



Briefing: Environmental and Social Issues and the Coal Industry in Kuzbass, Russian Federation, and Focal Areas for Future Action

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Introduction: the Bettercoal Russia Working Group

Bettercoal is an industry body established by a group of major coal buyers to work towards a global responsible coal supply chain. The organisation achieves this by assessing and monitoring continuous improvement at coal mining operations against the ten principles of the Bettercoal Code, through its Supplier Assessment Process.ⁱ

The Bettercoal Code contains ethical, social and environmental principles and provisions that are relevant to coal mining companies, encompassing general performance requirements (including management systems), business ethics performance (including disclosure), human and labour rights and social performance (including health and safety), and environmental performance.ⁱⁱ

The Bettercoal Russia Working Group (RWG) was formed in December 2018. While its main purpose is to develop a coordinated approach to the monitoring of the suppliers' improvement plans, it will also serve as a platform for dialogue between Bettercoal members and supplier coal mining companies that are based in Russia, to address risks arising from the country context, and to grow supplier participation and to improve communications with key stakeholders. The RWG is formed by representatives of seven European companies that purchase Russian coal: ENEL, ENGIE, ESB, Fortum, RWE, Uniper and Vattenfall.ⁱⁱⁱ

The work of the RWG is currently concentrated on the Kuzbass region of Russia. Approximately 80% of Russia's hard coal exports come from Kuzbass,^{iv} and the EU sources 39% of its coal from Russia,^v so the Kuzbass region is a very important coal supplier to Europe. Consequently, the RWG seeks to look beyond Bettercoal members' individual supply chains, and to apply a broader collective approach to promoting environmentally and socially responsible production and processing of coal in the Kuzbass region overall.

In order to prioritise areas for action the RWG commissioned TDI Sustainability, a specialist business consultancy, to research the coal industry in Kuzbass and the environmental, social and governance challenges that it faces. The research identified issue areas where Bettercoal and other stakeholders could best assist in promoting improved practices in the Kuzbass coal industry.

Research Approach

TDI Sustainability conducted extensive desk research on environmental, social and governance issues associated with Kuzbass coal production and processing, in both English and Russian. The research identified the issue areas that are most prominently cited by civil society organisations and academic sources in relation to coal production in Kuzbass, explored coal companies' perspectives on these issue areas, examined the Russian legislative environment for governing

the coal industry and the extent to which relevant laws were followed in practice and, where possible, compared Russian legislation to that of OECD countries and to recognised international best practices.

When conducting its desk-based analysis, TDI Sustainability drew on the understanding it had previously acquired through the three supplier audits it has conducted for Bettercoal in Kuzbass; assessing the performance of coal mining companies in the region against the ten principles of the Bettercoal Code and recommending areas for improvement.

In addition, the RWG and TDI sustainability conducted a week long fact-finding and stakeholder engagement mission to Kuzbass and to Moscow, in September 2019, in order to further explore environmental and social dimensions of coal production, and to examine ways in which positive change could be catalysed in instances where shortfalls were identified.

The analysis in this briefing is based on the insight gained through these processes of in-depth research, in-country visits and interviews as well as Bettercoal Assessments and other experiences of Russian mining operations. While the sources of information for this paper have been chosen for their credibility, this briefing does not seek to establish the veracity of the findings of reports published by civil society and academic bodies on the environmental and social impacts of coal production in Kuzbass. Rather, it collates and presents these perspectives and, where possible, contextualises them alongside those of other stakeholders. The issue areas identified in this report are indicators of potential risk to Kuzbass communities affected by the coal industry, to the coal industry itself, and to the buyers of its product in Europe. This paper takes the position that strong safeguards must be in place, alongside appropriate mechanisms for private and public sector accountability, in order for citizens' perceptions of negative impacts – the 'issue areas' they are faced with - to be adequately addressed.

