

# BEAUTY AND A BEAST

CHILD LABOUR IN INDIA FOR SPARKLING  
CARS AND COSMETICS



**SOMO**

**terre des hommes**   
stops child exploitation



# COLOPHON

## BEAUTY AND A BEAST CHILD LABOUR IN INDIA FOR SPARKLING CARS AND COSMETICS

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The Centre for Research on

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an independent, not-for-profit research

and network organisation working on

social, ecological and economic issues

related to sustainable development.

Since 1973, the organisation has

been investigating multinational

corporations and the consequences

of their activities for people and the

environment around the world.

Terre des Hommes Netherlands

prevents child exploitation, removes

children from exploitative situations

and ensures children can develop in a

safe environment. Terre des Hommes

works towards a world where all

children have a decent life and can

grow up to be independent adults.

A world in which children are no

longer exploited. Terre des Hommes

will continue its work until this is

accomplished.

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# ABBREVIATIONS

AFP	Agence France-Presse (French press agency)
ARD	Association for Rural Development (Indian NGO)
ASK	Association for Stimulating Know How (Indian NGO)
AYUSH	Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy
BBA	<i>Bachpan Bachao Andolan</i> (Save the Childhood Movement, Indian NGO)
BGS	British Geological Survey
BMG	<i>Bal Mitra Gram</i> (Child Friendly Village)
BSR	Business for Social Responsibility (business initiative)
CFV	Child Friendly Village
CSR	Corporate Social Responsibility
DGMS	Directorate General of Mines Safety (part of the Indian central government)
EICC	Electronic Industry Citizenship Coalition (business initiative)
EWG	Environmental Working Group (US NGO)
GmbH	<i>Gesellschaft mit beschränkter Haftung</i> (company with limited liability)
HSE	Health, Safety and the Environment
IGEP	Indo-German Environment Partnership (partnership Indian/German government)
ILO	International Labour Organization (part of the United Nations)
IMA	Industrial Mineral Association (business initiative)
INR	Indian rupee
ITC	International Trade Center
KGaA	<i>Kommanditgesellschaft auf Aktien</i> (limited partnership on shares; business entity)
LCMs	Lost Circulation Materials
MGNREGA	Mahatma Gandhi National Rural Employment Guarantee Act
NCP	National Contact Point (part of OECD)
NGOs	Non-Governmental Organisations
NRSC	Natural Resources Stewardship Circle (business initiative)
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the United Nations High Commissioner for Human Rights
SDGs	Sustainable Development Goals
SOMO	<i>Stichting Onderzoek Multinationale Ondernemingen</i> (Centre for Research on Multinational Corporations)
UN	United Nations
UNCRC	United Nations Convention on the Rights of the Child
UNGPs	United Nations Guiding Principles on Business and Human Rights
US	United States
USGS	United States Geological Survey

# PREFACE

**Children's rights are violated all over the world – in developing countries and developed countries, and in conflict areas. Terre des Hommes Netherlands (hereinafter Terre des Hommes) is an international non-governmental organisation that works to create a world free of child exploitation. Since 1965 it has protected tens of millions of children from violence, child labour, trafficking, sexual exploitation, malnutrition, and other challenges.**

Terre des Hommes uses evidence-based strategies to promote, prevent, protect, and prosecute within the context of children's rights. It researches, documents, and takes action to expose and confront violations of children's rights, guided by the UN Convention on the Rights of the Child (UNCRC). Its '5 Ps' approach – partnership, promotion, prevention, protection, and prosecution – is multi-faceted and holistic. A pre-requisite for Terre des Hommes' work is that it works together with local partners. By promoting children's rights through advocacy and raising policy awareness, it calls upon authorities and legislators to step up to comply with their responsibilities.

Terre des Hommes' target group is vulnerable children. Vulnerable children are marginalised socially, economically, physically or culturally and, as such, could easily become victims of exploitation. Child exploitation involves serious violations of the rights of the child. Terre des Hommes' definition covers the worst forms of child labour, child trafficking, sexual exploitation, child abuse and child sexual health and reproductive rights.

**Vision:** A world in which children are no longer exploited. Terre des Hommes will continue its work until all children are protected and live in a safe environment.

**Mission:** Terre des Hommes prevents child exploitation, removes children from exploitative situations and ensures these children can develop in a safe environment.

## THE POSITION OF TERRE DES HOMMES ON CHILD LABOUR

Terre des Hommes believes that all worst forms of child labour should be abolished and that no child (every

person below the age of eighteen, pursuant to the UNCRC) should be involved in hazardous and exploitative forms of child labour, as defined in the International Labour Organization Convention 182 on the Worst Forms of Child Labour.

In its fight against child labour, Terre des Hommes makes a distinction between child work and child labour, and gives top priority to eradicating the latter. Child work refers to the participation of children in an economic activity which is not detrimental to their health or mental and physical development. Child work is regarded as light work for a limited amount of hours, according to the child's age and abilities, that doesn't interfere with the child's education or leisure activities. Child labour refers to all kinds of labour that jeopardize a child's physical, mental, educational or social development. Hazardous child labour is prohibited for all children, in line with Convention 182. Child labour used in dangerous work – such as work with toxics and dangerous substances, in mining, in prostitution, and bonded labour – should be directly eliminated.

## TERRE DES HOMMES' CONTRIBUTION TO THE SUSTAINABLE DEVELOPMENT GOALS

On 25 September 2015, Heads of State from 193 countries launched the Post-2015 Global Development Agenda, adopting 17 Sustainable Development Goals (SDGs) and their 169 specific targets, to be implemented worldwide by 2030. Targets 8.7 and 16.2 directly focus on eliminating the worst forms of child labour by 2025:

- Goal 8.7: Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms; and
- Goal 16.2: End abuse, exploitation, trafficking and all forms of violence against and torture of children.

Today, 168 million children are involved in child labour. More than half of them do hazardous work, which is one of the worst forms of child labour. Children are in high demand because they work for a small wage or even for free and are easy to influence and deter. However, they are also more vulnerable and



face high risks of abuse, violent acts and other violations of their fundamental rights. In the majority of these cases, and regardless of the type of exploitation they endure, children have no access to the basic services guaranteeing the fulfilment of their fundamental rights (schooling, social services, healthcare, sanitation, recreation centres, and psychosocial support). All too often, the sole aim of legislators is to prohibit child labour, without taking into account individual situations and the root causes of this phenomenon, and above all without offering alternative income-generating possibilities to the families concerned.

Terre des Hommes chooses dialogue as intervention between the private and public sectors. Dialogue is necessary to address the root causes of child labour. To enable progress toward the Sustainable Development Goals, as an integral part of a genuine policy of social responsibility, in formal and informal enterprises, we seek to confront the private sector with our findings. Alarmed by the prevalence of violations of children's rights, Terre des Hommes has recently started

programmes in India's Jharkhand and Bihar provinces, specifically addressing the situation of children involved in mining the mineral mica. Working with its partner organisation Bachpan Bachao Andolan (BBA, whose registered name is Association for Voluntary Action), Terre des Hommes is improving children's lives through education and by supporting the 'child-friendly village' approach, as developed by BBA.

This report shows that although accurate data on the number of children involved in mica mining is lacking, children are inevitably involved and exploited. Each child counts, and the life and voice of each individual child matters.

Terre des Hommes would like to thank the research team at SOMO for its work and persistence. This report is the work of SOMO, supported by Terre des Hommes, and will guide Terre des Hommes in its programming, advocacy and future research.

Terre des Hommes Netherlands



## EXECUTIVE SUMMARY

### MICA

Mica is a mineral. It provides for the sparkling effect of car's bodyworks. Moreover, it is a regular ingredient in cosmetics for nails, eyes, lips and faces.

Mica is named after its ability to reflect and refract light. Other qualities include its resistance to high temperatures and its ability to insulate against electricity. Mica has a crystalline and layered structure and can be split into very thin sheets.

Mica is mined mostly in India and China, followed by the US and Europe. In India some three quarters of the mining takes place around the border of Jharkhand State and Bihar State, and around 90% of the mining is illegal. The Indian states of Jharkhand and Bihar are home to the world's largest mica mining area, and account for an estimated 25% of the world's total production.

Jharkhand and Bihar are among the Indian states with the highest poverty rates, and literacy and school attendance are also below average. Within the main mica mining area of Jharkhand/Bihar the illiteracy rate of the rural population was 40% in 2011, according to India's latest extensive Census survey. Poverty and illiteracy are root causes of child labour.

Mica use globally can be broken down into three categories:

- **Mica as pearlescent pigment:** Pearlescent pigments are added to paint/coatings, cosmetics, plastics and ink with the main purpose of creating a sparkling effect. Manufacturers of pearlescent pigments account for 60% of the tonnages and export value of Jharkhand and Bihar.
- **Mica in the electronics sector:** Mica is used in hair dryers and toasters, and for electrical insulation of cables, capacitors (originally known as condensers) and commutators.
- **Mica as a functional filler:** Mica is used in plasterboard, fibre cement, oil-well drilling fluids, plastics, shampoos and conditioners. As well as coatings there are several mica uses in the automotive sector, including tyres, bitumen foils, brake pads and clutches.

This report focuses on child labour in Jharkhand/Bihar for mica mining and processing, and the role of Dutch companies and main manufacturers of pearlescent pigments globally.

**Photo: Mica and quartz containing rock from Jharkhand.**





## CHILD LABOUR

### JHARKHAND/BIHAR

The mica mining area of Jharkhand/Bihar comprises an estimated 300 rural villages, and child labour occurs in these remote villages, including collecting/mining mica and cobbing (hammering minerals other than mica from the mined rocks – the first stage of mica processing). At the time of writing (2016), the number of child labourers involved in mica mining in Jharkhand/Bihar is estimated to be up to 20,000.

#### Recent documented cases substantiate the significant use of child labour:

- During field research by SOMO in October 2015, a dozen children under ten were seen working in places where locally mined crude mica is gathered. This was in the subdistricts Tisri and Domchance, and outside school hours.
- During the field research, a local representative of BBA for the mica mining village Dhab (around 4,500 inhabitants) stated that about 10% of the children presently don't go to school and likely work in the mines.
- BBA's district coordinator for Jharkhand/Bihar told SOMO in October 2015 that Giridih district is a very difficult area to effectively ban child labour. BBA's work in twenty villages in the district is ongoing, but they constantly observe that groups of children in the district still go to the mines.
- In late January 2016, Kalpana Pradhan, a journalist accompanying SOMO during its field investigation, went back to the rural area of subdistrict Tisri. She saw a mine within the forest where at least nine young girls (aged between nine and thirteen) were working.
- In January 2016 a team from television broadcaster France 2 went to a mica mine in the area, and estimated that a third of the miners were under twelve years old. "They start at five or six years old, when they are able to recognize mica. They harvest it with us," said one mother.
- In March 2015, a ten-year-old girl was crushed to death when the roof of a mica mine collapsed on her. In March 2014, the same happened to two other children.
- In August 2015 Agence France-Presse (AFP) interviewed an eight-year-old girl who was mining and not attending school. Additionally, a father-of-four acknowledged that his children spent their days mining mica to keep the family's heads above water.

### PENDING INITIATIVES TO ELIMINATE CHILD LABOUR

Since 2005, when it was estimated that there were 18,000 mica child labourers, much has changed. The government (also with its goal of decreasing the influence of the Naxalites, a Communist guerrilla group) is running many more schools for children aged six-fourteen (with much-appreciated free meals); has built many roads (using a local workforce); and has made people aware of governmental welfare and development schemes. The Naxalites are less active.

Between 2010-2015, BBA worked in a third of the 300 villages in the main mica mining area. These villages have been declared child-friendly after BBA implemented its concept of child-friendly villages ('bal mitra gram', or BMG). One of the largest companies importing from this area, the German pigment producer Merck, has changed its practices to source only from legal, controlled mines. The company also runs three schools and a local health clinic and there have been other initiatives run by companies and NGOs, at a lesser scale. Both field investigation and desk research indicated that there seems to be no more child labour used in the processing units of the cities that process the mica to export quality, thanks to governmental inspections.

### SOCIAL IMPACTS OTHER THAN CHILD LABOUR

Family poverty contributes to child labour. According to the Indian Ministry of Labour and Employment, out of 21 industries surveyed only tea plantation workers in north-east India received a lower basic wage than the workers in the mica-mining sector in 2014. While wages earned by legal workers appear to be very low, daily wages from collecting or illegally mining mica appear to be even lower. Expensive medical care needed as a result of mica mining contributes to debt.

Mica is also related to serious health and safety issues:

- The biggest risk of underground mines is that they can collapse. Fatal accidents happen regularly underground in the illegal mines of Jharkhand/Bihar. At least six people died in the years 2014 and 2015, and not all accidents are reported to the police because of the illegality of the mining.
- Mica miners and processors inhale respirable quartz in silica dust. Long-term exposure may lead to silicosis, a potentially deadly lung disease.

### LAWS AND GOVERNMENTAL/COMPANY POLICIES ON CHILD LABOUR

Mica mining/processing in India is one of the worst forms of child labour. Because of the hazardous nature of the work, Indian law prohibits children under fourteen from working in underground mines; to cut/split mica; or to work on processes involving exposure to free silica. Hazardous work is considered by the International Labour Organization (ILO, part of United Nations) to be one of the worst forms of child labour. Indian law even prohibits mining by children below eighteen years of age, but this particular law does not specify whether this prohibition is related to hazardous work.

India is by far the largest country that has not ratified the two core conventions (on worst forms of child labour and on minimum ages) of the ILO with regard to child labour. Presently, the government of India is in the process of amending its Child Labour (Prohibition and Regulation) Act of 1986. The changes would outlaw child labour below the age of fourteen in all sectors, with an exemption made for children under fourteen working in family enterprises. This exemption has been sharply criticised by child rights advocates, as it could hinder the rescue of children and enforcement of child labour laws.

The Indian government's tolerance of illegal mica mining undermines safeguards around child labour and wages as well as standards on health, safety and the environment (HSE).

The United Nations, the OECD and the Dutch government all stipulate that companies should carry out human rights due diligence. Carrying out due diligence means that a company should identify, prevent and mitigate any actual or potential adverse human rights impacts related to their own activities and in their supply chains. Moreover, a company needs to account for and be transparent about how it addresses the issues.

The Dutch government's policy on Corporate Social Responsibility (CSR) has evolved over the years, with more attention now being given to the level of responsibility in companies' supply chains. The government aims to create covenants with sectors addressing responsible supply chains. It is expected that child labour will be addressed in these covenants. In the first half of 2016 the Netherlands holds the Presidency of the Council of the European Union (also: European Council), and as such it is aiming for European Council conclusions with regard to child labour, in order to increase efforts to wipe out the worst forms of child labour globally.

### HUMAN RIGHTS DUE DILIGENCE BY COMPANIES

SOMO sent questionnaires to: the main Dutch companies using mica; the largest manufacturers of pearlescent pigments in the world; and some of the world's largest companies in the paint/coatings and cosmetics sectors. The questions were on the origin and quantity of mica used, their policies on child labour and the human rights due diligence they conducted (if any) on mica. The responses of the companies are summarised in company profiles throughout the report.

### DUTCH COMPANIES

There are a considerable number of Dutch companies with leverage (power to influence others) in the global mica supply chain. For this report, SOMO sent eight Dutch companies a questionnaire. The eight companies are: AkzoNobel, Prysmian/Draka, Unilever, Royal Philips, DSM, A.S. Watson Benelux, Ahold and HEMA. Table 1 shows that four companies had significantly conducted due diligence (AkzoNobel, Unilever, DSM and Ahold), while for the other four companies (Prysmian/Draka, Royal Philips, A.S. Watson Benelux and HEMA) there was no indication of any due diligence conducted.

"There are a considerable number of Dutch companies with leverage (power to influence others) in the global mica supply chain."

COMPANY	BUSINESS SECTOR AND MICA USE	DUE DILIGENCE CONDUCTED ON MICA	MICA FROM JHARKHAND/BIHAR
AkzoNobel	World's number two paint/coatings manufacturing company. Large user of mica for coatings on aircrafts, cars, building roofs, metal surfaces etc.	Significantly	Yes
Prysmian/Draka	World's largest supplier of cables to the energy and telecom industries. Large user of mica tape for cables.	Not found	Possibly
Unilever	World's number three cosmetics/personal care company. Largest cosmetics company in India. Uses mica for cosmetics in India and for personal care products globally.	Significantly	Yes
Royal Philips	One of the leading global producers of hair dryers and toasters, which contain mica.	Not found	Possibly
DSM	The world's number nine company manufacturing plastic materials and resin. Uses mica for its plastics engineering.	Significantly	No
A.S. Watson Benelux	Largest cosmetics retailer in the Netherlands (Kruidvat, Ici Paris, Trekpleister etc.). Sells mica mainly in products of well-known cosmetics brands.	Not found	Possibly
Ahold	One of the big three cosmetics retailers in the Netherlands (Etos). Sells mica in products of well-known cosmetics brands and in its own cosmetics brand products (Etos).	Significantly	Yes
HEMA	One of the big three cosmetics retailers in the Netherlands. Sells mica in products of its own cosmetics brand (HEMA).	Not found	Possibly

**Table 1: Dutch companies and due diligence in relation to mica and child labour**

### GLOBAL PEARLESCENT PIGMENTS PRODUCERS

The world's largest manufacturers of natural mica pearlescent pigments are the German company Merck and the Chinese company Kuncai. Together, Kuncai and Merck import some 25% of the mica exported from Jharkhand/Bihar. Manufacturers of pearlescent pigments account for at least 60% of the mica imports from Jharkhand/Bihar. Table 2 below shows to what extent the world's largest manufacturers of natural mica pearlescent pigments have conducted due diligence with regard to child labour for mica mining and processing.

### GLOBAL PAINT/COATINGS AND COSMETICS COMPANIES

SOMO has assessed the due diligence conducted for some of the world's largest companies in the paint/coatings and cosmetics sectors. Paint/coatings and cosmetics companies are major customers of the pearlescent pigment producers. The three largest coatings companies in the world are PPG Industries, AkzoNobel and Sherwin-Williams. The main global cosmetics and personal care companies are L'Oréal, Procter & Gamble and Unilever, with Coty becoming one of the biggest after merging Procter & Gamble's beauty business into its company. It appears that,

comparing the cosmetics sector with the paints/coatings sector globally, due diligence has been lowest in the paints/coatings sector.

This research did not focus on electronics, automotive, construction, and oil industries. During desk research, however, no examples could be found of any company in these sectors having conducted due diligence on mica supplies.

### RECOMMENDATIONS

#### FOR MICA MINING/PROCESSING/USING COMPANIES:

- Conduct due diligence on the risk of child labour in your mica supply chain. This report shows that only a few companies sourcing from the mining area of Jharkhand/Bihar have identified, prevented and mitigated the adverse impacts of child labour. Even fewer companies have publicly accounted for how they address this issue.
- Companies should not rush to find alternatives to Jharkhand/Bihar for their mica as this will not solve the problems of child labour, rampant poverty and low health, safety and environmental (HSE) standards. It is better to stay involved and seriously conduct due diligence.

COMPANY	DUE DILIGENCE CONDUCTED ON MICA	MICA FROM JHARKHAND/BIHAR
Merck	Comprehensively	Yes
Kuncai	Marginally	Yes
BASF	Significantly	No for its pigment production. Possibly for its coatings.
Other Chinese companies: Ruicheng, Chesir, Rika, Oxen and ZhenFa	Not found	Yes
Sudarshan	Significantly	Yes
DIC Corporation (including its subsidiary Sun Chemical)	Not found	Yes

**Table 2: Global pigment producers and due diligence in relation to mica and child labour**

- Seek collaboration with other companies involved in the mica supply chain, thereby increasing leverage for more effective due diligence to address the issue of child labour.
- Pigment producers sourcing from Jharkhand/Bihar should make their audits by independent parties publicly available.
- Social development initiatives (such as schools or health centres run by companies) may help the well-being of people living in the area but with two pre-conditions. First, they should be complementary to government efforts and provide a long-term addition to development. Second, they cannot substitute for measures to address the negative human rights impacts related to the operations and business relationships of companies.

#### FOR THE INDIAN GOVERNMENT:

- Ensure that every child between the ages of six and fourteen years has free and compulsory education in a neighbourhood school. Monitor and improve the quality of education and children's well-being through indicators such as water and sanitation facilities, teacher attendance/quality, children's attendance and free midday meals.
- Continue to implement welfare/development schemes in Jharkhand/Bihar's mica mining area.
- Increase the minimum wages for workers legally mining/processing mica.
- Stimulate an increase of legal mining leases in Jharkhand/Bihar, and make sure that this will increase the income of the local population presently collecting/mining mica. Currently, the demand from importing companies for legal and child-labour free mica is much larger than the Jharkhand/Bihar region is able to supply. More legal mines could help to reduce child labour, increase health and safety, and

- create more government revenue.
- Develop sustainable alternative income-generating possibilities for the families concerned in the mica mining area of Jharkhand/Bihar.
- Do not amend the Child Labour (Prohibition and Regulation) Act of 1986 so that it may hinder the rescue of children and enforcement of child labour laws. Make better provisions to prevent child labour in hazardous work.

#### FOR THE DUTCH GOVERNMENT:

- Facilitate cooperation between stakeholders involved in the Dutch mica supply chain and make sure that Dutch companies use their leverage in the global mica supply chain. This is in line with the government's strategy to create covenants with companies to engender responsible supply chain management practices. This report shows that Dutch companies have direct links with child labour in mica mining through their business relationships, and have leverage in the global mica supply chain to prevent and mitigate this.
- Consider a requirement for Dutch companies to conduct risk-based due diligence. This report shows that many Dutch companies failed to identify child labour as a problem in the mica supply chain, despite this problem being well-known and well-documented by numerous international media outlets in recent years. The Dutch government has stated its openness to make due diligence a requirement for Dutch companies.
- Encourage other countries to speed up progress to eliminate the worst forms of child labour. Among other things, aim for European Council conclusions with regard to the worst forms of child labour during the Dutch Presidency (the first half of 2016).





# 1. INTRODUCTION

## OBJECTIVE

Terre des Hommes Netherlands commissioned SOMO to conduct research on child labour for mica mining and processing. The objective of the research was threefold. First, to determine the current magnitude and seriousness of child labour in India. Second, to provide insight into the main companies involved in the mica supply chain (especially Dutch companies) and the due diligence they have conducted on child labour. Third, to look into pending initiatives to eliminate child labour and come up with recommendations in this regard.

## METHODOLOGY

SOMO used a variety of methods for the contents of this report:

- Desk research. Many reports and news articles were available on the issue of child labour in the main global mica mining areas of the Indian states of Jharkhand and Bihar. Furthermore, the desk research gave insight in the main uses of mica, the main countries and companies in the supply chain, and other social impacts.
- Two sets of trade data on mica (one on US imports and one on Indian exports) were acquired and analysed, allowing further tracking of the main companies in the mica supply chain. Unfortunately,

no trade data can be acquired for imports into the EU.

- Eight selected Dutch companies were questioned on the origin and quantity of mica used, their policies on child labour and the human rights due diligence they conducted (if any) on mica. The eight companies were AkzoNobel, Prisma/Draka, Unilever, Royal Philips, DSM, Ahold, A.S. Watson Benelux and HEMA.
- Four main global mica pigment producers were also questioned: Merck, Kuncai, BASF and Sudarshan. These companies supply the main global paint/coatings and cosmetics companies.
- Several experts on the mica sector, and specifically the Indian mica sector, were interviewed. One Indian NGO, Bachpan Bachao Andolan (BBA), with extensive knowledge and work in the main Indian mica mining area, was interviewed on multiple occasions.
- A total of twenty companies/NGOs/experts was given the opportunity by 20 December 2015 to review the parts of the draft report written about them. The companies had until 12 January 2016 to respond.
- A 10-day period of field research was done in October 2015 in Jharkhand/Bihar. The research was carried out by a SOMO researcher, with assistance from a local journalist with expertise on mica and contacts in the region. Three villages, three mines, two processing plants and a school were visited. There were interviews with children, parents, BBA, exporters, mine managers and intermediaries.

# 2. BASIC FACTS ABOUT MICA

## 2.1. MICA AND ITS MAIN USES

### WHAT IS MICA?

Mica is a group name, and the Latin word *micare* means to shine, to flash or to glitter.<sup>1</sup> The mica group represents a total of 37 different types of mica, such as muscovite, phlogopite, biotite and vermiculite.

Muscovite and phlogopite are important micas for commercial application. Muscovite is by far the most frequently mined and used type of mica.<sup>2</sup>

A typical chemical composition of muscovite mica is: silica (SiO<sub>2</sub>) - 45%; alumina (Al<sub>2</sub>O<sub>3</sub>) - 38%; potassium oxide (K<sub>2</sub>O) - 12%; other - 5%.<sup>3</sup> Phlogopite contains less alumina, but its composition also includes magnesium oxide.<sup>4</sup>

Mica has a crystalline and layered structure and can be split into very thin sheets. It exhibits outstanding physical properties and no other natural substance possesses all the same properties. Mica is:

- chemically inert, meaning it does not react to water, acids, oil or solvents;
- lightweight, flexible and strong;
- able to resist extremely high temperatures or sudden changes in temperature;
- able to withstand high voltages and insulate with low power loss;
- able to absorb or reflect light, which enables a decorative effect and protects against ultra-violet (UV) light.<sup>5</sup>

### MAIN USES

Based on informative studies,<sup>6</sup> trade data<sup>7</sup> and company websites, SOMO has inventoried the use of mica for several applications. Figure 1 shows a simplified overview of the main uses of mica. Seven main sectors of mica use are identified. Precise estimations of amounts per sector are not available:

- **The paint/coatings sector:** The paint/coatings sector is generally seen as the leading application segment for pearlescent pigments. Pigments<sup>8</sup> (and mica powder) are used mainly for automotive (bodywork) and architectural coatings.
- **Cosmetics and personal care companies:** This sector especially uses pearlescent pigments for make-up for the face, eyes, lips, and for nails. To a lesser extent mica is used as a filler in cosmetics and personal care applications such as shampoos and conditioners.
- **Plastics and printing ink manufacturers:** As is the case for paint/coatings and cosmetics, pearlescent pigments are also often used for plastics and printing ink. Additionally, mica powder is used as a filler in plastics.
- **The electronics sector:** Mica is used in a wide range of electronic appliances, such as hair dryers and toasters. Electrical insulation of cables, capacitors and commutators is also a main application of mica in the sector.
- **The automotive sector:** Next to coatings there are several mica applications in the automotive sector: rubber tyres, bitumen foils, brake pads, clutches etc.
- **The construction industry:** Mica is regularly used as a filler for fibre cement and plasterboard.
- **The oil industry:** Mica is often used in oil-well drilling fluids.

1. US Geological Survey (USGS), J.B. Hedrick, "Mica", May 2008, <http://on.doi.gov/1PzQQpF>.

2. J.W. Schlanz and J.T. Tanner Jr., "Industrial minerals & rocks: commodities, markets, and uses; mica", 2006, page 639.

3. Webmineral.com, "Muscovite Mineral Data", <http://bit.ly/1PHIE7W>; Gunpatroy Private Limited, "Typical analysis of muscovite mica", <http://bit.ly/1OX2TtK>.

4. Webmineral.com, "Phlogopite Mineral Data", <http://bit.ly/1O9HpvC>.

5. Government of India, Ministry of Mines, Indian Bureau of Mines, "Indian Minerals Yearbook 2014 (Part III: Mineral Reviews), MICA", December 2015, <http://bit.ly/1QbmKDY>; EEPC India, M.L. Rajgarhia, report "Indian mica industry, outlook and export prospects", February 2011; Minerals Zone, "Mica", <http://bit.ly/1I70cMB> (accessed 7 August 2015); US Geological Survey (USGS), J.B. Hedrick, "Mica", May 2008, <http://on.doi.gov/1PzQQpF>; US Geological Survey (USGS), J.C. Willett, "Minerals Yearbook, mica", January 2016, pages 110 and 111, <http://on.doi.gov/1PiwOOD>.

6. Useful literature on mica use was found to be: Government of India, Ministry of Mines, Indian Bureau of Mines, "Indian Minerals Yearbook 2014 (Part III: Mineral Reviews), MICA", December 2015, <http://bit.ly/1QbmKDY>; J.W. Schlanz, J.T. Tanner Jr., "Industrial minerals & rocks: commodities, markets, and uses; mica", 2006; US Geological Survey (USGS), J.B. Hedrick, "Mica", May 2008, <http://on.doi.gov/1PzQQpF>; Industrial Mineral Association (IMA-Europe), factsheet "Mica", <http://bit.ly/1YSn5IM>.

7. Infodriveindia.com, HS code 2525 group, port of loading Kolkata Sea, first half 2015, as supplied on 25 July 2015.

8. Grand View Research, "Pearlescent pigment market worth \$547.8 Million By 2022: Grand View Research, Inc.", 29 February 2016, <http://prn.to/1QRciDf>; Anhui HAIJING Mica Technology Co., Ltd, "pearlescent pigments market demand analysis", 12 June 2012, <http://bit.ly/1IppyL2>.



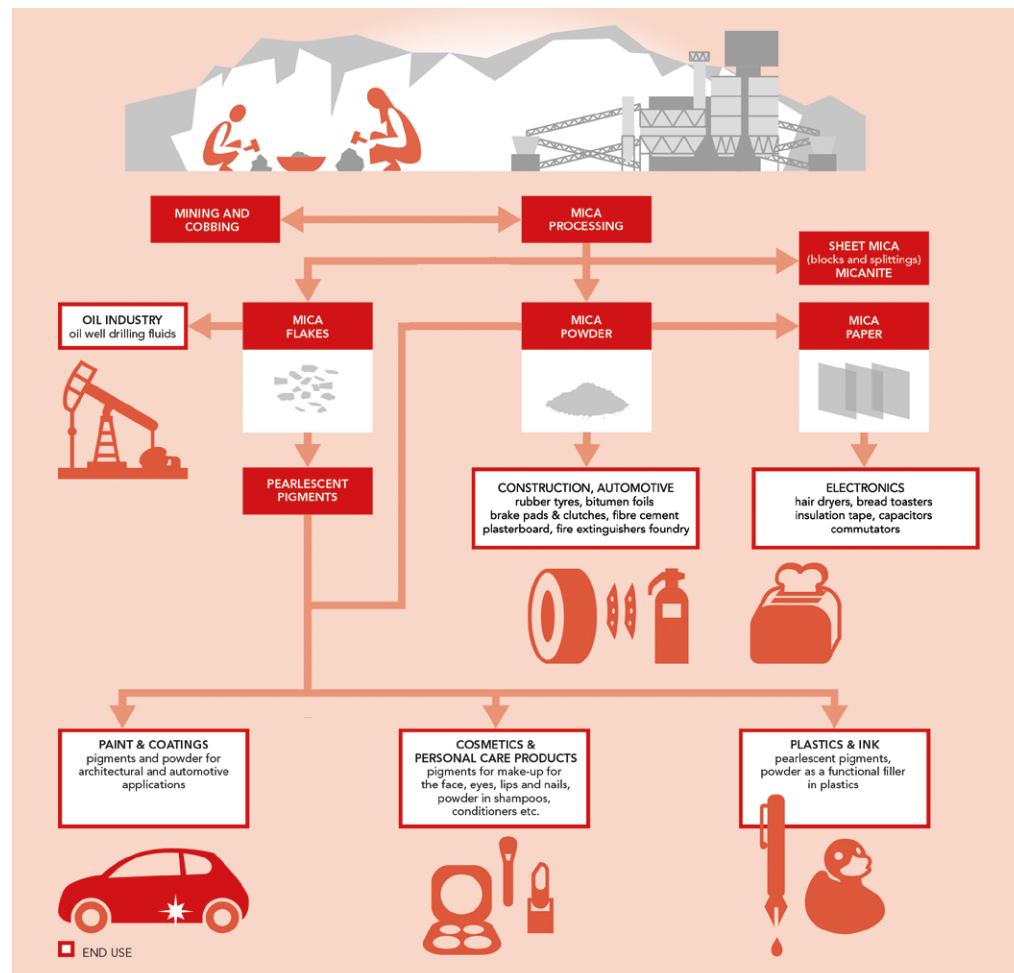


Figure 1: Main uses of mica

### CATEGORIES OF MICA PROCESSING

After mining and cobbing<sup>9</sup> there are several further processes the mica might undergo, depending on the intended end products:

- If mica is to be used in sheet form, labourers will split and cut the cobbled mica with knives (this process is called 'splitting') and scissors (to remove ragged edges). For some electrical applications of mica, the mica will be cut and punched according to required specifications with a simple machine. The resulting products are named 'mica blocks' and 'splittings'.
- Mica blocks and splittings may be glued together also using layers of other products and become a laminate product (micanite or built-up mica).
- Whenever mica is to be used as flakes and powders,

the cobbled mica will be crushed/pulverised and cleaned. Mica flakes are mainly used to produce pearlescent pigments, but also for oil-well drilling. Pearlescent pigments often contain natural mica coated with titanium dioxide or iron oxide. Instead of natural mica, synthetic mica<sup>10</sup> or aluminium oxide<sup>11</sup> may be used. The natural mica content of pearlescent pigments may vary, but is usually more than 50%.<sup>12</sup>

- Mica paper is produced from mica scrap, pulped with various binders and pressed into paper-like sheets.<sup>13</sup> Mica electrical insulation tape is a main product sold after this process. Mica paper can also be part of insulation laminates for industrial high heat and voltage applications.

9. Cobbing is the process of manually hammering minerals other than mica from mined rocks (which needs to be done for all produce from mines).  
 10. Kuncai, "Cosmetic Industry", <http://bit.ly/1OnNuoq>.  
 11. Merck KGaA, press release "Merck consolidates its position as leading manufacturer of pigments with Xirallic® NXT", 21 March 2014, <http://bit.ly/1ImGVXr>.  
 12. Kuncai, "Automotive Pearlescent Pigment Series, specifications", <http://bit.ly/1PK1vNP>.  
 13. J.W. Schlantz, J.T. Tanner Jr., "Industrial minerals & rocks: commodities, markets, and uses; mica", 2006; SmithTerm, "Mica splitting", <http://bit.ly/1SzNlx7>; Mittal Publications, Kumar Sanjay, "Problems and prospects of mineral industry in India: A study of mica industry", 1993, page 66, <http://bit.ly/1QBHPFY>; Artisanal and small-scale mining in Asia-Pacific (ASM), Molly Chattopadhyay, "Women workers in mica-manufacturing of Jharkhand", 2007, page 9, <http://bit.ly/1HlkSnp>.

## 2.2. MAIN COUNTRIES MINING AND PROCESSING MICA

### MINING ESTIMATES

The US Geological Survey (USGS)<sup>14</sup> and British Geological Survey (BGS)<sup>15</sup> have recently and separately estimated where most mica mining takes place worldwide. The two organisations' estimates differ and do not tally with levels of exported mica as registered in the UN Comtrade database.<sup>16</sup>

UN Comtrade figures underestimate the amount of mica mining for these reasons: first, mica that reaches its end use in the country in which it is mined is not accounted for; second, mica may be further processed in the mining country, and exported under different categories in the UN Comtrade database. The UN Comtrade figures relate only to trade of mica that will still undergo some processing before appliance by end users.

Table 3 compares estimates from the three sources of information. There are large differences, especially for China and India. The USGS replied to SOMO's questions about this. For years, the USGS had published "not available" for the amount of mica produced in China. In 2011 they had pressured their China expert, and the expert got a report of Chinese mica production. The expert is now, however, retired, and the USGS does not have a copy of this report (in Mandarin). For India the USGS just publishes the data from the Indian Bureau of Mines.<sup>17</sup>

Most mica mining in India is conducted illegally. This explains the low estimates of USGS and BGS shown in Table 3. According to the Indian government's Bureau of Mines, (legal) Indian mica mining amounted to 19,000 tonnes in the period 2013/2014.<sup>18</sup> The UN Comtrade data show that India is a very large source of mined mica, exporting 138,000 tonnes in 2014. Other databases - ones that show harbours and airports of loading - also register massive exports from India.

