

# Fool's Gold

How Canadian firm Eldorado Gold destroys the Greek environment and dodges tax through Dutch mailbox companies



SOMO

March 2015

**Fool's gold** | noun [U] UK

1. a yellow metal that looks like gold
2. something that you are very attracted to that you later find is not worth very much

## Colophon

### Fool's Gold

How Canadian firm Eldorado Gold destroys the Greek environment and dodges tax through Dutch mailbox companies

March 2015

**Authors:** Ilona Hartlief, Katrin McGauran, Roos van Os, Indra Römgens

**Copy editor:** Vicky Anning

**Layout:** Frans Schupp

**Photo:** Giannis Papanikos ([www.demotix.com](http://www.demotix.com))

**ISBN:** 978-94-6207-056-1

This publication was made possible through the financial support of the Halifax Initiative (Canada), InterPares (Canada), Mining Watch Canada and the Sigrid Rausing Trust (UK). SOMO would particularly like to thank individual supporters of this research who responded to a crowdfunding campaign. Besides a number of SOMO staff members, these are Jasper Blom, Tineke Egyedi, Rob Geurtsen, Mariska de Gooijer, Hugo Hoes, Marianne van Kalmthout, Gijsbert Koren, Lieke Ruijmschoot, Bahar Sakizlioglu, Georgios Smaragdos, David Sogge and Gemma Toppen.

The content of this publication is the sole responsibility of SOMO.

The authors would like to thank the following people for their substantial contributions to this report: Marica Frangakis (freelancer), Kees Hudig (freelancer), Maria Kadoglou (Hellenic Mining Watch), Karyn Keenan (Halifax Initiative), Jamie Kneen (MiningWatch Canada), Matti Kohonen (freelancer) and Theodora Oikonomides (freelancer).

The following people reviewed specific sections of the report; their comments and additions were also invaluable: David Bruer (InterPares), George Chasiotis (WWF Greece), Roberta Cowen (SOMO), Rodrigo Fernandez (SOMO/University of Leuven), Christina Laskaridis (Corporate Watch), Patrick Kryticous Nshindano (ActionAid Zambia), Sol Picciotto (Lancaster University), Gerhard Schuil (SOMO) and Francis Weyzig (Oxfam Novib).

**Published by:**



**Stichting Onderzoek Multinationale Ondernemingen (SOMO)**

Centre for Research on Multinational Corporations

Sarphatistraat 30  
1018 GL Amsterdam  
The Netherlands  
T + 31 (20) 6391291  
F + 31 (20) 6391321  
[info@somo.nl](mailto:info@somo.nl)  
[www.somo.nl](http://www.somo.nl)

The Centre for Research on Multinational Corporations (SOMO) is an independent, not-for-profit research and network organisation working on social, ecological and economic issues related to sustainable development. Since 1973, the organisation investigates multinational corporations and the consequences of their activities for people and the environment around the world.

# Fool's Gold

**How Canadian firm Eldorado Gold destroys the Greek environment and dodges tax through Dutch mailbox companies**

SOMO

**Ilona Hartlief, Katrin McGauran, Roos van Os, Indra Römgens**

Amsterdam, March 2015

## Contents

<b>Acronyms</b> .....	<b>4</b>
<b>List of Tables</b> .....	<b>5</b>
<b>List of Figures</b> .....	<b>5</b>
<b>1 Introduction</b> .....	<b>6</b>
1.1 Focus of the report .....	6
1.2 Tax and human rights .....	7
1.3 Is gold mining the answer to Greece’s financial crisis? .....	9
1.4 Structure of the report .....	11
1.5 Methodology .....	12
1.6 Definitions .....	13
1.7 Limitations and follow-up research .....	15
<b>2 Eldorado Gold in Greece: a human rights case</b> .....	<b>16</b>
2.1 Introduction .....	16
2.2 Eldorado Gold Corporation: facts and figures .....	17
2.3 Eldorado Gold in Greece .....	19
2.4 Mining in Halkidiki: selling out the public interest .....	22
2.5 Environmental destruction .....	24
2.6 Disregarding and criminalising the opposition to mining .....	29
2.7 Conclusion .....	33
<b>3 State subsidy</b> .....	<b>35</b>
3.1 Introduction .....	35
3.2 Support from Export Development Canada (EDC) .....	35
3.3 An Eldorado for investors: fast-track fiscal benefits .....	37
3.4 Conclusion .....	38
<b>4 Avoiding tax through the Netherlands</b> .....	<b>39</b>
4.1 Introduction .....	39
4.2 The Netherlands: a tax haven – for mining companies .....	41
4.3 Eldorado Gold in the Netherlands .....	44
4.4 Functions of Eldorado Gold’s Dutch subsidiaries .....	47
4.5 Profit shifting through Dutch mailbox companies .....	48
4.5.1 Policy history .....	49
4.5.2 Method: Rerouting interest payments .....	50
4.5.3 Using a cooperative and tax rulings .....	55
4.6 Other potential tax gaps to consider .....	56
4.7 Eldorado Gold’s reported tax payments .....	60
4.8 Conclusion .....	62

<b>5</b>	<b>Investments between Greece and EU tax havens</b>	<b>64</b>
5.1	Introduction	64
5.2	Greek inward and outward FDI positions	64
5.3	Mailbox companies (SPEs) and international tax avoidance	67
5.4	The relevance of SPEs to FDI statistics for the Netherlands and Luxembourg	68
5.5	Investments in Greece routed via Dutch Special Purpose Entities	72
5.6	Companies active in Greece using conduit entities in the Netherlands and Luxembourg	73
5.7	Conclusion	77
<b>6</b>	<b>Regressive taxation and Troika measures in Greece</b>	<b>78</b>
6.1	Introduction	78
6.2	Focus of public debate and (imposed) reforms in Greece	78
6.3	Greece's regressive tax regime and its causes	79
6.4	Troika-imposed 'fiscal consolidation'	82
6.4.1	Troika-imposed fiscal and investment policies	83
6.4.2	The impact of fiscal consolidation	84
6.5	The impact of austerity in Greece	84
6.6	Conclusion	87
<b>7</b>	<b>Conclusions</b>	<b>88</b>
7.1	Recommendations	90
7.2	Further research	94

## Acronyms

APA	Advance pricing agreement
ATR	Advance tax ruling
BAT	Best available technique
BC	British Columbia (Canada)
BEPS	Base erosion and profit shifting
BIT	Bilateral Investment Treaty
BOP	Balance of payments
CBCA	Canada Business Corporations Act
CbCR	Country-by-Country Reporting
CDIS	Coordinated Direct Investment Survey (IMF)
CIT	Corporate income tax
DG	Directorate-General
DNB	De Nederlandsche Bank (Dutch Central Bank)
DTT	Double taxation treaty
EAP	Economic Adjustment Programme
ECA	Export credit agency
ECB	European Central Bank
EDC	Export Development Canada
EIA	Environmental Impact Assessment
EIB	European Investment Bank
EITI	Extractive Industries Transparency Initiative
EU	European Union
FDI	Foreign direct investment
GDP	Gross domestic product
GFCF	Gross fixed capital formation
ICIJ	International Centre for Investigative Journalism
IIG	Invest in Greece
IMF	International Monetary Fund
IP	Intellectual Property
MNC	Multinational corporation
MNE	Multinational enterprise
NGO	Non-governmental organisation
OECD	Organisation for Economic Co-operation and Development
OFC	Offshore financial centre
PEIS	Preliminary Environmental Impact Statement
RBMP	River Basin Management Plan for Central Macedonia
SEC	Securities and Exchange Commission (US)
SFI	Special Financial Institution
SPE	Special Purpose Entity
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNGP	United Nations Guiding Principles on Business and Human Rights
VAT	Value Added Tax
WHT	Withholding tax
WIR	World Investment Report

## List of Tables

Table 1	Eldorado Gold staff and contractors .....	17
Table 2	Eldorado Gold's properties as of March 2014 .....	18
Table 3	Eldorado Gold subsidiaries in tax havens .....	40
Table 4	Eldorado Gold's Dutch subsidiaries, 2013 (assets in US\$ million) .....	45
Table 5	Comparison of relevant withholding tax (WHT) rates .....	52
Table 6	Revenue loss on withholding tax on outgoing interest payments (2009-2013) .....	53
Table 7	Revenue loss on corporate income tax (2012-2013) .....	55
Table 8	Tax payments of Eldorado Gold in Greece 2010-2013 .....	60
Table 9	Inward Direct Investment Positions, Greece (million US\$) .....	65
Table 10	Outward Direct Investment Positions, Greece (million US\$) .....	66
Table 11	Greek subsidiaries of foreign companies with Dutch SPEs .....	75
Table 12	Foreign firms and Greek subsidiaries revealed by LuxLeaks .....	76

## List of Figures

Figure 1	Eldorado Gold's mining projects in Greece .....	20
Figure 2	Kassandra mines of Eldorado Gold in Greece .....	21
Figure 3	Dutch holding or financing structure .....	42
Figure 4	Direct subsidiaries and parents of Eldorado Gold's Dutch incorporations .....	46
Figure 5	Group financing through a Dutch conduit entity: the case of Hellas Gold SA .....	51
Figure 6	Greek global inward and outward FDI positions, 2009-2012 in million US\$ .....	64
Figure 7	SPE share in global inward FDI in the Netherlands in billion US\$ .....	69
Figure 8	SPE share in global outward FDI in the Netherlands .....	70
Figure 9	SPE share in global inward FDI in Luxembourg .....	70
Figure 10	SPE share in global outward FDI in Luxembourg .....	70
Figure 11	FDI inflows and outflows with and without SPEs for Austria, Hungary, Luxembourg and the Netherlands .....	71
Figure 12	SPE share in outward FDI position of the Netherlands in Greece in million US\$ .....	73
Figure 13	Reasons for Greece's tax gap as identified by the IMF .....	80
Figure 14	An economy in collapse. Selected indicators 2007-2013 (2007=100) .....	85

# 1 Introduction

*“In the Skouries forest near Ierissos, the Canadian mining company Eldorado Gold is planning to clear-cut a large swath of old-growth forest and reengineer the local water system in order to build a massive open-pit gold and copper mine, along with a processing plant, and a large underground mine.*

*Despite its remote location, the fate of the Skouries forest is a matter of intense preoccupation for the entire country. It is debated in the national parliament and on evening talk shows. For Greece’s huge progressive movement, it is something of a cause célèbre: urban activists in Thessaloniki and Athens organize mass demonstrations and travel to the woods for action days and fundraising concerts. ‘Save Skouries’ graffiti can be seen all over the country and the official opposition party, the left-wing Syriza, has pledged that, if elected, it will cancel the mine as one of its first acts in power.*

*The governing austerity-enforcing coalition, on the other hand, has also seized on Skouries as a symbol. Greek prime minister Antonis Samaras<sup>1</sup> has announced that the Eldorado mine will go ahead ‘at all costs’, such is the importance of protecting ‘foreign investment in the country’. Invoking Greece’s ongoing economic troubles, his coalition has claimed that building the mine, despite the local opposition, is critical to sending a signal to world markets that the country is open for business.”*

*Naomi Klein, 2014<sup>2</sup>*

## 1.1 Focus of the report

Plans by a Canadian company called ‘Eldorado Gold’ to build a huge open-pit gold and copper mine in north-eastern Greece have led to massive demonstrations in Greece. It has become a symbol for the protection of public goods in the midst of the biggest economic crisis the country has seen since the Second World War.

However, hardly anyone in the rest of Europe has heard of the Skouries forest, which has already been partially destroyed, or indeed of Eldorado Gold, a name which has become synonymous in Greece with the selling out of public interests. Even less well known is the fact that Eldorado Gold’s Greek subsidiaries that are responsible for the controversial gold and copper mining projects in Thrace and Halkidiki are 100 per cent owned by Dutch mailbox companies, called Eldorado Thrace (Greece) BV, Thrace Investments BV and Eldorado Gold (Greece) BV. Or that the latter company

finances its Greek subsidiary Hellas Gold SA with bond loans, receives large amounts of interest payments from Greece, and sends these on to another mailbox company in Barbados.

The legal presence of Eldorado Gold in the Netherlands raises questions about the fiscal and economic contribution that a company with such an intricate tax planning structure can make in a crisis-ridden country like Greece with a weak tax administration. If the use of Dutch mailbox companies leads to tax avoidance in Greece, this also raises questions about the role the Netherlands and the EU – as Greece’s creditor – have to play in this tax base erosion. After all, it is their fiscal climate and policies that have allowed Eldorado Gold to set up these tax avoidance structures.

In the light of the recent development of the UN’s ‘Protect, Respect and Remedy’ Framework,<sup>3</sup> the concerns surrounding this project require an investigation into the responsibility not only of the company, but also of Greece, the Netherlands, Canada and the EU, to protect the human rights of the affected communities.

This report discusses the questions raised above by looking at the human rights impact of Eldorado Gold’s activities in Greece. It looks at the company’s tax avoidance strategies and related impact on Greek state revenue, as well as focusing on the responsibility of the Dutch state and the EU in this matter. The research focuses on two important and inter-related human rights dimensions: namely, the direct civil rights violations and potential environmental impacts resulting from Eldorado Gold’s operations; and the private gain and public loss mechanism related to corporate tax avoidance in Greece.

Research has also been conducted regarding bilateral investment flows that are taking place through mailbox companies between Greece and EU Members States, highlighting the role of the Netherlands and Luxembourg in tax avoidance. The data show that, far from being an isolated case, tax avoidance using legal yet aggressive tax planning methods is widespread in Greece. Last but not least, the above issues are put into the context of the Greek crisis and related structural adjustment measures imposed by Greece’s creditors: the European Union (EU), the International Monetary Fund (IMF) and the European Central Bank (ECB) – known collectively as the ‘Troika’. The report also analyses the current regressive nature of the Greek fiscal regime.

## 1.2 Tax and human rights

The link between human rights and tax avoidance has already been analysed in detail in a SOMO report published in July 2013.<sup>4</sup> The research found that subsidiaries of Dutch extractive industry companies are associated with serious human rights violations abroad, ranging from environmental pollution damaging the health of local communities to militia violence, killings and displacements. Eldorado Gold is another example of the controversial companies that the Netherlands attracts by offering generous fiscal benefits to large foreign firms. As well as irregularities during the environmental approval process, the expected environmental damage from Eldorado Gold’s open-pit mining plans range from arsenic air and water pollution to deforestation, related land erosion and groundwater depletion. The local community, which is largely dependent on the land for its subsistence,

is resisting the plans with multiple forms of protest, ranging from legal suits to sit-ins and demonstrations; protesters are being severely repressed by the Greek police and have been criminalised by the Greek state.

As well as the direct human rights violations generated by operational business activities, the above-named SOMO report also discussed a research area that is currently emerging, namely the relationship between tax (avoidance) and human rights. To be able to realise economic and social human rights, states need sufficient financial and administrative resources. This is particularly pertinent in the case of Greece, where serious human rights issues are developing as a direct result of the economic crisis.<sup>5</sup> Tax fraud in Greece is estimated to have cost the Greek state € 19.1 billion in 2009, which is equivalent to 27.5 per cent of government spending that year.<sup>6</sup> The legal form of tax avoidance is not measured, yet can be expected to be similarly commonplace. Internationally operating corporations exploit legal loopholes arising from an imperfect and nationally administered tax system as a matter of course, with the help of intricate legal schemes devised by large accountancy firms.

*“Fiscal and tax policies (revenue-raising and expenditure) are an essential tool for States to meet their human rights commitments and combat poverty. [...] A human rights-based assessment of fiscal policy is particularly necessary due to the ongoing repercussions of the global financial and economic crises and their impact on the enjoyment of human rights worldwide. The impacts of revenue shortfalls and increased public debt are primarily felt by the poorest and most vulnerable both domestically and abroad, through cuts to budgets for social protection and public services, and a reduction in aid budgets. In many States, efforts to respond to the crisis have not been made in line with international human rights obligations.”*

*Magdalena Sepúlveda Carmona, UN Special Rapporteur on extreme poverty and human rights, 2014<sup>7</sup>*

### **The responsibility of companies and the duty of states to protect**

In addition to the 2011 UN ‘Protect, Respect and Remedy’ Framework, the recent report by the UN Special Rapporteur on extreme poverty and human rights discusses in detail the human rights impact of fiscal and tax policies. The report clearly articulates that the responsibility for tax avoidance and its negative impacts on human rights lies with corporations as well as states.<sup>8</sup>

Corporations shift profits from operating subsidiaries, making them appear to make losses, resulting in no or very little corporate income tax being paid in those countries. However, as this report shows, it is states such as the Netherlands and Luxembourg and also the EU that actively facilitate this type of tax avoidance with harmful tax regimes. EU Directives harm the tax base of EU Member States by allowing for profit shifting using inter-company interest, royalty and dividend payments. These states thus stop other states from potentially using the maximum available resources to realise the human rights of their citizens.

The responsibility of states lies not only in stopping the tax base erosion that is taking place because of the harmful tax regimes they are actively sustaining, but also in stopping the negative extraterritorial human rights impact of businesses incorporated in their jurisdictions. In the case of Eldorado Gold, there is a shared responsibility between Canada (which hosts the company's headquarters), the Netherlands (which hosts the direct parent of the Greek subsidiary) and Greece (host to the controversial operations). These states share a responsibility for the adverse impacts that are already manifesting themselves in Greece in relation to Eldorado Gold's operations, as well as the expected environmental and economic consequences if the open-pit mine is developed. They also share responsibility for the potential tax base erosion of Greece's public finances resulting from tax avoidance structures that the company might apply involving their jurisdictions.

### 1.3 Is gold mining the answer to Greece's financial crisis?

*"What Greece experiences today is a regression from a developed to an extractivist state, similar to the process many Latin American countries underwent in the 1980s. Extractivist is a State whose sole function is to provide the global economy with cheap raw materials, often at the cost of its own people and its own development."*

*Giorgos Kallis, 2013<sup>9</sup>*

The struggle to save the Skouries forest "is more than a conventional standoff between the forces of development and environmental protection," according to Bloomberg, the main news service of and for the business sector that published several in-depth articles on Eldorado Gold's operations in the context of the Greek debt crisis.<sup>10</sup> Some commentators are convinced that "this is the type of project that the country needs to overcome the economic crisis."<sup>11</sup> Yet it is far from certain that extractive industry operations will provide essential state revenues to underfunded government budgets, especially in the context of the substantive market power of extractive companies and weak tax administrations, as is the case in Greece. Furthermore, in the context of the current austerity budget, any increase in state revenues would have to be carefully monitored on the budget-side, to assess whether revenues actually serve to improve redistribution and public services.

