indigenous People and Adequate Housing and the UN Special representative on Transnational Corporations and Human Rights. In addition, the Action File was transmitted to the chairs of the European Parliament Committees on International Trade and Development and the Subcommittee on Human Rights. Finally, the file was transmitted to the 282 national NGOs in OMCT's SOS-Torture Network with the request that they, in turn, seize the appropriate authorities.

### **The reaction**

GCM Resources, the company which was awarded the licensing agreement for mining the Phulbari deposit through Asia Energy Corporation, its wholly-owned subsidiary, contacted OMCT and proposed a meeting to discuss the issues raised in the Action File. As a result, on 26 February 2008 OMCT staff met with the Sustainable Development Manager of GCM Resources in Geneva. The main points made by GCM at that time are summarised in the attached note (annex 2) that has been shared with and approved by GCM. That includes information on GCM's Environmental and Social Impact Assessment (ESIA), the level of compliance' with both ADB's Safeguard Policies and the Equator Principles, planned engagement with local stakeholders and plans concerning compensation of affected communities and local businesses. These points do not necessarily reflect the views of OMCT.

OMCT also received responses from Barclays PLC, RAB Capital, Credit Suisse and UBS, the main financial institutions involved. Unfortunately, and notwithstanding some references to the Equator Principles and the Global Compact, the responses to a large extent reflected a lack of transparency and a failure to take responsibility for the shares held in the name of clients. That constitutes a real challenge to ensuring that financial institutions take responsibility for the human rights implications of their investment decisions.

At the request of the Chair of the European Parliament Committee on Development, OMCT provided additional information on the Phulbari case. OMCT was subsequently requested to keep the Committee informed of further developments. The Committee Chair transmitted the Action File to the Secretariats of the South Asian Delegation and the Human Rights Subcommittee.

### **The Asian Development Bank's decision**

At the beginning of April 2008, the ADB decided to suspend its support for the project. In a statement, the ADB said, *"We think it is premature to continue dialogue with the private sector under current circumstances. So, at this stage we are open to suggestions of the government of Bangladesh, civil society and other stakeholders and prepared to review our engagement in this project to ensure that all sensitivities, including concerns relating to safeguard issues, are fully considered."*<sup>1</sup>

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<sup>1</sup> See <http://www.guardian.co.uk/business/2008/apr/06/mining.bangladesh>

The ADB's decision bears testament to the potential of concerted civil society action to influence an issue with serious human rights implications.

**The future**

OMCT, together with its national NGO partners, will remain vigilant to help ensure that any future work on the proposed mine respect the rights of local communities and international human rights standards in the matter.

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*Addressing the economic, social and cultural root causes of violence*

OMCT ACTION FILE (BGD 211207.ESCR)

**BANGLADESH: RISK OF VIOLENT SUPPRESSION OF PUBLIC OPPOSITION TO THE PHULBARI COAL MINE PROJECT, DINAJPUR DISTRICT, BANGLADESH**

*Your action is called for to suspend the Phulbari Project until community concerns are met*

**OMCT is concerned that police and security forces may again employ violence to deal with public opposition to the Phulbari open-pit mining project**

The International Secretariat of the World Organisation Against Torture (OMCT), on the basis of reliable information received, expresses its concern that communities affected by the proposed Phulbari open-pit coal mine in the Dinajpur District of **Bangladesh**, have been neither adequately consulted nor fully informed regarding this significant project. Estimates put the number of people affected by the mine at anything between 50,000 and 500,000, including a number of indigenous communities. Many of these affected will be forced to leave their homes and land.

A public demonstration against the mine in August 2006 saw at least five persons killed and fifty others injured by the police and personnel of the Bangladesh Rifles. OMCT expresses its serious concern that further violence, ill-treatment and even deaths may ensue if local communities again seek to give public expression to their opposition.

To prevent further human right violations, and having regard to the strong local opposition to the project, OMCT calls upon the **Government of the People's Republic of Bangladesh** to instigate a thorough independent investigation into the human and environmental impact of the Phulbari coal mine project, ensuring the full and informed participation of all local communities, to make the findings of this investigation available in a public report and to abide by the recommendations of this report. It also calls for the Government to lift the restrictions on public demonstrations imposed under emergency rule and take all necessary steps to prevent future episodes of violence by police and security forces against persons defending their human rights.