It is difficult to make a reasonable estimate of mica mining in China. In 1997, mining production was estimated at 154,000 tonnes, with mining carried out in five provinces: Sichuan, Xinjiang, Inner Mongolia, Hebei and Hubei.<sup>20</sup> According to UN Comtrade, China's 2014 mica export amounted to 159,000 tonnes. The main importer was Japan (66% of the total).<sup>21</sup> China is also a large importer of mica. It imported 101,000 tonnes in 2014, of which 86% came from India.<sup>22</sup>

"Indian mica mining amounted to 19,000 tonnes in the period 2013/2014."

14. US Geological Survey, Mineral Commodity Summaries, "Mica", January 2016, pages 110 and 111, <http://on.doi.gov/1Piw00D>.  
 15. British Geological Survey, "World Mineral production 2010 - 2014", February 2016, <http://bit.ly/1prZrQ>.  
 16. International Trade Center (ITC), HS code 2525 group. Based on UN Comtrade statistics, <http://bit.ly/1SBXIne>.  
 17. E-mail USGS to SOMO on 19 January 2016.  
 18. Government of India, Ministry of Mines, Indian Bureau of Mines, "Statistical Profiles of Minerals 2013-14", April 2014, page 82, <http://bit.ly/1M8Y5Rt>.  
 19. Panjiva.com, search term "mica", imports to the US from 1 January 2014 to 5 June 2015; Zauba.com, search term "mica", exports by India from 1 January 2015 to 30 June 2015.  
 20. Chinamining.org, "Nonmetallic Mineral Resources, mica", <http://bit.ly/1MBNDU2>.  
 21. International Trade Center (ITC), HS code 2525 group. Based on UN Comtrade statistics, <http://bit.ly/1QG2EVv>.  
 22. International Trade Center (ITC), HS code 2525 group. Based on UN Comtrade statistics, <http://bit.ly/1XeDbED>.



COUNTRY	MICA PRODUCTION		MICA EXPORTS UN COMTRADE, 2014
	US GEOLOGICAL SURVEY, 2015	BRITISH GEOLOGICAL SURVEY, 2014	
China	780	159	159
India	20	1	138
United States of America	42	50	9
Canada	22	16	21
South Africa	0	0	13
Madagascar	10	12	12 (17 in 2015)
France	20	20	13
Finland	54	12	8
South Korea	30	24	0
Russia	101	9	0
Brazil	12	10	4
Other countries	32	30	44
World total	1,123	343	421

**Table 3: Estimated main mica mining countries (1,000 tonnes)**

Sources: US Geological Survey, Mineral Commodity Summaries, "Mica", January 2016, pages 110 and 111, <http://on.doi.gov/1PwOoD>; British Geological Survey, "World Mineral production 2010 - 2014", February 2016, <http://bit.ly/1prZtrQ>; Calculations International Trade Center (ITC), HS code 2525 group. Based on UN Comtrade statistics, <http://bit.ly/1SBXIne>.

The US Geological Survey estimates that 41,500 tonnes of scrap and flake mica were mined in the US in 2015.<sup>23</sup> A 2015 inventory for the EU, leading to the first edition of the European Minerals Yearbook, showed that France (20,000 tonnes) and Finland (11,000 tonnes) were the leading mica mining countries in Europe in 2013. Mica is also mined in Austria, but quantities are not known.<sup>24</sup> All in all, SOMO estimates that China and India are the

largest mica mining countries with a yearly production in the range of 150,000 - 200,000 tonnes each, followed by the US (42,000 tonnes) and Europe. SOMO estimates that total global mica mining production amounts to 500,000 tonnes. In India, some three quarters of the mining takes place in Jharkhand/Bihar.<sup>25</sup> Therefore, it is estimated that the Jharkhand/Bihar region accounts for 25% of global mica mining.

23. US Geological Survey, Mineral Commodity Summaries, "Mica", January 2016, pages 110 and 111, <http://on.doi.gov/1PwOoD>.

24. Minerals4EU, "European Minerals Yearbook - data for mica", <http://bit.ly/1FjdSaW>; Aspanger Bergbau and Mineralwerke GmbH, "Mica", <http://bit.ly/1NHfhhK>.

25. Mica export statistics sourced from <https://www.zauba.com>. The export statistics show the harbours and airports of loading for the three mining regions. The estimated percentages are for mica that is exported within the HS code group 2525, which represents the trade of mica that not yet processed for use by end users (scrap and crude mica).

#### MAIN IMPORTING COUNTRIES

Table 4 shows the main mica importing countries. Japan and China are the largest importers, followed by Germany and the US. Large import figures suggest a large domestic market for mica (combined with little mining activity) and/or large mica processing activities in the country. The UN Comtrade figures are, however, for trade of mica that will still undergo some processing before appliance by end users, so the mica may be re-exported in another category. For other categories, tonnages provided in the UN Comtrade database include other materials, so mica tonnages cannot be provided.

As well as being a large exporter, China was also a large importer of mica in 2014. It imported 101,000 tonnes, 86% of which was from India.<sup>26</sup> Most Chinese importers of mica from India have two things in common: they are located near harbours in eastern China and they produce pearlescent pigments.

The Netherlands is not a large user of mica, especially as one-third of its import was re-exported in 2014.<sup>27</sup> This would leave 4,000 tonnes for internal processing by companies, less than 1% of global use. This suggests that the Netherlands has no large industry adding value to mica.

COUNTRY	MICA IMPORT (1,000 TONNES)
#1 Japan	127
#2 China	101
#3 Germany	34
#4 United States of America (USA)	34
#10 Netherlands	6

**Table 4: Main mica importing countries**

Source: Calculations International Trade Center (ITC), HS code 2525 group. Based on UN Comtrade statistics, <http://bit.ly/225jy52>.

"The Netherlands is not a large user of mica, especially as one-third of its import was re-exported in 2014."

26. International Trade Center (ITC), HS code 2525 group. Based on UN Comtrade statistics, <http://bit.ly/225jy52>.

27. International Trade Center (ITC), HS code 2525 group. Based on UN Comtrade statistics, <http://bit.ly/1633gSI>.



# 3. THE MICA SECTOR IN INDIA

## 3.1. MINING LOCATIONS AND EXPORT FIGURES

### MINING LOCATIONS

Figure 2 shows that India has three main mica belts.<sup>28</sup> These mica belts are located in the states of Jharkhand/Bihar, Andhra Pradesh and Rajasthan. Export statistics for the first half of 2015 show that around 74% of India's mica export value was derived in Jharkhand/Bihar, 15% in Rajasthan and 11% in Andhra Pradesh.<sup>29</sup> This reveals the present mica mining activity in India.

### EXPORT FIGURES

India's mica exports have been growing steadily over the past 10 years. The quantity of mica sold abroad comprised 78,000 tonnes in 2006. In 2015, the figure stood at 136,000 tonnes, an increase of 75%.<sup>30</sup>

Table 5 shows the main countries importing mica from India in the first half of 2015, measured in export value of the mica.<sup>31</sup> China imported most of India's mica (67%), followed by Japan (9%), Belgium (7%) and the US (6%). These four countries are the main mica importers from the mining regions of Jharkhand/Bihar and Andhra Pradesh. China covers almost all imports from Rajasthan.

Statistics for the past five years show the same domination of China, Japan, the US and Belgium with regard to mica imports from India. Figure 3 shows that China's share has been rising, while the share accounted for by the 'other countries' category has fallen dramatically. Imports via Belgian harbours do not necessarily mean that the mica is processed there. The main German producer of pigments, Merck, imports some 5,000 tonnes of mica yearly from Jharkhand/Bihar to Belgium, but the mica is processed in Germany (see section 7.3).

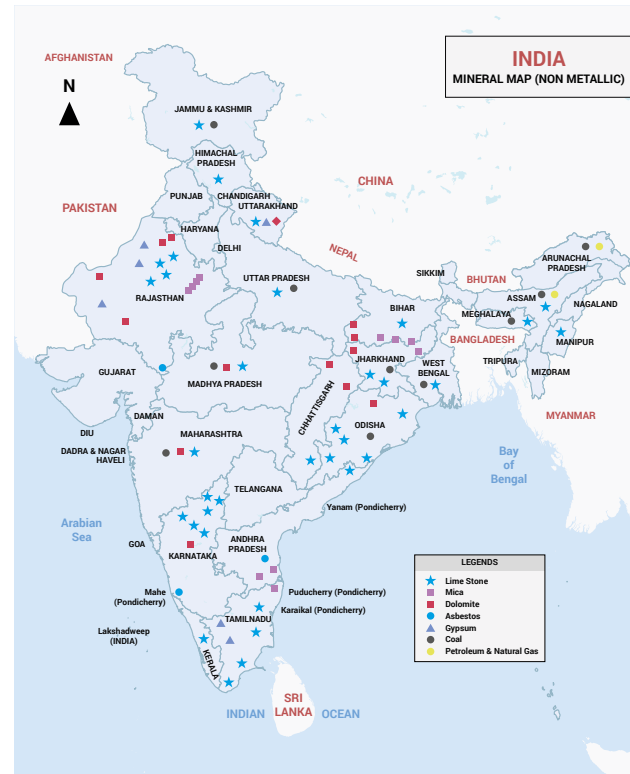


Figure 2: The three mica belts in India (marked with purple squares)

Source: Maps of India, Map of Non Metal Minerals in India, 2015, <http://bit.ly/1Rssu2z>.

COUNTRY	MINING REGION AND SHARE OF INDIA'S EXPORT VALUE			ALL MICA EXPORTS
	JHARKHAND/BIHAR (74%)	RAJASTHAN (15%)	ANDHRA PRADESH (11%)	
China	67	86	42	67
Japan	10	1	19	9
Belgium	7	0	11	7
United States (US)	6	0	12	6
Other countries	10	13	16	11
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

Table 5: Main mica importing countries from India, first half 2015, per mining region

Source: Export statistics from <https://www.zauba.com>. The export statistics show the harbours and airports of loading for the three mining regions. Estimated percentages are for mica exported within HS code group 2525.

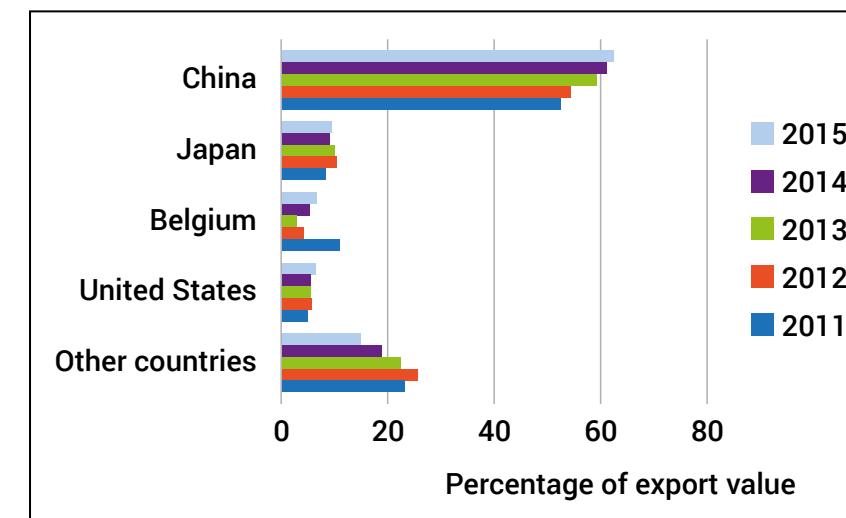


Figure 3: Main importing countries of India's mica

Source: Statistics International Trade Center (ITC), <http://bit.ly/1p9bof6>. Percentages are for mica exported within HS code group 2525.

28. Maps of India, "Map of Non Metal Minerals in India", <http://bit.ly/1Rssu2z>.

29. Mica export statistics sourced from <https://www.zauba.com>. The export statistics show the harbours and airports of loading for the three mining regions. The estimated percentages are for mica that is exported within the HS code group 2525, which represents the trade of mica that not yet processed for use by end users (scrap and crude mica).

30. International Trade Center (ITC), HS code 2525 group. Based on UN COMTRADE statistics, <http://bit.ly/1UUWtA0>.

31. Mica export statistics sourced from <https://www.zauba.com>. The export statistics show the harbours and airports of loading for the three mining regions. The estimated percentages are for mica that is exported within the HS code group 2525 in the first half of 2015.



### 3.2. THE MINING AREA OF JHARKHAND/ BIHAR AND ITS PEOPLE

#### JHARKHAND/BIHAR

Figure 4 shows (in red) the main mica mining area of Jharkhand/Bihar, where currently three quarters of India's mica mining takes place. The main mining area measures some 75 by 20 kilometres, while the entire mica belt of the area is estimated to be 160 by 20-40 kilometres.<sup>32</sup> Jharkhand State has existed since November 2000, when it was carved out of Bihar State.



Figure 4: Main mica mining area in Jharkhand/Bihar

Sources: D-maps.com, "Map of India (outline, states, names, white)", <http://bit.ly/1YqwVuU>

Main mica area: various mining activity reports.

Table 6 shows statistics on poverty and education for the rural population of Jharkhand and Bihar, compared to India averages. Both Jharkhand and Bihar are among the Indian states with the highest poverty rate, and literacy and school attendance are also below average.

#### THE MAIN MICA MINING AREA

Figure 5 provides a more detailed view on the main mica mining area, and its administrative divisions. Based on various mining activity reports, SOMO estimates that most of the mining takes place within the orange boundary. People are occupied with the small-scale mining of mica in hundreds of villages in Jharkhand/Bihar. Families with children presently working in the mica mines are often landless.<sup>33</sup> Often the mining takes place at mines that were legal in the past. Some families moved to the area many decades ago, when legal mica mining provided an income.<sup>34</sup> For example, in 1960, 18,000 people were officially employed in Bihar's mica mines.<sup>35</sup>

Table 7 provides more information about the rural population within the main mica mining area.<sup>36</sup> The high illiteracy rate in the area is striking (40%), compared to the averages for Jharkhand State (34%) and India (27%).

"People are occupied with the small-scale mining of mica in hundreds of villages in Jharkhand/Bihar."

	JHARKHAND	BIHAR	INDIA
% living below poverty line	41	34	26
% illiterate	34	38	27
% children not enrolled in school (age 6-14)	4.3	4.1	3.3
% children enrolled in primary school, but not present	38.3	41.8	28.6

Table 6: Poverty and education, Jharkhand/Bihar versus the whole of India

Sources: Planning Commission India, "No. and % of Population Below Poverty Line by States, 2011-12", <http://bit.ly/1OceTtn>; Censusinfo India 2011, "Literacy rate, 7+ years", <http://bit.ly/1R3wa94>; ASER Centre, "Annual Status of Education Report (Rural) 2014", 13 January 2015, <http://bit.ly/1uwlQse> (% of rural population, except for % illiterate: total population).

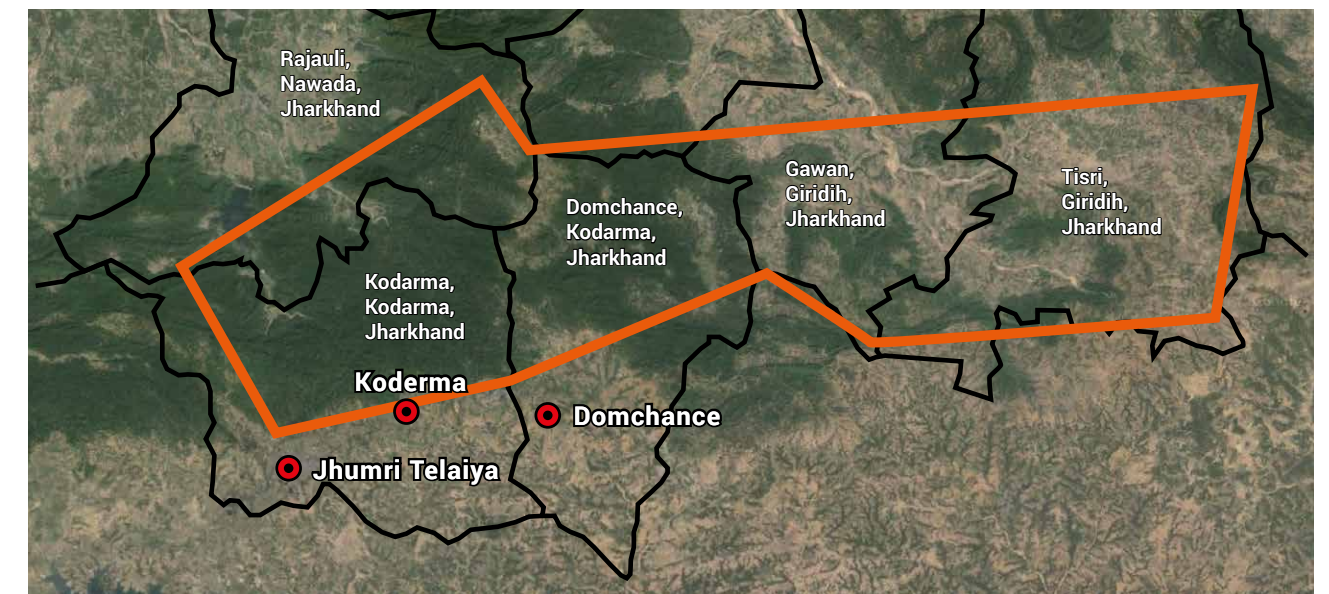


Figure 5: Main mica mining area of Jharkhand/Bihar (subdistrict, district, state)

Sources: Google Earth; district data of the 2011 Census of India; various mining activity reports.

32. Mittal Publications, Kumar Sanjay, "Problems and prospects of mineral industry in India: A study of Mica industry", 1993, page 23, <http://bit.ly/1QBHPfY>.

33. "The mineral sourced from illegal mines that powers your electronics", Wired, August 2015, <http://bit.ly/1NEZeC3>; Danwatch, "Who suffers for beauty? The child labour behind make-up's glitter", February 2014, <http://bit.ly/1et1ijj>.

34. Interviews with families in the village of Dhab during field investigation SOMO, 11 October 2016.

35. Mittal Publications, Kumar Sanjay, "Problems and prospects of mineral industry in India: A study of mica industry", 1993, page 52, <http://bit.ly/1QdW77t> (on mica processing in the 1960s no numbers could be found).

36. Government of India, "Census of India, Jharkhand, Kodarma", 2011, <http://bit.ly/1PVDRNu>; Government of India, "Census of India, Jharkhand, Giridih", 2011, <http://bit.ly/1QEbm8T>; Government of India, "Census of India, Bihar, Nawada", 2011, <http://bit.ly/1HisOg6>.



SUBDISTRICT	TOTAL POPULATION	ILLITERACY, 7+ YEARS	SCHEDULED CASTES POPULATION	SCHEDULED TRIBES POPULATION	CHILDREN BELOW AGE 7	VILLAGES > 150 HOUSEHOLDS	VILLAGES < 150 HOUSEHOLDS
Domchance	110,000	39%	14%	2%	22,000	39	62
Gawan	116,000	39%	16%	5%	23,000	29	108
Kodarma	80,000	35%	18%	0%	15,000	35	41
Rajauli	136,000	43%	29%	0%	24,000	44	58
Tisri	95,000	45%	14%	22%	19,000	26	157
Total	537,000	40%	19%	5%	103,000	173	426

**Table 7: Rural population 2011 in the main mica mining areas of Jharkhand/Bihar**

Sources: Government of India, "Census of India, Jharkhand, Kodarma", 2011, <http://bit.ly/1PVDRNu>; Government of India, "Census of India, Jharkhand, Giridih", 2011, <http://bit.ly/1QEbm8T>; Government of India, "Census of India, Bihar, Nawada", 2011, <http://bit.ly/1HisOg6>.

### 300 VILLAGES

As can be seen in Figure 5, the actual mining area comprises about half of the total area of the subdistricts.<sup>37</sup> Assuming that half of the population in the subdistricts lives within the actual mica mining area, the rural population in the mica mining area would be 270,000 people, with 52,000 children below seven years of age.<sup>38</sup> Assuming also that half of the villages in the subdistricts are situated within the actual mica mining area, means there would be 86 villages with more than 150 households, and 213 villages with fewer than 150 households. This is a total of 300 villages.

### SCHEDULED CASTES AND SCHEDULED TRIBES

Scheduled castes and scheduled tribes are notified as such in the Constitution of India, and refer to certain communities needing special consideration for safeguarding their interests and for their accelerated socio-economic development. The social, educational and economic neglect of these communities arises out

of the age-old practice of untouchability and on account of primitive agricultural practices, specific cultures, lack of infrastructure facilities and geographical isolation.<sup>39</sup> Scheduled castes are often referred to as *Dalits*, though scheduled castes represent a larger group of communities. *Dalits* are the "untouchables" within Hinduism and subject to caste discrimination.<sup>40</sup> Scheduled tribes are often referred to as *Adivasi*, literally meaning 'indigenous people' or 'original inhabitants'.<sup>41</sup> Scheduled castes and scheduled tribes amount to 19% and 5% of the population respectively in the main mica mining area, while the Indian average stands at 16% and 8% respectively.<sup>42</sup> The Rajauli subdistrict has a high percentage of scheduled castes (29% of the population), while Tisri has a high percentage of scheduled tribes (22% of the population). Both Rajauli and Tisri also have the highest illiteracy rate of the subdistricts within the main mica mining area.

37. The official term, as used for the Census of India, is not subdistrict, but community development block (C.D. Block)

38. Government of India, "Census of India, Jharkhand, Kodarma", 2011, <http://bit.ly/1PVDRNu>; Government of India, "Census of India, Jharkhand, Giridih", 2011, <http://bit.ly/1QEbm8T>; Government of India, "Census of India, Bihar, Nawada", 2011, <http://bit.ly/1HisOg6>.

39. Government of India, National Commission for Scheduled Tribes, "About NCST", <http://bit.ly/1QdGkVZ>.

Government of India, National Commission for Scheduled Castes, "Genesis", <http://bit.ly/1PJ6r1C>.

40. International Dalit Solidarity Network, "India", <http://bit.ly/1R17rRh>.

41. Adivasi Religion and Society Network, "Who are Adivasis?", <http://bit.ly/1O80NUV>

PUCL Bulletin, "The Adivasis of India - A history of discrimination, conflict, and resistance", February 2003, <http://bit.ly/1QdApdt>.

42. Government of India, "Census of India, Population of scheduled castes and Scheduled Tribes and their proportions to the total population", 2011, <http://bit.ly/1ocJWvI>





### 3.3. ILLEGAL MINING

Almost all mica mining in Jharkhand/Bihar is illegal, but tolerated by the government.<sup>43</sup> Mining licences were not renewed after the Forest Conservation Act 1980 of India's central government entered into force. Even before 1980 the number of legal mines had been decreasing steadily. In 1961 there were 432 legal mica mines operating in Bihar (which included Jharkhand until November 2000); by 1980 the number had decreased to 147, and in 1986 there were only 73 legal mica mines left in the area.<sup>44</sup> The study 'Problems and Prospects of Mineral Industry in India: A study of Mica industry', which was published in 1993, reported: "The case of illicit mining and underreporting of production is a well-known fact. This situation is very much prevalent in the Bihar mica belt. A large number of mines in this state have been closed and lie abandoned in the forest areas and they are accessible to those who collect whatever mica they can get. Mica is taken away and then sold to the dealers."<sup>45</sup>

Currently there are no legal mines listed by the Indian Bureau of Mines in Jharkhand, and in Bihar there are only two legal mining leases (see Table 8). One of them is Sharda in Mauza-Chatkari, owned by Modi Mica Enterprises.<sup>46</sup> The other legal lease is owned by the company Chattu Ram Darshan Ram.<sup>47</sup> This lease comprises four or five mines.<sup>48</sup> It is not clear whether there is active mining production in all these mines.<sup>49</sup> Within the Sharda lease area there is active mining production. The Chinese pearlescent pigment producer Ruicheng imported 1,600 tonnes from the Sharda Mine in the first half of 2015.<sup>50</sup> The German pigment

producer Merck and the Indian pigment producer Sudarshan are also customers of the Sharda mine. Customers of the mines within the legal lease of the Chattu Ram Darshan Ram mines also include (at least) Merck and Sudarshan.<sup>51</sup>

Indian Bureau of Mines data may not be complete, as the German pigment producer Merck has stated that it sources from legal mines only. Merck sources 8-9,000 tonnes of mica flakes from the area of Jharkhand/Bihar annually.<sup>52</sup> SOMO has seen confidential documentation provided by Merck in relation to the legality and locations of the mines. Merck presently sources from six mines. Three of the mines are located in Bihar State, while the other three are in Jharkhand State. Despite the fact that these leases are not listed by the Indian Bureau of Mines, it appears that these mines are legal: recent mining inspection reports (produced by the Indian central government) and mining lease documentation were provided by Merck.<sup>53</sup> The calculations are an underestimate. For example, earlier in this report the mining production in Jharkhand/Bihar was estimated to be 125,000 tonnes yearly.

Table 9 provides an estimate of the magnitude of illegal mica mining in India.<sup>54</sup> For Jharkhand/Bihar the yearly legal mica production is estimated to amount to 11,000 tonnes. This estimate is based on the production according to the Indian Bureau of Mines (Bihar 3,300 tonnes and Jharkhand 2,000 tonnes) and the known sourcing from legal mines by Merck, Sudarshan and Ruicheng (the latter sources partly from legal mines through the Sharda mine). It remains a contradictory

STATE	NUMBER OF LEASES	HECTARES
Andhra Pradesh	120	1,821
Rajasthan	120	958
Bihar	2	1,197
Haryana	1	400
Maharashtra	1	42
<b>Total</b>	<b>244</b>	<b>4,418</b>

**Table 8: Present mica mining leases in India**

Source: Government of India, Indian Bureau of Mines, "Bulletin of Mining Leases @ Prospecting Licenses 2014", October 2015, <http://bit.ly/1RsvnfE>.

STATE	LEGAL PRODUCTION (TONNES)	EXPORTED MICA 2015 (TONNES)	ESTIMATE ILLEGAL MINING (TONNES)	ESTIMATE ILLEGAL MINING (%)
Jharkhand/Bihar	11,000	100,600	89,600	89
Andhra Pradesh	9,200	15,000	5,800	39
Rajasthan	4,700	20,400	15,700	77
Haryana/Maharashtra	0	0	0	0
<b>Total</b>	<b>24,900</b>	<b>136,000</b>	<b>111,100</b>	<b>82</b>

**Table 9: Estimates of illegal mica mining in India**

Sources: Indian Bureau of Mines, "Statistical Profiles of Minerals 2013-14", April 2014, page 82, <http://bit.ly/1M8Y5Rt>; International Trade Center (ITC), HS code 2525 group. Based on UN Comtrade statistics, <http://bit.ly/1UUWtAo>; Correction for legal production based on trade data Infodrive.

situation that the Bureau of Mines reports estimations of legal production in Jharkhand State, while it does not list legal mines in Jharkhand State.<sup>55</sup>

The production data were compared with tonnes of mica exported by India. The export data provide for a slight underestimation of mica production data. First, mined mica that is sold within India is not included into the export data. Second, mica may be further processed in India, and exported under different categories of the export database. The calculations are an underestimate. For example, earlier in this report

the mining production in Jharkhand/Bihar was estimated to be 125,000 tonnes yearly.

Table 9 shows the calculation that arrives at an estimate of 89% of mica mining production being illegal in Jharkhand/Bihar. Illegal mica mining is also common in Rajasthan<sup>56</sup> and Andhra Pradesh<sup>57</sup>, with figures of 77% and 39% respectively. The calculations are an underestimate. For example, earlier in this report the mining production in Jharkhand/Bihar was estimated to be 125,000 tonnes yearly.

43. Government of India, Ministry of Mines, Indian Bureau of Mines, "Bulletin of mining leases & prospecting licenses 2014", 6 October 2015, <http://bit.ly/1RsvnfE>.  
44. Mittal Publications, Kumar Sanjay, "Problems and prospects of mineral industry in India: A study of mica industry", 1993, page 54, <http://bit.ly/1QdW77t>.  
45. Mittal Publications, Kumar Sanjay, "Problems and prospects of mineral industry in India: A study of mica industry", 1993, page 54, <http://bit.ly/1QdW77t>.  
46. High Court, "Order - File No.1/M.M.25/07 - M/S Sharda Mica Mining Company Mauza-Chatkari (501 acre)", 4 April 2014, <http://bit.ly/1IIDPDi>; Danwatch, "Who suffers for beauty? The child labour behind make-up's glitter", February 2014, <http://bit.ly/1et1ijj>.  
47. High Court, "Order - File No.1/M.M.02/07 - M/S Chattu Ram Darshan Ram, Mauza-Velam Sawaiyatand and Dalha (2455.54 acre)", 4 April 2014, <http://bit.ly/1PknB7y>; Patna High Court, "M/S Chattu Ram Darshan Ram vs The State Of Bihar & Ors", 10 February 2011, <http://bit.ly/1kh7iND>.  
48. Universal Mica & Mineral Associates, "About UMMA", <http://bit.ly/1Zpj4Fu>.  
49. Interviews by SOMO with some exporters and the Indian NGO Bachpan Bachao Andolan (BBA) in October 2015.  
50. Infodriveindia.com, HS code 2525 group, port of loading Kolkata Sea, first half 2015, as supplied on 25 July 2015.  
51. Meeting between Merck and SOMO representatives in Darmstadt, Germany, on 17 December 2015; telephone call between Sudarshan and SOMO representatives on 1 December 2015.  
52. Meeting between Merck and SOMO representatives in Darmstadt, Germany, on 17 December 2015.  
53. Documents received in confidentiality by SOMO from Merck, January 2016.  
54. Estimated production: Indian Bureau of Mines, "Statistical Profiles of Minerals 2013-14", April 2014, page 82, <http://bit.ly/1M8Y5Rt>. Export data: 136,000 tonnes exported in 2015. International Trade Center (ITC), HS code 2525 group. Based on UN Comtrade statistics, <http://bit.ly/1UUWtAo>. Share states in export Mica: Jharkhand/Bihar – 74%; Rajasthan – 15%; Andhra Pradesh – 11%. Source: export statistics sourced from <https://www.zauba.com>. The export statistics show the harbours and airports of loading for the three mining regions. The estimated percentages are for mica that is exported within the HS code group 2525 in the first half of 2015.  
55. Indian Bureau of Mines, "Statistical Profiles of Minerals 2013-14", April 2014, page 82, <http://bit.ly/1M8Y5Rt>.  
56. "SC pulls up Rajasthan for failing to curb illegal mining", The Times of India, 5 July 2015, <http://bit.ly/1WUd44D>.  
57. Milan George Jacob, "Mica mineworkers exploited in Gudur belt", 25 March 2015, <http://bit.ly/1MTzJgR>.



### 3.4. TRADE DATA ON JHARKHAND/BIHAR

#### EXPORTS PER MICA PRODUCT

The Indian region of Jharkhand/Bihar represents the world's largest mica mining area, with an estimated 25% of the world's total production (see also section 2.2). For this region SOMO has been able to track down data on mica use, as trade data could be retrieved. These trade data showed the mica product sold, quantities sold, the export value, the exporters, and the importers. Table 10 shows a breakdown of trade data per mica product. The following can be said about the mica products:

- Manufacturers of pearlescent pigments account for 59% of the tonnages of mica shipped from the region and two-thirds of the export value.<sup>58</sup> Pearlescent pigments are used in paint/coatings, cosmetics, plastics and ink.<sup>59</sup>

- For the traded mica powder/scrap (31%) there are several possible applications: plasterboard, rubber tyres, automotive brake friction materials, clutches, fibre cement, paints, coatings, plastics, cosmetics, personal care products (shampoos) etc. Moreover, mica paper/tape can be made from mica powder. The electronics sector is also a large user of mica paper/tape, especially for insulation purposes.
- An estimated 7% of the mica sold from Jharkhand/Bihar comprises mica to be used for oil-well drilling. The export value of mica used for oil-well drilling amounted to an estimated 2% only.<sup>60</sup> The mica sold for this purpose is of a low quality compared to other mica products, and is therefore cheaper.
- Some 8% of the export value from Jharkhand/Bihar comprised mica blocks and splittings, while in tonnages the share was only 2%. Blocks/splittings are mostly used in the electronics sector. This mica is the most expensive.

MICA PRODUCT	TONNAGES	% OF TOTAL TONNAGE	EXPORT VALUE (INR MILLION)	% OF EXPORT VALUE
Flakes for pearlescent pigments	34,800	59	1,061	67
Mica powder/scrap	18,600	31	339	22
Flakes for oil well drilling	3,900	7	30	2
Blocks/splitting	1,000	2	128	8
Other	500	1	13	1
<b>Total</b>	<b>58,800</b>	<b>100</b>	<b>1,571</b>	<b>100</b>

**Table 10: Exports of mica from Jharkhand/Bihar, first half 2015, per mica product**

Source: Infodriveindia.com, HS code 2525 group, port of loading Kolkata Sea, first half 2015, as supplied on 25 July 2015. The trade data have been corrected as much as possible for double counting that came to light, but some double counting may still remain.

58. Infodriveindia.com, HS code 2525 group, port of loading Kolkata Sea, first half 2015, as supplied on 25 July 2015. These trade data show which companies have been importing mica, and which mica product they have bought. Seven companies in the top 10 importing companies were manufacturers of pearlescent pigments. Together these seven companies accounted for 42% of the total export value and 84% of the export value of the top 10 companies. For 30% (INR 473 million) of the total export value (INR 1,571 million) the importer was not disclosed. More than half of the non-disclosed importers bought mica flakes. Mica flakes are generally used to produce pearlescent pigments and, to a lesser extent, for oil-well drilling fluids. The figure of 60% is calculated by adding 15% (half of 30%) to the 45% (share of identified eight largest importers among the pearlescent pigments producers).

59. US Geological Survey (USGS), J.B. Hedrick, "Mica", May 2008, <http://on.doi.gov/1PzQQpF>; Websites of main pearlescent pigments manufacturers: Merck Performance Materials, "Coatings, basics pigment technology", <http://bit.ly/1MoniYi>; Kuncai, "Kuncai Group", <http://bit.ly/1MmsUDj>; Ruicheng, "Application", <http://bit.ly/1MV191J>.

60. infodriveindia.com, HS code 2525 group, port of loading Kolkata Sea, first half 2015, as supplied on 25 July 2015.

IMPORTER FROM JHARKHAND/BIHAR	COUNTRY OF REGISTRATION	EXPORT VALUE (INR MILLION)	TONNAGES	MAIN USE OF MICA
Kuncai	China	201	6,200	pearlescent pigments
Merck	Germany	167	5,200	pearlescent pigments
Ruicheng	China	87	2,800	pearlescent pigments
Chesir	China	80	2,600	pearlescent pigments
Rika	China	62	1,800	pearlescent pigments
Silimica/Pamica	China	48	1,400	mica tape
Yamaguchi Mica	Japan	45	1,300	mica powder
Nihon Shoji	Japan	35	1,000	mica flakes and powder <sup>61</sup>
Oxen	China	31	1,000	pearlescent pigments
ZhenFa	China	31	1,400	pearlescent pigments
Shanghai Foreign Trade Enterprises	China	25	7	trader, mainly mica blocks
National Factory	Saudi Arabia	23	3,300	most likely drilling fluids <sup>62</sup>
Volor	China	20	700	pearlescent pigments
Mahlwerk Neubauer Friedrich Geffers	Germany	20	1,000	mica as a filler & for the rubber industry
Dean & Tranter	UK	15	1,400	Trader, mica powder
Elfin Group	Luxembourg	15	400	electrical insulation and related products
Okabe	Japan	15	400	electrical insulation and related products
Others		651	26,893	
<b>Total</b>		<b>1,571</b>	<b>58,800</b>	

**Table 11: Main mica importing companies from Jharkhand/Bihar in the first half of 2015**

Source: infodriveindia.com, HS code 2525 group, port of loading Kolkata Sea, first half 2015, as supplied on 25 July 2015. For 30% (INR 473 million) of the total export value (INR 1,571 million) the importer was not disclosed. This means that companies mentioned in the table may have imported more than presented in the table, and that some companies are not listed as a main importing company in the table. The trade data have been corrected as much as possible for double counting that came to light, but some double counting may still remain.