*"Governments have a responsibility to demonstrate that their decisions prioritise, and at the very least do not impede, the realisation of human rights. States which receive international financial assistance should be empowered to ensure that the enjoyment of human rights is protected in international loan agreements. Governments should enhance co-operation on tax matters for combating tax evasion to help states mobilise the resources necessary for fulfilling their human rights obligations."*

*Council of Europe, 2014<sup>12</sup>*

With its acquisition of the Canadian European Goldfields in 2012 and the Australian Glory Resources in 2013, Eldorado Gold now owns all the gold projects in Greece that are currently in development or in operation. It has a well-developed tax avoidance structure using 12 Dutch mailbox companies and various subsidiaries in Barbados, as well as in the British Virgin Islands and Cayman Islands.

The context of a debt crisis, ensuing structural adjustment programmes and high pressure to attract foreign investment is a typical developing country context, which is why commentators are drawing parallels between the current situation in Greece and Latin America in the 1980s.<sup>13</sup> Like Latin America and African and Asian countries then, Greece has been hit by a debt crisis so severe it is dependent on external financing and is subject to neo-liberal structural adjustment programmes imposed by its creditors.

To illustrate the losses that tax dodging practices imply for resource-rich countries, Zambia is a case in point that has been studied in some detail.<sup>14</sup> The US-based research organisation Global Financial Integrity estimated that US\$ 8.8 billion left Zambia in illicit financial flows between 2001 and 2010, of which US\$ 4.9 billion can be attributed to false invoicing.<sup>15</sup> In 2012 Zambia's Deputy Finance Minister reported the country lost US\$ 2 billion every year to corporate tax avoidance. Indeed, of all major multinationals that export copper and other metals out of Zambia, just "one or two" officially recorded a profit and therefore the rest pay no corporate tax.<sup>16</sup> Barrick Gold, Vedanta Resources, Glencore and First Quantum Minerals all operate mines in the country. Glencore's Zambian subsidiary Mopani Copper Mines has been found engaging in transfer mispricing practices by an audit firm and has had a complaint filed against it by a number of non-governmental organisations (NGOs) for violations of the Organisation for Economic Co-operation and Development (OECD) Guidelines.<sup>17</sup>

*"Often, natural resources are extracted by foreign firms as local capital is scarce and FDI is much needed. Those producers often have substantive market power and are better informed than many governments as the process of discovery and appraisal is often driven by private companies. It is likely that those companies have more expertise and special knowledge in understanding an industry and in dealing with taxation issues than under-resourced tax administrations, which may not have the same expertise and information readily available. There will also commonly be disparities in general negotiation experience."*

*UN Tax Committee<sup>18</sup>*

The reality of profit shifting in the extractive industry stands in stark contrast to the official reasoning by corporations and states hosting them that justifies the pursuance of large-scale mining, namely, with the argument that the developments are necessary for the creation of jobs and the generation of public revenues. Especially in the context of high fiscal pressure, as is the case in Greece – which faces the threat of defaulting on its debts and related lack of external credit – governments feel compelled to provide generous fiscal incentives and permits for projects that are seen to attract

foreign direct investment (FDI), even if they are shown to have negative impacts on its citizens. “We want to promote all the investments that bring capital to Greece and create new jobs,” said Assimakis Papageorgiou, then Deputy Head of the Greek energy and environment ministry for the conservative-liberal New Democracy party in 2013.<sup>19</sup>

This report looks more closely at the relationship between Eldorado Gold’s operation and public finances, to assess the question whether this pursuit of foreign investment really does result in sustainable economic development, and what the costs are to the economy, environment and democracy.

## 1.4 Structure of the report

This report provides a human rights angle to the current debate on austerity in Greece and links it to aggressive tax planning strategies by multinational corporations incorporated in the Netherlands, drawing on the example of Eldorado Gold. With this in mind, this introduction has outlined some research questions pertaining to Eldorado Gold’s incorporation in the Netherlands, the human rights impact of the company’s operations in Greece, its tax planning structure and the regulatory implications this might have for the Netherlands, Canada, Greece and the EU.

Chapter two provides facts and figures on the Canadian gold mining company Eldorado Gold, on its global operations, financing and presence in Greece. Controversies surrounding the company’s planned projects and current and preparatory work are discussed in detail, ranging from irregularities during the environmental approval process to potential threats to health and safety of the local community, if the operations were to go ahead as planned. The police repression and criminalisation of the protests are also discussed.

To assess the claimed economic contribution of Eldorado Gold to public finances, chapter three outlines the state subsidies the company has received or is expected to receive. After all, an assessment of the contribution of private investments to the development of a country’s domestic resources should take into account the subsidies a company has received that were paid for by public money. This relates to an export credit loan provided by the Canadian government and expected fiscal benefits for the company’s Perama Hills project under Greece’s fast-track investment procedure.

Chapter four provides an analysis of Eldorado Gold’s Dutch accounts, the impact that the company’s bond and loan structure has on interest payments from the Greek to a number of Dutch subsidiaries and the potential tax base erosion impact this structure has in Greece. Related Dutch and EU policies are explained. Given that companies use a combination of tax avoidance mechanisms in their tax minimisation strategies, the focus on one tax avoidance opportunity is limited. This chapter therefore discusses other potential tax base erosion methods that should be scrutinised for an assessment of the ultimate contribution Eldorado Gold might or might not make to Greece’s public finances.

To understand the central role that EU jurisdictions play in facilitating tax base erosion in Greece, chapter five analyses Greece’s inward and outward investment positions and specifies how much of

this investment is channelled through mailbox companies, as an indication of corporate tax avoidance. The Netherlands is shown to play a major role, closely following Luxembourg, in allowing foreign corporations investing in Greece to channel these investments through its jurisdiction, enjoying fiscal benefits in the process. The financial burden of crisis measures in Greece is thus shifted from the private to the public sector.

Finally, the context in which corporate tax avoidance is taking place is important in order to gain an understanding of the problem at hand and the possible political solutions. Chapter six therefore looks at the impact of the current regressive fiscal regime in Greece and the 'fiscal consolidation' measures imposed by Greece's creditors, the International Monetary Fund (IMF), the European Central Bank (ECB) and the European Commission, known collectively as the Troika. The problem of tax evasion (the illegal form of tax dodging), unjustified corporate tax breaks and insufficient tax collection have been noted by many as a major problem for Greek's public finances. The role of tax avoidance (the legal form of tax dodging) by major foreign and domestic corporations – enabled by policies of EU Member States such as Luxembourg and Ireland as well as EU Directives – have, however, been neglected in the debate. This is an omission this report aims to correct.

## 1.5 Methodology

With regard to the expected negative environmental impact of Eldorado Gold's operations in Greece, desk research was conducted that involved scanning available literature in English and Greek with the help of translators. Websites of the campaigning and advocacy networks Hellenic Mining Watch and SOS Halkidiki provided much source material, such as environmental impact assessments and technical reports, but also reports from demonstrations and court cases. Eldorado Gold's own statements were also included in the source material. A Greek consultant was used to translate relevant passages from Greek source materials. All sources are cited in footnotes in the text.

On the basis of this desk research, SOMO (the Centre for Research on Multinational Corporations) interviewed a number of local campaigners in relation to the protests as well as regarding technical and legal matters with regard to the company's operations. Three reports by Amnesty International were used to corroborate the violations reported by the activists. More interviews with local residents and Greek experts were held in November 2014 in Greece, when the preliminary findings of the research were presented to and discussed with local campaign groups and academics in form of a discussion paper at a public meeting.<sup>20</sup>

For an analysis of financial company data, Eldorado Gold's Securities and Exchange Commission (SEC) filings and annual accounts of its Dutch and Greek subsidiaries published by the Dutch and Greek Chambers of Commerce were analysed. Relevant EU, Dutch and Greek tax policies were also analysed to provide a policy context for the possible motivations of the company's tax planning structure. Investment data analysed are based on the IMF, OECD and Eurostat databases; a precise methodology and source references are provided in the Annexes to this report, which are published on SOMO's website, [www.somo.nl](http://www.somo.nl).

The Canadian headquarters of Eldorado Gold, as well as its Dutch and Greek subsidiaries, were informed about the research in advance and were given a standard period to review a draft of the relevant information related to their operations and tax planning practices to identify potential errors in the findings. SOMO was informed by the law firm representing Eldorado Gold (Fasken Martineau) that the company had no interest in engaging in the review process.

Given the disputed nature of Eldorado Gold's mining projects in Halkidiki and Thrace and the importance of an assessment of their potential economic contribution to Greece, this report was published as a discussion paper to allow for a review by relevant stakeholders before final publication. As mentioned above, on 1 November 2014 SOMO held a public conference in Thessaloniki together with the groups Hellenic Mining Watch and SOSte to NERO (SOS Water),<sup>21</sup> where the preliminary findings were presented. Comments received during the ensuing review period by tax experts, academics and colleagues from the advocacy field were integrated in the final report. Due to limitation in time and capacity, the discussion paper was not presented to Dutch or Greek authorities for comments. An advocacy dialogue will be held with all relevant ministries and parliamentarians as a follow up to the publication of this report.

## 1.6 Definitions

The report refers to technical and umbrella definitions that require some explanation:

### **Mailbox, shell, holding or conduit companies and Special Purpose Entities**

The above terms have many overlaps, referring to legal entities that have no material operations in a given jurisdiction (no staff, sales or physical assets) but channel money between legal entities located in other jurisdictions, often part of the same corporate group. The terms 'mailbox' or 'shell company' are often used interchangeably. The term 'conduit entity' implies the channelling of funds and a Special Purpose Entity (SPE) – used by international bodies – usually fulfils financing for the corporate group.

The Dutch Central Bank, Chamber of Commerce, Central Statistics Bureau and the Ministry of Finance use varying classifications for mailbox companies.<sup>22</sup> The term often used to describe shell companies by international bodies collecting investment statistics, such as the OECD,<sup>23</sup> is the above-mentioned Special Purpose Entities (SPEs). Eurostat defines SPEs as "foreign-owned, and principally engaged in cross-border financial transactions, with little or no activity in the Member State of residence."<sup>24</sup> The Dutch Central Bank (DNB) defines Dutch SPEs in a slightly narrower sense as Special Financial Institutions (SFIs) where "non-residents hold a direct or indirect participating interest through a shareholding or otherwise."<sup>25</sup> SFIs "specialize in raising funds outside the Netherlands and on-lending or investing them outside the Netherlands. The funds raised by these institutions are on-lent or invested almost entirely within the group of which they form part."<sup>26</sup>

The former Dutch State Secretary of Finance has admitted that Dutch mailbox companies are set up for tax savings purposes: "These institutions [...] called mailbox companies, are based in the Netherlands partly for fiscal reasons, enjoying tax advantages either in the Netherlands, or in the country where the parent company is established."<sup>27</sup>

The term mailbox company is used as an umbrella term in this report; the term conduit entity is used to refer to subsidiaries of large corporations channelling money from one jurisdiction to another. When referring to bilateral FDI flows in chapter five, the term SPE is used as the data analysed is based on OECD, IMF and Eurostat, all of which apply that category in their data definitions.

### **Tax havens and secrecy jurisdictions**

There is no internationally agreed definition of tax havens. Secrecy jurisdiction refers to states that have bank secrecy, allow for the creation of entities whose ownership, functioning and/or purpose is kept secret, or put up barriers to cooperation and information exchange between tax and other authorities to identify tax payments and other money transfers.<sup>28</sup> A tax haven in this report refers to any jurisdiction that allows companies or individuals to avoid or evade tax. This can take the form of offering low or no corporate income tax rates, or of offering conduit structures for foreign corporations that enable them to channel international payments virtually tax-free, even if they have regular domestic rates in international comparison.<sup>29</sup>

### **Tax evasion and tax avoidance**

A distinction is often made in tax literature between (legal) tax avoidance and (illegal) tax evasion. The former is the use of loopholes in the international tax system to reduce the amount of tax payable whilst not technically violating the letter of the law. The latter refers to tax planning methods that violate laws by falsely declaring lower income, profits or gains than have actually been earned or overstating deductions. In practice, however, the line between the two is not always clear: practices are only found to be illegal when identified as fraudulent by tax authorities, which in turn require sufficient resources to identify and prosecute aggressive tax planning methods. Furthermore, tax planning methods that significantly reduce tax payments are in violation of the spirit of the law, which courts may find unlawful if cases are brought forward but remain legal if unchallenged. The term 'tax avoidance' is used throughout this report, but these practices could also entail tax evasion if tested in court and found fraudulent.

### **Home and host state liability**

Much of the discussion about extraterritorial regulation of the human rights performance of MNCs focuses on the role of the home state (where the parent company of a multinational group is incorporated or managed). Given the complexity and variety of multinational organisation structures, the home state is not always easy to identify. In some enterprises – e.g. those with devolved management structures or those linked by contractual rather than equity relationships – it may be possible to identify any number of operational subgroups, each with its own 'parent'.

The United Nations Guiding Principles on Business and Human Rights do not attempt to define what is meant by 'home state', nor do they seek to provide any guidance on the difficult issue of what is meant by a 'business enterprise', and how the limits of that enterprise (and hence the limit of home state responsibilities) are to be ascertained. These issues are left to individual states to resolve. Nevertheless, the wording of the Guiding Principles implies that each state acting as a 'base' for a business enterprise – no matter how big or small, and whether a single economic unit in its own right or whether part of a wider enterprise – does indeed have a role to play in relation to the extraterritorial human rights impacts of that enterprise's activities. In this respect, all states should adopt preven-

tative as well as remedial measures.<sup>30</sup> In the context of this report, extraterritorial responsibility for Eldorado Gold would thus lie with Canada as well as with the Netherlands.

## 1.7 Limitations and follow-up research

This report links tax avoidance and human rights by indicating the potential revenue losses for Greece as a result of tax avoidance. No in-depth research was conducted, however, on how these lost revenues could have been used by Greece to protect human rights. This warrants specific analyses linking fiscal policies with human rights. What equitable fiscal reform could look like and how raised revenue could be earmarked for the protection of human rights rather than servicing debt are timely research questions for Greece to consider.

Furthermore, the tax avoidance research for this report only related to one specific tax planning technique, namely, financing arrangements leading to interest income being shifted out of a host state that eventually ends up in low- or no-tax jurisdictions, in this case Barbados. Other potential tax base erosion related to transfer pricing, or the avoidance or evasion of Value Added Tax (VAT) or capital gains tax was not scrutinised.

It is difficult for NGOs to conduct this type of research, as the holding and financing structures of a multinational group are very complex and research to assess the taxation consequences of these structures is time-consuming, expensive, knowledge-intensive and often impossible due to lack of financial transparency. The red flags identified in this report, however, should be used by the Greek, Dutch, Luxembourg and Canadian tax authorities to conduct further research into possible aggressive tax avoidance strategies used by Eldorado Gold or indeed other large foreign corporations that are active in Greece.

Finally, the report only touches briefly upon the issue of the potential legal liability of Eldorado Gold's Dutch mailbox companies with regard to potential environmental rights violations in Greece and access to justice for the local communities. Extraterritorial regulation is an evolving field where liability and precedents are created in courts and by the testing of soft law instruments. It is therefore desirable that extraterritorial regulation is not only progressively interpreted by governments but also explored by civil society through test cases.

## 2 Eldorado Gold in Greece: a human rights case

*“The forest has been transformed into a battle zone, with rubber bullets reportedly fired and tear gas so thick it caused older residents to collapse. And of course the checkpoints, which are staggered along all the roads where heavy construction equipment has moved in. In Ierissos, local residents set up checkpoints at each entrance to their village after two hundred fully armed riot police marched through the town’s narrow streets firing tear gas canisters in all directions; one exploded in the school yard, causing children to choke in class.”*

*Naomi Klein, 2014<sup>31</sup>*

### 2.1 Introduction

This chapter describes and discusses the controversies surrounding Eldorado Gold’s mining operations in Greece. Some facts and figures of the company’s global mining projects and financing structure are presented, followed by an outline of the history of mining in the Halkidiki region, Eldorado Gold’s acquisition of the Greek gold operations and its plans for large-scale mining in the country.

The main controversies related to the company’s mining plans concern environmental destruction, ranging from clearing of large parts of the original primeval forest lands to water and air pollution. Another serious human rights concern is the police repression and state criminalisation of the protests against the mining plans by the local community. This chapter provides an overview of the main sources regarding environmental impact assessments and predictions. It also draws on various news reports and witness accounts of the police repression and criminalisation of the local community, which were criticised by Amnesty International in a number of public letters and reports. Procedures regarding environmental permits and accusations of conflict of interests among political and media circles are also scrutinised.

The mining plans in Halkidiki have led to a deep rift in the local community. In the context of high unemployment and a deep financial crisis in Greece, villages and families have been set against each other in terms of their support for or rejection of the company’s plans. Those who support the plans, who are fewer in number yet still significant, are dependent on the mines for jobs; those who reject them are not only trying to save their direct environment and health, they are also dependent on the land for their income in terms of tourism, farming, beekeeping and fishery.<sup>32</sup> As well as the negative impacts on the environment and democracy, Eldorado Gold’s operations have therefore also created societal tensions. Although not the subject of this report, this negative impact should be documented in the context of recommendations for an adequate business and human rights framework in general and responsible mining practices in particular.

## 2.2 Eldorado Gold Corporation: facts and figures

Eldorado Gold Corporation (hereafter Eldorado Gold) owns and operates gold, iron ore and silver-lead-zinc mines in Brazil, China, Turkey, Greece and Romania. It engages in a number of mining industry activities, including exploration, discovery, development, production and reclamation. The company is headquartered in Vancouver (Canada) and is publicly traded on the Toronto and the New York Stock Exchanges (since 2009). It started paying annual dividends to its shareholders in 2010.<sup>33</sup>

### History

The company was first incorporated in April 1992 as Eldorado Corporation Ltd. in Bermuda, and was renamed Eldorado Gold Corporation and continued under the Canada Business Corporations Act (the CBCA) in June 1996.<sup>34</sup> That same year, Eldorado Gold amalgamated with HRC Development Corporation under the name Eldorado Gold Corporation, following a plan of arrangement through the CBCA.<sup>35</sup>

### Staff

Eldorado Gold employs around 7,000 people worldwide and has offices in Canada (Head Office), Turkey (4), China (5), Brazil (2), Greece (4), Romania (1), Barbados (1) and the Netherlands (1).