Principal Issue Areas Identified

The coal industry in Kuzbass is of critical economic importance to the region. It generates large-scale employment directly, and feeds many heavy industries, which also provide a very large number of jobs for local workers. Meanwhile, local and national budgets are supported by the taxation revenue that coal mining in Kuzbass generates. However, there is room for improvement in how the environmental and social dimensions of the industry are managed.

TDI Sustainability found that, for several important environmental and social issues, citizens of Kuzbass and coal industry workers did not have adequate mechanisms available to them to provide assurance that their rights and interests, and the natural environment in the region, were being respected. In each of these areas, improvements to policies and practices, by coal companies and by local authorities, and to national legislation, could help citizens and workers toward gaining such assurances. The most prominent issue areas identified were as follows:

Emissions controls (covered by Principle 9 of the Bettercoal Code): According to some NGOs, including the Russian environmental organisation EcoDefense, coal mining companies in Kuzbass

are responsible for widespread air and water pollution. EcoDefense found that, due to coal mining, the concentrations of many toxic substances in Kuzbass's waterways are routinely well above the permissible standards, that 93.8% of drinking water sources in Kuzbass do not meet set sanitary chemical and microbiologic standards, and that dust from coal mining operations contaminates local agriculture.^{vi}

Several of the larger coal mining companies in the Kuzbass region assert that they follow local and international standards for emissions controls, and that excessive pollution is caused by smaller companies with weaker environmental controls, or by other industrial entities in the coal supply chain, such as coal-fired power plants.^{vii} However, local citizens cannot easily verify these claims, or effectively come together to promote collective solutions for local industry. Most emissions monitoring in the region, particularly for water quality, is conducted and reported by the mining companies themselves, rather than independent third parties - leading to a trust deficit. Also, there are integrity concerns with the Federal Service for Supervision of Natural Resources, Rosprirodnadzor, which oversees companies' emissions performance. A range of corruption allegations and indictments have been attached to the body in recent years, in several Russian regions, and senior officials have been jailed for their roles in emissions scandals.^{viii}

Finally, according to the rights group, FERN, intimidation of local environmental campaigners by coal companies is reportedly prevalent in Kuzbass. A perception of intimidation of local campaigners could stifle community groups' motivation to work collaboratively with industry players on reforms.^{ix}

Land usage (covered by Principles 7 and 8 of the Bettercoal Code): The coal industry's land use in Kuzbass is heavy, and it is expanding. The underlying coal field in the region covers approximately 26,000 square kilometres^x. According to the NGO Ecodefense, 2012 statistics show that 1,000-1,500 hectares of new land is taken by coal production per annum while only 200-300 hectares is reclaimed.^{xi}

Throughout the world, expansion of land use for mining often causes tensions with local citizens. Kuzbass is no exception. Representatives of the Shor indigenous people claim that mining companies are not transparent about the boundaries of their areas of operations, that village lands have come under the control of mining companies against their wishes, and that mining companies are restricting access to Shor people's ancestral cemeteries and sacred mountain.^{xii} Teleuts groups have also reportedly been negatively affected by the coal industry's land usage.^{xiii}

Some companies, meanwhile, claim that local people are abusing land acquisition systems, by buying up lands into which mining companies hope to expand, and then asking disproportionately high prices to sell it again.^{xiv}

Kuzbass lacks a neutral forum for balancing the interests of coal mining companies with those of local citizens and indigenous people. The local authorities, which could play such a role, are perceived by some as having too close a relationship with mining companies.^{xv} As a consequence of this perception, Kuzbass residents cannot engage with local authorities and mining companies

on a level playing field where they can be confident that their rights and interests are being respected.

Biodiversity (covered by Principle 10 of the Bettercoal Code): New mine sites worldwide that follow modern best practice standards conduct Environmental Impact Assessments, and the obligation to do so is also reflected in current Russian law. Such assessments establish local baselines for the management of a range of environmental aspects, including biodiversity. This allows mined land to be restored to its previous state or to be prepared for a new land use, agreed by affected stakeholders, once mining operations have ceased. However, Environmental Impact Assessments have not been comprehensively conducted in Kuzbass – where many mines commenced operations in the Soviet era.^{xvi} According to locally-based consultants, biodiversity monitoring and protection remains a low priority for many Kuzbass coal companies.^{xvii} This means that local citizens cannot know the extent to which fauna and flora are being negatively impacted by the coal industry.

