

The Association of Ethical Shareholders Germany is filing a counter motion on the occasion of the shareholder meeting of BASF SE to be held on April 30, 2015.

The Association of Ethical Shareholders disapproves the actions of the board members of BASF SE for the business year 2014.

Rationale:

BASF SE board members didn't fulfill their responsibility within the supply chain in the case of Lonmin. In the reports of the worldwide 3rd biggest Platinum enterprise Lonmin, BASF is declared, besides Mitsubishi, to be the main customer of the Lonmin enterprise (operating in South Africa, based in England). Lonmin characterizes BASF as „principal customer for PGMs“. BASF Catalysts LLC and Lonmin are furthermore members of the International Platinum Group Metals Association. Thus, a close and long term commercial relationship is evident.

Now, the process of taking of evidence of the massacre of Marikana (16th August 2012) in the framework of the state appointed (Oct. 2012) "Marikana Commission of Inquiry" provide clear and extensive evidence, that Lonmin is – indirectly as well as directly – co-responsible for the massacre. On a concrete level Lonmin is accused to be co-responsible

1. for the killing of 34 mine workers on the 16 August 2012 and for the 70, partly sustained, injured
2. for escalation of violence and the killings prior to the massacre
3. for the unacceptable, partly inhuman living-, working- and environmental conditions which the workers and their communities have to suffer for decades – the major part of the Lonmin workers are living in shack-slums without running water, electricity and access to proper municipal services. Out of a total workforce of 30 000 employees, Lonmin provide accommodation for just 2500 while 27 500 are offered a living allowance of R1850 a month. They end up living in shacks.

The evidence leaders of the Marikana Commission of Inquiry accuse Lonmin that it has often and repeatedly ignored and broken its legal obligations towards the workers and the local community. In 1999 Lonmin built 1149 houses and in 2006 promised to build another 5.500 new houses by 2011. This did not materialize. Indeed merely three show houses were built for more than a decade. These empty promises, the miserable infrastructure and the low wages led to the strike in August 2012. Lonmin refused consequently to meet a very simple request of the workers: to talk with them. This was a catastrophic response and set the course of what was to follow. Lonmin, in contrary gave logistic and infrastructural support to the highly militarized police operation, which led ultimately to death of 3 workers in one day and – as has been proven: this should have been foreseeable to Lonmin – to the killings on the 16 August. This is a crucial reason why some persons of the Lonmin management are accused for murder and culpable homicide. Furthermore Lonmin-Security guards are responsible for first escalation of violence and shootings of strikers, which is classified by the evidence leaders as unjustified.

More than two and a half years after the biggest massacre on civilians in South Africa since the end of apartheid, Lonmin meets rather idly and not at all levels its responsibility towards the families of the murdered and injured mine workers.

All these documented delicts are strictly incompatible with the principles of the BASF management – e.g. as founding member of the UN Global Compact. BASF promises to demand these principles as well from its suppliers. The "standards of the value-added chain" and the "management of the supply chain", to which BASF committed itself, has a need of improvement in the case of Lonmin.

In order not to loose its reputation, BASF should take its own responsibility as main customer of

Lonmin seriously and support and get Lonmin to financially compensate through reparation payments for the families of the 44 killed people of August 2012 (and the sustained injured) as well as with sustainable improvements of the local infrastructure. For example mining houses use a lot of water and in turn pollute water systems and especially underground water that communities are dependent upon. Lonmin should apply the UN Guiding Principle on Business and Human Rights and respect people and the environment in which they operate and demonstrate remedial actions they are taking.

BASF should organize its own fact finding mission around Lonmin operations to get an own impression of the living-, working- and environmental conditions of the Marikana communities.

As a publicly visible symbol of a prompt and consistent realization of its promises and strategies in the context of its “responsibility within the supply chain” BASF should install a fund of 1 million rand for each of the 44 persons who died in August 2012 in Marikana to be forwarded to the persons directly concerned (families of killed persons). The third anniversary of the massacre, 16 August 2015, would be an appropriate date for the handover of this fund.

Sources/bibliography:

- Annual reports of Lonmin, see: www.lonmin.com
- Interview with CEO of Lonmin, Ben Magara in Davos, 2015: <http://www.biznews.com/davos-2015/2015/01/24/ben-magara-just-approach-interview/>
- Marikana Commission of Inquiry, e.g. Heads of Arguments of Evidence Leaders and reports of the Legal Resource Center: <http://www.marikanacomm.org.za/documents.html>
- Reports of Bench Marks Foundation, e.g. Policy Gap 7: <http://www.bench-marks.org.za/> > Research
- Khulumani Support Group: Group Statement from Families of Victims of the August 2012 Marikana Massacre (To: Marikana Truth and Restoration Commission of Inquiry, 16 September 2014): <http://www.khulumani.net/truth-memory/item/1015-families-affected-by-the-marikana-massacre-state-their-demands-and-expectations-of-those-responsible-for-the-killing-of-their-loved-ones.html>
- BASF, on sustainability, e.g. <https://www.basf.com/en/company/sustainability.html>