**Table 1 Eldorado Gold staff and contractors<sup>36</sup>**

Country	No. of people
Turkey	1,754
China	3,144
Brazil	438
Greece	1,696
Canada	46
Romania	179
Barbados	1

### Mining operations

At the end of 2013, Eldorado Gold Corporation owned its mining assets through more than 40 subsidiaries.<sup>37</sup> Eldorado Gold owns and operates six gold mines and a silver/-lead-zinc mine. The company has six development projects and several exploration programmes in its operating countries. An overview of its current properties is given in Table 2, with Greek operations highlighted.

**Table 2 Eldorado Gold's properties as of March 2014<sup>38</sup>**

<b>Operating gold mines</b>	<b>Other operating mines and development projects</b>
Kisladag, in Turkey (100%)*	Vila Nova, in Brazil (100%), Iron ore mine
Efemcukuru, in Turkey (100%)	<b>Stratoni, in Greece (95%), Silver-lead-zinc mine</b>
Jinfeng, in China (82%)	<b>Skouries, in Greece (95%), development project</b>
White Mountain, in China (95%)	Perama Hill, in Greece (100%), development project
Tanjianshan, in China (90%)	Eastern Dragon, in China (75%), development project
<b>Olympias, in Greece (95%)**</b>	Certej, in Romania (80.5%), development project
	Tocantinzinho, in Brazil (100%), development project
	<b>Sappes, in Greece (100%), development project</b>

\* Percentages indicate ownership percentages.

\*\* The mine is reprocessing old tailings and developing for future mining operations. Gold and silver bearing concentrates are produced from these tailings and sold. Current commercial profits are thus currently not made from active mining operations.

## Production

In 2013, Eldorado Gold produced 721,201 ounces of gold and made gross profits from gold mining operations of US\$ 481.1 million (down from US\$ 595 million in 2012).<sup>39</sup> The company advertises itself to investors as "one of the world's lowest cost gold producers, with new mines, robust margins and a strong balance sheet".<sup>40</sup> The company has ambitious expansion plans, with a goal "to double its current production over the next four to five years". According to the company's annual report for the United States Securities and Exchange Commission (SEC), its strategy is:

*"to actively pursue growth opportunities by discovering deposits through grassroots exploration projects and acquiring advanced exploration, development or low-cost production assets with a focus on the regions where it has an existing presence, preferably with the potential for increased mineral resources."*<sup>41</sup>

## How is Eldorado Gold financed?

Eldorado Gold is a public company, whose shares are traded on the Toronto and New York Stock Exchanges. Ninety-nine per cent of its shares are floating, meaning they are available for trading on the stock exchange. The company is financed through share capital, bonds issuance and loans (see Annex 1 for a full list of financiers).<sup>42</sup> In 2013, Eldorado Gold had annual revenues of US\$ 1.1 billion and a market capitalisation of US\$ 5.36 billion, which makes it the tenth largest gold mining company worldwide.

Eldorado Gold is financed 75 per cent through shares. Eldorado Gold's largest shareholder – owning 18 per cent – is BlackRock, one of the world's largest asset management corporations, with a total

worth of US\$ 3.86 trillion.<sup>43</sup> Other important shareholders – owning respectively 8 per cent and 7 per cent of Eldorado Gold’s shares – are Van Eck Associates Corporation and Fidelity Management and Research, both US-based investment management firms. Most of Eldorado Gold’s shareholders belong to the category of investment advisors. The Greek construction group ELLAKTOR owns 1.1 per cent in Eldorado Gold and also owns 5 per cent of its Greek subsidiary Hellas Gold SA.<sup>44</sup>

Another means of financing is debt, which can consist of bonds, which can be publicly traded, or loans, from related subsidiaries or the capital market. Eldorado Gold has issued bonds, which finance around 8 per cent of the company. Its largest bondholder is Franklin Advisers Inc., another privately-owned investment manager in the US. Eldorado Gold has a US\$ 375 million revolving credit facility, which is provided by a syndicate of banks.<sup>45</sup> One of those banks is Export Development Canada, Canada’s Export Credit Agency (see also chapter 3.2).<sup>46</sup> Other loans reported by the company in its annual financial statements (2013) are two loans provided by Chinese banks directly to Eldorado Gold’s Chinese subsidiaries, Heihe Rockmining Limited (‘Eastern Dragon’) and Sino Guizhou Jinfeng Mining Limited (‘Jinfeng’), worth US\$ 13 million and US\$ 16 million, respectively.

### 2.3 Eldorado Gold in Greece

Eldorado Gold has been active in Greece since 2008, when it acquired the Perama Hill Gold Project (run by the Greek entity Thracean Gold Mining) via the acquisition of the Canadian Frontier Pacific Mining Corporation. In 2010, the company submitted a preliminary Environmental Impact Assessment (EIA) for Perama Hill, which received approval in 2012. The final EIA approval, however, has not yet been granted by the Greek state due to local opposition to the project on environmental grounds (see section 2.6 below).

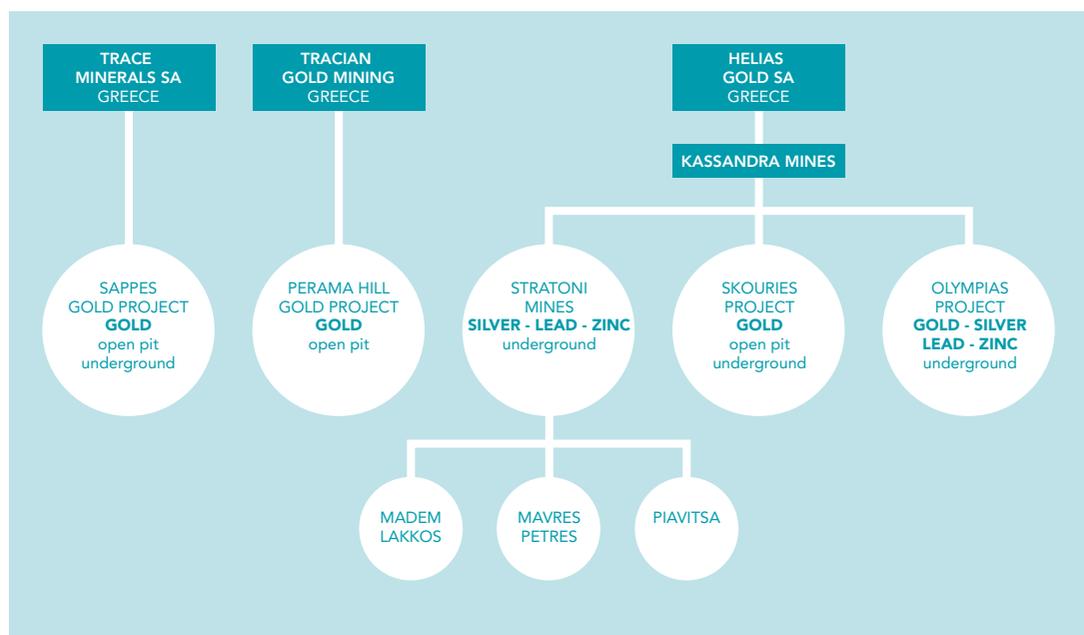
In 2011, Eldorado Gold announced the acquisition of mining corporation European Goldfields, which then owned 95 per cent of the Kassandra mines (Stratoni/Skouries/Olympias) on the Halkidiki peninsula near Thessaloniki. Silver, lead and zinc are already being extracted from the mines, and preparations are being made for the extraction of copper and gold. The Kassandra mines are operated by Eldorado Gold’s Greek subsidiary Hellas Gold SA. The acquisition was finalised in February 2012.<sup>47</sup> Eldorado Gold took over the Dutch investment structure of European Goldfields and later expanded this structure, which now plays a central financing role in its global operations.

This significant increase in Eldorado Gold’s ownership of Greek mines with the acquisition of European Goldfields was further increased in 2014. The company finalised the acquisition of its fifth project in Greece, the Sappes gold and copper mine, by buying the outstanding – not already owned – shares of the Australian corporation Glory Resources Ltd through its Dutch subsidiary Eldorado Gold Coöperatief UA.<sup>48</sup>

The company’s mining activities are concentrated in two locations:

- The Kassandra mines on the Halkidiki peninsula near Thessaloniki, operated by Eldorado Gold’s Greek subsidiary Hellas Gold SA.
- The Perama Hill and Sappes gold projects in the Thrace region (north-eastern Greece), operated by the Greek subsidiaries Thracean Gold Mining SA and Thrace Minerals SA respectively.

Figure 1 Eldorado Gold's mining projects in Greece



Source: Eldorado Gold annual reports.

### The Cassandra mines in Halkidiki

The Cassandra mine complex is made up of three projects and 26,400 hectares of metallic mineral concessions on the Halkidiki peninsula. When in full production, the three projects are said to produce 430,000 ounces of gold annually.<sup>49</sup>

The Madem Lakkos and Mavres Petres underground silver-lead-zinc mines of the Cassandra mine complex are collectively called *Stratoni Mining Facilities*. Stratoni has been operating on a small scale for over a century under the ownership of various companies. Madem Lakkos is now depleted and since 2001 production comes from the nearby Mavres Petres mine, which is located underneath the village of Stratoni.

The second project is an underground, gold, silver and base metals mine called *Olympias*. This mine was in operation from 1972 to 1995 under previous owners and was mined using drift and fill, producing lead/silver, zinc and gold-bearing pyrites (containing iron and arsenic). It is currently being re-developed in phases. The final phase will include processing of the gold-bearing pyrite concentrate of Olympias together with the gold/copper concentrate from Skouries at the new metallurgical plant, which is to be constructed at Madem Lakkos (see section on flash smelting in section 2.5 below).

The greenfield project currently under development in *Skouries* as part of the Cassandra mine complex is a copper/gold porphyry deposit that the company plans to mine using both open pit and underground mining methods.

The investment plan of Eldorado Gold in Halkidiki thus includes further development of the Mavres Petres mine, a new open pit and underground mine in Skouries, an underground mine in Olympias, an 8.8 km underground tunnel for the transportation of ore and access to other underground mining targets, a copper-gold metallurgy plant, a sulphuric acid plant, three tailings disposal and storage sites, an industrial port, storage tanks and exploration of multiple other potential mining areas within its 26,400-hectare mining property.<sup>50</sup> The plan also includes the re-treatment of gold-bearing mining wastes that had been abandoned at Olympias many years ago and the subsequent restoration of the area.<sup>51</sup> Three more potential mining areas are also currently being explored, namely Piavitsa, Fisoka and Tsikara.<sup>52</sup>

The investment plan for the Halkidiki area was submitted in 2006 and was awarded an environmental permit in 2011, with Joint Ministerial Decision 201745/2011.<sup>53</sup> The environmental permit was challenged by groups of residents at the Council of State (Greece’s highest administrative court). Sitting in a plenary session, the court rejected all alleged reasons for annulment and ruled that it was legal,<sup>54</sup> a judgment that the local community considers flawed and is still challenging.<sup>55</sup>

It must be noted that while the environmental approval was given and permits were issued for specific activities that have already begun, the investment plan as a whole has not been approved at time of writing because the final and most important Technical Approval was still pending: the approval for the copper/gold metallurgy plant, which was explicitly set by the contract between Hellas Gold and the Greek State as the goal of the investment plan.<sup>56</sup> However, serious doubts have been expressed regarding whether the metallurgical plant, as approved by JMD 201745/2011, can indeed be constructed and operated (for a detailed discussion see section on flash smelting in 2.6 below).

**Figure 2** Kassandra mines of Eldorado Gold in Greece



Source: Eldorado Gold<sup>57</sup>

Thus, the investment plan is advancing without having been approved, which, critics argue, renders its implementation illegal. However, the company has a different reading of its contract with the State and claims that such an approval is not required.<sup>58</sup>

## 2.4 Mining in Halkidiki: selling out the public interest

Eldorado Gold's activities in Greece are part of a broader public scandal that predates the company's acquisition of the Greek projects. As is often the case with extractive operations, the history of ore mining in Halkidiki over the past 30 years is one that is fraught with scandals, violence and environmental disasters, in which Canadian companies take centre stage.<sup>59</sup>

Ore mining in Halkidiki goes back a long time, but it intensified in the first part of the 20<sup>th</sup> century. In the late 1990s, a first Canadian company, TVX Gold, tried to expand mining activities in Halkidiki, to include cyanide processing of gold in the region through the establishment of a metallurgy plant in Olympias, thus putting the region at risk of additional industry-driven environmental damage. TVX Gold was supported by the Greek government and authorities, which emphasised the development that gold metallurgy would bring to the region and the country and granted all necessary permits. Local communities, however, feared that they would have to abandon their region because of the pollution of soil, sea, air and water and engaged in a long struggle to prevent TVX Gold from implementing its gold metallurgy project.

Another local struggle against TVX Gold developed in Stratoniki where, since 2001, the company had been operating the Mavres Petres mine underneath the village causing damage to houses. In 2002, after challenges brought by the local municipality of Stagira-Akanthos, the Council of State cancelled the environmental permits granted to TVX Gold for both the Olympias gold project<sup>60</sup> and the Mavres Petres mine.<sup>61, 62</sup> In 2003, TVX Hellas, the Greek subsidiary of TVX Gold, which at that time had been acquired by another Canadian company, Kinross Gold Corp., filed for bankruptcy.<sup>63</sup>

In December 2003, two consecutive contracts were signed that were ratified by Greek Law 3220/2004.<sup>64</sup> The first was an extra-judicial settlement between the Greek State, TVX Hellas and TVX Gold, through which all respective claims were settled and the Greek state purchased all of TVX Gold's assets for € 11 million. TVX and the members of its board of directors were relieved of any civil or penal liability for environmental damage that may have occurred under its tenure.<sup>65</sup> Another clause disallowed any legal remedy concerning TVX Hellas' debts to Greece's social security agencies,<sup>66</sup> which are currently in deep financial crisis and have difficulties paying out pensions.<sup>67</sup>

Under the next contract, the mines were sold for exactly the same price of € 11 million to a new entity called Hellas Gold SA,<sup>68</sup> which was set up only three days before. The Greek state made no profit on the transfer. Furthermore, specific clauses of that contract exempted Hellas Gold from any transfer tax or other taxes and relieved it in advance of any financial obligations concerning environmental or third party damages resulting from the operation of the mines under previous owners. It must be noted that mining activities by TVX Gold and previous owners had already caused considerable environmental damage, which is described in a number of scientific reports.<sup>69</sup> The most severe impacts are at the coastal village of Straton, where mining wastes were disposed of directly

into the sea until 1983. Heavy metal pollution caused fishing and bathing in Stratoni to be banned by law in 1980,<sup>70</sup> a prohibition that stands to this day. In 2002, a spill of untreated acidic mine water caused the Stratoni bay to turn red.<sup>71</sup>

Ninety-five per cent of the shares of Hellas Gold were eventually acquired by European Goldfields, another Canadian mining company. The link between Hellas Gold and European Goldfields, however, was present from the Greek company's inception: Hellas Gold's first board of directors included Christopher David Grannell, former Financial Director of European Goldfields.<sup>72</sup>

It is worth noting that the Greek Mining Code<sup>73</sup> defines mining as being in the public interest (Article 102). At the time of passing it also granted mining companies full possession of the minerals contained in the granted concessions, while not requiring them to pay any royalties for their depletion. This exemption for mining companies from royalty payments has been lifted with effect from 1 January 2013.<sup>74</sup>

#### **European Commission fine for illegal state aid**

The above transfer of property from the Greek state to Hellas Gold SA was challenged and became subject to a European Commission investigation and positive decision that the deal constituted illegal state aid by way of a sale of assets and land below its value and a waiver of the associated taxes.<sup>75</sup> In February 2011, the EU Directorate-General for Competition found that:<sup>76</sup>

1. The price of the sale was below market value, which it set at € 25 million, providing Hellas Gold SA with a benefit of € 14 million.
2. Mining rights were transferred to Hellas Gold without a fair and open public tendering process.
3. The transfer took place without an estimate of the company's assets by an independent auditor.
4. The sale contract foresaw zero tax for the transfer, which also constituted state aid. The taxes due were € 0.8 million on the transfer of the mines and € 0.54 million on the transfer of the land (€ 1.34 million in total).

The Directorate-General (DG) ordered the Greek state to "re-establish the previously existing situation" by recovering the total amount of € 15.34 million, plus interest. Two months after publication of the DG's decision, the Greek state appealed against it to the European Court of Justice, the decision of which is still pending.<sup>77</sup>

It is reported that Hellas Gold has paid the last instalment of the total debt of € 21.6 million (the illegal state aid plus interest and legal surcharges) to the Greek Ministry of Finance. It was also reported that a portion of the debt was offset by VAT credited to Hellas Gold SA. The amount has not been specified.<sup>78</sup> The appeal to the European Court of Justice of the Commission's decision, however, has not been withdrawn, so that it is uncertain whether Hellas Gold SA's debt will indeed remain in the hands of the Greek state or whether it might have to be paid back to the company if the European Court of Justice grants the appeal.