61. Probably the importer is the Japanese Itochu Corporation. One of the companies supplying Nihon Shoji is the Jai Mica company, and Jai Mica states on its website that the Itochu Corporation is one of its main clients. Sources: Jai Mica, "Company Profile", <http://bit.ly/1IEbOvZ>, Itochu Chemical Frontier company, "Products List", <http://bit.ly/1LNRXul>.

62. The mica products sold are named Mica Coarse Grade and Mica Fine Grade. These terms usually refer to the use of mica as lost-circulation material added to drilling fluids. The term National Factory probably refers to the National Factory for Processing and Treating Minerals. Sources: Delmon Group of Companies, "Drilling Mud / Additives", <http://bit.ly/1eBdqgX>; Delmon Group of Companies, "National Factory for Processing and Treating Minerals", <http://bit.ly/1I2Dnk9>. Saudi Arabia is the world's largest oil producer.

EXPORTER IN INDIA	TOTAL EXPORT VALUE (INR MILLION)	SALES TO MAIN CUSTOMERS (INR MILLION)				
		KUNCAI	MERCK	RUICHENG	CHESIR	OTHER
Gunpatroy	197	14			22	161
Mount Hill's	195	102			20	73
Jai Mica	130			33		97
Pravin	117	31			10	76
Modi Mica	95		23	50		22
Vedant	93	8			25	60
Pachisia	67		57			10
Mohan Mica	36	31				5
Kritika Enterprises	40	4				36
Ramdew Modi	39		38			1
Alpha International	37					37
Ratan Mica	36					36
Kedarnath Ramgopal & Sons	33					33
Daruka	26					26
Mohan International	26		26			0
Manoj Kumar Bhadani	23		23			0
Pearlescent Minchem (India)	22	8				14
Other	359	3	0	4	3	349
<b>Total</b>	<b>1,571</b>	<b>201</b>	<b>167</b>	<b>87</b>	<b>80</b>	<b>1,036</b>

**Table 12: Main mica exporting companies from Jharkhand/Bihar; first half 2015**

Source: infodriveindia.com, HS code 2525 group, port of loading Kolkata Sea, first half 2015, as supplied on 25 July 2015.

### MAIN IMPORTING COMPANIES

Table 11 (see next page) shows which companies imported most mica from Jharkhand and Bihar during the first half of 2015. Leading importers were Kuncai and Merck, together accounting for 25% of the total export value. Both companies manufacture pearlescent pigments and sell these to industries specialising in cosmetics, paint, plastic and ink. The top 10 companies importing most mica from Jharkhand/Bihar include seven companies that use mica to manufacture pearlescent pigments. Together these seven companies account for 42% of the total export value, and 84% of the export value of the top 10 companies.

### MAIN EXPORTING COMPANIES

Table 12 shows the main mica exporting companies from Jharkhand/Bihar, and their sales to the three biggest importers from Jharkhand/Bihar. Gunpatroy and Pravin were the companies that were most reluctant to disclose information on their customers. Their trade data usually stated "to order" instead of naming the importer.

### 3.5. LABOUR-INTENSIVE MICA PROCESSES

For mica mining and processing, a lot of manual labour is needed. Most labour-intensive mica processes take place in the villages:

- People are occupied with small-scale mining of mica in hundreds of villages in Jharkhand/Bihar. Often the mining takes place at mines that used to be legal. Due to the illegal character, little heavy machinery is used. The mining mainly involves manual labour with some simple tools to get the crude mica loose from

the rock formation, although often also explosives and compressed-air operated jack hammers are used. The mica is mined underground or in an open-pit mine (quarry). The underground mining may comprise tight holes about 10 metres deep, dug by villagers. There are also a few mines with 200 to 300-ft deep shafts accompanied by another deep hole for ventilation purposes.<sup>63</sup>

- All crude mica produced from the workings is cobbled manually with hammers to remove the gangue minerals like quartz, feldspar and other associated minerals, including waste mica.<sup>64</sup> During this process the mica will also be sieved to remove dust. This first rough preparation of the crude mica may be done at the mine itself, or in places where the locally mined crude mica is gathered. After this, the mica will usually be sold to local traders.<sup>65</sup>
- Whenever mica is to be used as a sheet, labourers will dress the cobbled mica with knives and scissors. Sharp knives are used to split the mica into fine pieces of the required thickness. This process is called splitting, and typically this skilled labour is conducted by women only. Scissors are used to remove ragged edges. Probably due to low wages (and also the nearby availability of good quality mica), India - and especially the area of Jharkhand/Bihar - is the world's largest producer of mica blocks and splittings. For some electrical appliances of mica, much manual labour is used to cut and punch the mica according to needed specifications with a simple machine.<sup>66</sup>

Child labour occurs mainly in the processes of mining and cobbing in villages. The jobs of cutting, splitting and punching mica seem to be rarely conducted by children.

63. M.K. Ghose, "A report on small-scale mica mining in Koderma region", 2005, page 38, <http://bit.ly/1RR853g>; SOMO, field visit to illegal mine in Tisri, the Durga mine near Dhab (both Jharkhand) and Faguni mine in Bihar, October 2015.

64. Mittal Publications, Kumar Sanjay, "Problems and prospects of mineral industry in India: A study of mica industry", 1993, page 66, <http://bit.ly/1QBHPfY>; Government of India, Ministry of Mines, Indian Bureau of Mines, "Indian Minerals Yearbook 2014 (Part III: Mineral Reviews), MICA", December 2015, <http://bit.ly/1QbmKDY>.

65. Merck Group, "Merck's Mica Supply Chain, Update", May 2011, <http://bit.ly/1LUwVhQ>.

66. Artisanal and small-scale mining in Asia-Pacific (ASM), Molly Chattopadhyay, "Women workers in mica-manufacturing of Jharkhand", 2007, page 9, <http://bit.ly/1HlkSnp>.



# 4. CHILD LABOUR

## 4.1. JHARKHAND/BIHAR

### THE SITUATION IN 2005

The Indian NGO AID India estimated in 2005 that there were 18,000 mica child labourers in the entire state of Jharkhand.<sup>67</sup> Already in 1998 the NGO had traced 3,000 tribal children involved in mining-related work in the Tisri subdistrict of Giridih district.<sup>68</sup> Alongside this, an estimate of 5,000 child labourers is often quoted in reports and news articles about mica mining. This figure stems from 2005, when the NGO Bachpan Bachao Andolan (BBA) started activities in the mica belt area. The number of 5,000 is based on a much smaller area than the number of 18,000 as BBA did an assessment in 50 villages only.<sup>69</sup> The mica mining area of Jharkhand/Bihar includes an estimated 300 rural villages (Indian Census data).

In 2005, there were hardly any schools in rural areas, and - except for the police - the state presence (including teachers) was low. The presence of local Naxalites - a Communist guerrilla group - was at its peak.<sup>70</sup> In 2009 Naxalites were still targeting and blowing up state-run schools, while police and paramilitary forces were disrupting education for long periods by occupying schools as part of anti-Naxalite operations.<sup>71</sup>

### INITIATIVES TO ELIMINATE THE CHILD LABOUR

Since 2005 much has changed. The government (also with its goal of decreasing the influence of the Naxalites) is running a much greater number of

schools now for children between the ages of six and fourteen (with much-appreciated free meals), has built many roads (using a local workforce), and has made people aware of governmental welfare and development schemes.<sup>72</sup> The Naxalites are less active. The Indian government considers poverty and illiteracy the root causes of child labour and has formed the following multi-pronged strategy to tackle this problem: *“Educational rehabilitation of these children has to be supplemented with economic rehabilitation of their families so that they are not compelled by economic circumstances to send their children to work.”*<sup>73</sup>

Since 2010 the NGO BBA has declared 60 villages child friendly (or 105 villages if using the official Indian Census), and enrolled 2,200 children in governmental schools for children aged six-fourteen (the work of BBA is described in section 0). Presently it is working in 20 extra villages, sponsored by the Natural Resources Stewardship Circle (NRSC, established by a collective of main cosmetics companies).<sup>74</sup>

The German pigment producer Merck supported BBA and its concept of child-friendly villages from 2010 until 2013. At this moment Merck runs three schools and a local health centre in the mica mining area.<sup>75</sup> Merck says it has eliminated child labour in the mining and processing of its mica, and it claims to source from legal mines only. A detailed company profile of Merck can be found in section 7.3 of this report.

### Some smaller initiatives to eliminate child labour have included:

- An Indian mica supplier has been running the RP Modi international school in Koderma city since 2013.<sup>76</sup>
- The cosmetics company Estée Lauder has raised funds to purchase and donate bicycles to more than hundred children in mica mining communities. Children found it difficult to get to school because they had no transportation and bicycles (US\$60) were too expensive for most families.<sup>77</sup>
- The US-based NGO Made in a Free World has raised US\$60,000, which led to the creation of four child-friendly villages.<sup>78</sup>
- The NGO ASK India (Association for Stimulating Know How)<sup>79</sup> is working for the Indian pigment producer Sudarshan in the area. Sudarshan had observed that there was no evidence of a robust system in place to avoid the incidence of child labourers entering mines in Bihar. The company works with ASK to implement systems to prevent child labourers from entering the mining areas.
- The NGO AID India has run an education programme for children working with mica in the Tisri block of Giridih district.<sup>80</sup>

### THE PRESENT SITUATION

Over the past ten years the tonnages of mica exported from the area have increased by 75%.<sup>81</sup> This has likely led to an increase of child labourers. At this moment the number of child labourers in the mica mining area is estimated by SOMO to be up to 20,000, despite the above mentioned initiatives and governmental measures. Nobody knows exactly how many children are presently collecting/mining and cobbing mica. There has been no assessment by NGOs and/or the government for the larger part of the remote mica

mining area. SOMO was also not able to capture the situation in these hundreds of villages. SOMO's rough estimate is substantiated by calculations (see below), its field research, and the fact that child labour cases are observed frequently by different persons and organisations:

- During SOMO's field research, a dozen children under ten years were seen working in places where the locally mined crude mica is gathered. This was in the subdistricts Tisri (Kodaibak village) and Domchance (Dhab village), and outside school hours. The children were cobbing (hammering the other minerals than mica from the mined rocks) and/or sieving the mica to remove dust.<sup>82</sup>
- During the field research, a local representative of BBA for the mica mining village Dhab (around 4,500 inhabitants) stated that about 10% of the children presently don't go to school and likely work in the mines.<sup>83</sup>
- BBA's district coordinator for Jharkhand/Bihar told SOMO in October 2015 that the Giridih district is a very difficult area to ban child labour effectively. BBA's work in twenty villages in the district is ongoing, but they observe constantly that groups of children in the district still go to the mines.<sup>84</sup>
- In late January 2016, journalist Kalpana Pradhan (who was accompanying SOMO during its field investigation) went back to the rural area of subdistrict Tisri and saw a mine in the forest where at least nine young girls (aged between nine and thirteen) were working.<sup>85</sup>
- In January 2016 a TV team from broadcaster France 2 went to a mica mine in the area, and estimated that a third of the miners was less than twelve years old. *“They start at five or six years old, when they are able to recognize mica. They harvest it with us,”* said one mother.<sup>86</sup>

67. “Tribal Kids in Mica Snare: Tribes at Crossroads”, The Telegraph India, 1 June 2005, <http://bit.ly/1MQE3wK>.

68. AID India, “Education for Mica Working children”, <http://bit.ly/203ZDAw>

69. Meeting between BBA and SOMO on 23 October 2015.

70. Meeting between the Indian NGO Bachpan Bachao Andolan (BBA) and SOMO on 23 October 2015.

71. Human Rights Watch, news release “India: Protect Education in Naxalite Conflict”, 9 December 2009, <http://bit.ly/1RmeDJ9>.

72. Meeting between BBA and SOMO on 23 October 2015. Interview by SOMO with the district coordinator Jharkhand/Bihar of BBA on 15 October 2015.

73. Government of India, Ministry of Labour and Employment, “Annual report 2014- 2015”, <http://bit.ly/1LStFRx>.

74. Meeting between BBA and SOMO on 23 October 2015; E-mail by BBA to SOMO and phone call on 22 January 2016.

75. Merck India, “Corporate Responsibility”, August 2015, <http://bit.ly/1VoYwVv>; Merck Group, “Corporate Responsibility report 2014”, pages 86 and 87, <http://bit.ly/1MoDWph>.

76. Merck India, “Corporate Responsibility”, August 2015, <http://bit.ly/1VoYwVv>; R.P. Modi International School, “Welcome to R.P. Modi International School”, <http://bit.ly/1N12gz6>; Merck Group, “Corporate Responsibility report 2014”, pages 86 and 87, <http://bit.ly/1MoDWph>.

77. Estée Lauder, “Corporate Responsibility report 2012”, page 60, <http://bit.ly/1rJcZa8>; BBA, “Mica: bike clubs to help provide access to education in the mica mining areas of India”, undated, <http://bit.ly/1Nv5k8b>.

78. Made in a Free World, “Field program India, all kids deserve to shine”, <http://bit.ly/1hMa9vS>.

79. ASK India, “About us”, <http://bit.ly/1IW8aJ7>.

80. AID India, Alternative for India Development, “Education for mica working children”, <http://bit.ly/203ZDAw>.

81. International Trade Center (ITC), HS code 2525 group. Based on UN COMTRADE statistics, <http://bit.ly/1UUWtA0>.

82. Field investigation SOMO, visit to Tisri on Saturday 10 October 2015 and visit to Dhab on Sunday 11 October 2015.

83. Interview by SOMO with the local representative of BBA for Dhab village on 11 October 2015.

84. Interview by SOMO with the district coordinator Jharkhand/Bihar of BBA on 15 October 2015.

85. E-mail from Kalpana Pradhan to SOMO on 1 February 2016.

86. France 2, “Inde: des enfants travaillent encore dans les mines”, 9 February 2016 (in French), <http://bit.ly/1KENznC>.

- In March 2015, a ten-year-old local girl was crushed to death when the roof of a mica mine, in which she was working, collapsed on her.<sup>87</sup>
- In August 2015 Agence France-Presse (AFP) interviewed an eight-year-old girl who was mining and not attending school. Additionally, a father-of-four acknowledged that his children spent their days mining for mica to keep the family's heads above water.<sup>88</sup>
- In March 2014, two children were buried alive when the roof of an illegal mica mine collapsed on them.<sup>89</sup>
- In December 2013, the NGO Danwatch published interviews with three children aged five, seven and ten years respectively. They were mining mica and were not going to school.<sup>90</sup> The field investigator photo-documented a few dozen child labourers.<sup>91</sup>
- In October 2015, Ram Bachan Paswan, a district labour superintendent, said to AFP, referring to the area of Jharkhand/Bihar: "In a place where poverty is so entrenched it is difficult to convince parents to send kids to school."<sup>92</sup>

In recent years, Jharkhand State has emerged as a major source area for intra-country trafficking of tribal women and children in India. Thousands of children from Jharkhand are traded and trafficked by placement agencies to domestic homes in Delhi. The children and women remain in slavery and bonded labour-like conditions. The trafficking seems to be conducted mainly from other districts in Jharkhand than the Giridih and Kodarma districts situated in the mica mining belt. However, both Giridih and Kodarma district are also mentioned in several trafficking reports.<sup>93</sup>

**ESTIMATING THE NUMBER OF CHILD LABOURERS**  
SOMO's estimate that there are up to 20,000 mica child labourers within the mining area of Jharkhand/Bihar is based on the following calculations:

- In 2005 it was estimated that there were 18,000 mica child labourers in the state of Jharkhand, spread over

the districts of Kodarma and Giridih.<sup>94</sup> The estimate seems reasonable, as two NGOs have estimated the amount of mica child labourers for parts of the main mica mining area. Already in 1998 the NGO AID India had traced 3,000 tribal children involved in mining-related work in the Tisri subdistrict of Giridih, which is one of the five subdistricts in the main mica mining area. In 2005 the NGO BBA estimated that there were 5,000 mica child labourers in 50 villages (which would be around 80 villages following the official Indian census, while the main mica mining area of Jharkhand/Bihar includes an estimated 300 official Indian Census villages). Extrapolating from these two NGO estimates the amount of mica child labourers in 2005 would be in the range of 15,000-20,000 for the main mica mining area, which matches with the figure of 18,000.

- The main mica mining area of Jharkhand/Bihar includes an estimated 300 official Indian Census villages. In the period 2010-2015 the NGO BBA declared 60 villages child friendly, some were actually clusters of small villages. Following the official Indian Census the number would be 105 villages. The 105 villages are all located within the main mica mining area. This suggests that one-third of the child labour problem has been taken care of through the implementation of child-friendly villages, with much government help. Assuming one-third of the child labour problem is taken care of, this would leave 12,000 mica child labourers.
- However, over the past ten years the tonnages of mica exported from the area have increased by 75%. This has likely led to a proportionally increase of child labourers, bringing the total amount of present child labourers at a figure of 21,000. On the other hand, governmental measures have changed the situation for the better over the last ten years with regard to education and poverty. The effect of these measures is unknown, and likely the figure of 21,000 represents the upper limit of the amount of child labourers.

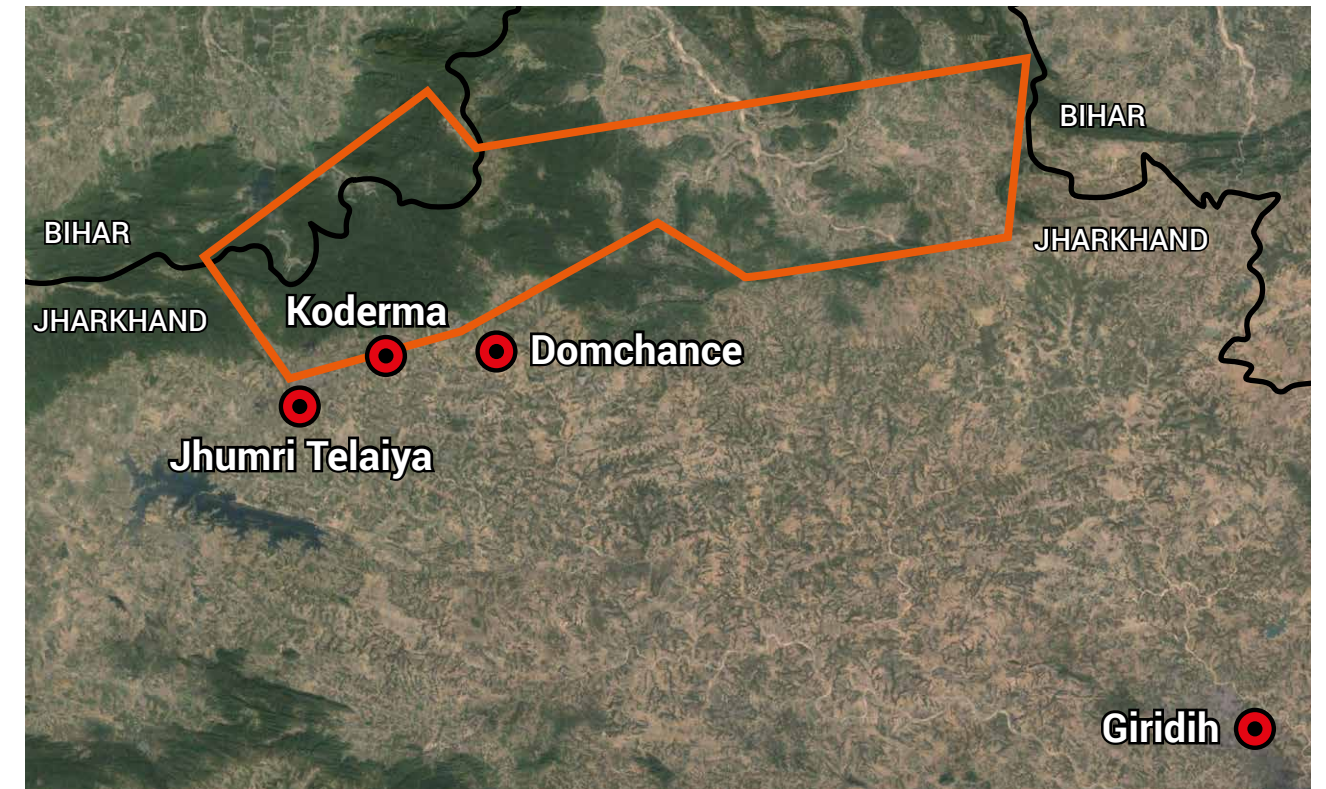


Figure 6: Main mica processing cities Jharkhand/Bihar

Sources: Google Earth; district data of the 2011 Census of India; various mining activity reports.

**ONE OF THE WORST FORMS OF CHILD LABOUR**  
Mica mining and processing is one of the worst forms of child labour. It was already considered as such by the US Department of Labor in October 2015.<sup>95</sup> There are many abuses of child rights that may be called worst forms of child labour. For mica mining/processing the main issue is its hazardous nature, which is captured under category article 3 (d) of the International Labour Organization (ILO) convention 182: "(d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children".<sup>96</sup> Indeed, the ILO prescribes that hazardous work can only be seen as one of the worst forms of child labour

when a state has determined what is hazardous work by national law or regulation. India has done so. Due to the hazardous nature of the work, the Indian Child Labour (Prohibition and Regulation) Act of 1986 prohibits children under fourteen from working in underground mines, to cut/split mica, and work on processes involving exposure to free silica.<sup>97</sup> In the region of Jharkhand/Bihar there are children working in underground mica mines and children exposed to free silica. The Indian law even forbids any mining by children under the age of eighteen, but this particular law does not specify whether this prohibition is related to hazardous work.<sup>98</sup>

87. "Illegal mining of mica kills girl in Giridih", The Pioneer, 24 March 2015, <http://bit.ly/1MMBNf>.

88. Interviews in August 2015. Source: AFP, Abhaya Srivastava, "Indian children labour to bring sparkle to make-up," 12 October 2015, <http://yhoo.it/1LWwrUs>.

89. Hindustan Times, "Two children buried alive, three hurt during illegal mica mining in Giridih", 30 March 2014, <http://bit.ly/1K7fAAb>.

90. Interviews with mica child labourers Karulal Bansi, Madhu Kumari and Kedan Bhuya (not their real names) on 10 December 2013. Source: Danwatch, "Who suffers for beauty? The child labour behind make-up's glitter", February 2014, <http://bit.ly/1et1ij>.

91. E-mail 10 December 2015 from Peter Bengtsen, field researcher for the Danwatch report.

92. AFP, Abhaya Srivastava, "Indian children labour to bring sparkle to make-up", 12 October 2015, <http://yhoo.it/1LWwrUs>.

93. Shakti Vahini, "Situational Report on Human Trafficking in Jharkhand", March 2015, <http://bit.ly/1ogf7p2>; United Nations Office on Drugs and Crime, "Current status of victim service providers and criminal justice actors in India on anti-human trafficking", 2013, page 99 (Jharkhand) <http://bit.ly/1XsW0te>; Global March Against Child Labour, "Report National Consultation on Child Trafficking and Labour", 2013, <http://bit.ly/20yPRH6>.

94. SOMO assumes that the small part of Bihar within the main mica mining area was included in the estimate.

95. US Department of Labor, "India, 2014 Findings on the Worst Forms of Child Labor", October 2015, <http://1.usa.gov/1LVg61X>.

96. ILO, "C182 – Worst Forms of Child Labour Convention, 1999", <http://bit.ly/1YeCWea>.

97. Government of India, "Child Labour (Prohibition and Regulation) Act, 1986", <http://bit.ly/1SDJ2kJ>.

98. Government of India, "The Mines Act, 1952 (as modified up to 1983)", <http://bit.ly/23IDHpc>.



## THE WORK DONE BY CHILDREN

In many villages there are places where locally mined crude mica is gathered, and early processing takes place in the form of cobbing - the process of hammering minerals other than mica from the mined rocks - and/or sieving. Child labour occurs in mica-mining remote villages, where they are involved in mining and also cobbing.

The severity of the child labour differs. Some children between six and fourteen years do not go to school at all. Some of them do the extremely dangerous work of mining in tight holes to about ten metres deep. Some children only work after school, as SOMO witnessed in Kodaibak and Dhab villages during its field investigation.<sup>99</sup> SOMO also witnessed that some of the work is outsourced to the family home. This homework involves cobbing and cutting/splitting mica, and it is difficult to determine to what extent children are involved with this homework.

Importers and exporters sometimes downplay the severity of child labour. In July 2009 German importer, Mahlwerk Neubauer Friedrich Geffers acknowledged the problem but claimed that “*children work playfully in a family setting*”.<sup>100</sup> During its field investigation SOMO also met one main mica exporter who stated that the issue of child labour was often confused with women taking their children to work, because otherwise there would be nobody at home attending the child.<sup>101</sup>

Next to the risk of mines caving in and exposure to silica dust, there are other health and safety issues associated with mica mining/processing by children, according to testimonials of children. Several mentioned fears of snake bites and malaria. Others said they had suffered broken bones, exhaustion and heatstroke.<sup>102</sup> Getting stung by scorpions and getting

cuts and bruises from sharp stones are also mentioned.<sup>103</sup> The fact that the mining is illegal has made the families - including the children - fear outsiders.<sup>104</sup>

## PROCESSING UNITS IN THE CITIES

Most of the processing units that make the mica ready for export are located in the cities of Giridih (115,000 inhabitants), Jhumri Telaiya (88,000 inhabitants), and to a lesser extent in Koderma (25,000 inhabitants) and Domchance (16,000 inhabitants). The total population of these four cities amounts to 244,000.<sup>105</sup> Typically, the town of Giridih has the most mica processing factories, while it is located some 40 km southeast of the main mining area (see Figure 6). For the cities of Giridih, Jhumri Telaiya, Koderma and Domchance, mica is an important economic activity.

During the field investigation in Jharkhand/Bihar in October 2015, SOMO spoke to several mica exporters and processors in the cities. They stated that there is no more child labour in processing units that make the mica ready for export. The argument mostly used was that the risk of getting fined by the government or being vulnerable to corruption (the government sometimes conducts sudden visits) was too high, as compared to paying a few rupees less for personnel costs. This seems a plausible argument, and indeed in the two units visited by SOMO no child labour was seen.<sup>106</sup> Documents received from the main Chinese pigment producer Kuncai strengthened SOMO's impression that there is no child labour in the processing units that make the mica ready for export. Documents of June 2014 and December 2015 showed labour officials of the local Giridih government declaring that there was no child labour in the processing units of Kuncai's main exporters.<sup>107</sup>

## 4.2. NGO PROFILE: BACHPAN BACHAO ANDOLAN (BBA)

### ONE OF THE LEADING CHILD RIGHTS ORGANISATIONS IN INDIA

Bachpan Bachao Andolan (BBA) or Save the Childhood Movement - is one of the leading child rights organisations in India. It is a non-profit organisation dedicated to protecting children from child labour and trafficking. It was set up in 1980 by Kailash Satyarthi, who won the Nobel Peace Prize in 2014.<sup>108</sup>

Since 1980 BBA has rescued more than 84,500 child/bonded labourers and has worked towards rehabilitation of a large number of rescued children. BBA has also worked for convergence of government schemes, policies and legislation through advocacy, judicial and legal interventions, and sustained efforts at the village level through community mobilization.<sup>109</sup>

In September 2014 BBA organised a campaign/march in the mica mining areas of Kodarma and Giridih. A memorandum, signed by over 3,500 children and parents, was handed over to the District Collector (DC), including demands for (a) improving teacher-student ratios; (b) ensuring teachers' attendance in schools; (c) ensuring sanitation facilities, toilets and clean drinking water; and (d) ensuring access to education for all.<sup>110</sup>

### CHILD-FRIENDLY VILLAGES

BBA has a strong focus on prevention in order to address the root causes of child labour in villages where children are forced to work in agriculture or are trafficked to work in urban areas. BBA has sought to prevent trafficking through its innovative child-centred development model called Bal Mitra Gram (BMG) or Child Friendly Village (CFV). As 60% of India still lives in villages, which produce the vast majority of child labourers, it is logical for BBA to make rural areas the focus of its preventive work. The CFV programme of BBA envisions transforming every village in India into a child friendly village where child rights are protected and children act as change agents for holistic development of their respective villages.<sup>111</sup>

### MICA, THE FIRST 60 CHILD-FRIENDLY VILLAGES

In 2005-2009, BBA began exploring the mica mining area of Jharkhand/Bihar, and it started to run nine schools. Seven of these schools were later handed over to the government.<sup>112</sup> BBA believes that schools should always be eventually handed over to the government to ensure continuity.

“Since 1980 BBA has rescued more than 84,500 child/bonded labourers and has worked towards rehabilitation of a large number of rescued children.”

99. Field investigation by SOMO, visit to Tisri on Saturday, 10 October 2015 and visit to Dhab on 11 October 2015.

100. The Sunday Times, “Child labour used in cosmetics industry”, 19 July 2009.

101. Interviews by SOMO with several exporters during the field investigation in October 2015.

102. “Child labour used in cosmetics industry”, The Sunday Times, 19 July 2009.

103. BBA, report “All that glitters is not gold”, 2010, <http://bit.ly/1RFAAnw>.

104. “The mineral sourced from illegal mines that powers your electronics”, Wired, August 2015, <http://bit.ly/1NEZcC3>; Danwatch, “Who suffers for beauty? The child labour behind make-up's glitter”, February 2014, <http://bit.ly/1et1ijj>

105. Government of India, “Census of India, Jharkhand, Kodarma”, 2011, <http://bit.ly/1PVDRNu>; Government of India, “Census of India, Jharkhand, Giridih”, 2011, <http://bit.ly/1QEbm8T>; Government of India, “Census of India, Bihar, Nawada”, 2011, <http://bit.ly/1HisOg6>.

106. Interviews by SOMO with several exporters/processors and visits to processing units during the field investigation in October 2015.

107. Documents received in confidentiality by SOMO from Kuncai, January 2016.

108. The Norwegian Nobel Committee, “The Nobel Peace Prize for 2014”, 10 October 2014, <http://bit.ly/1yfsGYA>.

109. E-mail by BBA to SOMO on 22 January 2016.

110. BBA, “Koderma Administration acts on girls' education”, September 2014, <http://bit.ly/11NVclF>. Meeting between BBA and SOMO on 23 October 2015.

111. E-mail from BBA to SOMO on 22 January 2016; Center for Victims of Torture, report by Bhuwan Ribhu (an activist of BBA) “Building child friendly villages: using village strengths to combat child labour and other exploitative practices”, 2008, <http://bit.ly/1ItfrtP>.

112. Meeting between BBA and SOMO on 23 October 2015. BBA, video “All that glitters is not shining”, 2005, <http://bit.ly/1Qi6cyr>.

In 2007 BBA discussed the matter of child labour with pigment producers Merck and BASF. BASF stopped sourcing from the area in 2008.<sup>113</sup> In July 2009 the child labour issue was brought into the spotlight internationally, when the UK Sunday Times published an article linking child labour to cosmetics industry companies sourcing from the area.<sup>114</sup> In October 2009, BBA organised a conference in Delhi, where it brought together two major purchasers (Merck and Eckart), communities and traders. It was agreed that implementing the concept of child-friendly villages looked most suitable and sustainable. A steering committee, including representatives of Merck, local communities, traders, processors and exporters, identified 30 villages. In July 2010, BBA began working in these 30 villages, located in three districts of Jharkhand/Bihar - Koderma, Giridih and Nawada. Merck sponsored the activities for 20 villages, while Eckart supported 10 villages. In the course of the project, BBA worked with local communities and stakeholders such as government officials, teachers and especially with the children and young people in the villages to gain acceptance for the project and to develop a sound relationship. Various activities were carried out to create awareness of the importance of education, to enrol children in school and to disseminate information about the concept of child-friendly villages. Both Merck and BBA claim the project has made visible progress.<sup>115</sup> According to BBA an initial survey showed that 975 children of school age were found to be out of school in the 30 villages. Most of the children were going mica mining with their parents, and among the villagers there was little motivation for getting children educated.<sup>116</sup>

Merck stopped sponsoring the concept in 2013, while Eckart sold its mica portfolio in 2011.<sup>117</sup> BBA continued the work. In 2012 it started in 30 more villages. This work was sponsored by the Natural Resources Stewardship Circle (NRSC, a collective of the main cosmetics companies). At present BBA has declared the

60 villages child-friendly (some villages are clustered by BBA, and following the official Indian Census it would be 105 villages). It has enrolled 2,200 children in governmental schools for children aged six-fourteen.<sup>118</sup> Next to the 60 villages mentioned, BBA is currently working in 20 extra villages in the area of district Giridih, also sponsored by NRSC.

For this report, BBA has provided a list of development achievements in the 60 villages that have been proclaimed child-friendly villages:

- 2,370 children enrolled in schools.
- Two schools upgraded to middle and high schools respectively, one new school built.
- Bal Panchayats (children's councils) formed in 60 villages.
- Improvement in school infrastructure including provision of a blackboard, water facilities, toilet facilities, construction of a kitchen and 24 new classrooms.
- Teachers attendance improved, with eleven teachers recruited, including one para teacher.
- Midday meals in schools became regular.
- Bank accounts opened for 103 students who were eligible for scholarship from the government.
- Stakeholder groups (a youth group and women groups) were formed in all 60 villages.
- The opening hours of eight primary health centres became regular, and one new primary health centre was built.
- 165 hand-pumps installed, seventeen repaired with the support of the government departments.
- Seven check dams built to prevent flooding of villages and schools.
- 45 ponds constructed under the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA).
- One Aanganwadi centre (neo- and postnatal care centre) was opened.
- Around 3,951 individuals benefited from social security schemes.

- Through BBA's efforts with communities, the Jharkhand State Government decided to provide utensils to children in all government schools in Jharkhand and to serve a midday meal.
- BBA's outreach involved 24,100 people: 6,600 men, 6,300 women, 5,900 boys and 5,300 girls.<sup>119</sup>

### 4.3. ANDHRA PRADESH AND RAJASTHAN

An employee of the Indian NGO Association for Rural Development (ARD) reported in January 2015 that children from the age of seven work in illegal mines in the Gudur area of Nellore district, Andhra Pradesh.<sup>120</sup> There are more recent reports about illegal mica mining and inhumane working conditions in this area.<sup>121</sup> Some older information was also found.<sup>122</sup> However, the information found during desk research did not allow for a conclusive view on social impacts, specifically child labour.

For mica mining in Rajasthan, which is predominantly taking place in Bhilwara district, no information could be found on prevalence of child labour during the course of this report.