OMCT calls upon **Global Coal Management Resources Plc (GCM)** - the company in charge of the Phulbari project - to suspend its activities in this area until this investigation has been conducted and to abide by the recommendations resulting from this investigation. It also calls upon GCM to fully respect the land rights, resources and livelihoods of all local communities affected by any subsequent mining activity and provide fair and adequate compensation wherever appropriate.

Finally, OMCT calls upon **UBS, RAB Capital and Barclays**, all of which have significant financial interest in GCM, to use their influence to ensure that the company abides by the recommendations issuing from the independent investigation and to make certain that it complies fully with national laws and international human rights standards.

### **The Phulbari coal mine project**

The Phulbari coal deposit, in the Dinajpur District of Bangladesh, was discovered during the second half of the 1990s by the Australian mining company BHP. In 1998, the Government of Bangladesh awarded the licensing agreement for mining the deposit to the Asia Energy Corporation (Bangladesh) Pty Ltd,<sup>2</sup> a wholly-owned subsidiary of British-registered Global Coal Management Resources Plc. (GCM). The Phulbari mine is expected to lead to a 1 per cent increase in the gross domestic product of Bangladesh over the next 30 years, bringing more than US\$ 21 billion to the Bangladeshi economy.<sup>3</sup> The Asian Development Bank is scheduled to approve a US\$100 million private sector loan and a US\$200 million political risk guarantee in favour of the Phulbari project on the basis of environmental and social impact studies included in a Definitive Feasibility Study carried out since April 2004.<sup>4</sup>

The Phulbari project is an open-pit mine.<sup>5</sup> In order to access the coal seams, it is reported that between 140 and 300 metres of earth will need to be removed, affecting an area of 59 km<sup>2</sup>. In terms of the human impact of the project, there are differing views. According to estimates from GCM, the mining company involved, the project will affect approximately 50,000 people (a total of some 12,000 households), including some 2,200 indigenous people. Of this total, some 43,000 will be displaced from their homes and land by the mine. This number will be higher if the full-scale expansion plans for the mine are carried out. On the other hand, according to the National Committee to Protect Oil, Gas, Mineral Resources, Electricity and Ports, the number of people potentially affected could be as many as 470,000, including indigenous peoples belonging to Santhal, Munda and Mahali tribes, who occupy some 100 villages in Phulbari and surrounding sub-districts.<sup>6</sup>

In terms of the impact upon community structures, it is reported that the project will involve the closure of 50 educational institutions, including six colleges and 18 *madrassas*,<sup>7</sup> as well as 171 mosques, 13 temples and other religious establishments.<sup>8</sup> The mine will also have a significant environmental impact due to the considerable waste material produced in the extraction process. This in turn will have serious implications for the livelihood and, potentially, the health of local communities: the area around Phulbari is one of the most productive agricultural zones in Bangladesh, and the project will not only destroy productive farmland, but also cause the diversion of the Choto Jamuna River from its natural course. According to Professor Anu Muhammad in the Faculty of Economics at Jahangirnagar University, Bangladesh, studies in other countries have shown that rivers as far as 160km away from an open-pit mine can remain polluted for three decades as a result of the waste generated. He concludes that "in a country like Bangladesh, with hundreds of small rivers linked like a huge net, polluted water can travel long beyond the mining area."<sup>9</sup> Despite these concerns, on 11 September 2005, the Bangladeshi Department of Environment approved the

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<sup>2</sup> Asian Indigenous and Tribal Peoples Network, [http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#\\_ftnref4](http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#_ftnref4)

<sup>3</sup> BBC News: *Bangladesh coal divides region*, <http://news.bbc.co.uk/2/hi/business/5080386.stm>

<sup>4</sup> See Asian Development Bank – Projects, <http://www.adb.org/Documents/PIDs/39933014.asp>

<sup>5</sup> Open-pit mines are also known as opencast mines. Both terms refer to the extraction of rocks or minerals by excavating earth to create pits rather than sinking shafts and digging tunnels.

<sup>6</sup> The Daily Star: *Rehabilitation issue makes it a tough task*, <http://www.thedailystar.net/2006/08/29/d6082901159.htm>

<sup>7</sup> the Arabic term for “schools”.