## 2.5 Environmental destruction

Halkidiki is a biologically diverse peninsula in Northern Greece consisting of mountainous old growth forests and primeval coastal environments. Environmental activists and local communities argue that mining activity can only be sustainable if it does not alter the character of the region and preserves local livelihoods deriving from the natural environment, as well as overall public interest.<sup>79</sup> The economy of the region relies heavily on fishing, forestry, beekeeping, farming and tourism, all of which are dependent on a well-balanced ecosystem. The proclaimed financial benefits from large-scale mining therefore come at a high cost – not only to the regional economy, but also to the quality of life and to future generations. A local activist explains that “mining in the area has always been small-scale and underground, but even this small-scale activity has left the area with a legacy of pollution. We are now talking about a huge expansion of mining, incompatible with the scale of the Halkidiki peninsula, which is not a desert but a densely populated area with a rich natural environment and cultural history – and the third most popular tourist destination in the country.”<sup>80</sup>

### Irregularities during the environmental approval process

The conditions for public consultation stipulated under Greek law do not fulfil European requirements under the Aarhus Convention,<sup>81</sup> which aims to secure effective public participation in decision-making on environmental matters. This is widely recognised as an essential component of sustainable development. Lack of consultation and proper information, a central element of responsible mining, is one of the main complaints by local communities.<sup>82</sup> A local activist informed SOMO that the residents of the area who wished to improve their understanding of the possible consequences of the mining project had only 60 days in 2010, in the midst of a local and regional election period, to borrow the more than 4,000 page-long Environmental Impact Assessment (EIA) document from regional administration offices in the capital of Halkidiki (Polygyros), to make a copy at their own expense and to consult it in hard copy and only in Greek.<sup>83</sup> This made it impossible for community groups to seek independent advice from experts. The EIA was made available online only a few days before the end of the consultation process – through a private blog and not through the Ministry of Environment or any other state authority.<sup>84</sup>

The activist also told SOMO that only one public consultation meeting took place, again in Polygyros, in the presence of Eldorado Gold’s security guards. According to the then Special Secretary of Environmental and Energy Inspection, the Ministry of the Environment had to “confront the company’s people, who had the nerve to set up a ‘face control’ system at the entrance [of the public consultation meeting] and to tear apart the lists of names and ID card numbers they had collected”.<sup>85</sup>

The ministerial approval of the EIA is also clouded in political scandal: the EIA was approved in July 2011 by the former Finance Minister George Papaconstantinou (who also appealed the decision of the European Commission (see section 2.4 above),<sup>86</sup> only 25 days after he replaced Tina Birbili as Minister of Environment, Energy and Climate Change.<sup>87</sup> Birbili’s replacement is reportedly directly linked to neo-liberal reforms related to the crisis.<sup>88</sup> When George Papandreou was elected Prime Minister in 2009, he established the new Ministry and appointed Birbili, an environmentalist, to head it. However, as Greece entered the financial crisis, she was replaced by Papaconstantinou, a controversial figure who not only showed his support of mining corporations by appealing against the

European Commission decision, but is also embroiled in a public scandal over whether he removed family members from a list of Greek people with Swiss bank accounts.<sup>89</sup>

### **Adverse environmental impacts: pollution and erosion**

A number of scientific studies have warned against the negative impact of the type of large-scale mining that has been permitted for Halkidiki. Eldorado Gold's mining projects have been deemed dangerous for the environment and inadequately designed by several independent scientific institutions in Greece, most notably the Aristotle University of Thessaloniki<sup>90</sup> and the Technical Chamber of Greece, Regional Department of Central Macedonia.<sup>91</sup> The latter's conclusions state specifically:

*"The plans to minimize impact, the gaps in security measures and scientific methodology, the violation of processes that are required under European and domestic law, the anticipated dimension of irreversible damage to the environment (mainly to the aquifers), the use and management of dangerous, toxic materials and, finally, the proposed development model, which excludes the possibility of co-existence with other development activities that are typical of the region, cannot be deemed acceptable."*

According to the Technical Chamber of Greece, Dimitris Melas (Associate Professor of Environmental Physics, Aristotle University of Thessaloniki) and Alexis Benos (Professor Hygiene, Social Medicine & Primary Health Care, Aristotle University of Thessaloniki) there are also many deficiencies in the company's documentation: they say the scientific data is incomplete, includes problematic methodologies, deviates from the procedures of the European Commission and contains a misinterpretation of statutory limits of pollutants.<sup>92</sup>

Eldorado Gold's most controversial project is the development of an open-pit/underground mine in the middle of the Skouries forest on the Kakavos mountain. According to the company's own estimates,<sup>93</sup> the open pit alone can generate up to 2,162 tons of dust per hour, containing carbon monoxide, nitrogen oxides, volatile organic compounds, sulphur dioxide and particulate matter. Local activists add that the dust emitted from the pit will also contain heavy metals and other carcinogenic matter that is present in the ore and waste rock, specifically asbestos fibres and finely ground quartz particles.<sup>94</sup> Despite the company's claims to the contrary, local residents are concerned that the winds will transport this toxic dust over long distances, thus contaminating a far larger area than anticipated. Furthermore, the smelting of metallic concentrates that are very high in arsenic and sulphur at the new Madem Lakkos industrial complex will lead to the production of large volumes of extremely dangerous gaseous emissions if the flash smelting method is applied (see section on flash melting further down in this sub-section).

Pollution and depletion of the area's water resources is a major concern, because Kakavos is the main freshwater source for the entire area. At both the Skouries and Olympias mines, groundwater level has to be depressed by several hundred metres, because mining can only take place in a dry environment. Due to the large scale of the operation and the complexity of the underground water systems, the impact to water resources in the wider area is hard to quantify and the company's Environmental Impact Assessment offers little reassurance that it has even been understood.<sup>95</sup> The construction of the 8.8 km tunnel from Olympias to Madem Lakkos entails additional massive dewatering, which is already occurring. These concerns seem to be justified as the groundwater

depression required by the mining project is the reason that the recently (2014) approved River Basin Management Plan (RBMP) for Central Macedonia,<sup>96</sup> which ensures the application of the EU Water Framework Directive 2000/60,<sup>97</sup> exempts the underground water systems of two areas, namely, of Skouries / Mavres Petres and of Olympias, from protection under this Directive. The water bodies that supply drinking water in those areas were not designated and protected as such. According to the RBMP, the groundwater reserves of the Skouries / Mavres Petres area are already contaminated with unacceptably high levels of arsenic and heavy metals as a result of mining operations. In January 2015, the Greek section of the World Wide Fund for Nature (WWF) has filed a complaint for violation of EU law by the RBMP with regard to the exemption of north-eastern Halkidiki.<sup>98</sup>

Acid mine drainage, generated in the underground network of mining tunnels, has polluted surface and groundwater, particularly around the Stratonis mine. Active flotation tailings dumps and acid-generating mining wastes carelessly scattered around the area, never properly restored or even monitored, are a source of continuous pollution.<sup>99</sup> It must be noted that the Stratonis flotation tailings are characterised as “hazardous wastes” as they are high in sulphur, arsenic and heavy metals and ought to be handled and disposed of in accordance with relevant legislation. Winds and rainwater further disperse hazardous elements in the atmosphere, soil and water. Lastly, TVX Gold and now Eldorado Gold have been backfilling depleted mine galleries with a mix containing flotation tailings from the Stratonis plant, which are high in sulphur, thus aggravating acid drainage and contaminating groundwater with arsenic and heavy metals.<sup>100</sup>

Of particular concern to the local community are thus the two tailings disposal facilities of the Skouries project, which are to be established in the beds of two large mountain streams with 150 m high dams to hold back the toxic waste while the stream water is diverted. The Skouries area is located between two active seismic faults that in the past have both generated earthquakes of magnitude 6-7 on the Richter scale.<sup>101</sup> Deforestation, large-scale earthworks and the abolition of the two streams will alter the surface water drainage systems and is likely to lead to ground erosion and increased risk of flooding events. MiningWatch Canada says that:<sup>102</sup>

*“...due to the steep slopes of the woodland climate with a long and hot dry season, torrential rains and the shallow depth of the soil, there is always a significant risk of soil erosion, devastating floods and water losses due to increased surface runoff.”*

#### **Potential threats to health and safety**

Potential health and safety issues are also a concern for local residents, as they have experienced problems in the past when TVX Gold operated the mines in Halkidiki. In the 2001 and 2002, operations in the Mavres Petres base metals mine underneath the village of Stratoniki had led to the land surface to cave in, causing considerable damage to houses and the village church. In 2002, the miners themselves went on strike due to unacceptable health and safety conditions. The union announced that due to a significant increase in rates of production, dust and explosion gases were on the increase and underground ‘adits’ (entrances to the mine) were becoming increasingly dangerous.<sup>103</sup> Ground subsidence is still occurring as mining operations are ongoing.<sup>104</sup>

Eldorado Gold’s compliance with environmental regulations and the terms of the permits and approvals issued for its activities has also been questioned by activist groups. They claim that state

oversight of the company is non-existent and point to numerous occasions when laws were violated: roads in the Skouries forest were illegally opened,<sup>105</sup> part of a hazardous waste management facility was built near Stratonis without the necessary permits,<sup>106</sup> hazardous materials were transported without the necessary safety measures and there were incidents of improper documentation and labelling of vehicles. There have also been reports of at least three accidents involving trucks carrying Eldorado Gold's hazardous materials to Thessaloniki.<sup>107</sup>

### **Public woodlands**

The Skouries mine will require the destruction of significant areas of forest, parts of which are ancient woodland.<sup>108</sup> So far, 340 hectares of public forest in Skouries have been ceded to Hellas Gold by the regional administration of Macedonia-Thrace,<sup>109</sup> much of which has already been cleared. An additional forest area of 92.8 hectares that belongs to a Mount Athos monastery is currently in the process of expropriation in favour of Hellas Gold and will be used for one of the two tailings facilities.<sup>110</sup> According to the company, only 180 hectares of forest (roughly the size of 250 football fields) will have to be cleared for the Skouries open-pit mine, plant and tailings facilities.<sup>111</sup> Local campaigners argue, however, that a much greater area of forest land will be affected since the company's estimates do not factor in the space needed for roads and access facilities.<sup>112</sup>

The company says that the open pit will be re-filled and the landscape rehabilitated at the end of operations in Skouries. However, according to Theocharis Zagkas, Professor of Forestry and Natural Resources at the Aristotle University of Thessaloniki:<sup>113</sup>

*"...the consequences for the forest and plant life, as well as for the soil of the region, are permanent and irreversible [...]. It will therefore result with absolute certainty in the disappearance of an important natural capital at the local, national and European level. This is why we insist on prevention, in order to safeguard these resources for the benefit of today's but also of future generations."*

Forest legislation was modified in the summer of 2014 by a new law, which appears to have been devised specifically to enable the company's mining operations and was approved during the Parliament's summer recess.<sup>114</sup> The law enables the expansion of projects and activities that can be carried out inside areas legally characterised as 'forests' and generally deregulates them. Although these changes did not concern Eldorado Gold's activities in Halkidiki, as Greek law has always allowed mining inside forests under certain conditions, an eleventh-hour addition was inserted in the law to legalise the company's plans to build a flotation plant in the Skouries forest, for which Eldorado Gold could not obtain a permit as it failed to comply with legislation regarding its construction.<sup>115</sup> The result was that a construction approval was issued for the plant on 8 October 2014, the legality of which is contested by local activists.<sup>116</sup>

### **Flash smelting: a precondition for the project that cannot be fulfilled**

Hellas Gold's most fundamental obligation under its contract with the Greek state, which was signed on 12 December 2003 and ratified by law 3220/2004, is to construct and operate a gold metallurgy plant. Currently, the Greek mines produce gold concentrates from the Olympias mine, which are sold to China, where the processing of the concentrates to pure metals – i.e. refined gold – takes place. The domestic processing and production of pure metals adds value to the exports and therefore generates more state revenue from taxes, so that the Greek state stipulated that Hellas Gold had to

ensure processing in Greece through a gold metallurgy plant. However, this processing can be highly toxic. When TVX Gold was operating the Cassandra mines and sought to establish a gold metallurgy plant, a key concern that resulted in their investment plan being rejected by the Council of State was the fact that the company intended to use highly toxic cyanide.

In order to avoid legal entanglements arising from the use of cyanide in gold metallurgy, in 2010 Hellas Gold (then a subsidiary of European Goldfields) submitted an EIA to the Greek state based on a novel application of flash smelting,<sup>117</sup> a widely used copper smelting technology that can, in the case of certain copper concentrate feedstocks, recover gold and other precious metals as by-products. This flash smelting technology is not only central but also consists of an explicit on/off force term for the approval of the general EIA.<sup>118</sup> Its applicability is therefore key to whether the company's operations will fulfil the terms of the contract and the EIA approval. Scientific reports and local advocacy groups, however, contest whether the flash smelting technology can be applied in the case of the Cassandra mines. The following section outlines the relevant evidence and dispute in more detail.

The main issue at hand is that international technical literature and metallurgical plant practice suggest that flash smelting cannot be applied to Halkidiki's pyrites concentrates, because they are high in detrimental impurities such as iron, arsenic and sulphur.<sup>119</sup> Even in the case of successful technical implementation of the process, it could prove extremely dangerous to plant operators and the environment due to the production of large volumes of toxic off gases rich in sulphur and arsenic, resulting in high risk of lethal fugitive gas emissions. European Goldfields already admitted in its own Technical Report on the Olympias Project, released after environmental approval had been granted, that "flash smelting as applied to the treatment of arsenopyrite/pyrite concentrates is a new application of the technology which is still in the research and development phase".<sup>120</sup> Yet in the EIA submitted in 2010, European Goldfields claimed the process had been thoroughly tested on a pilot plant scale in Finland using the specific concentrates of Halkidiki (i.e. high in arsenic) and proven for use on an industrial scale. Although Eldorado Gold has since been challenged to publicise these test data, so far the company has not done so, claiming that "it is confidential information which we're not obliged to disclose".<sup>121</sup> According to an independent review of the proposed process by mining engineer George Psychogiopoulos (formerly with Greek Geological Survey), the technique of flash smelting cannot be considered a best available technique (BAT) for gold production in the case of Halkidiki's pyrites concentrate feed, despite the company's claims to the contrary.<sup>122</sup>

Furthermore, in the aforementioned technical report by European Goldfields and in more recent site presentations by Eldorado Gold,<sup>123</sup> the companies present a different process flowsheet (i.e. proposed processing method) than the one presented in the EIA.<sup>124</sup> This process is shorter than the one presented in the approved EIA and it results in a saleable gold-copper concentrate rather than metallic gold and copper. More recent presentations therefore appear to be in contradiction to Eldorado Gold's approved EIA and the Greek state approval. It also appears to constitute a breach of the company's contract with the Greek state, ratified by law 3220/2004, which foresees the production of metallic gold rather than concentrates.

The advocacy group Hellenic Mining Watch has thus lodged an official letter of complaint to the Special Environment Agency of the Ministry of Environment, Energy and Climate Change, which

provides environmental permits, about Eldorado Gold's flash smelting.<sup>125</sup> They argue that the company never provided an example of this technology being successfully applied to the copper and pyrite feed characteristic for the Halkidiki area, i.e. one that is high in arsenic. According to the group, the practice example given by the company, namely, the operations of the German copper company Aurubis in Bulgaria near the village of Pirdop, is "false", because this mine, and in fact all operations using flash smelting technology, only treats feeds that are very low in arsenic or in the normal case free of arsenic.<sup>126</sup> Hellenic Mining Watch argues that this puts into question the construction of the Halkidiki gold metallurgical plant and vertical metal value exploitation, from which the entire expected state revenue is supposed to be generated, as well as raising concerns regarding "the credibility of the company, which is allowed to carry out a large-scale operation in such a sensitive area."

## 2.6 Disregarding and criminalising the opposition to mining

*"Resistance to high-risk extreme extraction is building a global, grassroots and broad-based network the likes of which the environmental movement has rarely seen. And perhaps this phenomenon shouldn't even be referred to as an environmental movement at all, since it is primarily driven by a desire for a deeper form of democracy, one that provides communities with real control over those resources that are most critical to collective survival – the health of the water, air, and soil. In the process, these place-based stands are stopping real climate crises in progress."*

*Naomi Klein, 2014<sup>127</sup>*

Due to the environmental threat posed by these large-scale mining operations, the region of Halkidiki has become the centre of a growing protest movement against the previous government's economic and foreign investment policies. Local residents have staged numerous protests, ranging from legal action to demonstrations and sit-ins. Physical protests have been met with extreme repression and police brutality in Halkidiki, which has led to concern expressed by Amnesty International and other high-profile people such as Canadian writer Naomi Klein. These human rights concerns, which foreshadow a dangerous anti-democratic development in southern periphery European states, pose serious questions regarding the Greek state's failure in its duty to protect and Eldorado Gold's failure in its duty to respect human rights under the UN Business and Human Rights framework.

Since no official investigation of police repression of the protests against Eldorado Gold's operations has been conducted to date, the overview below is based on selected telephone interviews SOMO conducted with local activists, witness accounts published on local campaign websites, news reports and three publications by Amnesty International from October 2012, March 2013 and April 2014. SOMO conducted interviews with local activists in Skouries in November 2014 to cross-check some

of the claims contained in this report. Some of the most notable events in the region over the past years resulting from this investigation are highlighted below.