### 4.4. LAWS AND GOVERNMENTAL/ COMPANY POLICIES ON CHILD LABOUR

#### INDIAN LAWS ON CHILD LABOUR

The most important Indian laws related to child labour are:

- The Right of Children to Free and Compulsory Education Act of 2009. This law states that every child between the ages of six and fourteen years has a right to free and compulsory education in a neighbourhood school until completion of their elementary education.<sup>123</sup>

- The Mines Act of 1952 (as modified in 1983), which states that "no person below eighteen years of age shall be allowed to be present in any part of a mine above ground where any operation connected with or incidental to any mining operation is being carried on".<sup>124</sup>
- The Child Labour (Prohibition and Regulation) Act of 1986. This law prohibits children under fourteen years from working in eighteen hazardous occupations and 65 processes. Most relevant to mica are the following prohibited occupations and processes: mining (underground); mica-cutting and splitting; processes involving exposure to free silica.<sup>125</sup>

The Indian government is currently in the process of amending the Child Labour (Prohibition and Regulation) Act of 1986. The changes would outlaw child labour below the age of fourteen in all sectors, but an exemption is made for children under fourteen working in family enterprises. This exemption has been sharply criticised by child rights advocates, as it could hinder the rescue of children and enforcement of child labour laws.<sup>126</sup> For adolescents between the ages of fifteen and eighteen, labour will be prohibited for only three occupations: mines, handling flammable substances/explosives, and hazardous processes as defined in section 2 (CB) of the Factories Act.<sup>127</sup>

*"The changes would outlaw child labour below the age of fourteen in all sectors, but an exemption is made for children under fourteen working in family enterprises."*

113. BASF, e-mail to SOMO "BASF Statement on Mica Sourcing", 26 November 2015.

114. The Sunday Times, "Child labour used in cosmetics industry", 19 July 2009.

115. Merck Group, "Corporate Responsibility report 2014", page 87, <http://bit.ly/1MoDWph>.

116. Meeting between BBA and SOMO on 23 October 2015.

117. Merck Group, "Merck's Mica Supply Chain, Update May 2011", <http://bit.ly/1LUwVhQ>; Merck Group, "Mica sourcing at Merck", August 2015, <http://bit.ly/1RmlAqE>; Meeting between the Indian NGO Bachpan Bachao Andolan (BBA) and SOMO on 23 October 2015. The Telegraph India, "No more mining please, we are only children," 19 September 2011, <http://bit.ly/1IBnVZr>.

118. Meeting between BBA and SOMO, 23 October 2015.

119. E-mail from BBA to SOMO on 22 January 2016

120. Asian College of Journalism, Milan George Jacob, "Mica mine workers exploited", 23 January 2015, page 21, <http://bit.ly/1mQv4lu>; Government of India, "Census of India, Andhra Pradesh, Nellore", 2011, <http://bit.ly/1YNWv0p>.

121. The Hans India, "Mafia rule in Nellore mines", 4 March 2014, <http://bit.ly/1Zz8xYq>; TV9, "Inquiry on mica mining mafia in Nellore", 22 March 2014, <http://bit.ly/1YNUbXr>; Asian College of Journalism, Mohammad Affanul Haque, "Mica miners mires in occupational hazards", 8 February 2016, <http://bit.ly/1S5ZUmT>.

122. PUCL (People's Union for Civil Liberties) Bulletin, "Palampur migrant labour in mica mining", April 1985, <http://bit.ly/1PupEYA>; Samata, "An Overview of the impacts of the mica mining industry in Sydapuram Mandal (Andhra Pradesh)", undated, <http://bit.ly/1DsxVsa>.

123. "The Right of Children to Free and Compulsory Education Act, 2009", The Gazette of India, 27 August 2009, <http://bit.ly/1HM118i>; The Hindu, "Education is a fundamental right now", 1 April 2010, <http://bit.ly/1N1ZqtJ>.

124. Government of India, "The Mines Act, 1952 (as modified up to 1983)", <http://bit.ly/23IDHpc>.

125. Government of India, "Child Labour (Prohibition and Regulation) Act, 1986", <http://bit.ly/1SDJ2kJ>.

126. "Indian plan to let kids work in family business is backward step: Satyarthi", Reuters, 1 December 2015, <http://reut.rs/1TqzqtK>; The Guardian, opinion article by Rikke Nöhrind (International Dalit Solidarity Network) and Gerard Oonk (India Committee of the Netherlands), "Diluting India's child labour law will trap families in cycle of poverty", 18 May 2015, <http://bit.ly/1AfSt5w>.

127. Government of India, Ministry of Labour and Employment, "Child Labour Acts, Rules and Schedule", <http://bit.ly/1Q5YLuZ> (accessed 5 December 2015); Indian Kanon, "Section 2(cb) in The Factories Act, 1948", <http://bit.ly/1QmfdWL>.



## INTERNATIONAL LABOUR ORGANIZATION CONVENTIONS 138 AND 182

The two main Conventions of the ILO (which is part of the United Nations) focusing specifically on child labour are:

- **C138 - Minimum Age Convention, 1973:** This convention sets the age at which children can legally be employed or otherwise work. The minimum age for work should not be below the age for finishing compulsory schooling and in any case not less than fifteen. Hazardous work should not be done by anyone under the age of eighteen.<sup>128</sup>
- **C182 - Worst Forms of Child Labour Convention, 1999:** This convention commits its members to take immediate action to eliminate the worst forms of child labour within their state.<sup>129</sup> These involve children being enslaved, forcibly recruited, prostituted, trafficked, forced into illegal activities or exposed to work that is likely “to harm the health, safety or morals of children”, (hazardous work).

As specified in the ILO Declaration on Fundamental Principles and Rights at Work (1998), ILO Conventions 138 and 182 on child labour are considered “core” conventions.<sup>130</sup> Under the ILO Declaration, even the member states that have not yet ratified these conventions should respect, promote and realise the principles. This means that all Member States are required to prevent children from being involved in such situations, remove children already in these worst forms of child labour, ensure access to education instead of child labour, identify at-risk groups and reach out to them, and to take the special situation of girls into account.

India has not (yet) ratified both conventions.<sup>131</sup> After the passing in parliament of the present proposals to amend India’s Child Labour (Prohibition and Regulation) Act, the country’s laws still seem weaker than the child rights presented in Core Conventions

138 and 182. This is due to the exemption proposed for children under fourteen working in family enterprises, and the amendment to define only a few occupations as forbidden hazardous work for children between the ages of fifteen and eighteen.

India is by far the largest country that has not ratified ILO Conventions 138 and 182.<sup>132</sup>

## UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD (UNCRC)

The United Nations Convention on the Rights of the Child (UNCRC) is a human rights treaty which sets out the civil, political, economic, social, health and cultural rights of children. The Convention defines a ‘child’ as a person below the age of eighteen, unless the laws of a particular country set the legal age for adulthood younger. All governments except the United States have ratified the UNCRC. Governments of countries that have ratified the Convention are required to report to, and appear before, the United Nations Committee on the Rights of the Child periodically to be examined on their progress with regard to the advancement of the implementation of the Convention and the status of child rights in their country. Their reports and the committee’s written views and concerns are available on the committee’s website.

India ratified the UNCRC on 11 December 1992, though it made some reservations related to child labour. Article 32 of the UNCRC deals with child labour. Paragraph 2 (a) of article 32 prescribes that states should “provide for a minimum age or minimum ages for admission to employment”. The Government of India has made the reservation that “it is not practical immediately to prescribe minimum ages for admission to each and every area of employment in India”. Moreover, India has stated that progressive implementation of economic, social and cultural rights of the children are “subject to the extent of available resources”.<sup>133</sup> In its latest report of July

2014, reviewing India’s latest progress report, the United Nations Committee on the Rights of the Child reiterated its serious concern that there are still a large number of children involved in economic exploitation in India, including child labour in hazardous conditions, such as in mining, and bonded labour in the informal sector as domestic servants and in agriculture.<sup>134</sup>

## UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS

Where the previously noted international treaties aim to commit states to the protection of human rights, the UN Guiding Principles on Business and Human Rights (UNGPs, 2011) also take the responsibility of businesses to respect human rights (including children’s rights) into account.

The UNGPs prescribe that business enterprises, in order to meet their responsibility to respect human rights, should have in place policies and processes appropriate to their size and circumstances, including: a policy commitment to meet their responsibility to respect human rights; a human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights; processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.<sup>135</sup>

Thus, businesses are made responsible for human rights violations in their entire supply chain and should, for example, prevent the use of child labour by all their suppliers. However, the UNGPs are not binding in any way. Professor John Ruggie, who has been leading the process towards the UN Guiding Principles on Business and Human Rights, has recently stated that companies’ social development initiatives (such as the running of schools and health centres by companies)

cannot substitute for measures to address the negative human rights impacts their operations and relationships may have.<sup>136</sup>

## OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

In order to ensure responsible business conduct by companies operating globally, OECD Member States created Guidelines for Multinational Enterprises (OECD Guidelines). These are a set of normative standards for responsible business conduct on topics such as human rights, labour standards, environmental standards, corruption, disclosure, taxation and other issues. The recommendations are addressed by governments to multinational enterprises operating in or from the 45 adhering countries.<sup>137</sup> Adhering governments have signed a binding commitment to implement the OECD Guidelines, but the recommendations are not legally binding on companies.

To stimulate the OECD Guidelines’ implementation, members are required to create National Contact Points (NCPs) - offices tasked with promoting their use. At these NCPs, people who have had their rights violated by a business practice in contravention of the OECD Guidelines can file a complaint concerning that company. For example, a hypothetical Indian community whose children have been employed by a Dutch company could file a complaint against that company at the Dutch NCP. The NCP will then attempt to resolve the issue through mediation or conciliation. If mediation/conciliation is unsuccessful, the NCP can conduct an investigation to determine whether a breach of the Guidelines has occurred and make a public statement with recommendations to the company to improve implementation of the Guidelines.

128. ILO, “C138 - Minimum Age Convention, 1973”, <http://bit.ly/1zIOfJo>; There are possible exceptions for developing countries to set the minimum age at 14.

129. ILO, “C182 - Worst Forms of Child Labour Convention, 1999”, <http://bit.ly/1YeCWea>.

130. ILO, “ILO Declaration on Fundamental Principles and Rights at Work”, 1998, <http://bit.ly/1MYIqVm>; ILO, “ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up”, <http://bit.ly/18nMoDX>.

131. ILO, “Ratifications for India”, <http://bit.ly/1R18int> (5 December 2015).

132. ILO, “Ratification by Convention”, <http://bit.ly/1R2J8ma> (14 February 2016).

133. United Nations Treaty Collection, “Convention on the Rights of the Child, status as at 29 January 2016”, <http://bit.ly/1F5F5CT>. Office of the High Commissioner for Human Rights (OHCHR), “Convention on the Rights of the Child, entry into force 2 September 1990”, <http://bit.ly/1fGccXV>. Office of the High Commissioner for Human Rights (OHCHR), “Status of Ratification; Convention on the Rights of the Child”, 8 January 2016, <http://bit.ly/1IEGjfc>.

134. United Nations Committee on the Rights of the Child, “Concluding observations”, 6 July 2014, <http://bit.ly/ZZr2v2>. Office of the High Commissioner for Human Rights (OHCHR), “Reporting status for India”, <http://bit.ly/1ZZiQ6B>.

135. Office of the High Commissioner for Human Rights (OHCHR), “UN Guiding principles on business and human rights”, 2011, <http://bit.ly/18WbEUy>.

136. Shift, letter by John Ruggie, Chair of the Board, to the Global Commission on Business and Sustainable Development, “John Ruggie on Sustainable Development Goals and UN Guiding Principles”, 18 February 2016, <http://bit.ly/1R7sol0>

137. OECD, “National Contact Points”, <http://bit.ly/1Nymcyy>; OECD, “The OECD Guidelines for Multinational Enterprises: Frequently Asked Questions”, <http://bit.ly/1XJbPLn>.



With regard to child labour, the OECD Guidelines state that businesses should take effective measures to contribute to its abolition, and they recommend that companies conduct due diligence to identify, prevent, and mitigate (risks of) adverse impacts such as child labour.<sup>138</sup> In 2013, the OECD published specific due diligence guidance for companies that source minerals from conflict-affected and high-risk areas. This guidance is also applicable to mica.<sup>139</sup>

### THE DUTCH GOVERNMENT

The Dutch government expects Dutch companies to act in a socially responsible way, in line with the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises. Companies are expected to develop systems to identify, prevent or potentially mitigate abuses in their supply chain, including child labour.<sup>140</sup>

The Dutch policy on Corporate Social Responsibility (CSR) has evolved over the years. In late 2008 the employers' federations and trade union confederations - gathered in the Social and Economic Council - signed a statement on international CSR and committed themselves to responsible supply chain management.<sup>141</sup> Since then, the Social and Economic Council has made several follow-up reports. For example, in June 2011 it concluded that four out of ten companies in its research population of 514 companies had a sustainable procurement policy. Half of those - the front-runners - implemented that policy broadly in their business activities. Most companies did not have a sustainable procurement policy.<sup>142</sup>

In June 2013, the Dutch government announced its intention to identify the most risky Dutch business sectors in relation to adverse corporate impacts on the environment, labour rights and human rights.<sup>143</sup> A study by KPMG concluded that there were thirteen sectors deemed as high risk yet important to the Dutch economy: construction, chemicals, retail, electronics, energy, financial sector, wholesale, wood and paper, land and horticulture, metal, oil and gas, textiles and clothing, and food. Child labour was especially linked to the electronics, textiles and food sectors.<sup>144</sup>

The Dutch government now aims to create covenants with sectors towards responsible supply chain management practices<sup>145</sup> - one of which will be on gold.<sup>146</sup> It is expected that child labour will be addressed in these covenants too. This report shows that a number of Dutch companies are directly linked to child labour through their business relationships in the global mica supply chain and have leverage to prevent or mitigate this adverse impact, either individually or in cooperation with each other. This makes mica a relevant candidate for the Dutch government to facilitate cooperation between stakeholders involved in the Dutch mica supply chain and make sure that Dutch companies use their leverage in the global mica supply chain.

"Child labour  
was especially linked  
to the electronics, textiles  
and food sectors"



In 2014 a Dutch parliamentarian introduced a proposal to lawfully prohibit child labour products from entering the Dutch market. In response, the Dutch government has stated its openness to further development of the proposal, including a possible obligation of due diligence for Dutch companies rather than a sales ban. The Dutch government however also stated that in the first place it is industry's responsibility to fulfil its due diligence role.<sup>147</sup>

In the first half of 2016 the Netherlands holds the Presidency of the Council of the European Union (European Council), and aims for European Council conclusions<sup>148</sup> with regard to the worst forms of child labour<sup>149</sup> - an issue the Netherlands has a history for tackling. For example, in May 2010 the Global Child Labour Conference took place in The Hague, and saw more than 500 delegates from 97 countries agree on a roadmap aimed at "substantially increasing" global efforts to eliminate the worst forms of child labour by 2016.<sup>150</sup>

138. OECD, "OECD Guidelines for Multinational Enterprises", 2011, <http://bit.ly/1kPDOqW>.

139. OECD, "OECD due diligence guidance for responsible supply chains of minerals from conflict-affected and high-risk areas: Second Edition", 2013, <http://bit.ly/1HN0zXh>.

140. Lilianne Ploumen, Dutch Minister for Foreign Trade and Development Cooperation, "Answering questions from the members of parliament VoordeWind and Van Laar on child labour in gold mining for the electronics sector", 3 December 2015, <http://bit.ly/1OY0DTH>. Dutch government, "National Action plan for business and human rights", May 2014, <http://bit.ly/1N1IGG0>.

141. Social and Economic Council, "Statement on International Corporate Social Responsibility", 19 December 2008, <http://bit.ly/1IZAvOo>.

142. Social and Economic Council, "Second progress report on International Corporate Social Responsibility", June 2011, <http://bit.ly/1YdElzA>.

143. Dutch Government, "Corporate social responsibility pays off", 28 June 2013, <http://bit.ly/1HSvQHS>.

144. KPMG, "MVO Sector Risico Analyse, Aandachtspunten voor dialog", September 2014, <http://bit.ly/1JTP0xq>.

145. Minister for Foreign Trade and Development Cooperation and Minister for Economic Affairs, letter to parliament "Interim report ICSR covenants", 10 July 2015 (in Dutch), <http://bit.ly/100KLKz>.

146. Lilianne Ploumen, Dutch Minister for Foreign Trade and Development Cooperation, "Answering questions from the members of parliament VoordeWind and Van Laar on child labour in gold mining for the electronics sector", 3 December 2015 (in Dutch), <http://bit.ly/1OY0DTH>.

147. Letter from Lilianne Ploumen (Dutch Minister for Foreign Trade and Development Cooperation) to the president of the House of Representatives, "Response to proposal of parliamentarian Mr. Van Laar to ban of products related to child labour", 20 January 2015 (in Dutch), <http://bit.ly/1R49mom>.

148. European Council conclusions are adopted during each European Council meeting. They are used to identify specific issues of concern for the EU and outline particular actions to take or goals to reach. Source: Council of the European Union. "European Council conclusions", <http://bit.ly/1SzEPw>.

149. Lilianne Ploumen, Dutch Minister for Foreign Trade and Development Cooperation, "Answering questions from the members of parliament VoordeWind and Van Laar on child labour in gold mining for the electronics sector", 3 December 2015 (in Dutch), <http://bit.ly/1OY0DTH>; European Parliamentary Research Service, "Priority dossiers under the Dutch EU Council Presidency", December 2015, <http://bit.ly/1QEGk00>.

150. ILO, IPEC, "The Hague Global Child Labour Conference 2010 - roadmap adopted", May 2010, <http://bit.ly/1tEnzgh>.

# 5. SOCIAL IMPACTS, OTHER THAN CHILD LABOUR

## 5.1. HEALTH AND SAFETY

### THE DANGER OF COLLAPSING MINES

Underground mines produce dangerous gases that can suffocate people if ventilation is inadequate. The biggest risk of underground mines is, however, the threat of collapse. Tragic accidents regularly happen underground in Jharkhand/Bihar's illegal mines:

- In November 2015 three people died when a section of the tunnel in which they were extracting mica collapsed.<sup>151</sup>
- In March 2015 a ten-year-old local girl was crushed to death when the roof of a mica mine where she was working collapsed.<sup>152</sup>
- In March 2014 two children were buried alive when the roof of a mica mine caved in.<sup>153</sup>

### LUNG DISEASES

During drilling in rocks to extract mica, workers may inhale silica dust, long-term exposure to which may lead to silicosis - a potentially deadly lung disease. This 'respirable' dust - which is not visible to the naked eye - consists of particles so fine that they can enter deep into the lungs. In 1953 a total of 62 mica hand-drillers in Bihar were examined - of these, seventeen had silicosis. Two patients had worked fifteen and twenty years respectively, while the fifteen others with

silicosis had an average exposure of eleven years. Respirable quartz in silica dust is also associated with the development of lung cancer, pulmonary tuberculosis and other respiratory diseases.<sup>154</sup> Silicosis is also reported among mica miners in Andhra Pradesh.<sup>155</sup> A 1999 report of the Indian Council for Medical Research estimated that 630,000 workers in the glass and mica industry of India are at high risk of silica exposure. Through wet drilling, mechanical ventilation and other protective measures inhalation can be reduced. However, with the rampant illegality of the mining underway, the prevalence of these protective measures is unclear.<sup>156</sup>

Exposure to mica powder, which is free from silica dust, may also lead to lung problems. A study in 2001/2002 among mica workers (not miners) in Giridih, Jharkhand, showed that 33 of the 420 mica workers were suffering respiratory problems, including chronic obstructive respiratory diseases, coughs with breathlessness etc. The workers had tasks such as mica picking, screening, cutting, grinding of mica powder, splitting and packing. The study concluded that it was confirmed that exposure of workers to mica powder may cause irritation of the respiratory tract, which may lead to pneumoconiosis.<sup>157</sup>

## 5.2. WAGES

### LEGAL WAGES

The Indian Ministry of Labour and Employment regularly surveys the basic wages earned by workers in India's main manufacturing, mining and plantation industries. The survey covers 21 industries, of which fourteen are manufacturing industries, four are mining industries and three are plantation industries. In 2014 workers in the mica mining sector received an average daily wage of INR 123 (equivalent to € 1.7).<sup>158</sup> During 2014, the average daily wage for the 21 industries amounted to INR 272 (equivalent to € 3.7). This means that the average daily wage of a mica miner is 45% of the average daily wage of a legal worker in India. Of all 21 industries, only tea plantation workers in North-East India received a lower basic wage than mica mining sector workers.<sup>159</sup>

As of 1 October 2015 the Indian minimum wage of a semi-skilled mica miner amounts to a daily INR 150 (equivalent to € 2.1) for mining above the ground and INR 180 (equivalent to € 2.5) for underground mining.<sup>160</sup> Semi-skilled workers in the category Mica Works (Factories and Establishments Excluding Mines) should have earned at least INR 134 (equivalent to € 1.8) daily in Jharkhand between October 2014 and March 2015.<sup>161</sup>

All in all, wages earned by legal workers in the mica mining and processing sector appear to be very low in comparison to other sectors in India. During its field investigation SOMO discovered:

- Older men cutting mica along the streets of Domchance were earning INR 120 (equivalent to € 1.7) per day in October 2015, while the salary of their direct supervisors amounted to INR 150 (equivalent to € 2.1) per day.<sup>162</sup>
- A group of 20-30 people working in a pit above the ground in a probably legal mine in Faguni (Bihar) was reported to earn 10 rupees per kilogram of mica mined in October 2015.<sup>163</sup> The group did not receive a daily wage and their earnings depended on their production. The German pigment producer Merck is thought to be one of this mine's customers.<sup>164</sup> The company has stated that it checks whether its supplying mine owners are paying the minimum wages, and that Indian law allows for wages based on productivity as long as earning a daily wage similar to the minimum wage is realistically achievable.<sup>165</sup>

### INFORMAL EARNINGS

Price earned per kilogram for collected or illegally mined mica seems to be in the range of INR 3-5, and occasionally INR 10 rupees per kilogram. It is not clear whether these figures include cobbing after mining. Moreover, the quality of the mica delivered may differ. Figures appear to indicate that in villages, a maximum of INR 10 (equivalent to € 0.14) is earned per kilogram of mined/collected and cobbled mica. The average price paid by the pigment producers Merck, Kuncai and Ruicheng for their mica flakes was INR 32 (equivalent to € 0.44) per kilogram in the first half of 2015.<sup>166</sup>

151. "Illegal mica mining claims 3 more lives", The Pioneer, 14 November 2015, <http://bit.ly/1I3G2Da>.

152. "Illegal mining of mica kills girl in Giridih", The Pioneer, 24 March 2015, <http://bit.ly/1MMBNFf>.

153. "Two children buried alive, three hurt during illegal mica mining in Giridih", Hindustan Times, 30 March 2014, <http://bit.ly/1K7fAAb>.

154. Government of India, Ministry of Labour, M. N. Gupta, abstract, "Silicosis Amongst Hand Drillers in Mica Mining in Bihar", 1956, <http://bit.ly/1NLIpCs>; United States Department of Labor, Mine Safety and Health Administration (MSHA), "Mineral Dust Hazard and Sampling", no date, <http://1.usa.gov/1OMDaDD>; International Journal of Environmental Planning and Management, Sharmila Chandra of the Indian Council of Social Science Research, "The vulnerable mining community", 2015, <http://bit.ly/1JotfM> European Industrial Minerals Association (IMA-Europe), "Crystalline silica and health from a European industry perspective", <http://bit.ly/1RvbOXb>.

155. Indian NGO Samata, "An overview of the impacts of the mica mining industry in Sydapuram Mandal (Andhra Pradesh)", undated, <http://bit.ly/1DsXVsa>.

156. Government of India, Ministry of Labour, M. N. Gupta, abstract "Silicosis amongst hand drillers in mica mining in Bihar", 1956, <http://bit.ly/1NLIpCs>; National Human Rights Commission India, "National Conference on Silicosis, background note", July 2014, <http://bit.ly/1gPUayj>.

157. Journal of Human Ecology, Molly Chattopadhyay and Siddhartha Sanyal, "Incidence of occupational disease among mica workers of Jharkhand", 2007, page 60, <http://bit.ly/1PK8KGI>; International Labour Office, "Encyclopaedia of Occupational Health and Safety, fourth edition", 1998, <http://bit.ly/1NLUced>.

158. Used exchange rate (€1 = 72.7145) for this section is the average between Sunday 2 August 2015 and 26 January 2016, <http://bit.ly/1RPF9w9>.

159. Government of India, Ministry of Labour and Employment, "Indian Labour Journal", June 2015, pages 605 and 606, <http://bit.ly/1nRRH9G>.

160. Government of India, Office of the Chief Labour Commissioner, "Minimum rates of wages per 1 October 2015", <http://bit.ly/1lme5Hf>.

161. Paycheck.in, "Minimum Wage in Jharkhand w.e.f 1 October 2014 to 31 March 2015", <http://bit.ly/1LXvmeV>.

162. Personal communication with the mica cutters during field investigation by SOMO, 11 October 2015.

163. Personal communication with mine supervisor of a (probably legal) mine at Faguni (Bihar), during field investigation by SOMO, 13 October 2015.

164. Field investigation by SOMO, anonymous source, 13 October 2015.

165. Documents received in confidentiality by SOMO from Merck, January 2016.

166. Infodriveindia.com, HS code 2525 group, port of loading Kolkata Sea, first half 2015, as supplied on 25 July 2015.



There is some documentation on what villagers illegally mining in Jharkhand/Bihar may earn:

- In its February 2014 report, Danwatch reported that workers (children and adults) illegally collecting mica in Jharkhand/Bihar earned between INR 100 (equivalent to € 1.4) and INR 150 (equivalent to € 2.1) per person per day.<sup>167</sup>
- A September 2014 newspaper article by Al Jazeera reported earnings of INR 20 (equivalent to € 0.3) after mining mica for seven to eight hours by a boy of five.<sup>168</sup>
- A woman of 25 who was cobbing and sieving mining produce in the Tisri area reported in October 2015 that she earned INR 900 a week, which is INR 150 (equivalent to € 2.1) per day.<sup>169</sup>
- The Australian newspapers *The Age/Sydney Morning Herald*, visiting the area in January 2014, reported payments of INR 50 (equivalent to € 0.7) for 10 kilograms of mica gathered in a day by a boy of twelve.<sup>170</sup>
- In May 2015 a woman of 22 who was mining mica

illegally in the village of Dhab told a photographer: "I can make up to 20 kilos of mica per day, selling it at 10 rupees per kilo." She was mining underground. In the rainy season she could not mine, as the mines were waterlogged and in danger of collapse. Another woman of 22 was reported to earn INR 7 per kilo. A woman of 60, only being able to collect scrap mica from the surface, was reported to be earning as low as INR 5 per kilo.<sup>171</sup>

- A New York Times article of May 2012 mentioned families in a village who were trying to collect at least 15 kilograms of mica each day, to be sold for INR 3 a kilo.<sup>172</sup>

Medical bills may worsen the poverty situation. For example, in February 2015 a 25-year-old woman from the village of Dhab fractured her right leg when the mine where she was working subsided, completely burying her. The family took an INR 100,000 loan (equivalent to € 1,500) to pay for her hospital expenses.<sup>173</sup>



167. E-mail 30 January 2016 from Peter Bengtson, field researcher for the Danwatch report; Danwatch, "Who suffers for beauty? The child labour behind make-up's glitter", February 2014, <http://bit.ly/1et1ijj>.

168. Al Jazeera, Ugly truth behind global beauty industry, 21 September 2014, <http://bit.ly/1rgmUBF>.

169. Field investigation SOMO in the main mica mining area, October 2015.

170. The Age/Sydney Morning Herald, "India's mica mines: The shameful truth behind mineral make-up's shimmer", 19 January 2014, <http://bit.ly/1IUH3bo>.

171. Matilde Gattoni Photography, "The slaves of Mica", August 2015, <http://bit.ly/1Odjf3g>, <http://bit.ly/1VuqwfR> and <http://bit.ly/1P025TI>.

172. "A woman leader for the isolated jungle village of Jharkhi Bisalpur", New York Times, 15 May 2012, <http://nyti.ms/1VuqF2P>.

173. Matilde Gattoni Photography, "The slaves of mica", August 2015, <http://bit.ly/1QKzasW>; Wired, article "The mineral sourced from illegal mines that powers your electronics", August 2015, <http://bit.ly/1NEZec3>; One € = 67.0112 INR. Exchange rate as of 31 March 2015, <http://bit.ly/1JYf9Lp>.

## 6. DUTCH COMPANIES AND THEIR USE OF MICA

### 6.1. A STRONG PRESENCE IN THE GLOBAL SUPPLY CHAIN

There are a considerable number of Dutch companies with leverage (power to influence others and the ability to change wrongful practices of the business partner causing or contributing to the impact)<sup>174</sup> in the global mica supply chain:

- **AkzoNobel** is the world's number two paint/coatings manufacturing company. It is a large user of mica in pearlescent pigments to create a sparkling paint effect on aircraft, cars, building roofs, metal surfaces etc.
- **Prysmian/Draka** is the world's largest supplier of cables to the energy and telecoms industries. The Prysmian Group has two commercial brands: Prysmian and Draka. In the Netherlands the Prysmian Group is present in six locations: Amsterdam, Delft, Emmen, Nieuw Bergen, Delfzijl and Eindhoven. The company uses mica tape for a wide range of cables. Its large presence in the Netherlands is due to its take-over of the Dutch cable company Draka in 2011.
- **Unilever** is the world's number three cosmetics/personal care company. It is the market leader for cosmetics (foundation, eye shadow, lip gloss, nail polish etc.) in India, and uses mica in pearlescent pigments for this. Worldwide the company also uses mica for personal care products, such as shampoo and conditioners.
- **Royal Philips** is a leading producer of hair dryers and toasters worldwide. Mica sheets are a component of both hair dryers and toasters.
- **Royal DSM** is the world's ninth biggest company manufacturing plastics material and resin. The company uses mica for its plastic engineering.
- Mica-containing cosmetics are sold in many retail chains in the Netherlands - in drugstores, perfumeries and warehouses. The largest owners of the retail chains are **A.S. Watson Benelux** (owns the Kruidvat and Trekpleister chains, among others), **Ahold** (Etos drugstore chain and Albert Heijn supermarkets) and **Lion Capital (HEMA)**.

Whether a company is Dutch was decided on the basis of having its main registration/headquarters in the Netherlands or having main activities in the Netherlands. The eight companies mentioned above have all been questioned by SOMO about the origin and quantity of mica used, and about the due diligence they have conducted on human rights in their mica supply chain. Profiles of these companies, including their response to SOMO's questions, can be found in sections 0-6.8 of this chapter.

"There are a considerable number of Dutch companies with leverage in the global mica supply chain."

174. SOMO, CIVIDEP and Cedha, "How to use the UN Guiding Principles on Business and Human Rights in company research and advocacy", November 2012, <http://bit.ly/1oBt9ID>.

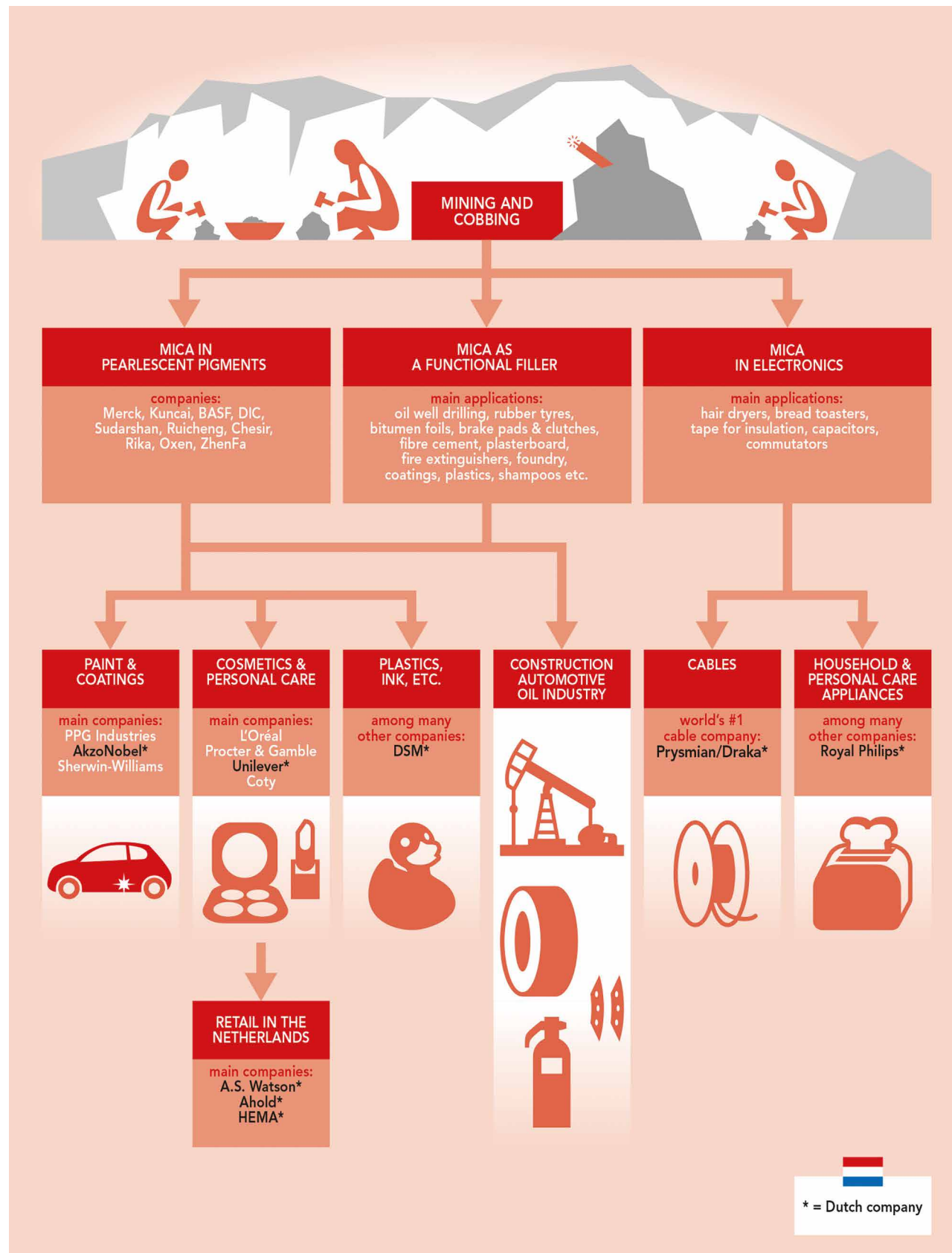


Figure 7: Dutch companies in the mica supply chain

Figure 7 shows how the Dutch companies are situated in the global mica supply chain.

## 6.2. DUE DILIGENCE CONDUCTED BY DUTCH COMPANIES

While all eight Dutch companies questioned for this report are not actively mining/processing mica in Jharkhand/Bihar, all eight are purchasers of mica and/or mica-containing products from the region, which means they are directly linked to actual or potential adverse human rights impacts through their business relationships.

The United Nations, the OECD and the Dutch government all stipulate that companies should carry out human rights due diligence when engaged in a supply chain with serious human rights issues.

Carrying out due diligence means that a company should identify, prevent and mitigate any actual or potential adverse human rights impacts. Moreover, a company needs to be transparent on how it addresses the issues.<sup>175</sup>

Table 13 below shows to what extent the eight Dutch companies have conducted due diligence with regard to the issue of child labour for mica mining and processing, and whether (some of) the mica the companies use comes from Jharkhand/Bihar.

It appears that four companies had significantly conducted due diligence (AkzoNobel, Unilever, DSM and Ahold), while for the other four companies (Prysmian/Draka, Royal Philips, A.S. Watson Benelux and HEMA) there was no indication of any due diligence conducted.

For this report SOMO also questioned Royal Dutch Shell on its possible use of mica for oil-well drilling. Disappointingly, the oil company did not respond.

Supply chain due diligence can be more effective when conducted in collaboration with other companies operating in the same sector. None of the eight companies questioned by SOMO reported any activity to collaborate with their business colleagues.

COMPANY	DUE DILIGENCE CONDUCTED ON MICA	MICA FROM JHARKHAND/BIHAR
AkzoNobel	Significantly	Yes
Prysmian/Draka	Not found	Possibly
Unilever	Significantly	Yes
Royal Philips	Not found	Possibly
DSM	Significantly	No
A.S. Watson Benelux	Not found	Possibly
Ahold	Significantly	Yes
HEMA	Not found	Possibly

Table 13: Dutch companies and due diligence in relation to mica and child labour

175. Office of the High Commissioner for Human Rights (OHCHR), "UN Guiding principles on business and human rights", 2011, <http://bit.ly/18WbEUy>.



### 6.3. COMPANY PROFILE: AKZONOBEL

#### THE WORLD'S SECOND LARGEST PAINT COMPANY

The Dutch-Swedish company AkzoNobel is the world's second largest paint manufacturing company.<sup>176</sup> Its revenue amounted to € 14.3 billion in 2014.