<sup>8</sup> The Daily Star: *Rehabilitation issue makes it a tough task*, <http://www.thedailystar.net/2006/08/29/d6082901159.htm>

<sup>9</sup> BBC News: *Bangladesh coal divides region*, <http://news.bbc.co.uk/2/hi/business/5080386.stm>

Environmental Impact Assessment Report prepared by the Asia Energy Corporation and granted environmental clearance for the mining operation.<sup>10</sup>

In order to gain the consent for the project from local communities, Asia Energy reportedly distributed colour televisions, cash, cloths and blankets to affected populations.<sup>11</sup> Furthermore, Asia Energy also reportedly refused to be bound by the 1894 Land Acquisition Act which regulates land acquisition and/or expropriation by the Government, and demanded the adoption of special laws in order to avoid the obligation to obtain the free, prior and informed consent of the affected communities.<sup>12</sup>

On 31 August 2006, five days after large and violent demonstrations against the Phulbari project, the Junior Minister for Food and Relief declared that the Government had revoked all existing agreements with Asia Energy and that a moratorium had been imposed on all open-pit mining in Bangladesh. On the same day, Asia Energy declared that it had received no official communication to that effect, and that the position of the Government remained to be clarified.<sup>13</sup> In practice, coal mining remains an important element in Bangladesh's development strategy: on 17 November 2007, the Coal Policy Review Committee adopted a proposal encouraging partnerships between the Government and foreign firms engaged in mining in order to promote investment in and develop of the coal sector. The Committee also suggested strengthening the existing Bureau of Mineral Development so that it could deal more efficiently with foreign companies in leasing transactions and indicated its intention to establish coal-based power plants in rural areas.<sup>14</sup>

#### **Local resistance to the project and violence against protesters**

*“What will happen to us if we are forced to move from here? What will happen to our livelihoods? I don't want us to live like this. Our mosques and holy places and the places we were born will be destroyed. What will happen to the graveyards of our ancestors?”*

75-year-old man, resident of Phulbari sub-district<sup>15</sup>

Resistance to the proposed Phulbari project is widespread in the areas. On 26 August 2006, an estimated 50 to 100,000 demonstrators, mainly farmers and indigenous people, protested against the project.<sup>16</sup> At least five demonstrators were killed and about fifty others reportedly injured and taken to hospital after the police and the Bangladesh Rifles (BDR) opened fire on demonstrators.<sup>17</sup> The exact death toll as a result of the shooting remains unclear, and may be

<sup>10</sup> Asian Indigenous and Tribal Peoples Network, [http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#\\_ftnref4](http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#_ftnref4)

<sup>11</sup> The Daily Star: *Cancellation of Phulbari Coal Project demanded*, <http://www.thedailystar.net/2006/08/24/d608241004111.htm>

<sup>12</sup> Asian Indigenous and Tribal Peoples Network, [http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#\\_ftnref6](http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#_ftnref6)

<sup>13</sup> Asian Indigenous and Tribal Peoples Network, [http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#\\_ftnref4](http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#_ftnref4)

<sup>14</sup> *Government Prime Role Recommended in Coal Mining*: <http://phulbariresistance.blogspot.com/2007/11/govts-prime-role-recommended-in-coal.html>

<sup>15</sup> BBC News: *Bangladesh coal divides region*, <http://news.bbc.co.uk/2/hi/business/5080386.stm>

<sup>16</sup> Bangladesh News - Phulbari Coalmine Killing, 28 August 2006, <http://www.bangladeshnews.com.bd/2006/08/28/phulbari-coalmine-killing-thousands-defy-ban-stage-protest/>

<sup>17</sup> The people were identified as: Tariqul Islam (24 years-old), Ahsan Habib (35), Osman (24), Raju (8) and Chunnu. Asian Indigenous and Tribal Peoples Network, [http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#\\_ftnref4](http://www.aitpn.org/IRQ/vol-I/issues-2-3/story01.htm#_ftnref4)

as many as ten - it was reported that the BDR dumped some of the dead bodies.<sup>18</sup> Furthermore, the Bangladeshi *Daily Star* newspaper reported that, according to eye-witnesses, BDR personnel threatened Magistrate Abdul Aziz with a gun in order to make him sign the authorization to open fire on the protesters.<sup>19</sup> Neither the Government nor the Asia Energy Corporation have taken any responsibility for these events.

Under the Emergency Rule declared by Bangladesh's military government in January 2007, fundamental civil rights have been suspended and public protest banned.<sup>20</sup> These Emergency Rules effectively remove the possibility of the populations affected by the Phulbari mine engaging in peaceful protest, and OMCT expresses its strong concern that, should such protest nevertheless take place, they will be met with further and possibly more extreme violence on the part of the police and security forces.