## 2012

According to multiple eyewitness reports,<sup>128</sup> on 20 March 2012, a group of miners attacked and evicted a sit-in of anti-mining activists in the Skouries forest. On 25 March, following the schoolchildren's parade on Greek national day, a large, peaceful group of residents walked up to the mountain to protest the eviction of the sit-in and was confronted with brutal police repression and teargas attacks when they reached the junction leading to the worksite. On 31 March, the residents of Lerissos surrounded the town hall as the municipal council was in session to protest the Mayor's and Deputy Mayor's behaviour during these events. The Mayor Christos Pachtas and his faction had to leave Lerissos under the protection of the riot police as the situation got out of hand, and decided to move the central municipal institutions to the Mayor's home village of Arnaia in contravention of the Kallikrates law on municipalities.<sup>129</sup>

On 5 August, anti-mining activists organised another demonstration, which was again met with brutal police repression. After the protesters returned to their villages, a rally was held on the central junction of Lerissos, with residents of all ages sitting and standing and distributing leaflets. The riot police chose that moment to invade the town. Amnesty International was able to collect sufficient testimonies on the excessive use of teargas, batons and rubber bullets by the police to warrant a mention of this specific protest in its report on Policing Demonstrations in the EU.<sup>130</sup>

On 21 October, another anti-mining demonstration was met with police brutality more extreme, according to locals, than had been witnessed in Greece for decades.<sup>131</sup> Police used excessive amounts of tear gas against protesters and physically assaulted the crowd as it was already retreating, beating demonstrators at random and smashing vehicle windows. In one case the riot police threw a tear gas canister inside a car whose elderly driver subsequently lost control and was accused by the police of seeking to deliberately wound a policeman (the driver was later found innocent in court). Another elderly woman sustained heavy leg injuries when riot policemen demanded that she knelt down and then trampled her ankle. The state conducted no investigation into reported police brutality, despite the availability of abundant pictures and video material.<sup>132</sup>

It should also be noted that Eldorado Gold itself pays for the equipment of the local security forces: "A large part of the return [to the local community] goes to [local] public bodies and the security forces, with financial and material support at every level (fuel, tires, vehicle maintenance, etc.)."<sup>133</sup>

## 2013

On 17 February, a group of some 50 individuals (by Eldorado Gold's security guards' estimate) conducted an arson attack on the Skouries mining site, destroying machinery, equipment, trucks and prefabricated buildings. On 7 March, riot police and the anti-terrorism brigade (EKAM) descended on Lerissos to conduct house-to-house searches. When residents protested against the invasion of their town, the police fired tear gas canisters in all directions; one exploded in the school yard, causing children to choke and some to faint.<sup>134</sup> More than 250 residents of the region were detained and interrogated by the police over the weeks following the arson attack, with several reported cases of police brutality akin to torture against detainees, including against minors, and forced DNA

sampling without a court warrant as required under Greek law.<sup>135</sup> Amnesty International intervened again, calling on the Greek authorities “to conduct prompt, impartial and effective investigations into allegations of human rights violations by police in the village of Ierissos”.<sup>136</sup> As yet, no investigation has taken place. Two residents of Ierissos were arrested in their homes in the middle of the night on 10 April, and another two on 10 July. They were held on remand for six and four months, respectively, and were finally released without their case having gone to court.<sup>137</sup> In April 2014, the conduct of police towards residents protesting against gold mining was mentioned in yet another Amnesty International report.<sup>138</sup>

On 12 May, a group of residents protesting logging and excavation works conducted by the mining company in the basin of the Karatzas river (the location where one of the tailings dams is to be constructed), which they denounced as illegal, clashed with police guarding the site, resulting in one policeman being wounded. Following these events, in October, 29 anti-mining activists were charged with forming a criminal organisation aiming at stopping or disrupting ore mining activities in north-eastern Halkidiki and harming the national interest. No weapons or ammunition were found in their possession, nor has any evidence been supplied that they were laundering money, a crime they were also accused of. Noteworthy is that the charge is explicitly described as trying to prevent or postpone mining activities by the company Hellas Gold SA. The evidence presented against the 29 individuals is their participation in anti-mining rallies and having publicly expressed their opinion against the mines. The 3,500 pages of the case file contain recorded phone conversations of the activists, in which they encourage other individuals to join the anti-mining movement, as well as interviews with a variety of Greek and international media,<sup>139</sup> raising concerns about the violation of the protection of journalist sources<sup>140</sup> and freedom of expression.<sup>141</sup>

The residents’ lawyers speak of the establishment of a “legal Guantanamo” and a “constitutional deviation” at Skouries<sup>142</sup> and denounce the creation of an illegal “DNA bank” arguing that none of the DNA samples collected were destroyed as required by the penal code.<sup>143</sup> In total, more than 400 people have been subpoenaed to testify, more than 350 have been indicted for a variety of felonies and misdemeanours and 250 DNA samples have been taken.

### **Solidarity and social conflict**

Numerous other protests were held in the region as well as in Athens and Thessaloniki, gathering thousands of people from Halkidiki and other parts of Greece.<sup>144</sup> Most notable among them was a demonstration held in Thessaloniki on 9 March 2013,<sup>145</sup> where an estimated 15,000 people marched to the Canadian consulate to protest against Eldorado Gold’s mining operations.<sup>146</sup> Many national and local associations, as well as municipal councils in Halkidiki and around the country, have also issued statements and approved motions in support of the people of north-eastern Halkidiki and against the company’s mining activities.<sup>147</sup>

Another negative impact of the mining operations is the social conflicts the plans are creating. Social division between mine proponents and opponents is deep, reportedly to the point that members of the same families no longer talk to each other, a common phenomenon in mining-affected communities worldwide. Incidents of both physical violence and damage to property from both sides have been reported, most of which concern damages to vehicles of mine employees with paint, acid and makeshift incendiary devices.<sup>148</sup> Although there have been tensions because of the mining

activities in the past, residents report that the situation deteriorated sharply after the Skouries project was approved and particularly after Hellas Gold was taken over by Eldorado Gold, in early 2012.<sup>149</sup>

### **Media bias**

The local campaigners argue that few of the numerous protests were reported by Greek media, and if reported at all, articles often showed bias. The Greek media landscape has often been denounced as corrupt and intrinsically linked to big business interests. An EU Commission-funded study on media freedom and independence found that “media policy-making has been thoroughly influenced, albeit in opaque and informal ways, by powerful economic and business interests who have sought to gain power, profit, or both, at the expense of the normative functions that the media is expected to perform in the public interest.”<sup>150</sup> Reuters dedicated a special report on the issue, showing deep-seated conflicts of interest of media corporations’ journalists, whose interests are intertwined with those of the private sector and politicians.<sup>151</sup>

Local activists report that this conflict of interest became all too visible in the mining projects of Halkidiki. The Bobolas family – the majority shareholder of Greece’s biggest private TV station and owner of various newspapers, other print media and websites – owns the construction firm AKTOR that has a stake in the mining project, for instance.

Even if there is no direct ownership relation between the company and the media, Greek media appears to be censoring itself in its reporting on the human rights impact related to the mining projects. A Greek journalist told SOMO that Eldorado Gold changed its media strategy in early 2013 and now only agrees to interviews and on-site visits under the condition that journalists report ‘both sides’ of the conflict.<sup>152</sup> Since then, according to this source, critical media coverage about Eldorado Gold’s operations or police repression and criminalisation of the ongoing protests has been largely absent.

### **Mining operations and local opposition in the region of Thrace**

Thrace, located in north-eastern Halkidiki, is the second region where Eldorado Gold has development projects (Perama Hill and Sappes), which the company acquired in 2008 and 2014, respectively. These projects are operated by, respectively, Eldorado Gold’s wholly-owned Greek subsidiaries Thracean Gold Mining and Thrace Minerals.

Perama Hill will be an open-pit mine using a conventional gold recovery process that requires the use of cyanide.<sup>153</sup> The Sappes project consists of an open-pit and an underground mine in a leased state-owned mining area.

The two projects were originally proposed – by different companies – in the late 1990s and received preliminary environmental approvals in 1999. Following the negative evaluations of the proposed investment projects by the Thrace Regional Department of the Technical Chamber of Greece and several independent scientific experts, local and regional elected authorities and the vast majority of local associations rejected the projects as being incompatible with the characteristics and the rural economy of Thrace. The Sappes and Perama Hill projects are geographically close to each other, and although at that time they belonged to different mining companies, they were perceived by

local communities as a single issue affecting the region of Thrace.<sup>154</sup> Major concerns are: the use of cyanide at Perama Hill; acid mine drainage; aquifer depletion in an area where water is a scarce resource; and the proximity of mining and related industrial activities to communities. Motions brought against the projects by the local municipalities resulted in both projects being rejected by the Council of State.<sup>155</sup>

New Preliminary Environmental Impact Statements (PEIS) were submitted by the owner at the time, the Australian mining company Glory Resources, and were both approved in 2012.<sup>156</sup> In March 2012, the Perama Hill project was chosen for inclusion in the new “fast-track” law, which shortens permitting procedures for investment projects that are considered “strategic” (see chapter 3.3).<sup>157</sup> However, in spite of strong government support, the projects have been on hold because local opposition remains strong. Since 2000, representatives of the Thrace region have not stopped sending letters and resolutions to the central government stating their unanimous rejection of gold mining and protesting the fact that their views and concerns were never taken into consideration. In March 2012, the Regional Association of Eastern Macedonia-Thrace Municipalities adopted a resolution, in which 22 mayors of the region stated their determination to resign should the state approve the operation of gold mines in the region.<sup>158</sup> When the final Environmental Impact Statement was put to public consultation in October 2012, all three municipalities of Alexandroupoli, Maronia-Sappes and Komotini voted unanimously against it. The Regional Council of Eastern Macedonia-Thrace also voted against, with only one vote in favour of approval.

Following the arson attack at Eldorado Gold’s worksite at Skouries, the Greek Prime Minister Antonis Samaras reassured company officials that the permitting process for Perama Hill would be accelerated: “This is an investment that we very much want, and the whole procedure for the final approval will be finished within the next 10 days,” he promised.<sup>159</sup> Local communities perceived this as blackmail and responded with two big protest rallies in regional capitals Alexandroupoli (4 March 2013) and Komotini (12 March 2013).<sup>160</sup> The Perama Hill project has still not received final environmental approval.<sup>161</sup>

The Canadian Ambassador to Greece is on record showing Canada’s involvement and support for the controversial Perama Hill project during a meeting with the Mayor of Alexandroupolis, Vangelis Lampakis, even when the latter told him that the mine will destroy the environment and that his electorate wholly rejects the plans (see chapter three for more details on Canada’s support for Eldorado Gold).<sup>162</sup>

## 2.7 Conclusion

This chapter has shown that there are serious environmental and human rights controversies related to Eldorado Gold’s activities in Halkidiki, Thrace and Stratoni. The company claims that an ambitious plan for mining of gold and copper in the area will benefit the region through the creation of some 1,300 direct and 880 indirect jobs.<sup>163</sup> However, local residents argue that the planned investment – which entails deforestation and open-pit mining with excavation and everyday use of explosives – will cause considerable damage to the environment and livelihoods. Furthermore, residents argue that the environmental impact will result in many more job losses in the existing sectors of the local

economy, which relies heavily on forestry, farming and tourism, as well as other activities that are dependent on a well-balanced ecosystem. Scientific environmental impact reports have supported the concerns of the local community that the planned mining operations and related clearing of forests on mountainous areas will cause serious soil erosion as well as water and air pollution. There are also outstanding questions regarding the feasibility of the flash smelting ore processing technology proposed by the company. In violation of existing international guidelines, locals say they have not been properly consulted and necessary information to assess the potential impacts of the operations has not been provided by the company.

Local resistance to the company's operations has been heavily repressed by the Greek state and has met with police brutality and far-reaching criminalisation. The Greek state is protecting Eldorado Gold's interests with the argument that Greece needs to attract foreign direct investment and related revenue and job creation to pay for the debt and financial crisis the country is experiencing. As this chapter and the following chapter show, however, it is not at all guaranteed that the mining operations will benefit the local community or even Greek society as a whole financially. Financial benefits are not only made up of revenues and jobs but must include the financial costs resulting from environmental destruction, health and safety impacts and job losses. These are typically referred to as 'externalities', which are often borne by the public rather than the corporation that is making profits. As the next chapters show, state aid, tax incentives and tax avoidance schemes mean this project might be a financial loss, even in purely economic terms, for Greece.

From a human rights and civil liberties perspective, this chapter has shown that there are serious risks for the Canadian, Dutch and Greek states with regard to their duty to protect human rights; in the case of Canada and the Netherlands, this concerns their obligation to exercise due diligence for businesses incorporated in their jurisdiction. This liability issue will be explored in more detail in the conclusion to this report.

## 3 State subsidy

### 3.1 Introduction

Eldorado Gold benefits from public financial support, which should be scrutinised for a cost-benefit analysis of the company's operation to public finances. Any purported financial gain in form of taxes should be balanced with state support received, just as purported job creation should be balanced against potential job losses resulting from the company's operations.

First, Eldorado Gold receives financial support from Export Development Canada (EDC), the Canadian export credit agency. Second, in the context of Troika-imposed investment promotion measures, the company's Perama Hill project will benefit from Greece's fast-track investment programme if all permits are approved. In its original contract transferring the mines and land to the company, the Greek state has also exempted Hellas Gold from claims that might have arisen from the mining activities carried out by the previous owner TVX Gold. Third, Eldorado Gold structures its investments through the Netherlands and Barbados, allowing for substantial reductions in tax payments in Greece and resulting public revenue losses. State policies and practices providing these tax benefits to foreign corporations are in fact also a form of state subsidy, as the recent investigations into Dutch and Luxembourg tax rulings indicate.<sup>164</sup>

The first two gains represent forms of intended or accepted state subsidies. The first, namely an EDC loan from the Canadian government, has already been granted. The second concerns a series of expected fiscal incentives and procedural facilitations offered by the Greek government under Troika measures and will only come into effect when the project has received final approval, including environmental permits. As the fast-track investment project for Perama Hill is as yet not fully approved, further research is needed to assess the potential future impact of the fiscal benefits granted under this procedure on revenues in Greece.

The third financial gain is of a different nature, namely, a fiscal benefit that is legal in the Netherlands and Barbados but unintended by the Greek state, acquired as a result of using Dutch and Barbados holding companies. This issue will be discussed in more detail in chapter four. The following paragraphs discuss respectively the financial support from EDC to Eldorado Gold and the fiscal benefits offered by the Greek state under its accelerated investment programme.

### 3.2 Support from Export Development Canada (EDC)

Export credit agencies are public entities that provide corporations with government-backed loans, guarantees, credits and insurance to support exports and foreign investment. Export Development Canada (EDC), a state corporation, is the Canadian export credit agency (ECA). As these credits and insurances concern public financing, ECA loans are typically subject to conditionalities with the aim of ensuring that investments do not violate social and environmental principles.

In November 2012, EDC provided Eldorado Gold with between CA\$ 25 and CA\$ 50 million in the form of a 'general corporate purposes' loan.<sup>165</sup> General corporate loans are used at the discretion of the client,<sup>166</sup> in the jurisdiction(s) of their choosing.<sup>167</sup> According to EDC, the agency's "rigorous due diligence requirements" ensure that all projects and transactions they support are "financially, environmentally and socially responsible."<sup>168</sup> EDC describes its due diligence process for general corporate loans as follows:<sup>169</sup>

*"Our review of corporate loans focuses on the ability of the company to manage its environmental and social risks. These reviews take into account several factors such as the industry sector being supported, the countries in which the borrower operates, the borrower's environmental and social track record (including compliance with applicable regulations) and the borrower's corporate capacity to manage the environmental and social risks of its operations."*

EDC does not provide access to basic information about the agency's operations, including its due diligence processes. Nor does it disclose information about how it conducts its loan reviews, including its assessments of factors such as a potential client's capacity to manage environmental and social risks or their compliance with domestic law.

In May 2013, the Mayor of Alexandroupoli and two members of Hellenic Mining Watch met with representatives of EDC, including the Vice President of Corporate Social Responsibility, at EDC's headquarters in Ottawa, Canada. They provided EDC with publicly-available information about Eldorado Gold's operations in Halkidiki expressing concern regarding the company's operations, including: serious inaccuracies in Eldorado Gold's environmental impact assessment; the anticipated negative impact of the project on scarce local water resources; outstanding questions regarding the feasibility of the ore processing technology proposed by the company; and violent state oppression in the face of widespread resistance to the project (see previous chapter). They emphasised that these and other social and environmental issues were raised by local residents and civil society organisations in Greece long before EDC provided Eldorado Gold with financing.<sup>170</sup>

During this visit, EDC was asked for information about its social and environmental due diligence process and whether EDC was aware of the serious social and environmental issues associated with the project when it decided to finance the company. Finally, the Mayor of Alexandroupoli and representatives from Hellenic Mining Watch asked EDC for information regarding the specific steps that it would take to ensure that its client, Eldorado Gold, complied with EDC's environmental and social standards.

EDC responded as follows: *"We regularly review our internal processes to look at these types of financial arrangements known as corporate facilities to ensure that relevant environmental and social issues are identified and addressed. When stakeholders raise issues with us, we re-visit the transaction. In this regard, we re-examined this particular transaction, including information that has become available since our initial review. We are confident that our process identified the potential environmental and social issues around operations with the size and scope of Eldorado, and that the company had the capacity to address these issues in the event that those issues materialized."*<sup>171</sup>

In its application of standards and responses to concerns related to Eldorado Gold, EDC does not respond to the actual environmental and social impacts associated with the company's Greek operations. On the grounds of the human rights concerns raised, MiningWatch Canada petitioned the Canadian government to end the financial support for Eldorado Gold in northern Greece, without success.<sup>172</sup>

### 3.3 An Eldorado for investors: fast-track fiscal benefits

Under the European bail-out programme for indebted EU countries, Greece has so far received two three-year loan agreements, one in May 2010 (2010-2012) and one in March 2012 (2012-2014), amounting to € 237 billion in total (€ 73 billion and € 164.5 billion respectively). Part of the conditionality of these loans is to "improve the business environment" (European Commission<sup>173</sup>) and to "attract investment" (IMF<sup>174</sup>). A plethora of legal measures has been put in place as a result, including a special agency set up to promote investments (Invest in Greece – IIG), as well as a 'fast-track' procedure that allows the IIG to speed up licensing procedures in certain sectors and provide tax incentives.<sup>175</sup> As well as accelerated licensing procedures, these incentives include:

- ❑ Exemption from payment of income tax on pre-tax profits from the enterprise's activities;
- ❑ Subsidy in form of a free-of-charge payment by the state of a sum of money to cover part of the cost of the investment;
- ❑ 'Leasing subsidy', including payment by the state of part of the instalments under a leasing agreement for new machinery and/or other equipment.<sup>176</sup>

In March 2012, Eldorado's Gold Perama Hill project (gold and silver mining) was approved by an Inter-Ministerial decision for this special fast-track procedure for investments.<sup>177</sup> Perama Hill Gold is the only mining industry project that has been approved by the IIG. Of the ten approved projects, five projects are in the energy sector, one is in the commercial sector and three are in tourism.<sup>178</sup> According to the company, the approval "signals a significant political message demonstrating the coalition Government's will to advance the Perama Hill project and in general, the development of the mineral resources sector in Greece".<sup>179</sup>

However, with this decision, the Greek state is pre-empting an approval of the necessary environmental impact assessment (EIA) for the Perama Hill project,<sup>180</sup> which has not yet been granted due to strong local resistance to the operations (see chapter 2.6).

The IIG justifies its approval with the following argument: *"The Golden Perama project will be one of the most important and productive investments at the area of Thraki to this day, having a positive contribution to the economy and employment of the area. In particular, during the construction period, approximately 300 people will be hired and upon operation the permanent staff will be 200 full time employees. At a local level, entrepreneurship will be enhanced, regional inequality will be decreased and social consistency will be enforced through direct tax collection.*

*According to the company, the technology methods that are used are absolutely safe for the environment and the local society and in complete accordance with both Greek and European legislation. [...]"<sup>181</sup>*

This report shows that there are serious grounds to question the promised environmental, economic and fiscal benefits of Eldorado Gold's projects. Chapter two above further shows that local communities not only in Skouries but also in Thrace, where Perama Hill is located, have struggled for decades against large-scale mining in the area. As well as the expected environmental destruction, they argue that the project has very little to offer in terms of boosting employment because the operations will also destroy existing local jobs, and especially at a time of exceptionally high unemployment.<sup>182</sup>

Meanwhile, the subsidies – paid for by public revenues – are expected to be overly generous. The project budget is almost € 129 million; the related incentives (grants, tax relief, etc.) are therefore potentially significant as well.