Biodiversity risk is exacerbated by current gaps between Russian legislation and international best practice. Kuzbass coal companies' license agreements state that companies must maximise production within their concession areas, as this is required by Russia's Subsoil Law. As such, companies that limit their mining activities due to biodiversity concerns could actually find themselves in breach of their license agreements for doing so.

A second legislative gap exists for soil restoration. Russian law states that exhausted mining land should be restored using the original topsoil that was removed from the site when operations began. In many cases mines in Kuzbass operate for 50 years or more, meaning that microbial life in the original topsoil will have long since died by the end of a mine's production period, and that fresh topsoil from elsewhere would make a better choice for environmental restoration.^{xviii}

Coal industry stakeholders in Kuzbass also express concern that the Russian government is too prescriptive about the type of trees that companies must use for reforestation work, and that alternative tree types could be planted more cost effectively, without compromising biodiversity.

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Indigenous Rights (covered by Principle 5 of the Bettercoal Code): The Kuzbass region is home to indigenous Shor, Chuvash and Teleuts peoples. The United Nations Declaration on the Rights of Indigenous Peoples^{xx} states that indigenous peoples should have the right to give Free, Prior and Informed Consent (FPIC) to natural resource projects that affect them or their territories, but the concept of FPIC is not well defined in Russian law and, according to the UN, consultation with indigenous peoples in Russia is insufficiently enforced.^{xxi} Some activist groups claim that the coal industry in Kuzbass has significant negative impacts on local Shor and Teleuts people,^{xxii} so it is important that adequate mechanisms should be in place to ensure that indigenous rights are not impacted by mining operations.

Operational Health and Safety (covered by Principle 6 of the Bettercoal Code): A Russian academic study on health and safety performance at operations in the Kuzbass coal mining industry identified a significantly higher level of incidents than that in western European operations with similar production volumes.^{xxiii} Another research collaboration between Russian

and Norwegian universities estimates the fatality rate in Russian coal industry generally (using data from the period 1991 to 2009) as fifteen times higher than the rate in the United States.^{xxiv} In interviews, trade union representatives in Kuzbass identified worker health and safety as a key focal area in which improvement is needed.^{xxv}

Although the Russian government is able to point to steadily declining industrial accident figures, it has been suggested in independent studies that these figures should not be taken at face value. One research report states that actual accident rates are frequently concealed by companies, that health and safety laws are not followed in practice, and that workers' risk exposure is high. The report identifies Kuzbass as one of the regions of Russia with the highest proportion of workers in conditions that do not meet safety and hygiene standards.^{xxvi}

In light of these concerns, and in the absence of transparent and trusted mechanisms for health and safety assurance, Kuzbass coal workers cannot be confident that their employers are taking due care of their wellbeing at work.

Potential Areas for Action

There is an opportunity for the Bettercoal RWG to explore ways to catalyse change in these issue areas, and in the environmental and social conditions associated with the Kuzbass coal industry generally. As an industry body, Bettercoal's greatest potential for influence is through coal companies themselves, and TDI Sustainability presents Recommendations 1) and 2) to the RWG in particular. Recommendations 3), 4) and 5) are less suited to action by the RWG, and are intended for a general audience of local and international stakeholders, reflecting the essential role of partnership and coordinated action to bring about positive change.