Despite the violent suppression of public protest, resistance to the project remains high. On 15 December 2007, representatives of the sub-districts of Phulbari and neighbouring Birampur, Nababganj and Parbatipur wrote to the president and executive Directors of the Asian Development Bank expressing their concern that the project will "increase the poverty of the local population as well as cause environmental disaster".<sup>21</sup> In this letter they claim that the social impact analysis carried out misrepresented the nature of public consultations around the project and that consultations emphasised the potential benefits of the project while failing to provide information on the negative impact. Furthermore, the community representatives express concern that only minimal information was provided in Bengali regarding the environmental impact of the project and that, to their knowledge, the environmental impact assessment has been neither translated nor summarised in the local language. They also underline that other media must be employed to communicate with a population of which approximately 60 per cent is illiterate. Additionally, they express serious concerns that land compensation and resettlement plans are insufficient to meet the losses likely to be incurred by local populations as a result of the mine, and that Asia Energy/GMC's claim that 50,000 persons will be directly affected (and hence entitled to compensation) is a significant underestimation.

### **Economic Social and Cultural Rights**

Bangladesh acceded to the International Covenant on Economic, Social and Cultural Rights on 5 October 1998, and consequently the Government of Bangladesh has the duty to ensure the protection, promotion and enjoyment of these rights for all its citizens. The Phulbari mine project jeopardises the human rights of thousands of people due to the mass evictions and destruction of agricultural land it will require and to the pollution that will result from the extraction activities. In particular, OMCT is concerned that the mine will seriously compromise the rights to health and to an adequate standard of living (including access to housing, land, adequate food and clean water) of those affected.<sup>22</sup>

<sup>18</sup>Bangladesh News: *Phulbari Coalmine Killing*, 28 August 2006

<http://www.bangladeshnews.com.bd/2006/08/28/phulbari-coalmine-killing-thousands-defy-ban-stage-protest/>

<sup>19</sup>The Daily Star: *Magistrate forced to give firing order*,

<http://www.thedailystar.net/2006/08/30/d6083001107.htm>

<sup>20</sup><http://jurist.law.pitt.edu/paperchase/2007/01/bangladesh-media-restrictions-under.php>

<sup>21</sup> see "Phulbari communities write to ADB President and Executive Directors",

<http://banglapraxis.wordpress.com/2007/12/19/phulbari-communities-write-to-adb-president-and-executive-directors/>

<sup>22</sup> *The Basic Principles and Guidelines on Development-based Evictions and Displacement* prepared by the Special Rapporteur on adequate housing clearly define forced evictions as a violation of human rights, *Basic principles and guidelines on development-based evictions and displacement*, A/HRC/4/18 5 February 2007

OMCT also wishes to underline the comments of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, Rodolfo Stavenhagen, who has expressed his concerns that the resources of indigenous communities are being appropriated and utilised, without prior consent, by powerful economic consortia, and that this “is currently one of the most controversial issues involving indigenous people, the State, and private enterprises, and often also the international financial institutions.”<sup>23</sup> In addition, the recent UN Declaration on Indigenous Peoples' Rights states that, “indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.”<sup>24</sup>

### **The role of financial investors**

According to the information received, UBS, RAB Capital and Barclays financial institutions all have an interest in GCM, the sole owner of the Asia Energy Corporation and the Phulbari Coal Project. In particular, UBS is the second largest listed shareholder, owning 11.39% of GCM.<sup>25</sup>

OMCT regrets the lack of transparency demonstrated by UBS in responding to civil society queries regarding its involvement in the Phulbari project. In response to questions on its position, the Bank denied that it had any strategic interest in the company and, noting that “it does not comment on potential or specific client relations or transactions or its investments in any particular company” indicated that its purchase of GCM shares “may or may not” have been carried out on behalf of a third party or parties.<sup>26</sup> OMCT calls upon UBS, as a leading financial institution operating in the global market, to lead by example in establishing a more transparent system of accountability, assessing the human rights and environmental impact of potential investments and assuming responsibility for investments in activities that breach international law and violate human rights.