### 3.4 Conclusion

In conclusion, while the case can be made for promoting and attracting investment with incentives such as those offered by the Canadian and Greek state, they need to be offset against (future) public benefits. In order to ensure the public benefits from foreign investments, projects supported by public money should only be implemented after extensive consultation with affected communities and they need to be embedded in a broader plan fostering economic and social sustainability. Risk assessments should also be made for volatile and risky sectors such as the mining industry,<sup>183</sup> where mines are regularly closed and corporations go bankrupt. Responsible incentives that take into account the public interest therefore require a specification of the types of investment deemed desirable in relation to the economic, social and environmental development goals and a general risk assessment of a qualifying project and industry.

These conditions have not been met with respect to either the procedures of EDC or the fast-track investment projects in place in Greece. EDC's response communicates its satisfaction with the company's performance. The agency appears to be indifferent to the conflict, social unrest and violent repression associated with its client's presence in Greece. It also appears to be unconcerned about the risk associated with the questionable technical viability of the project or the impact of its proposed operations (see chapter 2.5).

With regard to the proposed fast-track procedure and its fiscal incentives, the urgency created by the conditionalities of the Troika agreements appears to have led to one-sided measures that lack proper due diligence or impact assessment taking into account negative externalities and local opposition. Moreover, effective measures to combat profit shifting – to ensure investments improve public finances through significant tax contributions – are lacking.

## 4 Avoiding tax through the Netherlands

*“We structure, and restructure from time to time, our corporate organization in a commercially efficient manner and if any such planning effort is considered by a taxation authority to constitute tax avoidance, then this could result in increased taxes and tax penalties which could have a material adverse effect on our financial condition.”*

*Eldorado Gold, 2013<sup>184</sup>*

### 4.1 Introduction

Evidence suggests that the extractive sector is associated with aggressive tax planning (tax avoidance) in the legal grey zone,<sup>185</sup> as well as illicit financial flows, which are “generated by corruption, illegal resource exploitation, and tax evasion”.<sup>186</sup> Extractive companies can minimise their tax contribution in several ways: “some are legal, some are illegal, and some are in the grey area between the two; all are difficult to detect”.<sup>187</sup>

Aggressive tax planning methods shift income from high tax jurisdictions via related companies in conduit jurisdictions to low-tax jurisdictions. A variety of techniques are applied to do this, for instance, by shifting debt to high-tax jurisdictions through group companies located in tax havens, thus syphoning off profits in operating jurisdictions through tax deductible interest payments. Eldorado Gold has a number of subsidiaries in well-known tax havens.

Official lists of tax havens are notoriously prone to political manipulation in the context of fierce international tax competition. In particular large OECD countries that have tax haven features remain excluded from official lists. The Netherlands is often mentioned, however, in discussions about international corporate tax avoidance and has been identified as a tax haven jurisdiction.<sup>188</sup> This is because Dutch mailbox companies play a central role in international profit shifting, since they act as conduit entities (see next chapter).

Indeed, the world’s largest mining companies have chosen to invest in and finance operational activities using Dutch holding and conduit entities. When used for group financing activities, these mailbox companies provide group loans to and channel corresponding interest income from ‘host states’ – where economic activity takes place – to tax havens.<sup>189</sup> Publish What You Pay research found that, after the US secrecy jurisdiction of Delaware, the Netherlands is the second favourite jurisdiction of the 10 biggest extractive companies in the world for incorporation of their subsidiaries.<sup>190</sup>

**Table 3 Eldorado Gold subsidiaries in tax havens<sup>191</sup>**

Name subsidiary*	Tax haven jurisdiction	Mining projects owned by tax haven entity
Sao Bento Holdings Ltd.	Barbados	
▶ Candalana Holdings Limited	British Virgin Islands	Vila Nova Iron Ore Mine, Brazil
Eldorado Gold (Barbados) Limited	Barbados	
▶ TJS Limited	Barbados	Tanjianshan Mine, China
Sino Gold BMZ Limited	Cayman Islands	White Mountain Mine, China
Sino Gold Tenya (HK) Limited (78.95%)	Hong Kong	
▶ Rockmining Group Company Limited	Hong Kong	Eastern Dragon Mine, China
CDH Fortune II Limited (21.05%)	British Virgin Islands	
Hellenic Gold Investment (UK) Limited	United Kingdom	
▶ Rhodopi Minerals (UK) Limited	United Kingdom	
▶ Scarborough Minerals Overseas Holdings Limited	United Kingdom	
▶ Kyprou Gold Limited	United Kingdom	Sappes Gold Project, Greece

\* This list excludes the Netherlands, as the company's Dutch structure is outlined further below.  
Ownership 100% unless otherwise indicated.  
Subsidiary is owned by the above subsidiary.

Only one possible method of profit shifting was researched for this report, namely, corporate income tax avoidance by Eldorado Gold in Greece through financing of the Greek subsidiary Hellas Gold with bond loans (hereafter referred to as bonds)<sup>192</sup> from two related Dutch subsidiaries, which in turn receive loans from a Barbados group company. The details of this research are outlined in this chapter.

More revenue concerns are relevant to Eldorado Gold's operations in Greece, however, which were not researched in detail here. In addition to structuring its global investments through Dutch mailbox companies, Eldorado Gold has incorporated a number of subsidiaries in low-tax and secrecy jurisdictions (see Table 3), pointing to a broader use of tax avoidance methods than merely loan financing through Dutch subsidiaries. Another aggressive tax planning technique is transfer mispricing,<sup>193</sup> for instance, documented as being widely used by multinational corporations (MNCs) and in particular extractive industry companies. These and other issues are outlined in more detail at the end of this chapter with a view to alerting civil society groups, as well as the Greek revenue authorities, to the need to prevent potential tax base erosion by Eldorado Gold in Greece.

## 4.2 The Netherlands: a tax haven – for mining companies

The Netherlands is not a low-tax or financial secrecy jurisdiction in the sense that it offers a near-to-zero corporate tax rate or bank secrecy. Rather it facilitates tax avoidance by letting MNCs channel their income through the Netherlands from high- to low-tax jurisdictions where that income remains largely untaxed.

In brief this is what happens: bilateral tax treaties and EU Directives allow for capital in the form of passive income (dividends, royalties, interest, capital gains) to leave a home country and enter the Netherlands without being taxed (or they are only taxed at a very low rate). Dutch domestic legislation ensures that the tax on that income remains low in the Netherlands (through the participation exemption, generous rules on tax deductible items, and risk-free tax planning through prior rulings, for instance). Lack of withholding taxes on outgoing payments means that income can leave the country without being taxed – typically into a low-tax haven – leading to double non-taxation.<sup>194</sup>

### Dutch tax haven as summarised by the Netherlands Foreign Investment Agency<sup>195</sup>

The *Dutch ruling practice*, which provides clarity and certainty on tax assessments in advance, can be obtained on future transactions, investments or corporate structures. There is also a broad *tax treaty network*, reducing *withholding taxes* on dividends, interests and royalties (for interest and royalties, in some cases, taxes are reduced to 0 percent).

Additionally, there are *no withholding taxes on outgoing interest and royalty payments*. Dutch tax law also provides the *participation exemption*, which states that all benefits related to a qualifying shareholding, including cash dividends, dividends-in-kind, bonus shares, hidden profit distributions and capital gains, are exempt from Dutch corporate income tax.

Furthermore, companies can benefit from an *effective tax rate of only 5% for R&D income* from self-developed patented intangible assets and also from self-developed unpatented intangible assets which qualify for the so-called WBSO. Intangible assets developed by another party for the risk and account of a Dutch taxpayer also qualify for the innovation box. There are also *advantages in debt and loss structuring*: the Netherlands provides companies the ability to carry forward losses for nine years, and to carry them backward for one year.

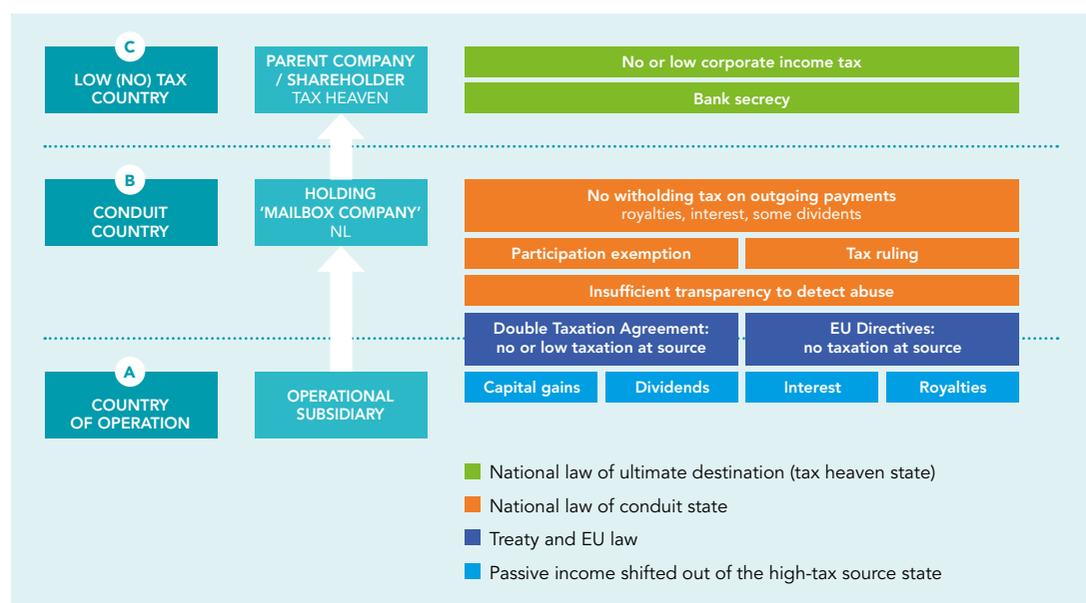
Finally, there is the 30 percent ruling, which is a *tax-free reimbursement of 30 percent of the employee's salary*, provided that the employee has been recruited or assigned from abroad and has specific expertise scarce in the Dutch labor market.

Dutch financial and/or holding companies thus help to reduce source taxation by:

- ❑ Facilitating inflow of untaxed or low-taxed capital
- ❑ Reducing the tax rate in the Netherlands, risk-free
- ❑ Facilitating outflow.

Figure 3 represents this conduit structure graphically.

**Figure 3 Dutch holding or financing structure**



The legal entities used for this type of tax planning are typically a holding or financing company, termed Special Financial Institution (SFI) in the Netherlands, or Special Purpose Entity (SPE) by international bodies such as the IMF and OECD. A holding company is a corporation that owns shares in related companies (subsidiaries) and unrelated companies and/or finances other group entities through loans (financial holding). A Dutch holding can make use of the Dutch tax treaty network that reduces withholding taxes at source and can receive tax-free dividends and capital gains from its (foreign) subsidiaries under the participation exemption. A financing company can deduct expenses, including interest on funding loans – even if these are made to tax havens – and does not have to pay withholding taxes in the Netherlands on outgoing interest, royalty and most dividend payments. Often these functions are combined in one company. Because the Netherlands has loose substance rules (i.e. any company that fulfils minimum requirements can make use of the treaty network and domestic fiscal advantages), any foreign company can use the Netherlands to shift income out of countries of operation to tax havens. As mentioned above, the type of payments that are routed through the Netherlands for tax avoidance purposes are often royalties, Intellectual Property (IP) rights (fees paid for using licences or brand names), dividends and interest payments. The Netherlands

## Dutch APA and ATR ruling practice and loose substance rules

One of the main fiscal attractions of the Netherlands is its 'Advance Pricing Agreement' (APA) and 'Advance Tax Ruling' (ATR) practice, which makes Dutch tax avoidance structures a risk-free form of tax planning. An APA provides companies with certainty on the fiscal acceptability of a price that the Dutch group company pays to or receives from a foreign group company for receiving or delivering a service or goods. An ATR is an agreement on the fiscal characterisation of international corporate structures, such as advance certainty on the application of the participation exemption. Requests for tax rulings can be made to a special APA/ATR-team of the revenue authority's Rotterdam-based Large Taxpayers' Unit.

The current ruling practice was established in 2002 when the Dutch tax authorities updated their existing ruling regime after the EU Code of Conduct (for Business Taxation) Group identified 66 harmful tax measures in EU countries and ordered them to be ended before 1 January 2013. Ten measures were Dutch, and eight of these related to tax rulings. The Dutch Ministry of Finance ordered a group of experts to reform the system to make it EU compatible whilst continuing to grant foreign corporations generous tax deals. They succeeded by officially not granting indiscriminate tax rulings based on model rulings, but to offer tailor-made rulings that are secret and officially adhere to the OECD transfer pricing guidelines. The effect of the reform was more secrecy and the same benefits.<sup>196</sup>

Since 2013, foreign companies applying for tax rulings must all qualify under existing substance rules. However, there are almost no substance requirements. Companies are not required to have employees. They are merely required to have equity, a Dutch bank account, and a registered office in the Netherlands. At least 50% of directors should be resident in the Netherlands and they should have professional knowledge. These substance requirements are typically fulfilled by a Corporate Service Provider (termed trust office in the Netherlands) which provides management, administration, an address and board members resident in the Netherlands.

is also used to avoid capital gains tax resulting from the sale of subsidiaries. An attractive element of the Dutch fiscal system is that it offers companies prior certainty about this tax planning: companies can apply for tax rulings with a special rulings team of the revenue authority and come to 'an agreement' on the price of goods and services traded within a corporate group, including interest rates.

The Netherlands is not alone in facilitating tax avoidance, but it exists in tandem with Cyprus, Luxembourg, Austria and other European offshore jurisdictions, as well as those outside the EU.<sup>197</sup> The Netherlands and Cyprus, for instance, are the largest recipients of Greek outward FDI, while Luxembourg is the largest source of inward FDI for Greece. As the next chapter shows, the majority

of this investment takes place through mailbox companies in these jurisdictions, indicating profit shifting.

Although the Netherlands is certainly not the only country offering the above-named tax and investment incentives, it is one of the biggest players in the international tax avoidance industry. The country is the biggest investor in the world, a top ranking it owes to its conduit status, as mailbox companies account for roughly 75 per cent of total Dutch direct investment (see chapter six).<sup>198</sup> Given that corporations operating in high-risk sectors with regard to human rights make frequent use of the Netherlands, the regulatory implications for the Netherlands, similar to that of Canada, which hosts many head offices of global mining companies, should be far-reaching. Yet both fail to monitor the human rights impact of these entities incorporated in their jurisdictions.<sup>199</sup>

### 4.3 Eldorado Gold in the Netherlands

As can be seen in Eldorado Gold's corporate structure below,<sup>200</sup> Eldorado Gold invests in Greece – and also in Romania, Turkey and Canada<sup>201</sup> – through a series of Dutch mailbox companies. In total the company owns 12 subsidiaries in the Netherlands. According to the company's 2013 annual accounts, these Dutch entities have total assets worth some US\$ 1.9 billion. All of Eldorado Gold's Dutch subsidiaries are registered at Barbara Strozziilaan 101 in Amsterdam, an address that hosts some 70 or more companies, according to the Dutch Chamber of Commerce.<sup>202</sup> None of the Dutch subsidiaries employ any personnel, with the exception of one subsidiary (Eldorado Gold Coöperatief UA), which employed three people in 2013.<sup>203</sup>

Eldorado Gold took some of these Dutch companies over from European Goldfields in 2012; others were acquired before and after the Goldfields takeover. Table 4 provides information on the total net assets, the number of employees and the function per subsidiary. The corporate structure revealed in Figure 4 shows the links between the Dutch subsidiaries and subsidiaries in countries of operation. The structure illustrates the central role of a few Dutch subsidiaries in the company's financing structure.

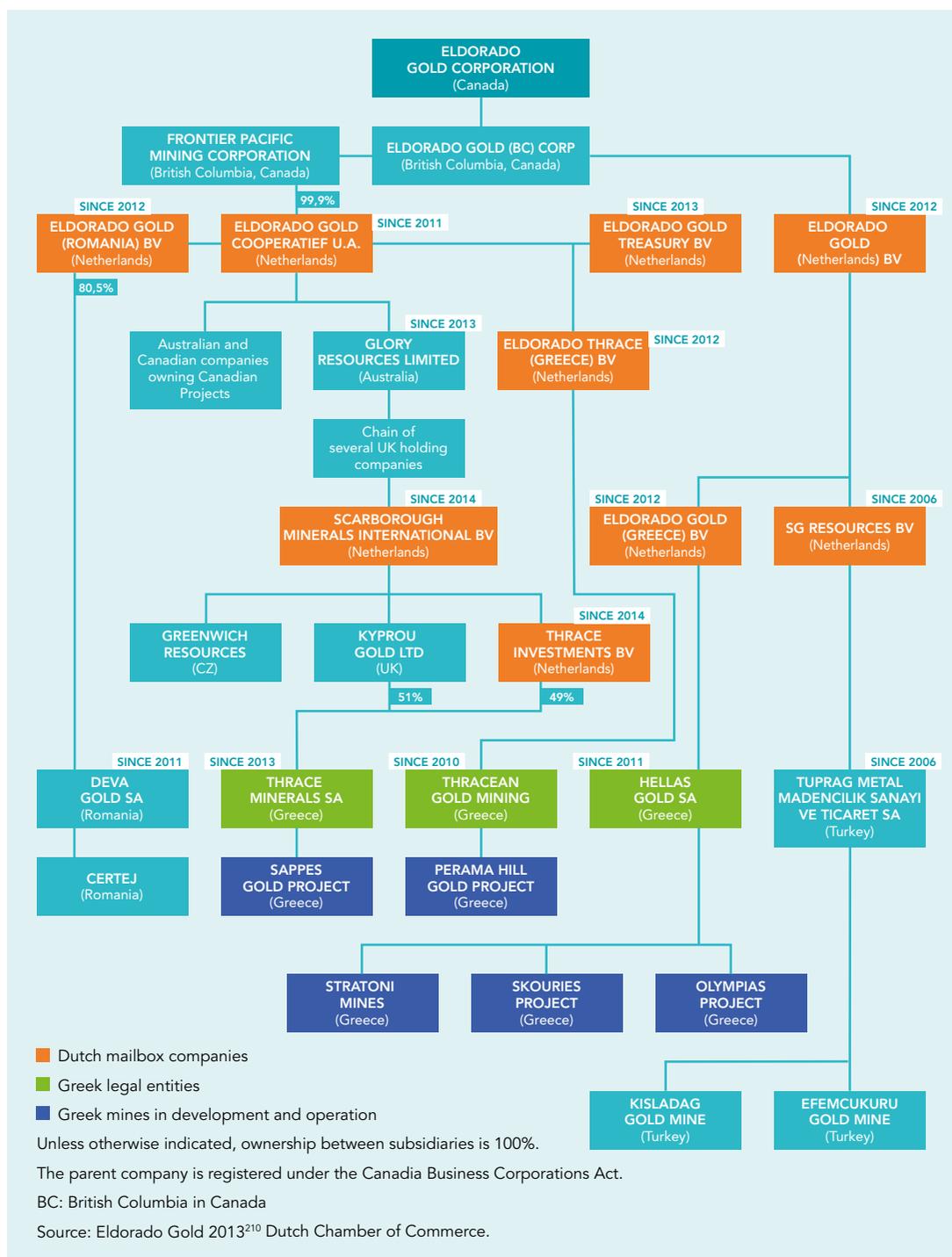
Eldorado Gold has been using the Netherlands as a conduit for its investments since 2006, when it bought SG Resources BV (which was managed by the Dutch trust office Intertrust until 2012).<sup>204</sup> In turn, SG Resources BV fully owns the Turkish subsidiary Tuprag Metal SA, which operates the Kisladag and Efemcukuru gold mines.