AkzoNobel's production facilities in Europe (40%), Asia (23%) and USA/Canada (16%) accounted for most of the revenue.<sup>177</sup>

AkzoNobel has three business areas: performance coatings (39%), specialty chemicals (34%) and decorative paints (27%).<sup>178</sup> Performance coatings (the main part of the business) include coatings for cars, vessels, aircraft, yachts, architectural components, consumer goods and oil/gas platforms. Clients include Airbus, Boeing, Bosch, Dell, IKEA, Philips, Samsung, Shell, Toyota, Volkswagen and Whirlpool.<sup>179</sup>

#### MICA USE

AkzoNobel produces a wide range of coatings to which mica-containing pearlescent pigments are added to create a sparkling special. These pearlescent pigments contain not only mica, but also titanium dioxide or iron oxide.<sup>180</sup>

AkzoNobel primarily uses natural mica. The company prefers natural mica (as opposed to synthetic mica) because of the impurities of the natural mica, which creates a special sparkling effect. The company also mentioned that repair of car coatings, which is a large business area, cannot be done with synthetic mica if the

original paint was produced with natural mica, as the difference would be visible. As long as the automotive industry does not switch to synthetic mica, AkzoNobel also cannot make the switch. Finally, synthetic mica is more expensive.<sup>181</sup>

In future, however, volumes of synthetic mica are expected to grow and AkzoNobel is looking to actively transfer from natural to synthetic mica whenever this is possible. They are working together with the Chinese company Fujian Kuncai Material Technology (Kuncai) and others on this.<sup>182</sup> Kuncai is rapidly expanding its capacities to produce synthetic mica.

AkzoNobel has not responded to SOMO's questions with regard to the quantity of mica it uses.<sup>183</sup>

#### SUPPLIERS AND CHILD LABOUR

In a telephone conference with SOMO on 24 September 2015, AkzoNobel disclosed that worldwide it sources 95% of its mica from two companies: Merck KGaA and BASF. Merck is the biggest supplier to AkzoNobel.<sup>184</sup> The remaining 5% is bought from 10 other companies, mainly in the Asia-Pacific area. Kuncai (1%), Sudarshan, Longhua and Oxen are among these companies.<sup>185</sup> Merck, Kuncai, Sudarshan and Oxen are known to source mica from Jharkhand/Bihar.<sup>186</sup>

AkzoNobel expects its suppliers to comply with its Code of Conduct, which states with regard to child labour:

- AkzoNobel adheres to the legal minimum age requirements in all countries in which the company is active.
- Moreover, in adhering to the International Labour Organization's (ILO) Convention 138 on "Minimum Age," and Convention 182 on the "Ban of Worst Forms of Child Labour," AkzoNobel does not employ children under the age of sixteen.
- If children between sixteen and eighteen years are employed, the company ensures that this work does not affect or preclude schooling.<sup>187</sup>

During the telephone conference between AkzoNobel and SOMO, AkzoNobel stated that it does not allow child labour in its first, second and third tier of suppliers.<sup>188</sup>

AkzoNobel has stated that it knows where BASF and Merck are mining the mica used for the special effect pigments it buys. Merck has asked AkzoNobel to sign a confidentiality agreement on this, meaning AkzoNobel could not share the mining locations with SOMO.<sup>189</sup>

AkzoNobel has a vendor policy in place.<sup>190</sup> All the suppliers are asked to sign a Vendor Compliance Letter, which confirms the exclusion of child labour. Kuncai and Sudarshan, small suppliers of AkzoNobel, have signed such a letter, according to AkzoNobel. The compliance of Sudarshan has not been further checked, while AkzoNobel stated that compliance checking of Kuncai was ongoing at the beginning of October 2015. Supportive Supplier Visits (SSV) could be part of that process.<sup>191</sup> SSV are implemented for suppliers that AkzoNobel intends to develop as regular business partners. The aim is to identify and nurture these critical suppliers as sustainable business partners.

Merck and BASF are not considered for SSV by AkzoNobel. This is in part because Merck and BASF have, according to AkzoNobel, shown proof that they conduct audits on a regular basis, in order to safeguard compliance with their own business principles.<sup>192</sup>

### 6.4. COMPANY PROFILE: PRYSMIAN/ DRAKA

#### THE WORLD'S LARGEST SUPPLIER OF CABLES

The Prysmian Group is the world's largest supplier of cables to the energy and telecoms industries. Its 2014 revenue was € 6.8 billion, 64% of which came from Europe, the Middle East and Africa.<sup>193</sup>

The Prysmian Group has two commercial brands: Prysmian and Draka. Both brands are active in the Benelux market. Draka operates in the low-voltage and telecoms market while Prysmian cables are used in high voltage and energy distribution networks. The Dutch company Draka was taken over by Prysmian in 2011. In the Netherlands, the Prysmian Group is present in six locations: Amsterdam, Delft, Emmen, Nieuw Bergen, Delfzijl and Eindhoven.<sup>194</sup>

#### SUPPLIERS AND CHILD LABOUR

Prysmian/Draka uses mica tape for a wide range of cables. The company has not revealed any information about the origin and quantity of mica used. The Chinese company Silimica, a large importer of mica from Jharkhand/Bihar, claims to be a supplier to Prysmian and Draka.<sup>195</sup>

In 2014 the Prysmian Group adopted a Code of Business Conduct that will apply to all employees and suppliers from 2015.<sup>196</sup> In this document the Prysmian Group does not forbid its suppliers to use child labour, but the company "supports the commitment" of employees and suppliers to eliminate child labour.<sup>197</sup> No specific information could be found on the company's website with regard to human rights due diligence on mica.

176. Paint & Coatings Industry, "Global top 10", 1 July 2015, <http://bit.ly/1LYsNh1>; AkzoNobel, "Report 2014", <http://bit.ly/1ISeKsr>.

177. AkzoNobel, "Report 2014", page 191, <http://bit.ly/1ISeKsr>.

178. AkzoNobel, "Report 2014", <http://bit.ly/1ISeKsr>.

179. AkzoNobel, "Report 2014", <http://bit.ly/1ISeKsr>.

180. AkzoNobel Aerospace Coatings, "Product information Aviox® Advanced Mica Series", <http://bit.ly/1LJF9dA>; AkzoNobel Aerospace Coatings, "Product information Aviox® Advanced Special Effect Series", <http://bit.ly/1L7X8sC>; AkzoNobel, Recommendations for installation of building panels with Special Effect Pigmented Finishes, November 2013, <http://bit.ly/1GPVtDe>; Interpon, "Technical Data Sheet (TDS) Interpon Express Colorvision Mica special Effects", <http://bit.ly/1D9Tqbv>; AkzoNobel, "TRI-Escent® II", <http://bit.ly/1dA4Bn3>; AkzoNobel Powder Coatings, "Review 10", page 12, <http://bit.ly/1KZSm1V>.

181. Telephone call between AkzoNobel and SOMO representatives on 24 September 2015.

182. Telephone call between AkzoNobel and SOMO representatives on 24 September 2015.

183. E-mails from SOMO to AkzoNobel, 23 December 2015 and 22 January 2016. Phone call by SOMO to AkzoNobel, 22 January 2016.

184. E-mails from SOMO to AkzoNobel, 23 December 2015 and 22 January 2016. Phone call by SOMO to AkzoNobel, 22 January 2016.

185. E-mails from SOMO to AkzoNobel, 23 December 2015 and 22 January 2016. Phone call by SOMO to AkzoNobel, 22 January 2016.

186. Infodriveindia.com, HS code 2525 group, port of loading Kolkata Sea, first half 2015.

187. AkzoNobel, "Suppliers", <http://bit.ly/1RrR3z>.

188. A supplier that sends materials directly to the company is a first tier supplier; one that send materials to a first tier supplier is a second tier supplier; one that sends materials to second tier supplier is a third tier supplier, and so on.

189. E-mail response of AkzoNobel to questions sent by SOMO, 2 October 2015.

190. AkzoNobel, "Vendor Policy", <http://bit.ly/1LKsaYR>.

191. E-mail response of AkzoNobel to questions sent by SOMO, 2 October 2015.

192. E-mail response of AkzoNobel to questions sent by SOMO, 2 October 2015.

193. The Prysmian Group, "Annual Report 2014", <http://bit.ly/1PpNaa>.

194. Draka, "Over Draka", <http://bit.ly/1Wz32Lv>.

195. Silimica, "Partners", <http://bit.ly/1WERkte>.

196. The Prysmian Group, "Sustainability Report 2014", <http://bit.ly/1PcUe9F>.

197. The Prysmian Group, "Code of Business Conduct", <http://bit.ly/1RyPPf8>.

## 6.5. COMPANY PROFILE: UNILEVER

### CONSUMER GOODS GIANT

With a global revenue of € 48.4 billion, the Anglo-Dutch consumer goods giant Unilever ranked 153rd on the Fortune Global 500 during 2014. Its portfolio consists of 400 brands divided into four categories: personal care, foods, refreshment and home care. With a revenue of € 17.7 billion in 2014, the personal care category is Unilever's largest in terms of revenue. Unilever's biggest personal care brands are Dove, Rexona, Axe, Lux and Sunsilk.<sup>198</sup>

### MICA USE BY UNILEVER

In response to information and questions sent by SOMO, Unilever has stated that it is "a relatively small buyer of mica globally". According to the company its mica use is less than 0.1% of global mica production, which is estimated at 500,000 tonnes.<sup>199</sup>

Unilever is the majority-owner of the Indian Lakmé cosmetics brand and the Elle18 cosmetics brand, focusing on cosmetics for young people.<sup>200</sup> Lakmé leads the Indian market for cosmetics products. Its market share is estimated to be between 17.7% and 30%.<sup>201</sup> This also means that Unilever uses substantial amounts of mica. India is the only country where Unilever sells make-up.

Lakmé sells the following range of products:

- Lakmé moisturising creams/lotions
- Skin lightening/Lakmé perfect radiant products
- Sun protection/Lakmé sun expert products
- Face: foundation, compact, make-up remover
- Eyes: eye shadow, eyeliner, mascara
- Lips: lip liner, lip gloss, lip colour
- Nails: nail colour and nail tint<sup>202</sup>

Cosmetics and toiletries accounted for INR 50.5 billion (equivalent to € 0.8 billion) of Hindustan Unilever's net revenue for the year ending 31 March 2015. This figure, 16.4% of Hindustan Unilever's net revenue, includes shaving products and deodorants and excludes hair and oral care.<sup>203</sup>

Hindustan Unilever's personal products business segment generated INR 90 billion (equivalent to € 1.3 billion) revenue in the year ending 31 March 2015. This figure, 29% of Hindustan Unilever's net revenue, includes products in the categories of oral care, skin care (excluding soaps), hair care, deodorants, talcum powder, colour cosmetics, AYUSH (Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy) services, etc.<sup>204</sup>

Worldwide, Unilever uses mica for personal care products, such as shampoo and conditioners. According to a cosmetics database of the US-based non-profit organisation Environmental Working Group, mica is an ingredient for 65 conditioners, shampoos, and body wash/cleansers sold by Unilever on the US market under the brand names Axe, Dove, Suave, Finesse, Clear and Caress.<sup>205</sup> Unilever also self-discloses the ingredients of its products. In the Netherlands it sells mica-containing products through its brands Dove, Andrélon and AXE. Table 14 shows some examples of Unilever products containing mica and sold in the Netherlands.

### SUPPLIERS AND CHILD LABOUR

In response to a briefing note and questions sent by SOMO, Unilever stated that Merck and Sudarshan are its mica suppliers sourcing from India.<sup>206</sup>

Unilever has a Code of Business Principles which states that Unilever "will not use any form of forced, compulsory, trafficked or child labour".<sup>207</sup> In 2014, Unilever launched its Responsible Sourcing Policy (RSP), which contains mandatory requirements and best practices on human rights. One of the requirements is that all workers are of an appropriate age, meaning that "under no circumstances will a supplier employ workers under the age of 15 or under the minimum age for work or mandatory schooling as specified by the local law, whichever is higher".<sup>208</sup> Unilever also requires its suppliers to ensure that their extended supply chains are free from child labour and all forms of exploitation. According to Unilever, 85% of its strategic suppliers met the RSP criteria as of March 2015.<sup>209</sup>

Unilever has confirmed that Merck and Sudarshan are compliant with the Mandatory Requirements of the RSP, and both have confirmed they will work with Unilever to advance to Good Practice level. In addition, both companies have their own Business Codes and enforcement programmes, including principles to ban child labour. Their principles are directly targeted at mining companies, including those in Jharkhand and Bihar, according to Unilever.<sup>210</sup>

Unilever is the majority-owner of the Indian Lakmé cosmetics brand and the Elle18 cosmetics brand, focusing on cosmetics for young people.

PRODUCT	FUNCTION OF THE MICA
Andrélon Shampoo Glans & Care	Opacifier
Andrélon Shampoo Verrassend Volume	Opacifier
Andrélon Shampoo Levendige Kleur	Opacifier
AXE Shampoo 2in1	Opacifier
AXE Shower Gel Cool Metal	Colourant
AXE Shampoo Peace	Pearlescer
Dove Shower Men Daily Purifying	Colourant
Dove Nutritive Therapy Shampoo Nourishing Oil Care	Opacifier
Dove Repair Therapy Shampoo Color Care	Opacifier

**Table 14: Examples of Unilever products containing mica and sold in the Netherlands**

Source: Unilever, "What's in our Products, Netherlands", Andrélon: <http://bit.ly/1Y87QD1>, AXE: <http://bit.ly/1NmFIXE>, Dove: <http://bit.ly/1jSXZn1> (accessed August 2015)

198. Unilever, "Annual Report and Accounts 2014", pages 10 and 18, <http://bit.ly/22q0lwf>; Fortune, "Global 500 2015", <http://for.tn/1jSRQqc>.

199. E-mail responses on 6 October 2015 and 14 January 2016 by Unilever to SOMO.

200. Elle18, "Website", [www.elle18.in](http://www.elle18.in).

201. Forbes India, "The Rise of ColorBar", 15 January 2014, <http://bit.ly/1DceALP>; Companiesandmarkets.com, "Indian cosmetics market led by Lakmé", 2012, <http://bit.ly/1Skk4e4>.

202. Lakmé, "Sitemap", <http://bit.ly/1Mw3mDM>; International Journal of Applied Management & Business Utility, S. Suvarna, Assistant Professor, Guru Shree Shantivijai Jain College, Chennai, "Beauty care and personal care industry in India", July-September 2014, <http://bit.ly/1KCPOnQ>.

203. Hindustan Unilever, "Annual report year ending 31 March 2015", page 54, <http://bit.ly/1eDFJvg>. Euro to Indian Rupee (EUR INR) for 31 March 2015, one € = 67.0112 INR, <http://bit.ly/1JYf9Lp>. Government Of India, Ministry of Statistics and Programme Implementation, "National Industrial Classification", 2008, page 53, <http://bit.ly/1L2y4PP>.

204. Hindustan Unilever, "Annual report year ending 31 March 2015", pages 141-144, <http://bit.ly/1eDFJvg>. Euro to Indian Rupee (EUR INR) for 31 March 2015, one € = 67.0112 INR, <http://bit.ly/1JYf9Lp>.

205. EWG's Skin Deep® cosmetics database, "Products containing MICA made by company: Unilever", <http://bit.ly/1K0ELHA> (4 January 2016).

206. E-mail response by Unilever to questions sent by SOMO, 6 October 2015.

207. Unilever, "Code of Business Principles", page 2, <http://bit.ly/1MLgRjU>.

208. Unilever, "Responsible Sourcing Policy", page 9, <http://bit.ly/1Ho813H>.

209. Unilever, "Sustainable Living Plan, Summary of progress", page 21, <http://bit.ly/1JOhCHC>.

210. E-mail response of Unilever to questions sent by SOMO, 6 October 2015.



SEGMENT	REVENUE	REVENUE	SUB SEGMENT
Healthcare	9.2	3.2	Imaging systems
		2.9	Patient care and monitoring solutions
		2.5	Customer services
		0.6	Informatics, solutions and services
Consumer lifestyle	4.7	2.2	Domestic appliances
		1.5	Personal care
		2.0	Health and well-being
Lighting	6.9	4.1	Light sources and electronics
		2.4	Professional lighting solutions
		0.4	Consumer luminaires
Innovation, group and services	0.6	0.6	Innovation, group and services
<b>Total</b>	<b>21.4</b>	<b>21.4</b>	

**Table 15: Breakdown of Philips' revenue during 2014 (€ billion)**

## 6.6. COMPANY PROFILE: ROYAL PHILIPS

### HEALTHCARE, CONSUMER LIFESTYLE AND LIGHTING

Netherlands company Royal Philips is a diversified technology company with three business segments: healthcare, consumer lifestyle and lighting. The company is a leader in cardiac care, acute care and home healthcare, energy efficient lighting solutions and new lighting applications, as well as male shaving and grooming and oral healthcare.<sup>211</sup> Table 15 shows a breakdown of Philips' revenue of € 21.4 billion during 2014.<sup>212</sup> As a result of the transition towards a health and well-being company, Philips is selling off parts of the business not related to these activities.

211. Philips, "Company Profile", <http://philips.to/1kzCWGz>.  
212. Philips, "Annual report 2014", <http://philips.to/1WD4TyQ>.

213. Meeting between Philips and SOMO representatives, 22 December 2015.

214. E-mail response to SOMO by Philips, 4 February 2016.

215. Merchant Research & Consulting Ltd, "Mica: 2016 World Market Review and Forecast", January 2016, <http://bit.ly/1UNokA6>.

216. Meeting between Philips and SOMO representatives, 22 December 2015.

### MICA USE

Philips' mica use is limited to its consumer lifestyle segment. The products containing mica are hair dryers, toasters, irons, coffee makers, induction cookers and pressure cookers. Philips' total mica use amounts to 309 tonnes per year, according to the company.<sup>213</sup> This puts Philips mica use at an estimated 0.05% of global mica use, meaning that Philips is a very small player in the global mica supply chain, according to the company.<sup>214</sup>

Almost all mica used by Philips ends up in hair dryers and toasters - mica sheets are used for both. According to Philips, both the total mica use as well use of mica per iron has declined over the past few years. One of the reasons Phillips cites is that the rise in global demand for mica (backed up by research)<sup>215</sup> is leading to higher prices of mica washers and a growing search for alternative materials.<sup>216</sup>

Philips has stated that, of its annual 309 tonnes of mica, 300 tonnes originate from China and nine tonnes from India.<sup>217</sup> SOMO has asked Philips to further check this information as mica sheets usually originate from India and perhaps Russia, not China.<sup>218</sup> Philips is in contact with its suppliers to retrieve the origin of mica material sourced in both China as well India. At moment of publication of this report Philips has not yet been able to disclose the answer to this extra question.<sup>219</sup>

### SUPPLIERS & CHILD LABOUR

One of Philips' core business principles is not to use child labour.<sup>220</sup> Philips is a member of the Electronic Industry Citizenship Coalition (EICC). EICC's Code of Conduct also rejects the use of child labour.<sup>221</sup> Where a 'young' worker is found in its supply chain, Philips expects its suppliers to take immediate remedial action following ILO guidelines. Philips also expects the supplier to transfer the child to school and to pay for its school fees until the child reaches legal working age.<sup>222</sup> In addition, Philips distinguishes 'young workers' - workers under the age of eighteen - as a group who shall not undertake work that is likely to jeopardise their health and safety.<sup>223</sup>

Philips says that "responsible sourcing of minerals is an important part of our supplier sustainability commitment".<sup>224</sup> The company is a member of the "Conflict Free Sourcing Initiative" and the "Conflict Free Smelter (CFS) program". These efforts are dealing with *conflict minerals* (tungsten, tantalum, tin and gold). Regarding specific materials like mica there is no reference in the Philips documents and policy. The company stated that it had not conducted any human rights due diligence on mica specifically before SOMO's enquiry.<sup>225</sup>

217. Meeting between Philips and SOMO representatives, 22 December 2015.

218. US Geological Survey (USGS), J.C. Willett, "Minerals Yearbook, mica", January 2016, pages 110 and 111, <http://on.doi.gov/1Pw00D>

219. Meeting between Philips and SOMO representatives, 22 December 2015; E-mail from SOMO to Philips, 23 December 2015.

220. Philips, "General Business Principles", June 2014, page 6, <http://philips.to/1J0vtMb>.

221. EICC, "Code of Conduct", 2016, page 2, <http://bit.ly/1R5xhpp>.

222. Philips, "Child labor policy", <http://philips.to/1Ys36br>.

223. Philips, "Supplier Sustainability Declaration", January 2015, p. 7, <http://philips.to/10fbQI8>.

224. Philips, "We are working to make our supply chain 'conflict-free'", <http://philips.to/1I62GuC> (13 November 2015).

225. Meeting between Philips and SOMO representatives on 22 December 2015.

226. Ranker, "List of plastics material and resin manufacturing companies", <http://bit.ly/1PCgSa1>.

227. DSM, "DSM's Integrated Annual Report 2014", <http://bit.ly/1MnGyTp>.

228. E-mail responses on 4 December 2015 and 12 January 2016 by DSM to SOMO. DSM, "DSM Engineering Plastics launches 5 new grades of its bio-based Ecopaxx resin", 27 October 2010, <http://bit.ly/1IkbgWX>; DSM, "Safety data sheet EcoPaXX™ Q-HGM24", <http://bit.ly/1La8jgy>.

229. E-mail responses on 4 December 2015 and 12 January 2016 by DSM to SOMO.

230. Quarzwerke GmbH, "Mica: A temperature-resistant filler", <http://bit.ly/10QhQMd>; Aspanger Bergbau and Mineralwerke GmbH, "Mica", <http://bit.ly/1NHfhhk>; Panjiva.com, search term "mica powder", imports in first half 2015.

231. E-mail responses on 4 December 2015 and 12 January 2016 by DSM to SOMO.

## 6.7. COMPANY PROFILE: ROYAL DSM

### ACTIVE IN HEALTH, NUTRITION AND MATERIALS

Royal DSM is a Dutch company manufacturing products in three fields: health, nutrition and materials (the latter refers to engineering plastics and resins mostly). It is active in seventeen global markets, ranging from construction to textiles and fragrances. It ranks ninth in the list of global plastics material and resin manufacturing companies.<sup>226</sup> The company has 25,000 employees and its net sales amounted to € 9.3 billion in 2014.<sup>227</sup>

### MICA USE

DSM's mica use is limited to its division DSM Engineering Plastics (DSM-EP). DSM-EP has been using mica as a mineral filler (additive) in engineering plastics for decades. It also uses mica in a limited number of polyamide compounds, including some bio-based, high-performance EcoPaXX grades.<sup>228</sup>

DSM has declared that it plays a very small role in the global mica supply chain. According to the company it annually uses a few hundred tonnes of mica, at most.<sup>229</sup> Putting the global mine production of mica at an estimated 500,000 tonnes per year, DSM's share of global mica use would be less than 0.1%.

One of DSM's suppliers, as identified by SOMO, is the German company Quarzwerke GmbH. This company sources its mica from an Austrian mineral deposit operated by the company Aspanger Bergbau and Mineralwerke GmbH. Quarzwerke delivered 23 tonnes of mica powder to DSM-EP in the US in the first half of 2015.<sup>230</sup> DSM has stated that this quantity covers the complete annual mica consumption by DSM-EP in the Americas. Its consumption in the EU, which is from the same supplier, is somewhat higher.<sup>231</sup>

Half of DSM's mica consumption takes place in Asia. In Asia, DSM makes use of three suppliers that source from different mining areas. DSM did not want to disclose the names of the suppliers and mines due to confidentiality. The company stated however that it has an audit plan, and that no mica is sourced from the Jharkhand/Bihar area in India. Moreover, DSM received statements from all its four mica suppliers that they are compliant with DSM's Supplier Code of Conduct (S-CoC).<sup>232</sup>

#### CHILD LABOUR

DSM rejects and condemns any form of forced labour or child labour, "either at our own premises or within our supply chain".<sup>233</sup> It has a Supplier Code of Conduct (S-CoC), which refers to the ILO Conventions 138 (Minimum Age) and 182 (Worst Forms of Child Labour).<sup>234</sup> Suppliers must also implement standards with regard to health and safety.<sup>235</sup> Compliancy to the S-CoC within DSM is a qualifier for starting business

with DSM. Through a 'Global Supplier Sustainability Program', both global and local suppliers are assessed and audited on their compliance with the S-CoC.<sup>236</sup>

#### 6.8. DUTCH COSMETICS RETAILERS: A.S. WATSON BENELUX, AHOLD, HEMA

##### RETAIL STORES SELLING MAKE-UP IN THE NETHERLANDS

Table 16 shows the main perfumery, drugstore and warehouse chains in the Netherlands, and the main owners of these chains. Cosmetics are sold in these chains (foundation, eye shadow, lip gloss, nail polish etc.), while supermarket chains tend to sell mica-containing shampoos, conditioners and deodorants only. The main brands of the main cosmetics companies are available in many of the retail stores below. In this section more information is also provided on the three main owners: A.S. Watson Benelux, Ahold and Lion Capital.

OWNING COMPANY	CHAIN	NUMBER OF SHOPS IN THE NETHERLANDS
A.S. Watson Benelux	Kruidvat, Ici Paris XL, Trekleister, Pour Vous	830, 165, 130 and 40 respectively
Ahold	Etos	539
Lion Capital	HEMA	500
L'Oréal	The Body Shop	41-80
Selfridges	De Bijenkorf	10-20
Groupe Rocher	Yves Rocher	10-20
Various, lesser-known owners	Rituals, Douglas, DA, De Tuinen, DIO	all > 80
Various, lesser-known owners	Vroom & Dreesmann, Op=Op, Voordeelskop, Uw Eigen Drogist	all 41-80
Various, lesser-known owners	Mooi, Sabon	all 21-40

**Table 16: Retail stores selling make-up in the Netherlands**

Sources: Detailhandel.info, ParfumerieV'n, <http://bit.ly/1DRlgK4>; Drogisterijen, <http://bit.ly/1S21NwN>, Warenhuizen, <http://bit.ly/1Dqgh8a>

232. E-mail responses on 4 December 2015 and 12 January 2016 by DSM to SOMO.  
 233. DSM, "Human rights", <http://bit.ly/1Mm6eCi>, accessed 12 January 2016.  
 234. DSM, "Supplier Code of Conduct", <http://bit.ly/1MotzDg>.  
 235. DSM, "Supplier Code of Conduct", <http://bit.ly/1MotzDg>.  
 236. DSM, "DSM Global Supplier Sustainability Program", <http://bit.ly/1YR40VK>

#### COMPANY PROFILE: A.S. WATSON BENELUX

##### THE WORLD'S LARGEST RETAILER OF COSMETICS AND PERSONAL CARE PRODUCTS

A.S. Watson (Health & Beauty) Benelux owns the Kruidvat, Ici Paris XL, Trekleister and Pour Vous chains in the Netherlands. All these chains sell cosmetics and personal care products. The largest chain is Kruidvat with 830 stores in the Netherlands. It is followed by Ici Paris XL (165 stores), Trekleister (130 stores) and Pour Vous (40 stores).<sup>237</sup>

A.S. Watson Benelux is part of the A.S. Watson Group,<sup>238</sup> which is 75% owned by CK Hutchison Holdings (CK Hutchison).<sup>239</sup> CK Hutchison is the world's largest retailer of cosmetics and personal care products. As of 30 June 2015 the company had more than 11,277 health and beauty stores worldwide, of which 4,945 (44%) were in Western Europe.<sup>240</sup> Its health and beauty stores generated a revenue of HK\$ 56.1 billion (equivalent to € 6.5 billion) over the first half of 2015, which was 29% of CK Hutchison's total revenue.<sup>241</sup> The figures above exclude CK Hutchison's ownership of the perfumeries and cosmetics retailer Marionnaud with approximately 1,000 stores in 11 European markets.<sup>242</sup> CK Hutchison is a Cayman Islands-registered conglomerate headquartered in Hong Kong. The company has six divisions: ports and related services, retail, infrastructure, energy, telecommunications and finance and investments, and others.<sup>243</sup>

##### MICA USE

SOMO interviewed A.S. Watson Benelux's CSR manager about Kruidvat for this report. Kruidvat sells make-up

of several known brands, such as L'Oréal Paris, Max Factor, Rimmel and Essence.<sup>244</sup> It also sells branded personal care products, such as Dove, Nivea and Andrélon. The company also sells hair dryers, which usually contain mica.<sup>245</sup>

The interviewee stated that Kruidvat does set sustainability requirements for its own-brand products. Working conditions with regard to mica have, however, not (yet) been included as a requirement, for two reasons. First, the company has no own-brand products containing mica. Second, mica mining is a few stages away in the supply chain, where "the company has relatively little influence".<sup>246</sup>

Kruidvat's own-brand products do not include the cosmetics that often contain mica<sup>247</sup> and are instead mostly personal care and cleansing products.<sup>248</sup> As for the branded cosmetics and personal care products, the interviewee stated during the interview that A.S. Watson Benelux assumes that companies behind premium brands take their own responsibility for their products. In addition, the interviewee stated that A.S. Watson Benelux has limited influence on the policies of these manufacturers.<sup>249</sup>

##### CHILD LABOUR

A.S. Watson Group has a Code of Conduct for suppliers that prohibits the use of child labour.<sup>250</sup> Its parent CK Hutchison claims it has taken "steps to ensure that partners and suppliers do not employ child labour or abuse human rights".<sup>251</sup> Both A.S. Watson Group and CK Hutchison have not publicly disclosed any information about conducted human rights due diligence on mica and the origin and quantity of mica used.

237. A.S. Watson Group, "Health & Beauty, Kruidvat", <http://bit.ly/1MCgJYo>; A.S. Watson Group, "Health & Beauty, Trekleister", <http://bit.ly/1JbfQRY>; ICI PARIS XL, "ICI PARIS XL as an employer", <http://bit.ly/1UceZRI>; A.S. Watson Group, "Pour Vous", <http://bit.ly/1UAWHyw>.  
 238. A.S. Watson Benelux, "About us", <http://bit.ly/1kOQsG5>.  
 239. Hutchison Whampoa Limited, "Annual report 2014", page 272, <http://bit.ly/1ZQFWWhp>. Temasek, "Temasek acquires stake in A.S. Watson", 21 March 2014, <http://bit.ly/22NUAsk>.  
 240. CK Hutchison, "2015 Interim Report for the six months ended 30 June", <http://bit.ly/1mlcPP7>; CK Hutchison, "Finance & Investments and Others", <http://bit.ly/1Ogb6uE> (28 December 2015); Exchange rate as of 30 June 2015, €1 = 8.6278 HKD, <http://bit.ly/1OSjn4r>.  
 241. CK Hutchison, "2015 Interim Report for the six months ended 30 June", <http://bit.ly/1mlcPP7>; Exchange rate as of 30 June 2015, €1 = 8.6278 HKD, <http://bit.ly/1OSjn4r>.  
 242. CK Hutchison, "2015 Interim Report for the six months ended 30 June", <http://bit.ly/1mlcPP7>; CK Hutchison, "Finance & Investments and Others", <http://bit.ly/1Ogb6uE> (28 December 2015); Exchange rate as of 30 June 2015, €1 = 8.6278 HKD, <http://bit.ly/1OSjn4r>.  
 243. CK Hutchison, "2015 Interim Report for the six months ended 30 June", <http://bit.ly/1mlcPP7>.  
 244. Kruidvat, "Make-up", <http://bit.ly/1QVettn>.  
 245. Kruidvat, "Health & Beauty", <http://bit.ly/1YLacbg>.  
 246. Meeting between CSR manager Kruidvat and SOMO on 6 October 2015; E-mail CSR manager, 7 January 2016.  
 247. EWG's Skin Deep® cosmetics database, search term "Mica", <http://www.ewg.org/skindeep>, (4 January 2016).  
 248. Kruidvat, "Own brand products", <http://bit.ly/1RiEkvz>.  
 249. Meeting between CSR manager Kruidvat and SOMO on 6 October 2015; E-mail CSR manager, 7 January 2016.  
 250. A.S. Watson Group, Corporate Social Responsibility report 2015", <http://bit.ly/1THbpz8>.  
 251. CK Hutchison, "Operating Practices", <http://bit.ly/1PrI0cT> (accessed 28 December 2015).



## COMPANY PROFILE: AHOLD

### SUPERMARKET CHAINS

With sales of € 32.8 billion, Ahold ranked 248th on the Fortune Global 500 during 2014. Ahold is a Dutch-based international retailing group that operates supermarkets in the United States and Europe.<sup>252</sup> In June 2015 it was announced that Ahold will merge with the Delhaize Group, a similar company with a € 21.4 billion revenue in 2014.<sup>253</sup>

In 2014, Ahold had net sales of € 11.7 billion in the Netherlands. This includes Albert Heijn (the largest supermarket chain in the Netherlands), Bol (online retailer), Etos (drugstore chain) and Gall & Gall (a liquor store chain).<sup>254</sup>

### MICA USE

Etos is one of the largest drugstore chains in the Netherlands with 539 stores. It sells many mica-containing decorative cosmetic products from brands such as L'Oréal Paris, Maybelline, Nivea, Max Factor and Garnier. In addition, Etos has its own brand with over 1,300 products, ranging from make-up to vitamins to diet products.<sup>255</sup> Etos brand make-up products include foundation, mascara, eye-shadow, lipstick and powders<sup>256</sup> - products that often contain mica.<sup>257</sup> The products can also be bought online.

Mica-containing products at the supermarket chain Albert Heijn include shampoos, deodorants and toothpaste of main beauty and personal care companies.

Mica containing products are supplied to Ahold by many companies, as branded products or as own brand. Manufacturers of its own-brand decorative cosmetic products are in the main supplied by Merck and BASF (2nd tier suppliers of Ahold). Ahold knows the countries of origin for the used mica by these suppliers.<sup>258</sup>

### CHILD LABOUR

Ahold has defined "Standards of Engagement", which set minimum standards for its suppliers. One of the standards is on prohibition of child labour is, "Child labour is forbidden as defined by ILO and United Nations Conventions and/or by applicable law. Any forms of exploitation of children are forbidden. Working conditions resembling slavery or harmful to children's health are forbidden."<sup>259</sup>

Ahold claims it is in the process of mapping its own-brand suppliers and manufacturers.<sup>260</sup> In its "Responsible Products" programme, Ahold explains how it collaborates with suppliers, producers and farmers on sustainable sourcing, but this is mainly aimed at six "critical commodities" (e.g. coffee, tea and soy) and does not specifically include mica.<sup>261</sup>

In its response to SOMO, Ahold stated that it has identified child labour as an issue in mica production. Where potentially sourcing from India, it has asked its 2nd tier supplier about its mining programmes. The supplier has assured Ahold that its programmes are in compliance with human rights principles. Ahold also mentioned that it will continue to ask for child-labour free ingredients in its products.<sup>262</sup>

## COMPANY PROFILE: HEMA

### 100% BRAND AWARENESS IN THE NETHERLANDS

HEMA is a limited liability company with its registered seat and head office in Amsterdam. HEMA's shares are ultimately 100% held by Dutch Lion Coöperatief U.A., an investment company owned by several investment funds advised by Lion Capital. Lion Capital is a British private equity firm specialising in investments in the consumer sector. HEMA's net sales amounted to 1.1 billion in 2014, of which 0.8 billion was derived from retail customers and 0.3 billion from franchisees. Net sales in the Netherlands were 0.8 billion.

HEMA has over 700 stores across the Netherlands, Belgium, Luxembourg, France, Spain, Germany and the UK. It offers an extensive range of products from everyday basic household goods and a limited food assortment to affordable items including cosmetics, stationery, basic ladieswear and menswear, babywear and kidswear, home textiles and 'impulse-driven' purchases. The company enjoys virtually 100% brand awareness in the Netherlands.<sup>263</sup>

### MICA USE

SOMO contacted HEMA at the beginning of October 2015 with questions on the origin and quantity of mica used, and their conducted human rights due diligence on mica.