### **Requested actions**

*Please write to the **Government of Bangladesh** asking it to:*

- Instigate a thorough independent investigation into the human and environmental impact of the Phulbari coal mine project, ensuring the full and informed participation of all local communities. Make the findings of this investigation available in a public report (including appropriate language versions) and abide by the recommendations of this report. Request assistance from the UN Office of the High Commissioner for Human Rights to help ensure that the investigation is in conformity with international standards.
- Impose a moratorium on any other open-pit mining in Bangladesh, as initially announced on 31 August 2006, until the full impact on human rights and the environment of this activity has been assessed.
- Fully respect international human rights standards in any subsequent mining activity at Phulbari or elsewhere. This includes engaging in meaningful prior consultation with affected populations, ensuring that they are fully informed of the project proposals and

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<sup>23</sup> A/HRC/4/32, 27 February 2007

<http://daccessdds.un.org/doc/UNDOC/GEN/G07/110/99/PDF/G0711099.pdf?OpenElement>

<sup>24</sup> *UN Declaration on the Rights of Indigenous Peoples* - Article 10,

<http://daccessdds.un.org/doc/UNDOC/GEN/N06/512/07/PDF/N0651207.pdf?OpenElement>

<sup>25</sup> as of 15 November, 2007

<sup>26</sup> see <http://www.banktrack.org/index.php?show=news&id=138>

their own rights in this regard, and providing fair and adequate compensation for loss of land, housing or livelihood where displacement is unavoidable. Ensure in all such cases an adequate and appropriate resettlement programme.

- Ensure that the proposed coal policy review strictly adheres to international human rights standards and to international principles relating to forced evictions and indigenous peoples.
- Lift the restrictions on public demonstrations imposed under emergency rule and take all necessary steps to prevent future episodes of violence by police and security forces against persons defending their human rights.

*Please write to **Global Coal Management Resources Plc** asking it to:*

- Suspend activities in Phulbari until a thorough, independent and fully-consultative investigation into the proposed project's human and environmental impact has been conducted and abide by the recommendations resulting from this investigation.
- Fully respect the land rights, resources and livelihood of all local communities affected by any subsequent mining activity, and provide fair and adequate compensation wherever appropriate.
- Take all necessary measures to minimise the environmental impact of mining activities and avoid the pollution of watercourses.
- Comply fully with national laws and international human rights standards in all aspects of its activities, in particular as regards the adverse effects of these activities on indigenous and local communities. Only carry out operations subsequent to a full human rights impact assessment, and having fulfilled, *inter alia*, the legal requirement to engage in meaningful prior consultation with persons affected.

*Please write to **UBS, RAB Capital and Barclays** asking them to:*

- Call for a thorough independent investigation into the human and environmental impact of the Phulbari coal mine project with the meaningful input of local communities.
- Use their financial influence in Global Coal Management Resources Plc. to ensure that the company abides by the recommendations issuing from the independent investigation and to make certain that it complies fully with national laws and international human rights standards.
- Carefully evaluate the impact of their current investments on the enjoyment of human rights around the world, and include a clear human rights impact assessment in future investment decisions.
- Promote greater transparency in their financial transactions.

*Please write to the **Asian Development Bank** asking it to:*

- Recognise the discontent of the majority of the local population at the manner in which the preparatory phases of the Phulbari project have been conducted and insist on the production of a comprehensive human rights and environmental impact study with the full and informed participation of all local communities as a fundamental condition for financial support. Continue to monitor the human rights situation in Phulbari and surrounding sub-districts should the project be approved.

OMCT also asks the UN Special Rapporteur on the human rights and fundamental freedoms of indigenous people, the UN Special Representative on the issue of human rights and transnational corporations and other business enterprises, and the UN Special Rapporteur on adequate housing to monitor closely developments as regards the Phulbari coal mine project.

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Please also write to the Bangladesh Embassy in your country.

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E-mail: [information@adb.org](mailto:information@adb.org)

**Information on action taken and follow-up**

OMCT would appreciate receiving information on any action taken in relation to the matters dealt with in this Action File so that it might be shared with OMCT's network and others interested in this issue. Please quote the code of this appeal on the cover page in contacting us.