With the acquisition of European Goldfields, a process that started in 2011, the Dutch subsidiaries started to gain increasing relevance in financing Eldorado Gold's European operations, as well as managing takeovers. The company not only took over the Dutch structure of European Goldfields but also extended it with the incorporation of a cooperative (Eldorado Gold Coöperatief UA) and started up a financing structure with a Barbados group company (see Figure 4 and Figure 5). It significantly increased the financing of the Greek operations through bonds bought up by its Dutch entities as well. Whilst total bonds issued by Hellas Gold to Dutch subsidiaries started at € 8 million in 2009, this grew to € 86.2 million in 2012 and a staggering € 176.4 million in 2013. (Untaxed) interest payments on these bonds from Hellas Gold SA to Dutch subsidiaries grew accordingly (see Table 6).

**Table 4 Eldorado Gold's Dutch subsidiaries, 2013 (assets in US\$ million)**

Name	Total assets <sup>205</sup>	Staff	Owned since	Principal activity / function	Notes
<b>Dutch subsidiaries related to operations in Greece</b>					
1. SG Resources BV	266	0	2006 <sup>206</sup>	Holding and finance company	
2. Eldorado Gold Coöperatief UA	170	3	2011	Holding and finance company	The cooperative was incorporated on 6 October 2011. Members were Eldorado Gold Corporation (Canada) and D.L. Moss (the latter's membership was transferred to Eldorado Gold Holdings (BC) Limited (Canada) in February 2012).
3. Eldorado Gold (Netherlands) BV	477	0	2012 <sup>207</sup>	Holding and finance company	Formerly known as European Goldfields Mining (Netherlands) BV.
4. Eldorado Thrace (Greece) BV	22	0	2012	Holding and finance company	Formerly known as European Goldfields (Treasury) BV.
5. Eldorado Gold (Greece) BV	549	0	2012	Holding and finance company	Formerly known as European Goldfields (Greece) BV.
6. Deva Gold (Barbados) Ltd	12	n/a		Financing of Romanian subsidiaries through shareholdings and loans	This is a company based in Barbados that, during 2012, changed its place of effective management to Amsterdam. However, the company delisted from the Dutch Chamber of Commerce after that and only the annual accounts of 2012 are available.
7. Eldorado Gold Treasury BV	121	0	2013	Financing company	Incorporated on 20 February 2013 by its shareholder Eldorado Gold Coöperatief UA.
8. Scarborough Minerals International BV	234	-	2014 <sup>208</sup>	Holding and finance company	
9. Thrace Investments BV	-1	-	2014 <sup>209</sup>		
<b>Dutch subsidiaries related to operations in Turkey and Romania</b>					
10. Greater Pontides Exploration BV	8	0	-	Holding and finance company	The company is 51% held by Eldorado Gold (Netherlands) BV, and the remaining 49% is held by Ariana Exploration and Development Limited (UK).
11. Greater Anatolia BV					This company delisted from the Chamber of Commerce
12. Eldorado Gold (Romania) BV	15	0	-	Holding and finance company	

**Figure 4 Direct subsidiaries and parents of Eldorado Gold's Dutch incorporations**



It should be noted that this report only looks at the financing structure of Hellas Gold SA, which owns the Stratoni mines and the Skouries and Olympias projects. The financing of the Greek entities Thrace Minerals SA and Thracean Gold Mining SA, which own the Sappes and Perama Hill gold projects respectively, were not analysed.

## 4.4 Functions of Eldorado Gold's Dutch subsidiaries

One of Eldorado Gold's Dutch subsidiaries has the legal form of a cooperative, which allows for the avoidance of withholding tax on outgoing dividends in the Netherlands under certain conditions. An entity that originated from Barbados is listed as a limited company in the Netherlands, and the remaining 10 have the legal form of a private limited liability company.<sup>211</sup> The entities act as:<sup>212</sup>

- Intermediate holding companies, which own the shares of other, typically operating, group companies. Fiscal advantages<sup>213</sup> of a Dutch holding include the avoidance of host country dividend withholding or capital gains tax and home country tax on foreign profits;<sup>214</sup>
- Financing conduit companies, either by buying up bonds or by providing direct loans to related companies. Dutch conduit financing entities allow for the avoidance of interest withholding tax at source and can be used to shift profits out of operating subsidiaries located in high-tax jurisdictions to group companies in low-tax jurisdictions.

In terms of assets, Eldorado Gold's largest Dutch subsidiaries are:

### 1. Eldorado Gold (Netherlands) BV

The company finances Hellas Gold SA (Greece) by bond subscription. It also owns 100 per cent of the shares of Eldorado Gold (Greece) BV and of Greater Anatolia BV. In 2013, Eldorado Gold (Netherlands) BV also acquired 100 per cent of the shares of SG Resources BV. It also holds 51 per cent of the shares of Greater Pontides Exploration BV. The company itself is partly financed by a Barbados subsidiary, and is a wholly-owned subsidiary of Eldorado Gold Corporation (Canada).

### 2. Eldorado Gold (Greece) BV

Eldorado Gold (Greece) BV owns 95 per cent of the shares of Hellas Gold SA. It also finances Hellas Gold through subscription to bonds. Like Eldorado Gold (Netherlands), it is partly financed by a Barbados subsidiary through a credit facility.

### 3. Eldorado Gold Coöperatief UA

Current members of the cooperative are Eldorado Gold Holding (BC) Limited (Canada) and Frontier Pacific Mining Corporation (Canada). The company has several links to the Greek region of Thrace, since it is the sole shareholder of Eldorado Thrace (Greece) BV and in 2014 took over Glory Resources Ltd,<sup>215</sup> an Australian gold exploration and development company that operated the Sappes Gold mine in the Thrace region (in which Eldorado Gold already had a minority shareholding of 20 per cent). Eldorado Gold Coöperatief UA also owns 100 per cent of the shares of Eldorado Gold (Romania) BV, which owns gold mining operations in Romania.<sup>216</sup> It is also the sole shareholder of Eldorado Gold Treasury BV. The cooperative has minority shareholdings in Swedish and Australian subsidiaries, too. As mentioned above, Eldorado Gold Coöperatief UA

is the company's only subsidiary in the Netherlands that employs personnel (three employees). Next to subsidiaries in Romania, the cooperative has minority shareholdings in mines in Russia, Finland, Sweden and Canada.<sup>217</sup>

#### 4. Eldorado Gold Treasury BV

This company was set up as a financing company in 2013 by its sole shareholder, Eldorado Gold Coöperatief UA, which bought all shares in that year for a total of € 85 million. It finances Hellas Gold SA through bonds. It also concluded a credit facility worth US\$ 200 million with Eldorado Gold subsidiary Deva Gold SA, located in Romania. Deva Gold SA operates the Certej open pit mining project in the Apuseni Mountains.<sup>218</sup> Eldorado Gold Treasury BV itself is financed through promissory notes issued to its shareholder (Eldorado Gold Coöperatief).

#### 5. Eldorado Thrace (Greece) BV

The company acts as a holding and financing company and owns a Greek subsidiary Thracian Gold Mining, which in turn is owner of the Perama Hill gold mining project. This project has been approved for benefits under Greece's accelerated investment procedure introduced as part of the Troika measures (see chapters three and six).

#### 6. Scarborough Minerals International BV

Scarborough Minerals International BV is the sole shareholder of Thrace Investment BV (Netherlands) and Kyprou Gold Ltd (UK) that together own a Greek subsidiary operating Sappes Gold mine in the Greek region of Thrace. Scarborough Minerals International BV also owns 100 per cent of the shares of a Czech company (Greenwich Resources).

#### 7. SG Resources BV

This company finances Turkish subsidiaries through shareholdings.

#### Explanation of the links to Greek operations in Skouries

As can be seen from Eldorado Gold's Dutch corporate structure and the overview provided above, the first two Dutch companies have a direct ownership link to the controversial operations in Halkidiki: Eldorado Gold (Netherlands) owns Eldorado Gold (Greece), which in turn owns 95 per cent of Hellas Gold SA, the Greek company responsible for the Cassandra mines (Stratoni, Skouries and Olympias projects). The remaining 5 per cent of the shares in Hellas Gold are owned by Ellaktor (AKTOR Investment Holding Limited), a Greek construction company.<sup>219</sup> The Greek Perama Hill project is directly owned by Eldorado Thrace (Greece) BV and the related Sappes project is jointly owned by Thrace Investments BV and – through a series of UK companies – Eldorado Gold Coöperatief UA.

## 4.5 Profit shifting through Dutch mailbox companies

The previous sections described Eldorado Gold's corporate presence in the Netherlands and the relationship these Dutch entities have with the company's material operations. This section looks at the way Eldorado Gold routes interest payments from Greece to Barbados, via the Netherlands. Calculations of the related tax revenue losses for Greece include losses in withholding taxes and in

corporation income tax; these are outlined in more detail in the latter part of this chapter. The next section explains the policy context that makes this type of aggressive tax planning possible.

#### 4.5.1 Policy history

An historical reading of tax policies can help to explain corporate structures, or rather, the location of subsidiaries of a corporate group in specific jurisdictions, as companies' tax departments adapt corporate structures in a changing tax policy context in an attempt to avoid as much tax as possible. As described above, Eldorado Gold acquired the majority of its Dutch subsidiaries when it took over European Goldfields in 2012. European Goldfields decided to structure its investment in Greece through the Netherlands in early 2001, with the creation of a Dutch holding company (now Eldorado Gold (Netherlands) BV). The decision to set up a Dutch holding structure was thus taken in the year 2000 or earlier, and was based on the fiscal climate at the time.

There were a number of fiscal advantages for this structure at the time, some of which have been restricted in the meantime, and others which remain intact. For instance, in 2000, the Netherlands already made provision for a participation exemption, a large network of double taxation treaties reducing withholding taxes at source and a generous advance pricing agreement and tax ruling practice, whereby the revenue authorities agree on transfer pricing methods in advance and thus offer investors security in their tax planning strategies. There was no double taxation treaty (DTT) between Greece and Canada reducing taxes on outgoing payments, for instance, whereas the Netherlands had a treaty with Greece. There was a group financing law in place, which allowed for excessive deductions of intra-group interest payments, but it was reformed in 2009.<sup>220</sup> This allowed group finance companies to operate at pre-agreed margins unrelated to changes in commercial situations. In addition, reserves could be made against up to 80 per cent of income from financing activities.<sup>221</sup> As these provisions were criticised by the European Commission as state aid, the government had to reform the law, and drafted another group interest deduction law in 2007.<sup>222</sup> This was approved by the Commission, but was eventually abolished as of January 2013 due to ongoing critique that it would constitute state aid and unfair competition, as well as leading to tax base erosion abroad.<sup>223</sup>

At the time of incorporation, the internationally accepted transfer pricing guidelines were also not implemented yet in Dutch tax law and the number of restrictions to deduct interest from taxable profits were very limited. The participation exemption and double tax treaties have since remained unchanged, whilst transfer pricing guidelines have been implemented in national law and some restrictions in the reduction from interest to taxable profits have been introduced. Information on whether these restrictions are currently applied in the case of Eldorado Gold is not publicly available.

Other newly introduced policies, such as EU Directives discussed in more detail below, have increased fiscal advantages compared to more than a decade ago. Eldorado Gold has built on the Dutch holding structure set up by European Goldfields and expanded it since.

#### 4.5.2 Method: Rerouting interest payments

Hellas Gold SA issued several unsecured bonds in previous years to finance its operations. The bonds require Hellas Gold SA to pay interest to the four Dutch companies that subscribed to the bonds, namely, Eldorado Gold (Greece) BV, Eldorado Gold (Netherlands) BV, Eldorado Thrace (Greece) BV and Eldorado Gold Treasury BV. The total value of the bonds and bond loans that the Dutch companies have subscribed to has increased from € 8 million in 2009 to € 96 million in 2013 (see Table 6). Of the four Dutch subsidiaries that have bought bonds from Hellas Gold SA, Eldorado Gold (Greece) BV and Eldorado Gold (Netherlands) BV have credit facilities with Eldorado Gold (Barbados) Ltd of, respectively, US\$ 95 million and US\$ 5 million (in 2013).<sup>224</sup> These credit facilities have almost the same interest rate as those applied to the Greek bonds, leaving a negligible profit to be recorded in the Netherlands. At the same time, the Netherlands allows for the deduction of the interest cost in the Netherlands and does not levy any withholding taxes on outgoing interest and royalty payments, so that the interest payments are channelled from Greece to Barbados and barely, if at all, taxed. In Barbados, so-called International Business Companies (IBCs) are subject to a corporate income tax rate that can vary between 0.25 per cent and 2.5 per cent. Other exemptions exist for IBCs to lower this corporate income tax even further.<sup>225</sup>

In other words, Eldorado Gold books interest payments as costs in the high-tax jurisdiction of Greece, and eventually collects the corresponding interest income (via the Netherlands) at low or no tax cost in Barbados. The Dutch entities are thus pure financing conduits used to shift interest income out of Greece to Barbados.

Several policies and treaties enable Eldorado Gold to structure its interest payments in this way.<sup>226</sup> These are explained in the section below, which also provides calculations on the amounts of money involved and the resulting tax revenue losses for Greece. In order to calculate lost tax revenues, the current situation (Eldorado subsidiaries in the Netherlands and Barbados finance mining operations in Greece) is compared to a hypothetical situation (the parent company located in Canada directly finances its subsidiary in Greece).

This leads to the following calculations, displayed in Figure 5, which visualises the financing structure set up by Eldorado Gold. It includes the calculations of interest payments due from four Greek entities to Dutch entities, and from the two Dutch entities that have a credit facility with the Barbados entity and calculations for tax revenues lost by Greece as a result.

It should be noted that the calculations represent the revenue loss generated by the avoidance of two different types of taxes – that is, the withholding tax on outgoing interest payments; and corporate income tax due to the reduction of profit by financing through loans rather than equity. The scenarios are inter-dependent, and as such, the losses cannot simply be added up and treated as total of revenue losses.

##### **Avoiding withholding tax at source: Tax treaties and EU Directives**

Double taxation treaties have multiple purposes. As well as facilitating information exchange and administrative cooperation, they allocate taxing rights between the signatory states and define who is entitled to enjoy treaty benefits. DTTs aim to avoid double taxation; however, they can also lead to double non-taxation.

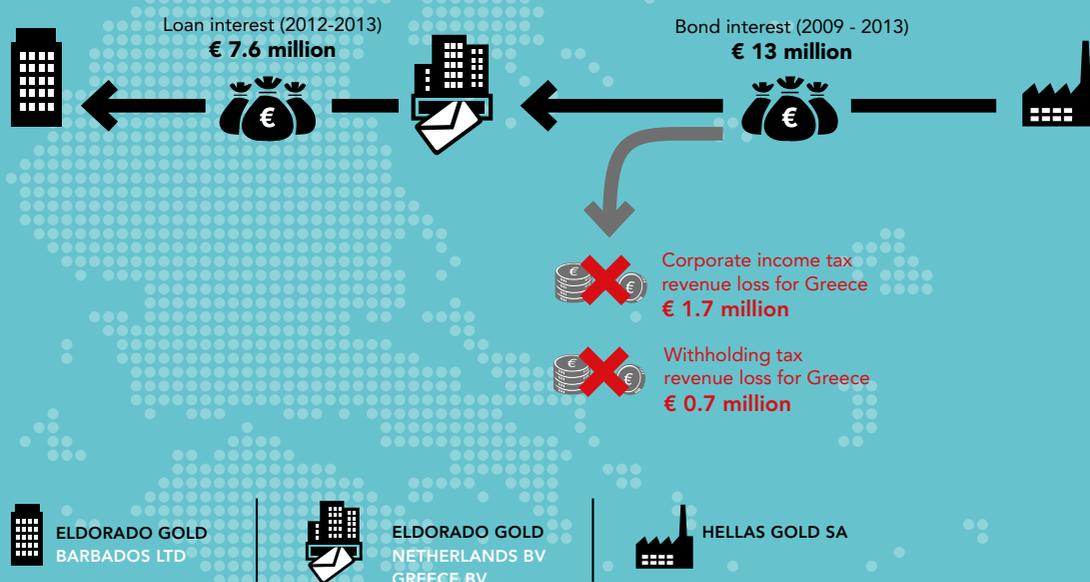
In order to reduce administrative barriers and stimulate bilateral investment, treaties often set withholding tax rates lower than national withholding tax rates. Withholding tax (WHT) is tax levied on passive income the moment that income is paid from a source country (i.e. where it was generated) to a resident country (where the foreign owner of that income resides). Owners can be individuals or companies. WHT is typically levied on dividends, royalties and interest. DTTs also decide which signatory states can tax capital gains resulting from the sale of shares or assets.

Although withholding taxes are arguably an imperfect tool to tax international economic activity, the ample opportunities and widespread use of avoidance techniques by MNCs means that WHTs are not only a legitimate way, but are often the only effective way for states to collect direct taxes<sup>227</sup> and lessen their dependence on indirect regressive forms of taxation, such as VAT.