HEMA has its own cosmetics brand of around 650 products, which can be bought online and in its stores.<sup>264</sup> HEMA knows which products contain mica. The percentage of mica per product varies from a few up to 30%.<sup>265</sup>

### CHILD LABOUR

HEMA's suppliers are required to adhere to HEMA's Code of Conduct, which states: "Child labour is forbidden as defined by ILO and United Nations conventions and/or

by national law. The most stringent of the requirements must be adhered to."<sup>266</sup> In addition, suppliers sign a specific supplier declaration on social compliance, which refers to and is based on the Code of Conduct and the principles of BSCI (Business Compliance Initiative). The suppliers agree that all products and/or services provided shall be produced, delivered and/or provided in accordance with those rules and that they impose the obligations on their employees and third parties.

In its Annual Report 2014, HEMA states: "We aim for transparency in our sustainability strategy regarding the origins of our products, the production chain and the use of supplements and additives."<sup>267</sup> However, HEMA did not disclose where the mica in its cosmetics is sourced. The company stated on 11 January 2016, which was just before the finalization of this report, that it is following up with its suppliers on this specific issue. It is HEMA policy to not disclose the name of its supplier(s) for commercial reasons.<sup>268</sup>

## 6.9. OTHER DUTCH COMPANIES

### ROYAL DUTCH SHELL

Mica is often used in drilling fluids to prevent the loss of circulation and as a sealant, strengthening the wellbore. Many types of lost circulation materials (LCMs) are available. Sized calcium carbonate, mica, fibrous material, cellophane and crushed walnut shells have been used for decades.<sup>269</sup> On 5 January 2016, by e-mail and phone, SOMO has asked oil and gas company Royal Dutch Shell about its possible mica use, including the question: "Could your company elaborate on the amounts of mica used, the origin of the mica, and whether your company has conducted human rights due diligence in this issue of mica and child labour?"<sup>270</sup> The company has not responded, and no information on mica use, mica origin, or conducted human rights due diligence on this matter could be found on the company's website.

252. Fortune, "Global 500 2015", <http://for.tn/1mjZ7BG>. Ahold, "About Ahold USA", <http://bit.ly/1OmmYHq>.

253. Ahold, "Ahold and Delhaize announce intention to merge", 24 June 2015, <http://bit.ly/1OsK0CB> Delhaize Group, "Annual report 2014", [bit.ly/1YF7zNI](http://bit.ly/1YF7zNI).

254. Ahold, "Annual report 2014", page 5, <http://bit.ly/1SKz7vQ>.

255. Etos, "Etos eigen merk: altijd goed, altijd lage prijs", <http://bit.ly/1JKcS5p> (7 August 2015).

256. Etos, "Your winterlook!", <http://bit.ly/1OQv1WK> (28 December 2015).

257. Kruidvat, "Own brand products", <http://bit.ly/1RiEkvz>.

258. E-mail response on 15 January 2016 by Ahold to SOMO.

259. Ahold, "Standards of Engagement", <http://bit.ly/1G0wiH9>, point 3.6.

260. Ahold, "Responsible Products", <http://bit.ly/1RBc5VF>, (accessed 7 August 2015).

261. Ahold, "Responsible Retailing Report 2014", <http://bit.ly/1KPbXci>, page 10.

262. E-mail response on 15 January 2016 by Ahold to SOMO.

263. Lion Capital, "Our brands, HEMA", <http://bit.ly/1NigTrB>; HEMA, "Annual Report 2014", April 2015, <http://bit.ly/1Swj15V>.

264. Response on 11 January 2016 by HEMA to draft company profile sent for review by SOMO; HEMA, "Make-up", <http://bit.ly/1Mn11N9> (28 December 2015); HEMA, "Create that perfect look with make-up from HEMA", <http://bit.ly/1OmSB3w> (28 December 2015).

265. Response on 11 January 2016 by HEMA to draft-company profile sent for review by SOMO.

266. HEMA, "Code of Conduct", June 2011, <http://bit.ly/1R2ch10>.

267. HEMA, "Annual Report 2014", April 2015, page 16, <http://bit.ly/1Swj15V>.

268. Response of 11 January 2016 by HEMA to draft company profile sent for review by SOMO.

269. Society of Petroleum Engineers, "Petroleum Engineering Handbook, Volume II Drilling Engineering", 2007, <http://bit.ly/1faGPz0>.

270. E-mail by SOMO to Royal Dutch Shell on 5 January 2016.



### KUNCAI EUROPE B.V.

In April 2015, Chinese company Kuncai, the largest importer of mica from Jharkhand/Bihar, registered a Dutch company called Kuncai Europe B.V.<sup>271</sup> The new company is a marketing/sales company. Kuncai Europe is a joint venture of Kuncai with the Dutch company Peak B.V. (which owns shares of the company QolorTech B.V.). Kuncai has the majority of the votes. QolorTech is a marketer of pigments located in Vaassen (Netherlands).<sup>272</sup> A company profile of Kuncai can be found in section 7.4 of this report.

### SUDARSHAN EUROPE B.V.

The large Indian pigment company Sudarshan has a Dutch company taking care of deliveries to Europe. The company is called Sudarshan Europe B.V.<sup>273</sup> A company profile of Sudarshan can be found in section 7.7 of this report.

### GEOTECH INTERNATIONAL B.V.

Geotech International B.V. is a family-owned company based in Haarlem in the Netherlands. The company offers a range of special-effect pigments for the plastic, coating and cosmetics industries. Its branded products are sold mainly in Europe. Some of its Geoparl® pearlescent pigments contain natural mica. In addition, its Sunrise® functional fillers for cosmetics contain natural mica.<sup>274</sup> A thousand kilogram of Geotech's Sunrise-SVA mica powder was imported from Chennai Sea in June 2015,<sup>275</sup> suggesting that the mica was mined in Andhra Pradesh.

### VDL GROEP

The Dutch automotive company VDL Groep had a consolidated turnover of € 2.3 billion during 2014. Most

revenue was generated in Germany (€ 0.9 billion) and the Netherlands (€ 0.5 billion). The company has four divisions: subcontracting (€ 0.8 billion), car assembly (€ 0.8 billion), buses and coaches (€ 0.4 billion) and finished products (€ 0.5 billion).<sup>276</sup> SOMO has not questioned the VDL Groep for this report, though the company may use mica for car coatings and other automotive purposes.

### CEBO HOLLAND

Cebo Holland is a major supplier for the oil and gas drilling industry in the North Sea area. It is located in IJmuiden, and its products include mica-containing lost circulation materials for wellbores.<sup>277</sup> The parent of Cebo Holland is Cebo International B.V., which is owned 50% by Halliburton (one of the world's largest oil field services companies). The other 50% is owned by Imerys (a large supplier of specialist mineral-based products to industry).<sup>278</sup>

### DUMICO

The company Dumico in Capelle aan den IJssel produces mica protection discs and shields, mica applications for electrical insulation and mica window plates for furnaces and heating stoves.<sup>279</sup>

### SINIAT

Siniat is one of the leading suppliers of gypsum-related boards in Europe. Its hydro-panel cement boards contain mica. In the Netherlands, Siniat is based in Delfzijl. It also has operations in nine other European countries.<sup>280</sup> Siniat is part of Etex, a company specialising in building materials.<sup>281</sup>



271. Dutch Chamber of Commerce, "Deed of incorporation Kuncai Europe B.V.", (6 November 2015).

272. Dutch Chamber of Commerce, "Annual Report 2014 QolorTech B.V.", (6 November 2015).

273. Sudarshan Chemical Industries Ltd., New European Office has been opened, 24 February 2012, <http://bit.ly/103ff90>.

274. Geotech International B.V., "About us", <http://bit.ly/1HbNgPw>; Geotech International B.V., "Official authorized distributors and agents", <http://bit.ly/1iFhnDr>; Geotech International B.V., "Geoparl® pearlescent pigments", <http://bit.ly/1NRHLVJ>; Geotech International B.V., "Sunrise® mica functional fillers for cosmetics", <http://bit.ly/1WytG7c>.

275. Zaubacom, Search terms "mica", "export" and "Netherlands", as viewed on 5 November 2015.

276. VDL Groep, "Annual report 2004", April 2015, <http://bit.ly/1MAiSTR>.

277. Cebo Holland, "Drilling fluid products", <http://bit.ly/1Mfi2nu>.

278. European Commission, "Mergers: Commission approves planned acquisition of 50% stake in Cebo by S&B", 18 April 2007,

<http://bit.ly/1HdzHPz>; Imerys, "Imerys closes acquisition of S&B, a major player in industrial minerals", 27 February 2015, <http://bit.ly/1RZEGnj>.

279. Dumico, "Products", <http://bit.ly/1QiUSSi>.

280. Siniat B.V., "Hydropanels", <http://bit.ly/1PqsAon>; Siniat International, "About us", <http://bit.ly/1PdxbeU>.

281. Etex, "Annual report 2014", <http://bit.ly/1HuNThX>.



# 7. GLOBAL: PEARLESCENT PIGMENT PRODUCERS

## 7.1. THE MAIN COMPANIES

Leading importers from Jharkhand/Bihar pearlescent pigment producers account for more than 60% of mica imports from Jharkhand/Bihar.<sup>282</sup> Table 17 shows the main importers from Jharkhand/Bihar among the pearlescent pigment producers. Leading importers were Kuncai and Merck, together accounting for 25% of the total export value. Six Chinese

companies are also substantial buyers: Ruicheng, Chesir, Rika, Oxen, Zhenfa and Volor. Table 17 is not complete as the export data did not reveal all importers. The actual ranking may be different.<sup>283</sup> The top three are correct, however. According to a small Chinese producer of pearlescent pigments, the top three in the Chinese pearlescent pigments market comprised Merck, Kuncai and Ruicheng in 2012.<sup>284</sup>

PIGMENT PRODUCER	COUNTRY OF REGISTRATION	EXPORT VALUE (INR MILLION)	% OF EXPORT VALUE
Kuncai	China	201	13
Merck	Germany	167	11
Ruicheng	China	87	5
Chesir	China	80	5
Rika	China	62	4
Oxen	China	31	2
ZhenFa	China	31	2
Volor	China	20	1
Other		279	18
<b>Total pigment producers</b>		<b>958</b>	<b>61</b>

Table 17: Main pearlescent pigment manufacturers importing from Jharkhand/Bihar

Source: infodriveindia.com, HS code 2525 group, port of loading Kolkata Sea, first half 2015, as supplied on 25 July 2015.

282. Infodriveindia.com, HS code 2525 group, port of loading Kolkata Sea, first half 2015, as supplied on 25 July 2015. The identified eight largest importers among the pearlescent pigments producers accounted for 44% of the total export value. The other 17% was calculated by selecting the product name (mica flakes), and the unit price range (INR 24,000-34,000 per tonne) of the eight largest importers among the pearlescent pigments producers. This led to a total export value of INR 986 million, with delivery of flakes suitable for the production of pearlescent pigments. Often the name of the importer was not disclosed, especially for harbours with destinations including Shanghai, Wenzhou and Ningbo.

283. Infodriveindia.com, HS code 2525 group, port of loading Kolkata Sea, first half 2015, as supplied on 25 July 2015. For 30% (INR 473 million) of the total export value (INR 1,571 million) the importer was not disclosed. This means that companies mentioned in the table may have imported more than presented in the table, and that some companies are (wrongly) not listed as a main importing company in the table.

284. Anhui HAIJING Mica Technology Co., Ltd, "Pearlescent pigments market demand analysis", 12 June 2012, <http://bit.ly/1lppyL2>.

## GLOBAL MARKET

There are no publicly available figures on company shares for the specific market of natural mica pearlescent pigments. According to BASF, in 2007 Merck had a share of 50-60% in the worldwide market for pearlescent pigments, while BASF's share stood at 20-30% and Kuncai's share at 0-5% only.<sup>285</sup> However, Kuncai has apparently surpassed Merck in mica use with its estimated import of 10-12,000 tonnes of mica flakes annually from Jharkhand/Bihar, as compared to 8-9,000 tonnes by Merck.<sup>286</sup> This leads to our assessment that Merck and Kuncai are the largest manufacturers of natural mica pearlescent pigments worldwide.

It is not known how much mica BASF currently uses to produce pearlescent pigments. It sources its mica from the US. The ranking of 2007 also named the following companies: Altana/Eckart (0-5%), Sun Chemical (0-5%) and Taizhou (0-5%).<sup>287</sup> The natural mica pearlescent pigment business of Altana/Eckart was taken over by the Indian company Sudarshan in 2011. Merck

acquired Taizhou in 2009 (and sold the business in 2014). Sun Chemical is part of the Japanese DIC Corporation.

For this report, SOMO compiled company profiles for five companies: Merck, Kuncai, BASF, DIC Corporation and Sudarshan. The profiles provide an overview of the company's mica use, mica origin, child labour policies and human rights due diligence conducted. Merck, Kuncai, BASF and Sudarshan were given the opportunity to respond to a draft version of the profiles, which all four companies did. Confidential information was shared by Merck and Kuncai. SOMO also contacted the DIC Corporation, but there was no response, apart from an automated e-mail reply from the company that it would follow-up on the e-mail sent.<sup>288</sup>

Figure 8 shows customers of the pigment producers. These customers were tracked down during the research for this report.<sup>289</sup>

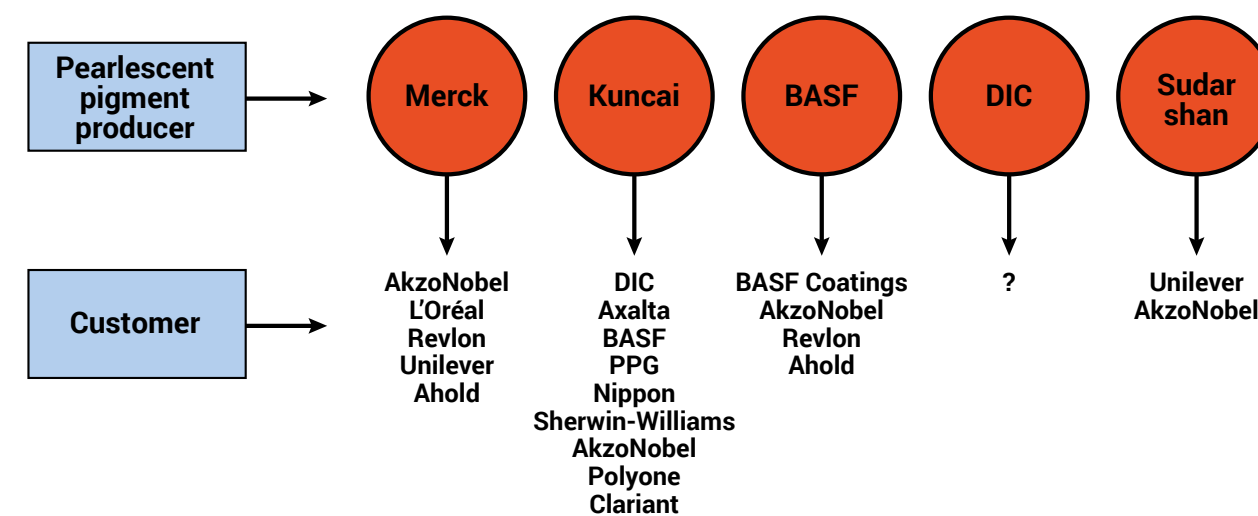


Figure 8: Customers of the main pearlescent pigment producers

285. European Commission, "Case No COMP/M.5355 - BASF/ CIBA", March 2009, <http://bit.ly/1fQf11W>.

286. Infodriveindia.com, HS code 2525 group, port of loading Kolkata Sea, first half 2015, as supplied on 25 July 2015. Meeting between Merck and SOMO representatives, Darmstadt, Germany, 17 December 2015.

287. European Commission, "Case No COMP/M.5355 - BASF/ CIBA", March 2009, <http://bit.ly/1fQf11W>.

288. E-mail automatically sent by a computer system of DIC Corporation to SOMO on 28 December 2015.

289. References can be found throughout the report.

COMPANY	DUE DILIGENCE CONDUCTED ON MICA	MICA FROM JHARKHAND/BIHAR
Merck	Comprehensively	Yes
Kuncai	Marginally	Yes
BASF	Significantly	No for its pigment production. Possibly for its coatings.
Other Chinese companies: Ruicheng, Chesir, Rika, Oxen and ZhenFa	Not found	Yes
Sudarshan	Significantly	Yes
DIC Corporation (including its subsidiary Sun Chemical)	Not found	Yes

**Table 18: Global pigment producers and due diligence in relation to mica and child labour**

Source: SOMO, 2016.

## 7.2. DUE DILIGENCE CONDUCTED BY PIGMENT PRODUCERS

The United Nations and the OECD stipulate that companies should carry out human rights due diligence when engaged in a supply chain with serious human rights issues. Carrying out due diligence means that a company should identify, prevent and mitigate any actual or potential adverse human rights impacts. Moreover, a company needs to be transparent in how it addresses these issues.<sup>290</sup>

Table 18 shows whether the pigment producers have conducted due diligence with regard to the issue of child labour for mica mining and processing, and whether (any of) the mica the companies use comes from Jharkhand/Bihar.

Merck identified child labour as an issue in 2007, and started with activities to prevent and mitigate it in 2010; it now reports specifically about its mica sourcing and the impacts of its due diligence activities. Kuncai's due diligence on child labour is still weak for the stages in the mica supply chain where most child labour is prevalent - mining and cobbing. So far the company lacks a tracking system to rule out any sourcing of mica

from uncontrolled sources, and activities to prevent and mitigate child labour have yet to start. The company has partly relied on statements from its exporters, which claimed that no child labour was used. Its exporters however mainly source from uncontrolled sources, and have conducted little due diligence. Kuncai is presently actively looking at how to increase its due diligence. BASF identified the issue in 2007, and decided to stop sourcing from India for its pigment production in 2008. Sudarshan changed its sourcing policy in 2015. It presently buys from two legal mines in Jharkhand/Bihar and stated that audits showed that there was no child labour involved. The company works with the Indian NGO ASK to implement systems to prevent child labourers from entering mining areas.

It is important to note that some of the information provided confidentially to SOMO contains contradicting information. Merck claims that at least five of the six mines it sources from are exclusively supplying mica flakes to Merck. The fact that these mines are only supplying Merck makes it possible to implement their tracking system whereby the total daily mine production is recorded in a logbook. Exactly this production goes to Merck after processing. This way no mica from uncontrolled sources is added,

290. Office of the High Commissioner for Human Rights (OHCHR), "UN Guiding principles on business and human rights", 2011, <http://bit.ly/18WbEUy>.

according to the company. If it transpires that the mines are not exclusively supplying Merck after all, this would make the tracking system questionable.

And this seems to be the case based on documents provided by Kuncai. According to documents from two mine owners, Kuncai buys from two mines that are supposed to supply Merck only.<sup>291</sup> SOMO cannot verify the authenticity of these documents and whether deliveries to Kuncai have indeed taken place. Therefore it can only conclude that it has received contradictory information.

## 7.3. COMPANY PROFILE: MERCK

### WORLD LEADER IN EFFECT PIGMENTS

With a global revenue of € 11.5 billion, the German multinational enterprise Merck KGaA ranked 241st on the Fortune Global 500 during 2014. Merck's business is divided into three separate sectors. The contribution to Merck's 2014 revenue was largest for healthcare (59%), second for life science (23%), and smallest for performance materials (18%).<sup>292</sup>

Merck claims to be the global market leader in effect pigments, which are part of its business sector 'performance materials'.<sup>293</sup> The sold pigments are mostly used for coatings (automotive and industrial) and cosmetics. Merck states that natural mica from India has properties that make it a necessary ingredient in the manufacture of top-grade pigments. As well as

pigments, Merck sells mica as a functional filler to the cosmetics industry.<sup>294</sup> The company mentions that the automotive industry boom in emerging markets is beneficial for its effect pigments business.<sup>295</sup>

### MICA USE

By far most of the mica used by Merck stems from Jharkhand/Bihar. In the first half of 2015 it imported 5,200 tonnes of mica flakes from the region, which was equivalent to 11% of export value.<sup>296</sup> According to Merck, it sources 8-9,000 tonnes from the region yearly.<sup>297</sup>

To a lesser extent Merck uses synthetic mica and natural mica originating from the US and Brazil. The imports from Brazil started in April 2015, and 500 tonnes were imported by Merck in the US by the end of September 2015.<sup>298</sup>

Table 19 shows which Merck companies worldwide have imported mica from Jharkhand/Bihar in the first half of 2015. This information was retrieved through a trade database showing exporters, importers, quantities and value exported. Most mica was imported by Merck's production facilities in Germany, forwarded from a Belgian port of destination. Large amounts also go to production facilities in the US, while Merck Ltd. in Japan is a smaller importer. The pigment production sites of Merck are located in Germany, United States and Japan.<sup>299</sup>

291. Documents received in confidentiality by SOMO from Merck, January 2016; Documents received in confidentiality by SOMO from Kuncai, January 2016

292. Merck, "Annual Report 2014", <http://bit.ly/1LEQ1rU>.

293. Merck, "Who we are", April 2015, <http://bit.ly/1LaH5K8>; Merck, "Annual Report 2014", <http://bit.ly/1LEQ1rU>.

294. Merck, "Corporate Responsibility report 2014", pages 83-87, <http://bit.ly/1MoDWph>; Merck, "Mica sourcing at Merck", August 2015, <http://bit.ly/1RmIAqE>; Merck Performance Materials, "Effect Pigments for Unique Paints and Coatings", <http://bit.ly/1HKZ87U>; Merck Performance Materials, "Cosmetic Raw Materials, Pigments and Fillers", <http://bit.ly/1MJUOah>; Merck Performance Materials, "Differentiate Your Shower & Bath Products", <http://bit.ly/1g7vAIY>; Merck Performance Materials, "Pyrisma® - for Fascinating Color Worlds in Coatings", <http://bit.ly/1MJUmJ2>.

295. Merck, "Annual report 2014", <http://bit.ly/1LEQ1rU>.

296. infodriveindia.com, HS code 2525 group, port of loading Kolkata Sea, first half 2015, as supplied by Infodrive on 25 July 2015, corrected for some double counting in the database received.

297. Meeting between Merck and SOMO representatives, Darmstadt, Germany, 17 December 2015.

298. Panjiva.com, search term "Emd Chemical", as viewed on 6 October 2015. The name of the Brazilian supplier is Bentonit Uniao Nordeste Industria. Total deliveries were 542 tonnes. For 241 tonnes there was no description that this was actually mica, but these deliveries fitted in the timeline and had the same volumes as the mica deliveries.

299. A Merck document of May 2011 mentions also a mica-containing pigment production site in China (Source: Merck, "Merck's Mica Supply Chain, Update", May 2011, <http://bit.ly/1LUwVhQ>). During the meeting between Merck and SOMO in Darmstadt, 17 December 2015, Merck however disclosed that this site was sold by Merck in 2014.



MERCK COMPANY	PORT OF DESTINATION	QUANTITY (TONNES)	EXPORT VALUE (INR MILLION)
Merck KGaA	Belgium	2,692	86.3
Emd Chemicals/Performance Materials	United States	2,239	72.8
Merck Ltd.	Japan	256	8.0
Total		5,187	167.1

**Table 19: Imports by Merck companies from Jharkhand/Bihar in the first half of 2015**

Source: infodriveindia.com, HS code 2525 group, port of loading Kolkata Sea, first half 2015, as supplied by Infodrive on 25 July 2015, corrected for some double counting in the database received.

### MERCK'S SUPPLIERS OF MICA

Table 20 shows the companies that exported mica from Jharkhand to Merck in the first half of 2015. There are five Indian companies currently supplying Merck.

### MERCK DISCOVERS CHILD LABOUR

Merck had been sourcing mica from Jharkhand/Bihar for many years, but it wasn't until a 2008 study by the Indo-German Export Promotion Foundation that the company realised it had to address the child labour involved in its mica supply chain. A Merck spokeswoman stated in August 2009 that the study had found that "children are indeed involved in the collection of mica - however exclusively within the scope of family groups. It is an important result for us that no cases of permanent work, bonded or slave labour were found."<sup>300</sup> The study had apparently not signalled the extremely dangerous circumstances children are exposed to, and the fact that many children in the area do not go to school at all.

However, Merck took action. In its Corporate Responsibility report 2009 Merck mentioned that it had contractually obligated the suppliers of Merck KGaA in Germany to rule out forced and child labour.<sup>301</sup> In May 2011 Merck stated that, by the end of 2011, Merck's mica supply for its entire effect pigment portfolio would be from child-labour free sources.<sup>302</sup>

In September 2011 a heavy-weight delegation from Merck visited the Jharkhand state government. The Merck representatives were accompanied by two exporters, who were interested in applying for mica mining in the region. The state industry secretary of Jharkhand, A.P. Singh, said: "Merck is interested in mica trade and wants to help in legal mining of the precious mineral. At present the majority of mica mining and trade is illegal. We are hoping for a good deal with the company." The secretary also stated that only about 2,000 metric tonnes of mica was produced by five legally operating mines in Koderma and Giridih, while Merck was aiming to tap 10,000 tonnes of the mineral annually. Merck was interested in procuring from legal mines without involving child labourers and wanted to open up an employment lifeline for many in the neighbouring districts. A source from the state mining department said that Merck wanted allotment of mica mines in Jharkhand's mica zone in favour of Merck's six suppliers. The source also revealed (in 2011) that Merck's suppliers had not (yet) provided the required documents needed for mining leases to the state government.<sup>303</sup> Presently Merck claims that it sources from legal mines only, that the production of these mines is exclusively exported to Merck, and that there is no child labour involved during the mining and processing of the mica.<sup>304</sup>

300. "Child labour used in cosmetics industry", The Sunday Times, 19 July 2009.

301. Merck, "Corporate Responsibility report 2009", page 14, <http://bit.ly/1Lvc3zW>.

302. Merck, "Merck's mica supply chain, Update", May 2011, <http://bit.ly/1LUwVhQ>.

303. "Mica on German firm's wish list", The Telegraph India, 13 September 2011, <http://bit.ly/1M6qbtE>; The Telegraph India, "German hope for mica", 14 September 2011, <http://bit.ly/1JdHcjm>; Business Standard, "Mica mining revival in Jharkhand on the cards", 20 September 2011, <http://bit.ly/1CYAMbO>.

304. Meeting between Merck and SOMO representatives in Darmstadt, Germany, 17 December 2015.

INDIAN EXPORTER NAME	QUANTITY (TONNES)	EXPORT VALUE (INR MILLION)
Pachisia & Co	1,772	57.5
Ramdew Modi	1,182	38.3
Mohan International	833	26.0
Modi Mica Enterprises	705	22.8
Manoj Kumar Bhadani	695	22.5
<b>Total</b>	<b>5,187</b>	<b>167.1</b>

**Table 20: Merck's mica suppliers from Jharkhand/Bihar in the first half of 2015**

Source: infodriveindia.com, HS code 2525 group, port of loading Kolkata Sea, first half 2015, as supplied by Infodrive on 25 July 2015, corrected for some double counting in the database received.

### DUE DILIGENCE

Merck's position in relation to child labour is captured in its Human Rights Charter and its Responsible Sourcing Principles.<sup>305</sup> These documents also reveal Merck's stance towards other working conditions. Merck's Human Rights Charter states: "We will only conduct business with suppliers who share our commitment to human rights and to operate in a responsible manner towards their employees and their own suppliers."<sup>306</sup>

Merck has recently exhibited its sustainability activities in relation to Jharkhand/Bihar in its Corporate Responsibility report 2014 and in a leaflet called "Mica sourcing at Merck" (dated August 2015).<sup>307</sup> Subsequently, Merck met with SOMO on 17 December 2015, and during this meeting some additional information was provided by the company. Finally, Merck and SOMO signed a confidentiality agreement, enabling SOMO to further check Merck's supply chain management.

Of all companies importing mica from Jharkhand/Bihar, Merck has been by far the most active company in attempting to get its sourcing child-labour free and

to enhance the living conditions in the area. In May 2011 the company claimed its supply chain would be child-labour free by the end of 2011.<sup>308</sup>

In the following sections SOMO will assess the value of the Merck's initiatives, assessing:

- the legality of Merck's mines;
- Merck's mica tracking system;
- stopping suppliers using child labour;
- Merck's audit system;
- Merck enhancing the living conditions in mica mining areas.

### THE LEGALITY OF MERCK'S MINES

Merck states that it no longer uses any mica that is sourced in an informal work environment. For mica that is mined by villagers and further brought to the market by local traders (i.e. informal), Merck cannot guarantee that child labour is not being used. The raw materials used by Merck are said to come exclusively from legal mines and not from uncontrolled sources.<sup>309</sup> SOMO has seen confidential documentation provided by Merck with regard to the legality and locations of the

305. Merck, "Human Rights Charter, valid from 5 December 2013", <http://bit.ly/1P1ukTb>; Merck, "Responsible Sourcing Principles, valid from 15 March 2013", <http://bit.ly/1eOCSQd>.

306. Merck, "Human Rights Charter, valid from 5 December 2013", <http://bit.ly/1P1ukTb>.

307. Merck, "Mica sourcing at Merck", August 2015, <http://bit.ly/1RmlAqE>; Merck, "Corporate Responsibility report 2014", pages 83-87, <http://bit.ly/1MoDWph>.

308. Merck, "Merck's mica supply chain, Update", May 2011, <http://bit.ly/1LUwVhQ>.

309. Merck, "Corporate Responsibility report 2014", pages 83-87, <http://bit.ly/1MoDWph>.

mines. Merck presently sources from six mines. Three of the mines are located in Bihar State, while the other three are in Jharkhand State.<sup>310</sup> Merck says to source from open-pit mines only, not from underground mines.<sup>311</sup>

According to the governmental Indian Bureau of Mines, there are no legal mica mines in Jharkhand and two legal mica mining leases in Bihar.<sup>312</sup> One of these legal leases is the Sharda mine in Mauza-Chatkari, owned by Modi Mica Enterprises.<sup>313</sup> The other legal lease is owned by the company Chattu Ram Darshan Ram.<sup>314</sup> This lease comprises four or five mines.<sup>315</sup> Merck sources from three mines in Bihar. One is the Sharda mine. The other two mines pertain to the leased area of Chattu Ram Darshan Ram.<sup>316</sup> For all three mines Merck provided SOMO with a recent mining inspection report produced by the Indian central government's Directorate General Mine Safety (DGMS).<sup>317</sup>

The three mines located in Jharkhand are not registered as legal by the Indian Bureau of Mines. However, Merck has provided SOMO with mining lease documentation and recent mining inspection reports (produced by the Indian central government) for these three mines.<sup>318</sup> According to this information the lease of one of the mines has expired.<sup>319</sup> Merck however states that according to Indian law this lease has been extended.<sup>320</sup>

All in all, it appears that Merck's mines are considered legal by the authorities: all six mines have been subject to government inspection and the inspection reports were made available to SOMO.

Three of the six mines are not registered by the Indian Bureau of Mines as being legal. Merck was able to show mining lease documentation for these three mines. SOMO has however not been able to conduct a thorough assessment on the legality of these three mines.

#### MERCK'S MICA TRACKING SYSTEM

Merck has established a mica tracking system. The mine owners record the output of a mine on a daily basis in a production log book. These documented mica amounts are the basis for licensing fees that the mine owners have to pay to the government. If mica from uncontrolled sources were additionally used, the mine owners would also have to pay licensing fees for these mica amounts. In that case the sellers of mica from uncontrolled sources would have to sell the mica for a lower price. This would not make sense economically, it is argued. This argument sounds reasonable, though during SOMO's field investigation many exporters said that for illegal (unofficial) mining illicit sums are paid to the government.<sup>321</sup>

Once a month Merck crosschecks the mica amounts recorded in the log book of the mine owners against those delivered to the processors.<sup>322</sup> The mica is finally sold to Merck by the mine owners directly.

Except for the Sharda mine, all mines are exclusively supplying mica flakes to Merck (out of specifically defined and fenced pits), according to Merck. Some mica of lesser quality - a small amount not used for the production of mica flakes - may be sold separately to other parties. The trade data that SOMO acquired, relating to exports from Jharkhand/Bihar during the

first half of 2015, support Merck's statement that except for the Sharda mine, all mines are exclusively supplying mica flakes to Merck.<sup>323</sup> However, documents received confidentially by SOMO from Kuncai included letters by two mine owners that had promised exclusivity of supply from specific mines to Merck. The two mine owners declared that they were also supplying Kuncai's suppliers from the same mines.<sup>324</sup> SOMO could not verify the authenticity of the documents and whether deliveries to Kuncai had indeed taken place.

#### PROHIBITING SUPPLIERS USING CHILD LABOUR

Merck contractually prohibits its suppliers to use child labour.<sup>325</sup> This applies for all mica, not only sales to Merck.<sup>326</sup> Merck has stated on this that its audit and control processes are only applied to those parts of the supply chain that are actually associated with Merck's business (e.g. mining pits producing material for Merck are checked and audited as per established processes, whilst pits that do not produce material for Merck are not).<sup>327</sup>

Merck has also stated that it is working with suppliers to make them aware of its values and the importance of adhering to labour standards. Merck's employees in Jharkhand are said to be in regular contact with suppliers (about twice a month) and address these issues.<sup>328</sup> However, there is no control mechanism in place that prevents suppliers from, for example, starting another company exporting mica with lower social responsibility requirements. Among the mica exporters there are many families with more than one company. It is often not clear which family members are a beneficiary of the mining operations. All in all, SOMO thinks that for those parts of the supply chain that are actually associated with Merck's business, Merck's suppliers are working along with Merck's demands. It seems that there are little extra effects from Merck's general prohibition of child labour towards its suppliers. The effect seems to be limited to Merck's demand from the area.

#### MERCK'S AUDIT SYSTEM

Merck has developed an audit system to ensure that mine operators and processors comply with its requirements for environmental protection, safety and working standards (including minimum wages). Local Merck employees audit business partners. Additionally, third party audits by the independent Environmental Resource Management (ERM) and the Indo-German Environment Partnership (IGEP) are performed. IGEP is also running three schools and a health centre for Merck in Jharkhand/Bihar, so it can't be considered independent. While IGEP checks the working standards as well as compliance to safety requirements monthly during surprise visits, ERM performs scheduled annual audits to monitor working standards, as well as environmental, safety and health aspects. Identified deficiencies are documented in the audit reports and the suppliers have to implement corrective action. Merck's employees in Jharkhand monitor the implementation of these measures.<sup>329</sup>

There are also annual mining inspections performed by the DGMS which can be considered independent. For all six mines Merck has provided SOMO with a recent DGMS mining inspection report.<sup>330</sup> SOMO also asked Merck how it conducts surprise audits to make sure the mining site is child-labour free, as this is very difficult for remote areas.<sup>331</sup> Merck has replied by stating that the inspection itinerary is not known to suppliers and even IGEP inspectors are only informed about the schedule shortly before the audit is due, meaning the mines and processors can't prepare for visits. Moreover, inspectors are very familiar with the region (as they live there), move around independently and therefore it is not likely that their visits are known about beforehand.<sup>332</sup>

In its Corporate Responsibility report 2014, Merck states that it conducted 14 audits on its mica suppliers in 2013 and 2014. It terminated business relations with two suppliers because they failed to carry out the required corrective action in a satisfactory manner.<sup>333</sup>

310. Documents received in confidentiality by SOMO from Merck, January 2016.

311. Meeting between Merck and SOMO representatives, Darmstadt, Germany, 17 December 2015.

312. Government of India, Ministry of Mines, Indian Bureau of Mines, "Bulletin of mining leases & prospecting licenses 2014", 6 October 2015, <http://bit.ly/1RsvnfF>.