\*\*\*

Geneva, 21 December, 2007

World Organisation Against Torture

P.O. Box 21 - 1211 Geneva 8

Switzerland

Tel.: 0041/22 809 49 39 / Fax: 0041/22 809 49 29

E-mail: [omct@omct.org](mailto:omct@omct.org) / Web: [www.omct.org](http://www.omct.org)

**Annex 2**  
**Global Coal Management Resources Plc (GCM)**  
**Meeting with Julia Lewis, Sustainable Development Manager, GCM Resources**  
**Geneva, Tuesday 26 February 2008**

*The following is a summary of the main points communicated by GCM Resources with respect to the Phulbari Project. They do not necessarily reflect the views of OMCT.*

- GCM recognises that social issues are not covered in detail in the *Summary Environmental Impact Assessment* disclosed by the Asian Development Bank (ADB), however this document was prepared according to the format required by ADB. GCM has carried out a comprehensive Environmental and Social Impact Assessment (ESIA) which includes various socio-economic studies such as the Resettlement Plan (RP) and the Indigenous Peoples Development Plan (IPDP). These studies cover the potential socio-economic impacts of the project on local communities and businesses and provide measures to mitigate against these. GCM is reviewing these plans in detail with ADB as part of their due diligence process.
- The ESIA for the mine was completed a month before the final release of the new IFC (International Finance Corporation) Performance Standards.
- An independent study commissioned by Barclays Capital indicated that the Phulbari project demonstrated a ‘moderate to high level of compliance’ with both ADB’s Safeguard Policies and the Equator Principles.
- The suspension of activities at the project site, and the closure of the Phulbari Information Centre in August 2006 have contributed to an ‘information void’. GCM states that it had always made clear that Phulbari would be an open-pit mine. As with all mining projects of this scale, while there is local support for the project, there are also those who have concerns regarding its impact. Extensive further engagement is planned with local stakeholders and will continue throughout the mine life to address their concerns.
- Consultations took place for the most part from 2004 to 2006. Engagement with communities was halted in August 2006, at a critical point in the project’s development. The delay in project implementation means that certain data will need to be reviewed. GCM continues to optimise the RP, IPDP for the Phulbari Coal Mine.
- Regarding compensation, affected communities and local businesses were surveyed for data on their current livelihood and earnings and other assets such as land, buildings and crops. Studies show that the informal economy is harder to account for but significant. GCM is conscious that Indigenous People’s Groups in particular have cultural sensitivities and dependencies on the land. In keeping with best practices in rehabilitation, GCM is looking at ways to focus on like for like compensation, rather than over reliance on cash for compensation. The project will ensure that those who have to be resettled will have their living conditions improved and livelihoods improved or at least restored. Investments in public services, such as water, schools and health clinics will also be made by the Company.

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### Annex 3 Responses from Banks

UBS<sup>27</sup>



Dr. Andreas Missbach  
Berne Declaration  
Private Finance Programme  
Postfach  
8026 Zürich

UBS AG  
Postfach  
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Communications Management

Dr. Christian Leitz  
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December 6, 2007

#### Global Coal Management

Dear Mr. Missbach and Mr. Barnden

Thank you for the letter and documentation you sent to Marcel Ospel on 21 November.

With regard to your enquiry pertaining to Global Coal Management, please note that UBS has reportable positions in a large number of companies in which it does not have any strategic interest. Often UBS holds these positions on behalf of clients.

The diverse positions in a particular company are collated across business units and reported to the company once the total position has crossed (or fallen below) the applicable notification threshold.

UBS does, however, not comment on specific or potential client relations or transactions or its investments in any particular company.

Yours sincerely,

Christian Leitz  
UBS AG

Michael Willi  
UBS AG

<sup>27</sup> Transmitted in response to OMCT' letter on 11 February 2008 by Dr. Christian Leitz, UBS AG, Communication Management – Corporate Responsibility

**RAB Capital**

Pour action	Richard
Reçu le	25 FEV. 2008
Copie à	
A classer	

**RAB CAPITAL**

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 TEL: +44 (0)20 7389 7000 FAX: +44 (0)20 7389 7050  
 EMAIL: rab@rabcap.com WEB: www.rabcap.com

Mr E Sottas  
 OMCT Secretariat International  
 8, rue du Vieux Billard  
 Case Postale 21  
 CH-1211  
 Geneve 8  
 Switzerland

20 February 2008

Dear Mr Sottas

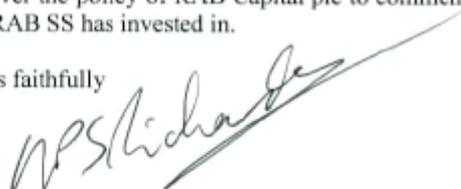
**Phulbari Mining Project**

I refer to your letter of 1 February 2008 in which you express concerns about the Phulbari Mining Project in the Dinajpur District of Bangladesh.

