

## **Countermotion to item 3 of the agenda**

On 21 April 2021, Wespeth Institutional Investments LLC, Glenview, Illinois/USA, sent us the following countermotion to item 3 of the agenda of the Annual General Meeting on 6 May 2021:

## **Counter-motion of Wespah Benefits & Investments**

Submitted to the Annual General Meeting of HeidelbergCement AG on May 6, 2021

Wespah Benefits & Investments asserts that the acts of the members of the Managing Board should not be approved and recommends a vote against agenda item 3, resolution on the discharge of the Managing Board for the financial year 2020.

### **Justification**

HeidelbergCement's ("company") Managing Board has provided insufficient information to investors on its efforts to align its business practices and human rights due diligence (HRDD) with the UN Guiding Principles for Business and Human Rights (UNGP) and OECD Guidelines for Multinational Enterprises (OECD). The imminent German Supply Chain Act (Act) will mandate that companies adopt a HRDD policy that ensures basic labor and human rights standards are respected in their supply chains. Infringement of the Act will trigger fines, potential lawsuits, and exclusion from participating in federal competitions for supply and construction services in Germany.

### **HRDD Opacity**

Despite the company's formal commitments to honor the UNGP and OECD and its pending legal responsibilities under the Act, the company has withheld details on how it conducts HRDD in Conflicted Affected and High-Risk Areas (CAHRA).

The company's operations and expansion in CAHRA without adequate or transparent HRDD, exposes it to potential violations of human rights, international humanitarian law (IHL), and consequences for violating the Act.

### **Western Sahara (WS)**

In May 2019, the German Bundestag concluded that Morocco is the occupying power of WS. At the Annual General Meeting on June 4, 2020, Dr. Dominik von Achten reported, absent supporting documentation, that the company outsourced a human rights risk analysis on the legality of two cement factories outside Laayoune, WS, operated by the company's subsidiaries, Ciments du Maroc and Cimenteries Marocaines du Sud, which found no risk of violating international or EU law.

Occupying powers may not exploit resources without the consent of the occupied population or for any purpose other than the occupied population's exclusive benefit or military necessity under Articles 43 and 55 of the Hague Regulations, Article 64 of the Fourth Geneva Convention, and Article 8 of the Rome Statute of the International Criminal Court's Elements of Crimes. We are unaware of any consent received from the occupied population. Hence, the company may be contributing to violations of IHL.

### **Occupied Palestinian Territory (OPT)**

The company's subsidiary, Hanson Israel, continues to operate the Nahal Raba quarry located in Area C of the Israeli-occupied West Bank. Investors and civil society organizations claim that the company's quarry is providing concrete to Israeli settlements in the OPT. Delivery of concrete to Israeli settlements in the OPT to facilitate their construction may contribute to violations of Article 49 of the Fourth Geneva

Convention, which prohibits an occupying power from transferring its civilian population into occupied territory. These activities may also contribute to violations of IHL in terms of the occupied population's consent and exclusive benefit. While the company stated in October 2017 that these operations align with IHL, it failed to disclose the details about how it arrived at this conclusion.

### **Indonesia**

The company's Indonesian subsidiary, Indocement, is advancing plans for a limestone quarry and cement factory in Central Java. An environmental study commissioned by President Joko Widodo in 2017 found the project would threaten local livelihoods, water for drinking and farming, and the ecosystem. The company claims its plans to move forward are based on a 2014 environmental impact assessment and has not disclosed the assessment as required by the OECD and the forthcoming Act. Samin community members filed a complaint with the German National Contact Point for Responsible Business in September 2020, alleging breaches of the OECD, including the failure of the company to conduct HRDD and secure free, prior, and informed consent of indigenous communities.

### **Investor Oversight**

As long-term investors and fiduciaries, we view these issues as material risks for HeidelbergCement. We have informed the company about our concerns regarding many of these issues but have not received a satisfactory response. We believe it is imperative that the company implement improved oversight and transparent disclosure of human rights risks in the company's supply chain.