313. High Court, "Order – File No.1/M.M.25/07 - M/S Sharda Mica Mining Company Mauza-Chatkari (501 acre)", 4 April 2014, <http://bit.ly/1IIDPDI>; Danwatch, "Who suffers for beauty? The child labour behind make-up's glitter", February 2014, <http://bit.ly/1et1ij>.

314. High Court, "Order – File No.1/M.M.02/07 - M/S Chattu Ram Darshan Ram, Mauza-Velam Sawaiyatand and Dalha (2455.54 acre)", 4 April 2014, <http://bit.ly/1PknB7y>; Patna High Court, "M/S Chattu Ram Darshan Ram vs The State Of Bihar & Ors", 10 February 2011, <http://bit.ly/1kh7iND>.

315. Universal Mica & Mineral Associates, "About UMMMA", <http://bit.ly/1Zpj4Fu>.

316. E-mail response on 22 January 2016 by Merck to SOMO.

317. Documents received in confidentiality by SOMO from Merck, January 2016.

318. Indian Bureau of Mines, "Bulletin of Mining Leases & Prospecting Licenses 2014", 6 October 2015, <http://bit.ly/1RsvnfF>.

319. Documents received in confidentiality by SOMO from Merck, January 2016.

320. Government of India, Ministry of Mines, "Mineral Concession Rules, 1960 (As amended up to 26 July, 2012)", <http://bit.ly/1Un2WRQ>; Insertion of new section 8A. Source: The Gazette of India, "The Mines and Minerals (Development and Regulation) Amendment Act, 2015", 27 March 2015, <http://bit.ly/1SFChV>.

321. Interviews by SOMO with several exporters during the field investigation in October 2015.

322. Merck, "Mica sourcing at Merck", August 2015, <http://bit.ly/1RmlAqE>.

323. [infodriveindia.com](http://infodriveindia.com), HS code 2525 group, port of loading Kolkata Sea, first half 2015, as supplied on 25 July 2015.

324. Documents received confidentially by SOMO from Kuncai, January 2016.

325. Merck, "Mica sourcing at Merck", August 2015, <http://bit.ly/1RmlAqE>.

326. Merck, "Human Rights Charter, valid from 5 December 2013", <http://bit.ly/1P1ukTb>.

327. E-mail response on 12 January 2016 by Merck to SOMO.

328. E-mail response on 22 January 2016 by Merck to SOMO.

329. Merck, "Mica sourcing at Merck", August 2015, <http://bit.ly/1RmlAqE>; E-mail on 12 January 2016 by Merck to SOMO.

330. Documents received in confidentiality by SOMO from Merck, January 2016.

331. AFP, Abhaya Srivastava, "Indian children labour to bring sparkle to make-up", 12 October 2015, <http://yhoo.it/1LWwrUs>

332. E-mail response on 12 January 2016 by Merck to SOMO.

333. Merck, "Corporate Responsibility report 2014", pages 83-87, <http://bit.ly/1MoDWph>.



According to Merck this had nothing to do with child labour: “Neither our audits nor the self-reported supplier information revealed significant risks regarding violations of the right to assemble or engage in collective bargaining, nor with regard to child labor, forced labor or compulsory labor.”<sup>334</sup> Merck has stated that one of the main reasons for terminating the business relationship was the lack of willingness to comply with its requirements regarding working and safety conditions.<sup>335</sup> One of the dropped suppliers is probably Tarway Pulverising Works. This company started exporting to Merck in the US in the first half of 2010, but deliveries stopped after the first half of 2013.<sup>336</sup>

#### ENHANCING LIVING CONDITIONS IN THE MICA MINING AREAS

As well as providing workers in the mines and processing units with at least the minimum wage (by Indian law), Merck has developed educational and health care programmes in order to enhance living conditions in the mica mining areas:<sup>337</sup>

- Merck runs, through IGEP, three schools with adjacent nursery schools in the villages Tisri (Giridih, Jharkhand), Barkitand (Giridih, Jharkhand) and Saphi (Bihar). More than 500 students attend these schools. The school in Tisri also provides vocational training for carpentry and tailoring. The education provided is holistic and includes civics, hygiene and health education. Additional benefits comprise free midday snacks, drinking water, uniforms, books and school supplies. Merck supports a fourth school in Koderma run by one of its mica suppliers (RP Modi international school)<sup>338</sup> with more than 100 scholarships. Merck says it checks the schools regularly.
- Merck funds a local health centre in the village of Saphi in a region that has around 20,000 inhabitants. The health centre is operated by IGEP. The facility has two doctors and a nurse on duty every day. As part of their routine activity, they check and follow up medical conditions among the villagers. The services offered also include vaccinations and health

awareness programmes and education on everyday health issues. On average, about 150 patients per month are treated at the health centre. The doctors and nurse also pay visits to the schools and villages in the vicinity.

- Between 2010 and 2013, Merck and BBA jointly carried out a project with the goal of creating 20 child-friendly villages in Jharkhand (see section o).<sup>339</sup> As far as SOMO was able to assess, Merck has indeed contributed to the living conditions in the mica mining areas. During the field research SOMO visited one of the three schools, and conducted interviews with teachers. The school seemed to function properly.<sup>340</sup> In the opinion of the Indian NGO BBA, the schools and healthcare centre should be put in a process to be handed over in time to the local government as being in the hands of a company risks problems with continuity.<sup>341</sup>

#### 7.4. COMPANY PROFILE: KUNCAI

##### A LEADING PEARLESCENT PIGMENT PRODUCER

Fujian Kuncai Material Technology Co. Ltd. (Kuncai) is a Chinese pearlescent pigment producer that specialises in both natural and synthetic mica-based pigments.

Over the past six years Kuncai’s business has been expanding rapidly. In 2009 the company produced 5,000 tonnes of pearlescent pigments; in 2014, production had risen to 15,000 tonnes. The company is also a large producer of synthetic mica with an annual production capacity of 10,000 tonnes. Kuncai is building additional capacities, including a new plant (set to be operational in 2016) which is designed for the yearly production of 30,000 tonnes of pearlescent pigments (both synthetic and natural mica based) and 10,000 tonnes of synthetic mica.<sup>342</sup>

INDIAN EXPORTER NAME	QUANTITY (TONNES)	EXPORT VALUE (INR MILLION)
Mount Hill’s/Hari Narayan Bagaria	3,120	102
Mohan Mica	960	31
Pravin	960	31
Gunpatroy	420	14
Pearlescent Minchem (India)	240	8
Vedant	240	8
Kritika Enterprises	120	4
Sedmal Kanhaiya Lal	120	3
<b>Total</b>	<b>6,180</b>	<b>201</b>

Table 21: Mica imports by Kuncai from Jharkhand/Bihar in the first half of 2015

Source: infodriveindia.com, HS code 2525 group, port of loading Kolkata Sea, first half 2015, as supplied on 25 July 2015.

Kuncai claims on its website that it is the world’s largest producer of synthetic pearlescent pigments, and that its production of natural mica-based materials ranks third in the global market and first in Asia.<sup>343</sup> The company produces pigments focused on a wide variety of sectors, ranging from the coating industry (including automotive), to the cosmetics, plastic, printing paper, ink and leather industries.<sup>344</sup>

Information regarding the company’s annual revenue is not made available by Kuncai. The company states that more than 60% of its products are exported to Europe, North America, South East Asia, the Middle East, Korea and Africa.<sup>345</sup> Kuncai claims: “With years of effort we have established the close cooperation relationship with Axalta, BASF, PPG, Nippon, Sherwin-Williams, AkzoNobel, Polyone, L’Oréal and Clariant etc.”<sup>346</sup>

In April 2015 a Dutch company called Kuncai Europe B.V was registered.<sup>347</sup> The new company is a marketing/sales company, aiming to better service Kuncai’s European market.<sup>348</sup> Kuncai Europe is a joint venture of Kuncai with the Dutch company Peak B.V. (which owns the shares of the company QolorTech B.V.). Kuncai has the majority of the votes. QolorTech markets pigments and is located in Vaassen.<sup>349</sup>

##### MICA USE

SOMO estimates that Kuncai’s mica import from Jharkhand/Bihar was in the range of 10-12,000 tonnes in 2015. This estimate is based on trade data of exports from Jharkhand/Bihar. According to these trade data, as specified in Table 21, Kuncai imported 6,180 tonnes in the first half of 2015. The trade data have been corrected as much as possible for any double counting that came to light, but some double counting may still remain.<sup>350</sup>

334. Merck, “Corporate Responsibility report 2014”, pages 83-87, <http://bit.ly/1MoDWph>.

335. Meeting between Merck and SOMO representatives in Darmstadt, Germany, on 17 December 2015.

336. Panjiva.com, search term “Emd Chemicals”, imports from 1 January 2008 to 30 June 2015.

337. Merck Group, “Mica sourcing at Merck”, August 2015, <http://bit.ly/1RmlAqE>.

338. Merck India, “Corporate Responsibility”, August 2015, <http://bit.ly/1VoYwVv>.

339. Merck Group, “Mica sourcing at Merck”, August 2015, <http://bit.ly/1RmlAqE>.

340. Visit to Merck’s school in Tisri, 10 October 2015, during SOMO’s field investigation.

341. Meeting between BBA and SOMO on 23 October 2015.

342. Kuncai, booklet “Company profile”, 2015.

343. Kuncai, “About Kuncai”, <http://bit.ly/1MmsUDj>.

344. Kuncai, “Products”, <http://bit.ly/1NsVEa5>.

345. Kuncai, booklet “Company profile”, 2015.

346. Kuncai, “Fujian Kuncai Material Technology Co., Ltd. has set up branch in Europe”, 2 May 2015, <http://bit.ly/1TcHNtA>.

347. Dutch Chamber of Commerce, “Deed of incorporation Kuncai Europe B.V.”, accessed 6 November 2015.

348. Kuncai, “Fujian Kuncai Material Technology Co., Ltd. has set up branch in Europe”, 2 May 2015, <http://bit.ly/1TcHNtA>; Kuncai Europa B.V., press release, 8 June 2015, <http://bit.ly/1dEPLvu>.

349. Dutch Chamber of Commerce, “Annual Report 2014 QolorTech B.V.”, accessed 6 November 2015; QolorTech, “Effect pigmenten”, <http://bit.ly/1LTfbCF>.

350. infodriveindia.com, HS code 2525 group, port of loading Kolkata Sea, first half 2015, as supplied by Infodrive on 25 July 2015. Comparison with trade data on US imports revealed that this database contained double counting. Through comparison with other data bases, and through looking at dates, values and invoice numbers corrections could be made for most of the double counting.

According to the company, as well as Jharkhand/Bihar it also sourced mica from Brazil and Pakistan in 2015.<sup>351</sup> Quantities were not disclosed by the company. Table 21 shows which exporters from Jharkhand/Bihar delivered mica to Kuncai in the first half of 2015.

#### CHILD LABOUR AND DUE DILIGENCE

Kuncai's Code of Conduct, dated July 2014, states: "Kuncai is resolutely against the use of child labour in the whole production process." The company is committed to comply with national laws and core conventions No. 138 and No. 182 of the International Labour Organization in this respect.<sup>352</sup>

In January 2016 SOMO received documents from Kuncai on its conducted due diligence to prevent child labour in Jharkhand/Bihar. Documents dated June 2013 and signed by most of Kuncai's main exporters show exporters declaring that no child labour was employed in the supply of mica flakes to Kuncai. The exporters also stated that at reasonable intervals they had inspected their suppliers' mines and had found that no child labour was employed in them.<sup>353</sup>

In documents dated June 2014 and December 2015, labour officials of the local Giridih government declared that there was no child labour in the processing units of Kuncai's main exporters.<sup>354</sup> These findings are in line with SOMO's findings during the field investigation in October 2015.<sup>355</sup>

In the beginning of 2015 Kuncai sent a team for an on-site investigation that focused on processing units and interviews with exporters. During 2015 Kuncai also sent out questionnaires to exporters. The exporters were required to name their suppliers and mines. From their answers it became clear that mainly local traders sourced the mica for the exporters, without any

references to mines. Owners of three mines, apparently also supplying mica to Kuncai, stated that for their mica mining/processing no child labour was employed.<sup>356</sup>

It appears to SOMO that Kuncai's due diligence on child labour is still weak for the stages in the mica supply chain where most child labour is prevalent: mining and cobbing. So far the company lacks a tracking system to rule out mica sourcing from uncontrolled sources. It has little information on where the mica is sourced, and on the social impacts (including child labour) in its supply chain.

Kuncai's main exporters state that at reasonable intervals they inspect their supplier mines. However, the exporters mostly refer to local traders as their suppliers without disclosing any supplier mines. The exporters have provided no information on the sourcing by local traders.

Kuncai's main exporters also delivered statements from three mine owners. It is, however, not clear how much these mine owners have supplied to Kuncai, if any.<sup>357</sup> SOMO received documentation of two mine owners that have promised exclusivity of supply from specific mines to Merck. The two mine owners declared that they were also supplying Kuncai's suppliers from the same mines.<sup>358</sup> SOMO could not verify the authenticity of the documents and whether deliveries to Kuncai had indeed taken place. Kuncai (still) has no tracking system in place for its mica sourcing.

In December 2015 the president of Kuncai, Mr Bingkun Xie, initiated a conference for senior management. The final decision of this conference was that Kuncai would further increase its efforts to ensure that its suppliers of mica do not use child labour. The company said it would also more publicly communicate its position, which it did by putting a statement on its website<sup>359</sup>

setting out its Code of Conduct<sup>360</sup> and by explaining SOMO's efforts to prevent child labour in their supply chain, including the sharing of relevant documents.

Kuncai is now looking at how to increase its due diligence and has contacted NGOs to assist them. First, it wants to implement sustainable control mechanisms to ensure that its supply chain is free from child labour. Second, it wants to contribute to the education and well-being of children in the area.<sup>361</sup>

## 7.5. COMPANY PROFILE: BASF

#### THE WORLD'S LARGEST CHEMICAL COMPANY

With sales of € 74 billion, BASF ranked 76th on the Fortune Global 500 during 2014. BASF is the world's largest chemical company.<sup>362</sup> Among many other segments, BASF is a large producer of pearlescent pigments and paint/coatings.<sup>363</sup> BASF states that "with sales of about € 1 billion in 2014", it holds a "leading position in the pigments market".<sup>364</sup> BASF uses mica to produce special-effect pigments for the cosmetics, printing ink, coatings and plastics industries and these may contain either synthetic or natural mica.<sup>365</sup> According to BASF, in 2007, it had a share of 20-30% of the worldwide market for pearlescent pigments, and the same market share within the European Economic Area.<sup>366</sup>

BASF's net sales of coatings amounted to approximately € 3 billion in 2014, making the company the seventh largest coatings company in the world.<sup>367</sup>

#### ORIGIN OF MICA USE

SOMO asked BASF to provide a country breakdown of the mining origin of the natural mica content used in BASF's pearlescent pigment production. In response, BASF stated that its pearlescent pigment production does not source "natural mica from India, but from its own

mine in north America".<sup>368</sup> BASF's muscovite mica mine is located in Hartwell, Georgia, USA.<sup>369</sup> BASF did not reveal any information in relation to its possible purchase of pearlescent pigments from elsewhere.

#### STOPPED SOURCING FROM JHARKHAND/BIHAR

BASF has stopped sourcing mica directly from the area of Jharkhand/Bihar.<sup>370</sup> BASF made the following statement in November 2015: "BASF's product line for special-effect pigments was acquired as part of the acquisition of the company Engelhard in mid-2006. BASF also acquired the mica mine in North America as part of this transaction. For strategic reasons, we decided to pursue a complete in-house mica sourcing strategy which in addition offers us quality and consistency advantages. As a consequence we stopped sourcing mica from India for this product line; the last such orders for mica from India were placed in 2008. Engelhard had sourced mica from India. The former direct suppliers of mica from India provided BASF with certificates that stated that their products were produced without the use of child labor. In 2007, we were nevertheless concerned to learn of possible issues with child labor higher up in the mica supply chain. BASF therefore commissioned a study in India from local experts and local NGOs - institutions which have a long experience in combating child labor. We asked these organizations to assess our direct suppliers, to analyse the situation higher up the supply chain and to evaluate different scenarios for improving labor conditions in general within the mica supply chain. We found that children were indeed involved in the collection of mica. There was no evidence, however, of permanent work, bonded labor or slavery."<sup>371</sup>

#### BASF AND CHILD LABOUR

In its statement of November 2015, BASF said that - as part of its global Code of Conduct and its aim to "create chemistry for a sustainable future" - it condemns all forms of child labour. The company expects suppliers and business partners to behave accordingly.

351. Kuncai, "Announcement of Fujian Kuncai Material Technology Co., Ltd.", 23 December 2015, <http://bit.ly/1IX8QIF>.

352. Kuncai, "Code of Conduct of Fujian Kuncai Material Technology Co., Ltd.", 1 July 2014, <http://bit.ly/1kREWd3>.

353. Documents received confidentially by SOMO from Kuncai, January 2016.

354. Documents received confidentially by SOMO from Kuncai, January 2016.

355. Interviews by SOMO with several exporters and visits to processing units during the field investigation in October 2015.

356. Documents received confidentially by SOMO from Kuncai, January 2016.

357. Documents received confidentially by SOMO from Kuncai, January 2016.

358. Documents received confidentially by SOMO from Kuncai, January 2016.

359. Kuncai, "Announcement of Fujian Kuncai Material Technology Co., Ltd.", 23 December 2015, <http://bit.ly/1IX8QIF>.

360. Kuncai, "Code of Conduct of Fujian Kuncai Material Technology Co., Ltd.", 1 July 2014, <http://bit.ly/1kREWd3>.

361. Kuncai, "Announcement of Fujian Kuncai Material Technology Co., Ltd.", 23 December 2015, <http://bit.ly/1IX8QIF>.

362. Fortune, "Global 500 2015", <http://for.tn/1QW0Uez>.

363. BASF, "BASF report 2014; economic, environmental and social performance", February 2015, <http://on.basf.com/1jq4hKE>.

364. BASF, "BASF to set up new global business unit combining all pigments activities", 22 July 2015, <http://on.basf.com/1MYhkMB>.

365. BASF, "Effect Pigments", <http://on.basf.com/1DWPRpt>.

366. European Commission, Case No COMP/M.5355 - BASF/ CIBA, March 2009, <http://bit.ly/1fQfl1W>.

367. Paint & Coatings Industry, "Global top 10", 1 July 2015, <http://bit.ly/1LYsNh1>.

368. E-mail response on 15 January 2016 by BASF to SOMO.

369. BASF, "Mica on the mined", 3 October 2014, <http://bit.ly/1VS1Gsk>. Paint & Coatings Industry, "BASF's Georgia Mines Receive Safety Award", 8 August 2010, <http://bit.ly/1NnMSKB>.

370. Meeting between BBA and SOMO, 23 October 2015. Panjiva.com, no recent import of mica flakes by BASF Corporation in the USA.

371. BASF, e-mail to SOMO "BASF Statement on Mica Sourcing", 26 November 2015.



BASF's Supplier Code of Conduct is based on internationally recognised guidelines, such as the ILO conventions. To check suppliers' compliance with international labour and social standards - as well as the global chemical industry's Responsible Care programme - BASF conducts external audits or sustainability assessments in compliance with a risk-oriented approach through an external service provider. If it identifies potential for improvement, BASF supports the supplier in developing measures to fulfil standards and will conduct another review according to a defined timeframe. If the weak points discovered were particularly severe and it cannot find any improvement, BASF reserves the right to terminate the business relationship with that supplier.<sup>372</sup>

## 7.6. COMPANY PROFILE: DIC CORPORATION

### THE WORLD'S LARGEST INK COMPANY

The Japanese DIC Corporation (DIC, formerly Dainippon Ink & Chemicals) - including its subsidiary Sun Chemical Corporation (Sun Chemical) - is the world's largest ink company.<sup>373</sup> Sun Chemical is mainly active in the US and Europe, while DIC is the common name used for the company's Asian operations. DIC's revenue comprised JPY 830 billion (equivalent to € 5.7 billion) in 2014. Printing ink generated half of the revenue, while the sales of pigments accounted for 17% (equivalent to € 1.0 billion).<sup>374</sup>

### MICA USE

Sun Chemical has a product line of pearlescent natural mica pigments, called SunMICA. These pigments are used for coatings (automotive, industrial), packaging, paper and other uses.<sup>375</sup> Pearlescent natural mica pigments under different names are aimed at the cosmetics markets.<sup>376</sup>

### CHILD LABOUR

DIC does not import mica from Jharkhand/Bihar. However, US import data show that Sun Chemical maintains a very close trade relationship with Kuncai. From 1 January 2014 to 4 July 2015, Sun Chemical imported no less than 2,200 tonnes of pearlescent pigments from Kuncai. Kuncai is DIC's main supplier of pearlescent pigments in the US, while DIC is Kuncai's main customer of pearlescent pigments in the US.<sup>377</sup>

In its universal CSR procurement guidelines, DIC Corporation states that *"business partners shall prohibit inhumane labor practices, such as forced labor, child labor, low-wage labor, etc"*.<sup>378</sup> However, DIC Corporation provides no public information whether and to what extent it has conducted due diligence with regard to mica and the issue of child labour in Jharkhand/Bihar.<sup>379</sup>

## 7.7. COMPANY PROFILE: SUDARSHAN

### INDIA'S LEADING PIGMENT PRODUCER

Sudarshan Chemical Industries Limited (Sudarshan) is India's leading pigment supplier with an alleged 35% market share in India. It reported a revenue equivalent to € 166 million for the year ending 31 March 2015, of which 86% was derived from selling pigments. Exports generated approximately half of the pigment sales. Sudarshan has overseas sales offices for Europe (located in Amsterdam), North America (New Jersey) and recently also in China (Shanghai). The company manufactures pigments mainly for coatings, plastics, inks and cosmetics. Its factories are located in Roha and Mahad, Raigad district, Maharashtra State.<sup>380</sup>

### MICA USE

Sudarshan has three brands of pearlescent pigments, which all contain natural mica. Sumicos and Prestige pearlescent pigments are used for cosmetics and personal care applications. Its Sumica pearlescent pigments are used in various different products and sectors, including coatings, plastics, inks and agricultural (seed) coatings.<sup>381</sup> In 2011, Sudarshan bought a natural mica-based cosmetics pigment portfolio from the German company Eckart GmbH, thereby expanding its natural mica use.<sup>382</sup>

DIC Corporation is a shareholder of Sudarshan, with 8% of the shares.<sup>383</sup> Dutch customers of Sudarshan include Unilever<sup>384</sup> and AkzoNobel (less than 1% of AkzoNobel's mica use).<sup>385</sup>

### CHILD LABOUR

In its Annual Report 2014-2015, Sudarshan confirms its commitment to operating in a socially and environmentally responsible manner, and the need to comply with regulations. However, there is no mention of the need for compliance and responsible conduct along its supply chain.<sup>386</sup>

In response to questions by SOMO, Sudarshan has stated that it mainly buys mica flakes originating from two legal mines in Bihar. These are the Sharda mine in Mauza-Chatkari (owned by Modi Mica Enterprises) and one of the Chattu Ram Darshan Ram mines (Universal Mica,<sup>387</sup> owned by Bhadani families).<sup>388</sup> Sudarshan did not provide information on the specific mine within the legal lease of Chattu Ram Darshan Ram.

According to Sudarshan, audits have been carried out at the mines on its behalf and no child labour has been observed. The company described its auditing as follows: *"The audit was conducted by interacting with organization management; workers working in all areas, verifying actual activities, verifying applicable regulations, verifying documents and records, collecting objective evidences by taking photographs, use of sampling principles, strict adherence to confidentiality clause, and sharing the outcome of the audit in the form of gaps at the end of the audit."*<sup>389</sup>

The NGO ASK India (Association for Stimulating Know How)<sup>390</sup> is working for Sudarshan in the area. Sudarshan described ASK's role as follows: *"While no child labour was observed at the mines, there was no evidence of a robust system in place to avoid the incidence of child labourers entering the areas. ASK is working with the mines to educate them and implement the necessary systems to prevent possible incidence of child labour."*<sup>391</sup>

According to Sudarshan it changed its sourcing policy in 2015 and curtailed buying from a particular mica supplier, with the intention of stopping all together. This decision was taken because of the suppliers' inability to improve systems to prevent child labour.<sup>392</sup>

**"In response to questions by SOMO, Sudarshan has stated that it mainly buys mica flakes originating from two legal mines in Bihar."**

372. BASF, e-mail to SOMO "BASF Statement on Mica Sourcing", 26 November 2015.

373. "Global ink industry leaders face new challenges", Inkworldmagazine, 31 July 2015, <http://bit.ly/1LWrfKv>.

374. DIC Corporation, "Annual report 2014", page 18-21, <http://bit.ly/1fnTqV>. Exchange rate as of 31 December 2014, One € = 145.084 JPY, <http://bit.ly/1mLO8l3>.

375. Sun Chemical, "Pigment Products", <http://bit.ly/1IQd4Bc>; Sun Chemical, "American Coatings Show 2014", <http://bit.ly/1MZQiod>; SunChemical, "Search Results for Sunmica", <http://bit.ly/1mmcQYL>.

376. Sun Chemical, "Pigment Products, cosmetics", <http://bit.ly/1SjaXm>; Univar, "SunChemical@ Performance Pigments@ from Univar", <http://bit.ly/1R3xHeU>.

377. Panjiva.com, search term "Kuncai", imports from 1 January 2014 to 4 July 2015. Panjiva.com, search term "pearlescent pigments", imports from 1 July 2014 to 4 July 2015.

378. DIC Corporation, "DIC Group CSR Procurement Guidelines", <http://bit.ly/1OGIjwY>; DIC Corporation, "With Suppliers", <http://bit.ly/1merth4>.

379. DIC Corporation, "Report on sustainability initiatives and corporate profile 2015", June 2015, <http://bit.ly/1ZwUP8r>. DIC Corporation, "Report on sustainability initiatives and corporate profile 2014", <http://bit.ly/1IQdJT8>.

380. Sudarshan Chemical Industries Limited, "Annual Report 2014-15", page 7.; 1€ = 67.0112 INR. Exchange rate as of 31 March 2015, <http://bit.ly/1JYf9Lp>; E-mail response on 14 January 2016 by Sudarshan to SOMO; Sources from Sudarshan's website (19 January 2016). Sudarshan's website ([www.sudarshan.com](http://www.sudarshan.com)) was in the process of being updated on 19 January 2016. Therefore, no links to the website are provided in this report.

381. Sources from Sudarshan's website (19 January 2016).

382. Eckart, "ECKART sells its cosmetics natural mica pearlescent business to Sudarshan", 16 December 2011, <http://bit.ly/1JDjqTs>.

383. Sudarshan Chemical Industries Limited, "Annual Report 2014-15", page 34.

384. E-mail response of Unilever to questions sent by SOMO, 6 October 2015.

385. Telephone call between AkzoNobel and SOMO representatives on 24 September 2015.

386. Sudarshan Chemical Industries Limited, "Annual Report 2014-15".

387. Universal Mica, "Welcome to Universal Mica & Mineral Associates", <http://bit.ly/1PsZhtZ>.

388. Telephone call between Sudarshan and SOMO representatives, 1 December 2015.

389. E-mail response on 14 January 2016 by Sudarshan to SOMO.

390. ASK India, "About us", <http://bit.ly/1IW8aJ7>.

391. E-mail response on 14 January 2016 by Sudarshan to SOMO.

392. E-mail response on 14 January 2016 by Sudarshan to SOMO.

# 8. GLOBAL: OTHER MAIN COMPANIES

## 8.1. INFORMATION FROM TRADE DATABASES

The manufacturers of pearlescent pigments described in chapter 7 together account for about 60% of the mica import from Jharkhand/Bihar.

Table 22 shows the other main companies importing mica from Jharkhand/Bihar in the first half of 2015. This is a diverse group of companies, except for the three companies that produce electrical insulation and related products.

IMPORTER FROM JHARKHAND/BIHAR	COUNTRY OF REGISTRATION	EXPORT VALUE (INR MILLION)	MAIN USE OF MICA
Silimica/Pamica	China	48	Electrical insulation and related products
Yamaguchi Mica	Japan	45	Mica powder
Nihon Shoji	Japan	35	Mica flakes and powder <sup>393</sup>
Shanghai Foreign Trade Enterprises	China	25	Trader
National Factory	Saudi Arabia	23	Most likely drilling fluids <sup>394</sup>
Mahlwerk Neubauer Friedrich Geffers	Germany	20	Mica as a filler + for the rubber industry
Dean & Tranter	UK	15	Trader
Elfin Group (Cogebi and Elinar)	Luxembourg	15	Electrical insulation and related products
Okabe Mica	Japan	15	Electrical insulation and related products
Others		372	
Pearlescent pigment producers		958	
<b>Total export value</b>		<b>1,571</b>	

**Table 22: Main other (not producing pigments) companies importing from Jharkhand/Bihar**

Source: *infodriveindia.com*, HS code 2525 group, port of loading Kolkata Sea, first half 2015, as supplied on 25 July 2015. For 30% (INR 473 million) of the total export value (INR 1,571 million) the importer was not disclosed. This means that companies mentioned in the table may have imported more than presented here, and that some companies are wrongly not listed as a main importing company in the table. The trade data have been corrected as much as possible for double counting that came to light, but some double counting may still remain.

393. Probably the importer is the Japanese Itochu Corporation. One of the companies supplying Nihon Shoji is the Jai Mica company, and Jai Mica states on its website that the Itochu Corporation is one of its main clients. Sources: Jai Mica, "Company Profile", <http://bit.ly/1IEbOvZ>, Itochu Chemical Frontier company, "Products List", <http://bit.ly/1LNRXul>.

394. The mica products sold are named Mica Coarse Grade and Mica Fine Grade. These terms usually refer to the use of mica as lost-circulation material added to drilling fluids. The term 'National Factory' probably refers to the National Factory for Processing and Treating Minerals. Sources: Delmon Group of Companies, Drilling Mud/Additives, <http://bit.ly/1eBdqgX>; Delmon Group of Companies, National Factory for Processing and Treating Minerals, <http://bit.ly/112Dnk9>. Saudi Arabia is the world's largest oil producer.

## THE LARGEST MICA IMPORTING COMPANIES OF THE US

Table 23 shows the largest mica importing companies of the US. The data were extracted using the search term "mica" in a trade database for imports from 1 January 2014 to 5 June 2015.<sup>395</sup> The data, covering 29,000 tonnes of trade, probably do not reflect all mica imports made by the US, as another trade database registered mica imports totalling 34,000 tonnes in 2014.<sup>396</sup> The data refer to trade in mica that is not yet processed for use by end users and does not include fabricated mica or pigments.

### MINTECH INTERNATIONAL INC.

Mintech International Inc. (Mintech) imports mica powder from a mine in China. It has the exclusive rights to north American sales of mica from the Lingshou Mica Company.<sup>397</sup>

## KISH COMPANY

The Kish Company includes the companies Arctic Minerals Llc and Sphere One Inc. In 2014 and up to 5 June 2015 the Kish Company imported 3,970 tonnes of mica powder from the China National Materials Industry Import & Export Corporation (Sinoma).<sup>398</sup> The Kish Company sells the mica powder to companies involved with plastic and rubber, building products, coatings and inks, and adhesives and sealants.<sup>399</sup> The origin of the mica is not known.

## 8.2. PAINT/COATINGS COMPANIES

Mica is used in many coatings, not just paints. Table 24 lists the world's largest coatings companies, measured by their 2014 revenue.<sup>400</sup> The leading global coatings companies are PPG Industries (US-based), AkzoNobel and Sherwin-Williams (US-based). Recently, Sherwin-Williams has announced that it will acquire the

COMPANY	IMPORTS TO THE USA (TONNES)
Mintech International	11,400
Merck (Emd Chemicals)	4,900
Kish Company	4,000
Isovolta	1,200
Imerys	1,200
Axim Mica	800
Other	5,500
<b>Grand total</b>	<b>29,200</b>

**Table 23: Largest mica-importing US companies**

Source: *Panjiva.com*, search term "mica", imports from 1 January 2014 to 5 June 2015.

395. *Panjiva.com*, search term 'mica', imports from 1 January 2014 to 5 June 2015.

396. Calculations International Trade Center (ITC), HS code 2525 group. Based on UN Comtrade statistics, <http://bit.ly/1633gSI>.

397. Mintech International Inc., "Partners", <http://bit.ly/1NrazYo>.

398. Sinoma, "Nonmetallic Minerals", <http://bit.ly/1eX9XO>; *Panjiva.com*, search term 'mica', imports from 1 January 2014 to 5 June 2015.

399. The Kish Company, "Micas", <http://bit.ly/1lqvXmn>.

400. Paint & Coatings Industry, "Global top 10", 1 July 2015, <http://bit.ly/1LYsNh1>.



COMPANY	COUNTRY OF REGISTRATION	NET SALES COATINGS 2014 US\$ BILLION)
1. PPG Industries	US	14.3
2. AkzoNobel	Netherlands	11.5
3. Sherwin-Williams	US	8.4
7. BASF Coatings	Germany	3.6

**Table 24: The world's largest coatings companies**

Source: Paint @ Coatings Industry, "Global top 10", 1 July 2015, <http://bit.ly/1LYsNh1>

US-based coating company Valspar. The new company would become the world's largest coating company.<sup>401</sup> The leading coatings companies in Europe are AkzoNobel (Netherlands) and BASF (Germany).

For this report, PPG Industries and Sherwin-Williams have not been questioned by SOMO. The Supplier Code of Conduct of PPG Industries states: "Suppliers shall adhere to the minimum employment age limit defined by national law or regulation and shall comply with relevant International Labor Organization (ILO) standards."<sup>402</sup> The Supplier Code of Conduct of Sherwin-Williams states: "Suppliers shall employ only workers who meet applicable minimum legal age requirements and must comply with all other applicable child labor laws."<sup>403</sup> Both companies are large users of mica. However, on both companies' websites no information could be found about quantities used, or the origin of their mica. The websites also contained no information about the extent to which companies had already identified the issue of child labour in the mica supply chain or the extent to which they had sought to prevent or mitigate adverse impacts on human rights.

AkzoNobel has been questioned for this report on the company's mica use, mica origin and measures to prevent or mitigate adverse impacts on human rights. Its company profile can be found in section o. BASF is

not only a paint/coatings company, but also a producer of pearlescent pigments. The company has been questioned on the origin on its mica used to produce pearlescent effect pigments (see section o).

### 8.3. COSMETICS AND PERSONAL CARE COMPANIES

#### THE MAIN COMPANIES AND THEIR BRANDS

The world's largest cosmetics and personal care companies are Procter & Gamble, L'Oréal and Unilever, together accounting for almost 30% of the global market.<sup>404</sup> These three companies also own many of the world's main personal care brands. The US-based company Coty Inc. is expected to become one of the world's largest beauty companies in 2016, as it is in the process of transferring Procter & Gamble's Beauty Business (with brands such as Clairol, CoverGirl, Max Factor and Wella) into its company.<sup>405</sup>

Table 25 shows the world's 50 main cosmetics and personal care brands, and to which of the larger companies they belong. The ranking of the brands is shown in brackets.