1. Support to coal producing companies, to develop more effective and comprehensive dialogue mechanisms with local community groups. These should include the development of grievance mechanisms in line with recommended best practice such as the UN Guiding Principles for Business and Human Rights, which are currently lacking for the majority of Kuzbass coal companies.
2. Support to coal producing companies, to ensure that best practices are followed for operational health and safety. This should include full compliance with Russian legislation and ILO standards, and transparent efforts to record and investigate all accidents that occur and to implement measures to prevent recurrence.
3. Support to local government, to ensure that community representatives feel able to air their views on mining operations, without facing intimidation, and to ensure that their views are heard and incorporated into policy and the planning of coal projects.
4. Support to the Russian Federal Government to undertake legal reforms:

- a. To fill gaps in biodiversity protection laws, in order to ensure that adequate monitoring takes place and that companies' legal obligations are aligned with biodiversity management best practices.
 - b. To strengthen enforcement of environmental laws overall.
 - c. To better incorporate FPIC requirements into commercial law for industrial companies, including coal producers
5. Support to Rosprirodnadzor to ensure that the monitoring of coal companies' environmental performance is not compromised by perceptions of corruption, and to other government oversight agencies as appropriate.

ⁱ <https://bettercoal.org/who-we-are/>

ⁱⁱ <https://bettercoal.org/wp-content/uploads/2017/07/Bettercoal-Code-Version-1.1.pdf>

ⁱⁱⁱ <https://bettercoal.org/bettercoal-launches-country-working-groups/>

^{iv} <https://pdfs.semanticscholar.org/58c4/608170d8497f547c7d2b04fd8aedfcbc2e13.pdf>

^v <https://ec.europa.eu/eurostat/cache/infographs/energy/bloc-2c.html>

^{vi} <https://ecdru.files.wordpress.com/2015/12/russian-coal.pdf>

^{vii} Based on interviews conducted by TDI Sustainability and the RWG in Kuzbass in September 2019.

^{viii} <https://thebarentsobserver.com/ru/node/1108>;

http://www.rapsinews.com/judicial_news/20180523/282772768.html;

<https://en.crimerussia.com/corruption/khanty-mansiysk-prosecutor-s-office-to-check-regional-rosprirodnadzor-for-corruption/>;

<https://en.crimerussia.com/corruption/massive-violations-in-rosprirodnadzor-and-rosreestr-revealed-in-dagestan/>

^{ix}

https://www.fern.org/fileadmin/uploads/fern/Documents/Slow%20Death%20in%20Siberia_1.pdf

^x <https://www.britannica.com/place/Kuznetsk-Coal-Basin>

^{xi} <https://ecdru.files.wordpress.com/2015/12/russian-coal.pdf>

^{xii} Based on interviews conducted by TDI Sustainability and the RWG in Kuzbass in September 2019.

^{xiii} <https://rg.ru/2017/09/21/reg-sibfo/bachatskie-sopki-kuzbassa-obreli-status-prirodnogo-zakaznika.html>

^{xiv} Based on interviews conducted by TDI Sustainability and the RWG in Kuzbass in September 2019.

^{xv} <https://ecdru.files.wordpress.com/2015/12/russian-coal.pdf>

^{xvi} <http://bd->

<energy.ru/documents/ENG%20Site/Reports/Assessment%20of%20Biodiversity%20Mitigation%20measures%20in%20Kuzbass%20basin.pdf>

^{xvii} Based on interviews conducted by TDI Sustainability and the RWG in Kuzbass in September 2019.

^{xviii} Based on interviews conducted by TDI Sustainability and the RWG in Kuzbass in September 2019.

^{xix} Based on interviews conducted by TDI Sustainability and the RWG in Kuzbass in September 2019.

^{xx} https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf

^{xxi} <https://www.iwgia.org/en/russia/2245-russia-denial-of-indigenous-peoples-rights-concern>

^{xxii} https://www.fern.org/fileadmin/uploads/fern/Documents/Slow%20Death%20in%20Siberia_1.pdf; <https://rg.ru/2017/09/21/reg-sibfo/bachatskie-sopki-kuzbassa-obreli-status-prirodnogo-zakaznika.html>

^{xxiii} https://www.e3s-conferences.org/articles/e3sconf/pdf/2017/09/e3sconf_2iims2017_04020.pdf

^{xxiv} <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3604355/>

^{xxv} Based on interviews conducted by TDI Sustainability and the RWG in Kuzbass in September 2019.

^{xxvi} <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3604355/>