RAB Capital plc acts as investment manager for RAB Special Situations (Master) Fund Limited ("RAB SS"), the entity that has invested in GCM Resources plc ("GCM"). As I am sure that you are aware, RAB SS has recently agreed to sell the majority of its holding in GCM.

We appreciate your efforts to ensure that the Government of the People's Republic of Bangladesh balances its economic, social and environmental responsibilities to its people when working with GCM to progress the Phulbari Mining Project. It is not however the policy of RAB Capital plc to comment on the operations of the companies that RAB SS has invested in.

Yours faithfully



Philip Richards  
 Chief Executive

## Credit Suisse

CREDIT SUISSE	<i>tom / sivas</i>	<b>CREDIT SUISSE</b>	Phone +41 44 333 17 17
Four action		P.O.Box 1 CH-8070 Zurich	Fax +41 44 333 09 68 www.credit-suisse.com
Reçu le	29 FEV. 2008		
Public Policy	Copie à		
John Tobin - de la Puente john.tobin@credit-suisse.com	<i>21</i>		
de l'assessor			

Organisation Mondiale Contre la Torture  
Eric Sottas  
Director  
8, rue du Vieux Billard  
Case Postale 21  
1211 Genève

February 26, 2008

**Your letter regarding Phulbari mining project, Bangladesh**

Dear Mr. Sottas:

We refer to your letter to Mr. Brady Dougan, Chief Executive Officer of Credit Suisse, dated February 1, 2008, in connection with the Phulbari open pit coal mine, a project under development by Global Coal Management plc (GCM) in Bangladesh.

We note your concerns about the potential environmental and social risks associated with this project as expressed in your letter, and thank you for the additional information included in the OMCT Action File enclosed with your letter. Please be assured that Credit Suisse, being a committed member of the UN Global Compact and a founding institution of the Equator Principles, operates a company-wide Reputational Risk Review Process, which aims to ensure that business relationships that entail potential risks relating to human rights, the environment, and other areas are examined in detail and are subject to a special authorization process. Any direct involvement of Credit Suisse in this or any similar project would therefore have to be thoroughly assessed in our risk review process.

While we are unable to comment about particular investments or positions, we should point out that, in general, shareholding positions attributed to Credit Suisse in public records are in most cases held by the bank on behalf of clients, who are the beneficial owners of such securities. As we are sure you understand, we have little or no leverage over the investment decisions of our clients where these are not prohibited or restricted by any applicable laws or regulations. And since we hold such shares on behalf of our clients, we are not in a position to actively engage with those companies regarding their application of environmental or social standards.

It is also worth pointing out that Credit Suisse shareholdings that are reported as part of our public disclosure requirements are as of a particular date; however, because of market events or client investment decisions the magnitude of these positions may vary both widely and quickly, and information in the public domain may become out of date in a relatively short time.

Yours sincerely

CREDIT SUISSE



Dr. René Buholzer  
Head of Public Policy



John Tobin-de la Puente  
Head of Public Policy-Sustainability Affairs

118108 05/2008

Investment Banking • Private Banking • Asset Management

## Barclays



Pour action *Sam / Andrew*

Reçu le **31 MARS 2008**

Copie à .....

A classer .....

1 Churchill Place  
London  
E14 5HP

26 March 2008

Mr Eric Sottas  
Director  
OMCT  
8 rue du Vieux Billard  
Case Postale 21  
CH-1211 Geneva 8  
Switzerland

Dear Mr Sottas

I write in connection with your letter to Barclays President, Bob Diamond, concerning the Phulbari mining project in Bangladesh and GCM Resources PLC.

Thank you for raising the issue with us, and for your comments about our adoption of the Equator Principles and membership of the Business Leaders' Initiative on Human Rights – I apologise for the delay in responding.

In response to the two action points highlighted, please be assured that Barclays takes our environmental and social responsibilities seriously and ensures that the projects we support meet our own stringent criteria, as well as local and international parameters. We were one of four banks that drafted the original Equator Principles (EPs) launched in 2003 and continue to apply the current revised and strengthened requirements. International and local regulatory compliance is also a requirement of our involvement.

Yours sincerely

Philippa Birtwell  
Head of Public Policy Research