L'ORÉAL	UNILEVER	PROCTER & GAMBLE	COTY	COLGATE PALMOLIVE	OTHER COMPANIES
L'Oréal Paris (1)	Dove (3)	Gillette (2)	Rimmel (35)	Palmolive (20)	Chanel (6)
Garnier (8)	Rexona (21)	Pantene (4)	Coty (50)	Sanex	Clarins (13)
Lancôme (10)	Sunsilk (26)	Olay (9)	Sally Hansen	Unicura	Natura Cosméticos (14)
Maybelline (16)	Lux (27)	Head & Shoulders (17)		Colgate	Dior (15)
The Body Shop (29)	Andrélon	SK-II (32)		Elmex	L'Occitane (22)
L'Oréal (30)	Axe	Old Spice (40)			Schwarzkopf (24)
Vichy (31)	Lakmé	Venus			Kanebo (25)
Biotherm (44)	Elle 18	Oral-B			Oriflame (37)
Yves Saint Laurent (47)		Transfer from P&G to Coty in process: Clairol (28), CoverGirl (33), Max Factor (36), Wella (41)			Bioré (38)
Helena Rubinstein					Revlon (39)
Beiersdorf	Estée Lauder companies	Johnson & Johnson	Avon	Shiseido	Sulwhasoo (42)
NIVEA (5)	Estée Lauder (7)	Johnson & Johnson (12)	Avon (11)	Shiseido (18)	Ponds (43)
Eucerin	MAC (23)	Neutrogena (19)		Issey Miyake	Pola Cosmetics (45)
La Prairie	Clinique (34)	Clean&Clear (48)		bareMinerals	Kosé (46)
Labello	Aveda	Natusan Baby		Elixir	HERA (49)
Hansaplast	La Mer	RoC		Benefique	
		Lubriderm			
		Listerine			

**Table 25: The world's main companies and brands in cosmetics and personal care**

Source: SyncForce, BrandFinance, "Top 50 Cosmetics Brands 2015", <http://bit.ly/1h75gih>; Passport, "Leading Global Beauty and Personal Care Players Share 2013 and Ranking 2008-2013", July 2014, page 10, <http://bit.ly/1InSMcP>

401. The Sherwin-Williams Company, "The Sherwin-Williams Company to acquire Valspar for \$113.00 per share in cash or \$11.3 billion", 20 March 2016, <http://bit.ly/1ZhpVks>.  
402. PPG Industries, "Global Supplier Code of Conduct", <http://bit.ly/1Q2qVpa>.  
403. Sherwin-Williams, "Supplier Code of Conduct", <http://bit.ly/1YxSDNG>.  
404. "Leading global beauty and personal care players share 2013 and ranking 2008-2013", Passport, July 2014, <http://bit.ly/1InSMcP>.  
405. Procter & Gamble, "P&G Accepts Coty's Offer of US\$12.5 Billion to Merge 43 P&G Beauty Brands with Coty", 9 July 2015, <http://bit.ly/1D2TdH7>; Coty, "Coty Inc. to Merge P&G's Fragrance, Color Cosmetics and Hair Color Business into the Company", 9 July 2015, <http://bit.ly/1Dtdyeh>.

COMPANY	PRODUCTS WITH MICA CONTENT	PRODUCTS WITH MICA CONTENT	MAIN BRANDS WITH MICA CONTENT
L'Oréal	948	553	Maybelline
		363	L'Oreal Paris
Markwins International	732	364	Wet 'n Wild
		288	Physicians Formula
		80	Black Radiance
Procter & Gamble	710	651	CoverGirl
Revlon	710	576	Revlon
		134	Almay
Coty	466	273	Sally Hansen
		123	Rimmel
		63	OPI
<b>Total main companies</b>	<b>3,566 (32%)</b>		
All mica containing products	11,235 (100%)		

**Table 26: Main companies and brands using mica sold on the US market**

Source: EWG's Skin Deep® cosmetics database, search term "Mica", <http://www.ewg.org/skindeep> (accessed 4 January 2016).

### MICA USE

Mica is one of the most important mineral ingredients used in cosmetics.<sup>406</sup> According to the cosmetics database of the American NGO EWG (Environmental Working Group), there are presently 11,235 mica-containing cosmetics and personal care products sold on the US market.<sup>407</sup> Unfortunately, for other markets (especially the European and Asian markets) there is no such database. Table 26 above shows the main companies and brands using mica sold on the US market. The five companies selling most mica products account for 32% of all mica products sold.

The cosmetics database can also be used to analyse which cosmetics and personal care companies use mica. Mica is seldom found in fragrances and is not commonly found in body sprays, hair products or toothpaste. The mica is used mainly for make-up - mascara, foundation, blushers, facial powder, concealer, moisturizer, eye liner, eye shadow, lipstick, lip balm, lip gloss, lip liner - and nail polish.

406. Cosmetics and Toiletries, "Profile of Mica", 1 September 2012, <http://bit.ly/1YQI0cc>.

407. EWG's Skin Deep® cosmetics database, search term "Mica", <http://www.ewg.org/skindeep> (4 January 2016).

### COMPANY PROFILES

For this report company profiles are made for the world's largest cosmetics and personal care companies. In the following sections, L'Oréal, Procter & Gamble and Coty are described, including their mica use and stance on child labour. Unilever's company profile can be found in section o.

All four companies were given the opportunity to review a draft of their company profile. SOMO has processed the responses of the companies.

### COMPANY PROFILE: L'ORÉAL GROUP

#### THE WORLD'S LARGEST MAKE-UP COMPANY

L'Oréal has a wide portfolio of 32 international brands, including L'Oréal Paris, Lancôme, Garnier, Maybelline, Vichy, The Body Shop and Biotherm.<sup>408</sup> Together, they accounted for sales of € 22.5 billion in 2014. L'Oréal's top three business segments are skincare (30%), make-up (22%) and haircare (20%).<sup>409</sup> Its products are sold both to consumers and to professional hairdressers and make-up artists.

#### MICA USE AND SUPPLIERS

According to the EWG cosmetics database, L'Oréal sells 948 products on the US market that contain mica, such as foundations, concealers, lipstick, mascara and eye shadows. Brands owned by the L'Oréal Group that have the most products containing mica comprise Maybelline (553 products) and L'Oréal Paris (363 products).<sup>410</sup>

For this report L'Oréal has stated that the majority of the natural mica used by its suppliers is sourced from the United States. The remainder comes from other countries, such as India. Most of the Indian mica used by L'Oréal is supplied by the pigment producer Merck. On Merck, L'Oréal states that it "only sources mica from legal, gated mines and has submitted proof that its entire supply chain is secured".<sup>411</sup>

408. For a complete overview, see <http://www.loreal.com/brand>.

409. L'Oréal, "Annual Report 2014", page 12, <http://bit.ly/1ISPSY7>.

410. EWG's Skin Deep® cosmetics database, <http://www.ewg.org/skindeep> (4 January 2016).

411. E-mail response on 15 January 2016 by L'Oréal to SOMO; AFP, Abhaya Srivastava, "Indian children labour to bring sparkle to make-up", 12 October 2015, <http://yhoo.it/1LWwrrUs>.

412. L'Oréal, "L'Oréal Supports The United Nations Global Compact", <http://bit.ly/1SYsldi>.

413. L'Oréal, "Suppliers/subcontractors and child labour", October 2010, page 2, <http://bit.ly/1N4ae9o>.

414. Danwatch, "L'Oréal sætter nyt fokus på børnearbejde som følge af Danwatch-rapport", 4 April 2014, <http://bit.ly/1JFz1CI>. Telephone call between L'Oréal and SOMO representatives, January 2016.

### CHILD LABOUR POLICY

L'Oréal has a Code of Business Ethics that applies to all of its employees and subsidiaries worldwide. The company is committed to complying with national laws and the core conventions of the International Labour Organization, and "in particular (...) wants to help end the exploitation of children in the workplace".<sup>412</sup>

L'Oréal's Code of Business Ethics has a separate document on "Suppliers/Subcontractors and Child Labour". This document states: "Our suppliers and our subcontractors cannot hire employees who are under the minimum local legal age or who have not yet finished their mandatory schooling and in any case who are under the age of sixteen. No person under the age of eighteen may carry out dangerous or night work for our suppliers and subcontractors."

In addition L'Oréal's Code states: "When a case of child labour is found, the supplier/subcontractor is obliged to ensure that the child returns to school. This includes, if necessary, providing his/her family with an additional income and includes making an offer of reemployment to the child when he/she reaches the permissible age."<sup>413</sup>

#### DUE DILIGENCE ON SOURCING FROM INDIA

Since L'Oréal became aware of the issue of child labour in 2009 it has reduced its sourcing from India. However, the company has also maintained its use of mica from the region of Jharkhand/Bihar and it wants to contribute to better living conditions in the region.<sup>414</sup>

In January 2016, in a response to SOMO, L'Oréal stated the following about its due diligence with regard to sourcing mica from India:



“In India, the supply chain of mica is very difficult to control as it involves multiple stakeholders (from mine owners to our suppliers) and mostly takes place in socially and economically unstable regions. Despite these challenges, L’Oréal is committed to stay in India and help lead the necessary change with its suppliers and subcontractors to ensure that our supply chain is fully secured. Indeed, we strongly believe that discontinuing the use of Indian mica would further weaken the situation in the region.

We have thus chosen to work only with trusted suppliers willing to set up a compliant and fair procurement policy in order to uphold human and social rights. In order to be selected as a partner, our suppliers have to implement the following actions:

- Source mica from legal, gated mines only to ensure full traceability of the mica.
- Conduct regular social audits by independent third parties and organise mine visits regularly.
- Invest in community building activities to improve the living conditions in the mining area. This can be done through educational programs, access to potable water or running of a health centre.

L’Oréal’s dedicated team has visited India twice in the last 24 months and will return to India in February this year. Indeed, we want to personally ascertain facts by visiting our trusted suppliers, the mines and communities in the mining area. We are also in contact with independent partner organisations and specialized NGOs to challenge and verify our strategy. Today, 100% of on-site visits and independent audits have reported the absence of child labor in mines operated by our suppliers.

L’Oréal also believes that collaborative action by stakeholders across industries and along the value chain is necessary and we are therefore actively participating in the Responsible Mica Sourcing Summit organized by The Natural Resources Stewardship Circle (NRSC) and Business for Social Responsibility (BSR) in February 2016.”<sup>415</sup>

415. E-mail response on 15 January 2016 by L’Oréal to SOMO.

416. “Keurig deal propels Germany’s reclusive Reimanns into spotlight”, Financial Times, 8 December 2015, <http://on.ft.com/1Rgfrz3>; JAB Holding Company S.à.r.l., “Consolidated Financial Statements for the financial years ended 31 December 2014”, March 2015, <http://bit.ly/1PD3p2E>; JAB Holding Company, “Prospectus for Bond Issuance”, 14 September 2015, <http://bit.ly/1SsuvdS>.

417. JAB Holding Company, “Prospectus for Bond Issuance”, 14 September 2015, <http://bit.ly/1SsuvdS>; Exchange rate as of 30 June 2015, €1 = 1.1131 USD, <http://bit.ly/1MMZ070>.

418. JAB Holding Company, “Prospectus for Bond Issuance”, 14 September 2015, <http://bit.ly/1SsuvdS>; Exchange rate as of 30 June 2015, €1 = 1.1131 USD, <http://bit.ly/1MMZ070>.

419. “Keurig deal propels Germany’s reclusive Reimanns into spotlight”, Financial Times, 8 December 2015, <http://on.ft.com/1Rgfrz3>; JAB Holding Company S.à.r.l., “Consolidated Financial Statements for the financial years ended 31 December 2014”, March 2015, <http://bit.ly/1PD3p2E>; JAB Holding Company, “Prospectus for Bond Issuance”, 14 September 2015, <http://bit.ly/1SsuvdS>.

420. EWG’s Skin Deep® cosmetics database, <http://www.ewg.org/skindeep> (4 January 2016).

## COMPANY PROFILE: COTY

### ONE OF THE WORLD’S LARGEST BEAUTY COMPANIES IN THE MAKING

The US-based cosmetic company Coty Inc. is owned 73% by JAB Holding Company S.à.r.l. (JAB), is domiciled in Luxembourg and owned by the four adopted children of the German billionaire Reimann family.<sup>416</sup> For the financial year ending 30 June 2015 Coty’s revenue amounted to US\$4.4 billion (equivalent to € 3.9 billion). Coty’s colour cosmetics brands include Sally Hansen, Rimmel and OPI (a nail product brand).<sup>417</sup>

In July 2015 Coty announced that it had signed a definitive agreement to merge the Procter & Gamble Company’s fine fragrances, colour cosmetics and hair colour business (P&G Beauty Business) with Coty. The transaction is based on a proposal by Coty valuing the P&G Beauty Business at approximately US\$12.5 billion at the time of the proposal. The P&G Beauty Business includes hair colour brands such as Wella and Clairol, fragrance brands such as Hugo Boss and Gucci, and the colour cosmetics brands CoverGirl and Max Factor. The transaction will create one of the world’s largest beauty companies and is expected to close in the second half of 2016.<sup>418</sup>

JAB, Coty’s majority owner, is also one of the leading global coffee providers, and it owns the luxury brand companies Jimmy Choo, Bally and Belstaff. As of 31 July 2015 the company also had a 10.76% share in Reckitt Benckiser, a world leading manufacturer and marketer of branded products in household cleaning, health and personal care products.<sup>419</sup>

### MICA USE

According to the EWG cosmetics database, Coty sells 466 products on the US market that contain mica. Brands owned by Coty that have the most products containing mica comprise Sally Hansen (273 products), Rimmel (123 products) and OPI (63 products).<sup>420</sup>

### CHILD LABOUR

With regard to the sourcing of mica used in Coty’s products, Coty’s Code of Conduct for Business Partners states in general that “Suppliers shall not engage in or benefit from the use of child labour. The minimum age for full-time employment shall be no less than 16 years of age or as otherwise, permitted by the law of the local country.”<sup>421</sup> In addition, in a disclosure on Coty’s website in accordance with the California Transparency in Supply Chains Act of 2010, Coty states that it believes that given the nature of the materials sourced through its supply chains, human trafficking, slavery and forced or child labour are not present in the operation of its - or its suppliers’ - supply chains.<sup>422</sup>

Although there is no information on the company’s website specifically in relation to human rights due diligence on mica, Coty has undertaken a programme to assess the performance of its suppliers through a third party auditing platform called Ecovadis, and will reinforce the human rights due diligence by asking its suppliers of mica to confirm, in accordance with Coty’s Code of Conduct for Business Partners, that such suppliers do not “engage in or benefit from the use of child labour” in the mining or production of mica.<sup>423</sup>

## COMPANY PROFILE: PROCTER & GAMBLE

### NUMBER 100 IN FORTUNE GLOBAL 500

With a global revenue of US\$84.5 billion, the US-based Procter & Gamble (P&G) ranked 100th on the Fortune Global 500 during 2014.<sup>424</sup> P&G has 23 brands that generate more than US\$1 billion revenue annually.<sup>425</sup> The group is organised along four lines: baby, feminine and family care; fabric and home care; beauty, hair and personal care; and health and grooming. Among the latter two categories are the following brands, to name just a few: Gillette, Pantene, Olay, Head & Shoulders, Clairol and CoverGirl.<sup>426</sup>

421. Coty, “COTY Inc. Code of Conduct for Business Partners”, 15 March 2013, <http://bit.ly/1Jp2m5t>

422. Coty, “California Transparency in Supply Chains Act of 2010 disclosure”, undated, <http://bit.ly/1muSr4m>

423. E-mail response on 14 January 2016 by Coty to SOMO.

424. Fortune, “Global 500 2015”, <http://for.tn/1JSRQqc>.

425. P&G, “Annual report 2014”, page 8, <http://bit.ly/1jLHXm6>.

426. For a full overview, see <http://bit.ly/1byqPVD>.

427. EWG’s Skin Deep® cosmetics database, <http://www.ewg.org/skindeep>, (accessed 4 January 2016).

428. P&G Material Safety Data Sheet for CoverGirl Professional Loose Powder, <http://bit.ly/1MVHcbZ>.

429. Procter & Gamble, “P&G Accepts Coty’s Offer of US\$12.5 Billion to Merge 43 P&G Beauty Brands with Coty”, 9 July 2015, <http://bit.ly/1D2TdH7>; Coty, “Coty Inc. to Merge P&G’s Fragrance, Color Cosmetics and Hair Color Business into the Company”, 9 July 2015, <http://bit.ly/1Dtdyeh>.

430. JAB Holding Company, “Prospectus for Bond Issuance”, 14 September 2015, <http://bit.ly/1SsuvdS>; Exchange rate as of 30 June 2015, €1 = 1.1131 USD, <http://bit.ly/1MMZ070>.

431. Procter & Gamble, “Sustainability report 2015”, December 2015, page 64, <http://bit.ly/1JU6uVK> P&G corporate website, “Sustainability Guidelines for External Business Partners”, <http://bit.ly/1NJ9Dk> (4 January 2016).

### MICA USE

P&G has a total of 710 products on the US market that contain mica, according to the EWG database.<sup>427</sup> Its CoverGirl brand has 651 products that contain mica. In ‘CoverGirl Professional Loose Powder’, mica accounts for up to 60% of the product contents.<sup>428</sup> Other P&G brands that have mica as an ingredient include: Olay (25 products), Clairol (6 products), Pantene (5 products), Wella (3 products) and Max Factor (2 products). P&G does not have a specific policy on mica.

On 9 July 2015, the company announced that it would sell P&G’s beauty brands to the cosmetics company Coty (with the main make-up brand names Rimmel, Coty and Sally Hansen) in a deal valued at US\$12.5 billion. Some of the 43 brands included in the transaction are CoverGirl, Max Factor and Wella.<sup>429</sup> The transaction is expected to close in the second half of the calendar year 2016.<sup>430</sup>

### CHILD LABOUR

P&G expects its external business partners to respect internationally recognised human rights, including not using child labour. P&G’s Sustainability Guidelines for External Business Partners states: “P&G’s external business partners will not use child labor. The term child refers to a person younger than fifteen (or fourteen where local law allows) or, if higher, the local legal minimum age for employment or the age for completing compulsory education. P&G prohibits assigning young workers (i.e., under eighteen years of age or as defined by local law) to hazardous work based on age limits and types of work (e.g., night work) defined by local law.”<sup>431</sup> No specific information could be found on the company’s website with regard to human rights due diligence on mica.

## SOME OTHER COSMETICS COMPANIES

- In March 2014, bath and body brand Lush announced that it had removed all traces of mica from its products. Mark Constantine, who co-founded Lush, said the company usually performs unannounced checks on its suppliers, but the area in which mica is mined is too dangerous for auditors to arrive unaccompanied. “We have been moving across to synthetic mica on things like the bath bombs,” he said. “Really, we would like to be able to get mica that was mined correctly. At some stage, the whole industry should take responsibility for that.”<sup>432</sup>
- Estée Lauder Companies is an American group selling luxury make-up, fragrances, and skincare and haircare products. Its portfolio of brands includes Estée Lauder, Clinique, Aveda, La Mer and MAC. In the fiscal year 2014, the company had net sales of almost US\$11 billion.<sup>433</sup> In the Netherlands, Estée Lauder’s products are sold in boutiques, luxury department stores (like Bijenkorf) and perfumery stores like ICI Paris and Douglas. According to the EWG database, mica is an ingredient for only 29 products of the company that are sold on the US market.<sup>434</sup> Estée Lauder has a Supplier Sustainability Assessment programme, and in addition launched a Supplier Sustainability Scorecard in 2014.<sup>435</sup> In its Code of Conduct, it writes: “Under no circumstances shall Company suppliers use child labor (under the age of 16), prisoners, or slave labor.”<sup>436</sup> In its Corporate Responsibility report 2012, Estée Lauder stated that it sources less than 10% of its mica from India.<sup>437</sup> At the beginning of 2014 a spokeswoman said: “The Estée Lauder Companies [are] aware of the complexities surrounding mica sourcing in India, and recognise the need for practical solutions to the complex socio-economic challenges within sourcing communities. Since 2006, we have partnered with a local NGO, Bachpan Bachao Andolan (BBA), to promote access to education as an approach to work towards the elimination of child labour in mica-sourcing communities.”<sup>438</sup>

- On 18 October 2015 the cosmetics company Revlon stated the following about its mica sourcing: “Our main suppliers, including BASF and MERCK, have confirmed that our mica material is sourced from gated mines, and confirmed their compliance with our terms of engagement forbidding the use of child labor in their extended supply chain.”<sup>439</sup>

## 8.4. ELECTRICAL INSULATION MANUFACTURERS

Electrical insulation manufacturers often produce mica paper and mica tape, which are supplied to companies manufacturing cables or electrical household appliances. The main global electrical insulation companies are thought to be the Chinese company Silimica/Pamica and the Swiss company Von Roll.

### SILIMICA/PAMICA

The Pamica Group Limited is the largest Chinese producer of mica paper and tape. The company is located in Hubei Province.<sup>440</sup> Silimica seems to be a joint developed brand by Pamica and Haishine Chemical (HK) Co. Ltd.,<sup>441</sup> although Silimica’s website does not disclose this.<sup>442</sup> Silimica is said to contain Pamica’s mica paper and Haishine’s silicones.<sup>443</sup>

Both Silimica and Pamica list their customers on their websites, and these lists are almost identical.<sup>444</sup> The customers are usually manufacturing cables or electrical household appliances. Pamica says that it supplies companies including Shangshang, Midea, sz-dk, Eupa, Electech, Enerpac, Airmate, Elecpro, Galanz, Donlim, Prysmian/Draka and Fujikura. Silimica has also added Panasonic, China Nanyang and Nexans to the list.

Silimica/Pamica is a large importer of mica from Jharkhand/Bihar. In the first half of 2015 the company bought 1,404 tonnes of mica scrap from the area. The main exporters were Jai Mica Supply Co Pvt Ltd, Modi Mica Enterprises and Mount Hills Industries.<sup>445</sup>

### VON ROLL

The Swiss-based company Von Roll claims to be the market leader in the fields of insulation products and systems for the electrical machinery industry, as well as for composite materials and parts for various industrial applications. In addition, Von Roll provides special thermal and fire-resistant insulation products to the cable, electronics and other industries.<sup>446</sup>

The company had a revenue of CHF 419 million in 2014 (equivalent to € 348 million), of which Von Roll Insulation generated 67%. The company has mica production facilities in China, Switzerland, US, France, Italy and Brazil.<sup>447</sup> It has mica mining rights in Brazil.<sup>448</sup> In 2008 it listed Isovolta, Cogebi, Okabe, Nippon Rika and Shenzhen Mica as the main competitors for mica appliances.<sup>449</sup>

Von Roll Isola USA, Inc. imported some 18 tonnes of mica splittings from Jharkhand/Bihar in the first half of 2015.<sup>450</sup> In 2014 and up to 5 June 2015, Von Roll Isola USA, Inc. imported some 68 tonnes of mica paper to the US from Von Roll subsidiary Tongcheng Xinyu Mica Products Co. Ltd.<sup>451</sup>

### ISOVOLTA

Isovolta is a subsidiary of the Austrian company Constantia Industries. It states that it is a leading manufacturer of electrical insulation materials and technical composites, with a revenue of € 224 million in 2013 and 1,500 employees.<sup>452</sup>

From the beginning of 2014 and until 5 June 2015, Isovolta Inc. imported some 1,200 tonnes of mica waste and scrap to the US, of which 80% came from Andhra Pradesh and 20% came from Jharkhand/Bihar.<sup>453</sup>

### ELFIN GROUP

ELCIM Group B.V. is a holding company located in the Netherlands and is part of the Luxembourg-based Elfin Group. ELCIM comprises all industrial activities of the ELINAR and COGEBI groups. ELINAR is the market leader of mica-based thermal and electrical insulating materials in Russia and CIS countries. COGEBI supplies mica insulation in Europe, America and other world regions. The Elfin Group derived revenues of € 54.1 million from sales related to mica insulation in 2013, mainly in Europe and Russia.

The company focuses on fire protection (cable tapes, aircraft flame barriers); high-voltage insulation (resin rich tapes, VPI tapes and other complementary insulation products); and industrial applications (induction furnaces, commutator insulation, and thermal protection). It has its sites in Russia, Belgium, the Czech Republic, the US, Brazil, China, Malaysia and India. Its customers are industrial giants in power and electrical engineering, transport and cable industries.<sup>454</sup>

The Elfin group imported 356 tonnes of mica blocks and scrap from Jharkhand/Bihar in the first half of 2015.<sup>455</sup>

432. “Lush to remove mica from all products over child labour fears”, The Guardian, 10 March 2014, <http://bit.ly/1glpHQB>.

433. Estée Lauder, “Annual Report 2014”, page 10, <http://bit.ly/1QPHx4b>.

434. EWG’s Skin Deep® cosmetics database, <http://www.ewg.org/skindeep> (3 August 2015).

435. Estée Lauder, “Corporate Responsibility report 2014”, <http://bit.ly/1Hp6JFF>.

436. Estée Lauder, “Code of conduct”, page 17, <http://bit.ly/1SHTBD7>.

437. Estée Lauder, “Corporate Responsibility report 2012”, page 60, <http://bit.ly/1rJcZa8>.

438. “India’s mica mines: The shameful truth behind mineral make-up’s shimmer”, The Age/Sydney Morning Herald, 19 January 2014, <http://bit.ly/1IUH3bo>.

439. Business & Human Rights Resource Center, “Revlon’s statement”, 18 October 2015, <http://bit.ly/1O4FuVl>.

440. Pamica Group Limited, “Products”, <http://bit.ly/1R6cUaP>.

441. MadeinChina.com, “Silimica Group Co., Ltd.”, <http://bit.ly/1Nsczj8>.

442. Silimica Co. Ltd., “company”, <http://bit.ly/1MBUM5C>.

443. Global Companies, “Silimica Group Ltd. Co.”, <http://bit.ly/1NscK7z>.

444. Silimica Co. Ltd., “partners”, <http://bit.ly/1WERkte>; Pamica Group Limited, “partners”, <http://bit.ly/1Orupzl>.

445. Infodriveindia.com, HS code 2525 group, port of loading Kolkata Sea, first half 2015, as supplied on 25 July 2015.

446. Von Roll, “Company Profile”, <http://bit.ly/1HZj1vx>.

447. 1€ = 1.20419 CHF. Euro (€) To Swiss Franc (CHF) Exchange Rate on 31 Dec 2014, <http://bit.ly/2154i8S>; Von Roll, “Annual Report 2014”, <http://bit.ly/1HZj0rr>.

448. Von Roll, presentation “Swiss Market Leader with BRIC-Exposure”, 9 May 2008, <http://bit.ly/1OSwvMd>.

449. Von Roll, “Investor presentation”, November 2008, <http://bit.ly/1HZGkVZ>.

450. Infodriveindia.com, HS code 2525 group, port of loading Kolkata Sea, first half 2015, as supplied on 25 July 2015.

451. Panjiva.com, search term “mica”, imports from 1 January 2014 to 5 June 2015.

452. Isovolta, “Delivery programme electrical insulation”, <http://bit.ly/1Ne8aQF>. Constantia Industries, “Portrait”, <http://bit.ly/1QPSOSd>; Constantia Industries, “Business areas”, <http://bit.ly/1Ne6SFr>.

453. Panjiva.com, search term “mica”, imports from 1 January 2014 to 5 June 2015.

454. ELCIM Group B.V. “The group of ELINAR and COGEBI companies”, <http://www.elcim.nl/>; ELINAR, “Our company”, <http://bit.ly/1LTbtoc>; COGEBI, “QMS & EMS”, <http://bit.ly/1OrXRbS>; Dato Capital, “Elfin Group S.A.R.L., filing of consolidated accounts (year ending 31 Dec 2013)”, 9 March 2015, <http://bit.ly/1HgcYT4>. Dutch Chamber of Commerce, “Financial statements 2014 for filing purposes Elcim Group B.V.”, accessed 6 November 2015.

455. Infodriveindia.com, HS code 2525 group, port of loading Kolkata Sea, first half 2015, as supplied on 25 July 2015.



# 9. CONCLUSION AND RECOMMENDATIONS

## OBJECTIVE

Terre des Hommes Netherlands commissioned SOMO to conduct research on child labour for mica mining and processing. The objective of the research was threefold. First, to determine the current magnitude and seriousness of child labour in India. Second, to provide insight into the main companies involved in the mica supply chain (especially Dutch companies) and the due diligence they have conducted on child labour. Third, to look into pending initiatives to eliminate child labour and come up with recommendations in this regard. The following sections present conclusions on each of these objectives.

## MAGNITUDE AND SERIOUSNESS OF PRESENT CHILD LABOUR IN INDIA

The Indian region of Jharkhand/Bihar represents the world's largest mica mining area, with an estimated 25% of the world's production. An estimated 300 villages in this remote and poverty-entrenched region are involved with mica mining and the initial processing of the mineral. In 2005 it was estimated that there were 18,000 mica child labourers in the area.

At this moment the number of child labourers in the mica mining area is estimated by SOMO to be up to 20,000. On the one hand, over the past ten years the tonnages of mica exported from Jharkhand/Bihar have increased by 75%. On the other hand, measures initiated by the government, companies and NGOs have reduced child labour.

Mica mining (and the initial processing of the mineral) is one of the worst forms of child labour. Because of the hazardous nature of the work, the Indian Child Labour (Prohibition and Regulation) Act of 1986 prohibits children under fourteen from working in underground mines; to cut/split mica; or working on processes involving exposure to free silica. Hazardous work is considered by the International Labour Organization (ILO, part of United Nations) to be one of the worst forms of child labour.

Around 90% of mica from Jharkhand/Bihar is mined illegally. The illegality causes negative social impacts, such as child labour, miners (including children) being buried under collapsing mines, and wages below India's legal minimum. Over the past 10 years, the tonnages of mica exported from the area have increased by 75%.

## COMPANIES IN THE MICA SUPPLY CHAIN AND THEIR CONDUCTED DUE DILIGENCE

The United Nations, OECD and the Dutch government all stipulate that companies should carry out human rights due diligence when engaged in a supply chain with serious human rights issues. Carrying out due diligence means that a company should identify, prevent and mitigate any actual or potential adverse human rights impacts related to their own activities and in their supply chains. Moreover, a company needs to account for and be transparent about how it addresses the issues.

There are a considerable number of Dutch companies with leverage (power to influence others) in the global mica supply chain. For this report eight Dutch companies were identified and questioned:

- AkzoNobel, the second largest coatings company of the world, is by far the largest user of mica among the Dutch companies. The company had conducted due diligence by pressuring its suppliers of pearlescent pigments.
- Prysmian/Draka, the world's largest cable supplier, has many operations in the Netherlands and is estimated to be a major user of mica. The company did not respond to SOMO's repeated questioning, and did not even have a policy in place to eliminate child labour in its supply chain. We found no evidence that the company conducted any kind of due diligence in the case of mica.
- Unilever, Royal Philips and DSM all claimed to be relatively small users of mica. Unilever and DSM had conducted due diligence on mica; Philips had not.

- The three main retailers selling cosmetics in the Netherlands are A.S. Watson Benelux, Ahold and HEMA. Ahold and HEMA also have their own cosmetics brand, including mica-containing make-up for the face, eyes, lips and nails. While Ahold had conducted due diligence on mica, HEMA and A.S. Watson Benelux had not.

Due diligence can be more effective when conducted in collaboration with other companies operating in the same sector. None of the eight companies reported any activity in this regard.

Pearlescent pigment producers account for more than 60% of mica imports from Jharkhand/Bihar. For this report the main manufacturers of pearlescent pigments were identified and questioned:

- The two main pigment producers are Merck (Germany) and Kuncai (China). They account for some 25% of the mica export value of Jharkhand/Bihar. Of all companies importing mica from Jharkhand/Bihar, Merck had been practicing due diligence the most in order to get its sourcing child-labour free and to enhance living conditions in the area. Kuncai had conducted little due diligence so far. The company is currently looking at how to ensure its supply chain is child-labour free and how to contribute to the education and well-being of children in the area.
- The Indian company Sudarshan had conducted due diligence significantly, as had the German company BASF.
- Other pigment producers using mica from Jharkhand/Bihar are Japanese company DIC Corporation and a range of Chinese producers (Ruicheng, Chesir, Rika, Oxen and ZhenFa). We found no evidence that the company conducted any kind of due diligence in the case of mica.

The report shows that for the majority of mica imported from Jharkhand/Bihar, no due diligence had been conducted by pigment producers and/or exporters of mica.

Mica is used in many industries worldwide: paint/coatings, cosmetics, plastics, electronics, automotive, construction. It appears that, except for some companies in the cosmetics sector, due diligence has been at a low level in relation to these industries at a global level. This is striking, as the problem of child labour for mica in Jharkhand/Bihar is quite well-known and has been documented by international media over the years.

## PENDING INITIATIVES TO ELIMINATE THE CHILD LABOUR

Since 2005, when it was estimated that there were 18,000 mica child labourers, much has changed. The government (also with its goal of decreasing the influence of the Naxalites) is now running a much greater number of schools for children between the ages of six and fourteen (with much-appreciated free meals), has built many roads (using a local workforce), and has made people aware of governmental welfare and development schemes. The Naxalites are less active.

In the period 2010-2015 the NGO BBA has worked in one-third of the villages in the main mica mining area, with much government help. These villages have been declared child-friendly, after BBA implemented its concept of child-friendly villages (Bal Mitra Gram, BMG). One of the largest importers from the area, the German pigment producer Merck, has changed its practices to source from legal, controlled mines only. The company also runs three schools and a local health centre. There have been more initiatives by companies and NGOs, at a smaller scale.

For Andhra Pradesh - a medium-large player in the global mica supply chain - some documentation has shown that there is child labour involved for mica mining/processing. There seem to be no pending initiatives for this region and also no company in the mica supply chain has reported conducting any due diligence.

## RECOMMENDATIONS

### FOR MICA MINING/PROCESSING/USING COMPANIES:

- Conduct due diligence on the risk of child labour in your mica supply chain. This report shows that only a few companies sourcing from the mining area of Jharkhand/Bihar have identified, prevented and mitigated the adverse impacts of child labour. Even fewer companies have publicly accounted for how they address this issue.
- Companies should not rush to find alternatives to Jharkhand/Bihar for their mica as this will not solve the problems of child labour, rampant poverty and low health, safety and environmental (HSE) standards. It is better to stay involved and seriously conduct due diligence.
- Seek collaboration with other companies involved in the mica supply chain, thereby increasing leverage for more effective due diligence to address the issue of child labour.
- Pigment producers sourcing from Jharkhand/Bihar should make their audits by independent parties publicly available.
- Social development initiatives (such as schools or health centres run by companies) may help the well-being of people living in the area but with two pre-conditions. First, they should be complementary to government efforts and provide a long-term addition to development. Second, they cannot substitute for measures to address the negative human rights impacts related to the operations and business relationships of companies.

### FOR THE INDIAN GOVERNMENT:

- Ensure that every child between the ages of six and fourteen years has free and compulsory education in a neighbourhood school. Monitor and improve the quality of education and children's well-being through indicators such as water and sanitation facilities, teacher attendance/quality, children's attendance and free midday meals.
- Continue to implement welfare/development schemes in Jharkhand/Bihar's mica mining area.
- Increase the minimum wages for workers legally mining/processing mica.

- Stimulate an increase of legal mining leases in Jharkhand/Bihar, and make sure that this will increase the income of the local population presently collecting/mining mica. Currently, the demand from importing companies for legal and child-labour free mica is much larger than the Jharkhand/Bihar region is able to supply. More legal mines could help to reduce child labour, increase health and safety, and create more government revenue.
- Develop sustainable alternative income-generating possibilities for the families concerned in the mica mining area of Jharkhand/Bihar.
- Do not amend the Child Labour (Prohibition and Regulation) Act of 1986 so that it may hinder the rescue of children and enforcement of child labour laws. Make better provisions to prevent child labour in hazardous work.

### FOR THE DUTCH GOVERNMENT:

- Facilitate cooperation between stakeholders involved in the Dutch mica supply chain and make sure that Dutch companies use their leverage in the global mica supply chain. This is in line with the government's strategy to create covenants with companies to engender responsible supply chain management practices. This report shows that Dutch companies have direct links with child labour in mica mining through their business relationships, and have leverage in the global mica supply chain to prevent and mitigate this.
- Consider a requirement for Dutch companies to conduct risk-based due diligence. This report shows that many Dutch companies failed to identify child labour as a problem in the mica supply chain, despite this problem being well-known and well-documented by numerous international media outlets in recent years. The Dutch government has stated its openness to make due diligence a requirement for Dutch companies.
- Encourage other countries to speed up progress to eliminate the worst forms of child labour. Among other things, aim for European Council conclusions with regard to the worst forms of child labour during the Dutch Presidency (the first half of 2016).



