UNITED NATIONS
HUMAN RIGHTS
SPECIAL PROCEDURES
SPECIAL RAPPORTEURS, INDEPENDENT EXPERTS & WORKING GROUPS

PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND
www.ohchr.org • TEL: +41 22 917 9000 • FAX: +41 22 917 9008 • E-MAIL: ohchr-registry@un.org

Mandate of the Working Group on the issue of human rights and transnational corporations and other business enterprises

24 November 2025

Working Group welcomes the decision taken in the UK in the case concerning the collapse of the Fundão dam in Brazil in 2015

The **Working Group on the issue of human rights and transnational corporations and other business enterprises** welcomes the 14 November 2025 **judgment** of the High Court of Justice (King's Bench Division) of England and Wales following the collective action case brought by over 600,000 claimants against BHP Group (UK) Limited and BHP Group Limited, concerning the collapse of the Fundão dam in Brazil in November 2015. Mrs Justice O'Farrell DBE found that "the risk of collapse of the dam was foreseeable", that "the collapse could have been averted" and held BHP liable as pollutors and liable based on fault in respect of the damage caused by the collapse.

The Working Group visited Brazil in **2015**, shortly after the devastating collapse of an iron ore tailing waste dam, known as the Fundão Dam, in Southeast Brazil. The Working Group met with members of the affected communities and heard their accounts of the dam collapse and its aftermath. The dam belonged to Samarco Mining S.A., a joint venture between Vale and BHP Billiton. 19 people were killed, and millions were affected by the extensive environmental and socio-economic damage caused. Under the **communications procedure**, a number of United Nations **Special Procedures** mandates sent letters to the companies concerned in December 2015 to express grave concern about the detrimental human rights impacts. The letter **OL OTH 11/2015** was sent to BHP Billiton Ltd in Australia on 7 December 2015. The experts received responses from the CEO, and another senior executive, on **10 December 2015**, **14 January 2016** and **29 March 2016**. Due to such prior engagement, the current members of the Working Group followed this **case** closely

The experts stated on **7 February 2025** that they were "intrigued" by the fact that BHP Group Limited (formerly BHP Billiton) denied liability for the dam collapse "in light of BHP Billiton's prior position (outlined in the responses to the letter [from the Working Group])". They noted that it seemed that "the company appears to have resiled" from this prior position during this case. The Working Group had noted in its statement that BHP Billiton, in its letter of **14 January 2016** to the Working Group, had said that it had "*a series of mandatory human rights performance requirements for all BHP Billiton businesses reflected in our Group Level Documents*" and that "*BHP Billiton personnel audit the Samarco operation against these standards to seek to confirm that Samarco standards are consistent with our requirements*". BHP Billiton, therefore, showed that they had knowledge of the Samarco operation. In its responses, BHP Billiton also expressed a sense of responsibility for what happened in November 2015 and had personnel, including the CEO, on the ground right away. It stated that it intended to take various actions to help manage the impacts of the dam collapse on people and the environment in Brazil.

"This was an important case concerning group corporate structure, parent company liability, and access to remedy", said the experts. They reflected on the relevance of the case to the implementation of Pillar III of the **Guiding Principles on Business and Human Rights** which deals with access to remedy. The experts said that they will continue to follow the case and the remedies determined after the decision of the Court.