*“Even within limited treaty networks a combination of a treaty with a very low withholding tax rate and treaty shopping by taxpayers can deprive the source country of significant withholding tax revenues on dividends, interest or royalties for the use of intellectual property and the like – the effect can be especially detrimental to developing countries.”*

UN Tax Committee<sup>228</sup>

Figure 5 Group financing through a Dutch conduit entity: the case of Hellas Gold SA



This is because, whilst tax treaties are bilateral, the use of mailbox or shell companies allows MNCs to benefit from treaties even if they have no economic activities or are even physically resident in one of the treaty states. This is known as ‘treaty shopping’, and there is increasing literature from NGOs,<sup>229</sup> research institutes and international organisations such as the UN, OECD and IMF about the negative impact double taxation treaties and treaty shopping can have on domestic revenues as a result. As the UN Tax Committee has pointed out, a combination of a treaty with a very low withholding tax rate and a corporation engaging in treaty shopping can deprive source countries of significant withholding tax revenues. There is thus an increasing call for governments to review their tax treaties for potential tax base erosion, which Greece could implement too, with particular focus on its extractives sector. The IMF advised Mongolia, for instance, to review its treaty network as it identified a number of tax leaks in the extractive industry. Large MNCs have structured their investments using treaty shopping techniques, substantially reducing their taxes in Mongolia as a result.<sup>230</sup>

### Canada – Greece

For a long time, there was no tax treaty between Canada and Greece, meaning that interest payments from Greek entities to financing entities in Canada would be subject to a 35 per cent WHT rate. Since 1 January 2011, a tax treaty between Canada and Greece has lowered the WHT rate to 10 per cent. However, despite this treaty, financing the Greek operation through a Dutch structure lowers the WHT even further due to the EU Directive (see below).

### Netherlands – Greece

In 2001, the Netherlands had a treaty with Greece that lowered the applicable Greek national WHT rate on outgoing interest of 35 per cent to 10 per cent. In 2009, the EU Interest and Royalties Directive came into force, which abolished WHT rates on interest payments between related subsidiaries in all EU Member States, but granted a five-year transitional period to a number of fiscally weak states such as Greece, during which the WHT was allowed to remain at 5 per cent.<sup>231</sup> Interest payments from Hellas Gold SA to its related Dutch companies were thus only subject to 5 per cent WHT under the Directive until July 2013. After that date, no WHT applied at all. Table 5 provides a comparison of these WHT rates.

**Table 5 Comparison of relevant withholding tax (WHT) rates**

Dates	NL and EU	Greece	Legal basis
Until 2009	10%	35%	Greece-Netherlands double taxation treaty vs national Greek WHT
2009-2013	5%		EU Interest and Royalty Directive (transitional arrangement for some European countries)
Since 2011		10%	Greece-Canada tax treaty
Since July 2013	0%		EU Interest-Royalty Directive

The large network of double taxation treaties of the Netherlands and the EU Interest and Royalties Directive together therefore reduce withholding taxes at source to such an extent that it is beneficial for Eldorado Gold to channel their financing and resulting interest payments through the Netherlands instead of directly to the parent company in Canada.

In Table 6 we have calculated the resulting WHT-related revenue loss by comparing the current situation in which Hellas Gold SA is paying interest to a Dutch company, to the scenario in which Hellas Gold SA would have paid interest directly to its Canadian parent company.

The WHT rates are applied to the different interest payments that Hellas Gold owed to the four Dutch subsidiaries on the bonds. As the amount and value of the bonds increased, so did the interest payments, namely, from € 32,356 in 2009 to around € 3.4 million in 2013. These figures have been calculated based on: (i) the amounts of bonds the subsidiaries subscribed to; (ii) their value and the interest rate that applied at the time of subscription. The difference between the interest Hellas Gold SA owed the Dutch companies and the interest Hellas Gold SA would have paid to the Canadian (parent) company result in different amounts of withholding taxes due in Greece. This difference represents a tax revenue loss in Greece.<sup>232</sup>

**Table 6 Revenue loss on withholding tax on outgoing interest payments (2009-2013)**

Year	Value of bonds <sup>233</sup>	Interest due	WHT due (NL)	WHT (Canada)	Revenue loss
2009	€ 8,000,58	€ 32,356	€ 1,618	€ 11,325	€ 9,707
2010	€ 21,000,000	€ 582,898	€ 29,145	€ 204,014	€ 174,869
2011	€ 24,000,000	€ 1,203,735	€ 60,187	€ 120,373	€ 60,187
2012	€ 86,197,000	€ 4,128,499	€ 206,425	€ 412,850	€ 206,425
2013 <sup>234</sup>	€ 48,290,000	€ 1,711,074	€ 85,554	€ 171,107	€ 85,554
2013 <sup>235</sup>	€ 48,290,000	€ 1,711,074	€ -	€ 171,107	€ 171,107
<b>Total</b>		<b>€ 9,369,635</b>	<b>€ 382,928</b>	<b>€ 1,090,777</b>	<b>€ 707,849</b>

Because Hellas Gold SA is financed through Dutch entities rather than directly by the Canadian parent company, the Greek government has lost more than € 700,000 over five years in withholding taxes. More than € 250,000, over one third of the total amount, was lost in 2013 alone. If this financing structure persists, tax revenue losses generated by the company's tax planning practices can be expected to increase further in future.

### **Avoiding corporate income tax: tax-free outgoing interest payments**

As well as avoiding WHT, corporations shift profits through loan financing (i.e. the decision to finance a subsidiary through loans, which result in tax-deductible interest payments abroad, rather than shareholder equity, which does not generate tax deductions but rather dividend payments to shareholders). Hellas Gold SA booked the interest payments made to the Dutch subsidiaries as costs, thereby lowering the taxable income base in Greece.<sup>236</sup> This increased even further the losses the company has recorded in recent years due to investment costs and the fact that the mining sites are under development and not yet extracting ore (one mine is in operation, but only selling old tailings from previous mining activities). Since Hellas Gold SA has been reporting losses in the years under review (2009-2013), the company had as yet not paid any corporate income tax.<sup>237</sup> Losses, however, can be carried forward to future years, so that building up costs over a number of years, such as interest costs, represent a future tax credit.

Below the losses in corporate income tax resulting from interest payments to the two Dutch subsidiaries that are themselves financed by the Barbados entity are calculated. The other two entities that are not directly financed by the Barbados entity are not included in these calculations, because although there are indications of a link to Barbados, it is unknown whether the interest is ultimately taxed there (see also footnote 224). The interest rates on the bond loans (between Hellas Gold SA and the two Dutch subsidiaries) and the interest rates on loans (between Dutch subsidiaries and Barbados entity) are offset against each other: the bond loans Eldorado Gold (Greece) BV and Eldorado Gold (Netherlands) BV subscribed to had an interest rate of, respectively, 5.20 per cent and 6.75 per cent, while the interest rate on the loans they received from Eldorado Gold (Barbados) Ltd was 6.58 per cent. Although discernable neither from the company's consolidated nor the Dutch accounts, the company might report a small profit margin ('spread') and thus pay a small amount of tax in the Netherlands, which is a requirement by the Dutch tax authorities in the tax rulings they make with foreign corporations. These rulings give prior certainty about transfer prices, including those related to interest payments for group financing activities (see chapter 4.2).

Table 7 shows the interest payments two Dutch subsidiaries are expected to receive from Hellas Gold SA, since these are the amounts of interest subject to taxation in Barbados. Based on the assumption of double non-taxation of that interest income, Greece could choose not to allow Eldorado to deduct these interest payments from its profits in Greece. This would lead to the following (future) tax revenues that are currently not raised and therefore account as revenue losses. To put it negatively, Greece lost out on € 1.7 million in corporate income tax resulting from interest payments in 2012 and 2013 alone.

**Table 7** Revenue loss on corporate income tax (2012-2013)

Year	Interest due by Hellas Gold SA <sup>238</sup>	Corporate income tax rates in Greece	Calculated losses for Greek corporate income tax revenues
2012	€ 4,128,499	20%	€ 825,700
2013	€ 3,422,147	26%	€ 889,758
<b>Total</b>	<b>€ 7,550,646</b>		<b>€ 1,715,458</b>

In conclusion, we estimate that the Greek government has lost around € 700,000 in withholding taxes and over €1.7 million in corporate income tax since 1) tax treaties and EU Directives ensured low or no withholding taxes on interest payments and 2) Eldorado Gold is able to deduct the interest expenses of group companies (in Greece as well as the Netherlands) and 3) report its interest income ultimately in the low-tax jurisdiction of Barbados.

Because the above calculations only represent the tax loss that is deducible from publicly available information (Dutch and Greek annual accounts), tax loss incurred through Eldorado Gold's tax planning methods might be much higher. The Greek tax authorities and relevant civil society organisations should also scrutinise the following tax planning methods at the company's disposal due to its incorporation in the Netherlands.

#### 4.5.3 Using a cooperative and tax rulings

Eldorado Gold's only subsidiary in the Netherlands that has employees is a cooperative: Eldorado Gold Coöperatief UA. A cooperative has several advantages:

- ❑ **Liability:** The members – i.e. the parent company, Eldorado Gold (BC) Corp in Canada and Frontier Pacific Mining Corporation in Canada – shall not be held liable for the cooperative's debts and they shall be under no obligation to contribute to a deficit existing at the time of dissolution of the Cooperative, if any.<sup>239</sup>
- ❑ **No withholding tax:** At the time of incorporation (2011), the cooperative form was a known avoidance vehicle with regard to the Dutch 15 per cent statutory withholding tax on outgoing dividend payments. A series of investigative articles by the Dutch Financial Times<sup>240</sup> uncovered that foreign companies increasingly chose the legal form of a cooperative<sup>241</sup> to circumvent this tax. At the time, Dutch law fully exempted members of a cooperative from this withholding tax. Although the law was adapted in 2012 with an anti-abuse clause that lays down that the cooperative cannot enjoy this exemption if it only functions as a tax avoidance entity, the opportunity to avoid this tax is still present (see below).
- ❑ **Flexibility:** a cooperative is easy to set up, e.g. no involvement of a notary is necessary.

It is very likely that the motive for using the legal form of a cooperative rather than a limited liability company (BV or NV) was to prevent the withholding of Dutch dividend tax. Whether this exemption still applies to Eldorado Gold's cooperative cannot be deciphered from its annual accounts. In practice, anti-abuse rules are rarely applied and there are serious questions about the effectiveness of the new anti-abuse rule as it is too undefined to be usefully applied.<sup>242</sup> No specific research has been conducted for this report on the potential revenue losses this implies for the jurisdictions where the ultimate beneficiaries (shareholders) are resident, such as Canada.

Eldorado Gold is also a likely beneficiary of a so-called tax ruling with the Dutch government. Advanced Price Agreements and Advanced Tax Rulings provide companies with clarity on their future tax liabilities in the Netherlands and thus allow for risk-free transfer pricing, i.e. tax planning, reducing profits in countries of operation. Current investigations by the European Commission show the growing concerns surrounding these non-transparent practices,<sup>243</sup> which the Commission frames as distorting competition. The recent LuxLeaks scandal highlights the underlying revenue losses they imply for other jurisdictions.<sup>244</sup> The corporate income tax rate is non-negotiable, but the ruling does allow for deals on what accounts as the tax base (taxable profits) in the Netherlands. The annual accounts of Eldorado Gold's Dutch subsidiaries do not make note of the existence of such a tax ruling. The company is not obliged to report such rulings in their annual accounts.

## 4.6 Other potential tax gaps to consider

There are abundant case studies that the extractive industry fails to generate the expected revenues in countries that are poor and competing for FDI due to a number of available tax planning techniques not researched here. The UN Tax Committee has identified a number of critical issues in extractive industry taxation,<sup>245</sup> which are relevant for the case of Eldorado Gold in Greece, given that Eldorado Gold operates a Dutch holding structure that provides a number of tax avoidance opportunities.

Unless Greece opts for a different development model that is not based on large-scale extractive operations and privatisation, which important commentators on the current Greek crisis are suggesting,<sup>246</sup> civil society groups and the Greek revenue authorities should at least consider the following taxation issues.

### **Transfer mispricing through commodity trading, financing or intellectual property**

An overarching tax avoidance technique that encompasses many different forms of profit shifting is transfer mispricing. That is the pricing of intra-firm transactions between related parties (subsidiaries) in different jurisdictions involving the transfer of property or services as reflected in a 'market' or 'arm's length' value. When a price used by the subsidiaries of a multinational group does not reflect the true value of the property or service (i.e. is below or above the price established by the market between two unrelated companies), this might be considered transfer 'mispricing'. A non-market price is typically used by large MNCs to shift profits from high- to low-tax jurisdictions. "Mispricing denies a country the ability to tax value created or added in that economy", according to the UN Tax Committee. The Committee explains:

*“Extracted resources need to be processed to be of value involving many different functions. In this case, one key transfer pricing risk arises where private companies enter in convoluted structures involving the inter-positioning of multiple companies, most often in low-tax or no-tax jurisdictions with little exchange of tax information possible, in order to apportion profits. The issue of a fragmentation of the supply chain leads to serious transfer pricing issues through the use of offshore marketing or procurement entities and offshore hedging structures as well as in the provision of intra-group services.”*

Indeed, tracking value that is added through a maze of interconnected (shell) companies registered in financial secrecy jurisdictions “is challenging for even the most developed tax bodies in the OECD – and governments across the OECD have identified transfer pricing as a threat to their tax base.”<sup>248</sup> One of the most renowned cases of trade mispricing in the extractive industry involves the Swiss-based mining company Glencore.<sup>249</sup> Its Zambian mining company Mopani Copper Mines was

### **Zambian government audit also finds Vedanta Resources involved in trade mispricing<sup>247</sup>**

Another recent case of trade mispricing in Zambia involves Vedanta resources-owned Konkola Copper Mines (KCM). The audit by the Zambian government found KCM has a contract with Standard Bank plc whereby the bank buys refined and SX-EW cathodes and sells it on to Fujairah Gold in Dubai. The contract tonnage for refined cathodes is 12,000-24,000T per annum while that for SX-EW is 6,000-24,000T per annum. Fujairah Gold is owned by Vedanta, which is also the parent company for KCM. Under this arrangement, the bank buys the metal at the mine gate and immediately sells it on to Fujairah Gold to whom delivery is made by KCM. Standard Bank plc makes a payment to KCM within 24 hours of sale but Fujairah makes payment to the bank after 60 days. The interest on this transaction is credited to KCM’s account.

Furthermore, the price paid by Standard Bank plc for 2013 is London Metal Exchange (LME) plus a premium of US\$ 70 per tonne compared to other customers for similar destinations who pay more at LME plus a premium of US\$ 87 per tonne. Similarly, the premium on SX-EW for Fujairah is lower at US\$ 55 per tonne compared to US\$ 62-66 per tonne for other customers (Codelco premium is US\$ 90-1,000 per tonne). There are further discounts on nodular copper of \$20/T and \$45/T for REC and SX-EW respectively compared to \$14/T on sales to other customers for similar products. The Zambian Technical Audit Committee found that this contract is costly to KCM and results in underpricing of metal sold to a related company, so that the whole transaction is not done at ‘arm’s length’.

If deliveries are made as per contractual schedule, the discounts on the premium alone for KBC and REC combined are in excess of US\$ 670,000 per contractual year. The Committee found this to amount to imprudent management for a company that has liquidity problems.

found to be selling copper to its Swiss parent at prices far below those on international markets. Although the company denies wrongdoing, the European Investment Bank (EIB), which had financed Mopani Copper Mines, expressed “serious concerns about Glencore’s governance” and froze all loans to the company in 2011.<sup>250</sup>

Transfer mispricing occurs not only with traded goods and services but also with the provision of credit, i.e. financing operations. The way a company is financed will often have a significant impact on the amount of profit it reports for tax purposes. For this reason, debt is often a more tax efficient method of finance than equity, because deductions for interest paid on offshore loans may artificially reduce or nullify profits.

In order to avoid profit shifting through this financing method, many countries have so-called thin capitalisation rules (setting a maximum percentage of financing through loans vis a vis equity, which Greece also applies) or deny deductibility of interest payments if they are made to jurisdictions known not to tax that interest income adequately. Developing countries have reported to the UN Tax Committee that they have trouble tackling this specific avoidance method despite existing rules. Whilst revenue authorities have limited resources to detect fraud, MNCs use the services of accountancy firms specialising in this type of tax avoidance. KPMG, by way of example, advertises that “the world’s biggest oil and gas and mining majors have set up international trading structures to win competitive advantage”, which include tax and investment incentives. It also offers specialist advice on “tax-efficient supply chain management in the energy and natural resource industries”.<sup>251</sup> The case of Eldorado Gold shows that Greece is also losing out on revenue due to the use of financing from related companies using conduit entities and tax havens; whether this constitutes a case of transfer mispricing, however, will have to be assessed by the Greek revenue authorities.

Another income-shifting method involving transfer pricing is the use of intellectual property by transferring legal rights of such property offshore, or to conduit jurisdictions such as the Netherlands, which is well-known to offer tax advantages for royalty structures. Again, no research has been conducted for this report on Eldorado Gold’s management of intellectual property. This is an area that warrants further investigation.

### **Capital gains**

The avoidance of capital gains tax is also a known problem in the mining industry and occurs when “artificial structures are being used [...] to make an ‘indirect transfer’; for example through the sale of the shares in the company that owns the asset rather than the sale of the asset itself”.<sup>252</sup> As the avoidance of capital gains tax is a serious revenue leak in developing countries, it is increasingly being debated.<sup>253</sup> The UN Tax Committee proposes that countries suffering from this revenue leak should “establish and properly administer a capital gains tax to ensure that in the case of indirect transfer of mines by sale of a foreign entity owning the mine, taxes are due and payable to an entity within the jurisdiction of the source country.” Eldorado Gold used a Dutch subsidiary to buy the Perama Hill Gold project with the takeover of Australian Glory Resources Ltd in 2013, for instance. Research should be conducted into the impact of the use of Eldorado Gold Coöperatief UA in this takeover on the taxation of the related capital gains.

The UN Tax Committee points out that governments need to invest in expertise and implement proper regulation if they do not want to forego revenue: “There are obviously operational intelligence issues in terms of knowing when such a foreign sale, which represents an indirect sale of a local concession, is occurring. There are also legislative issues involved in ensuring any tax owing will be paid, such as by the new owner being responsible, with recourse against mine assets. Moreover, general or even specific anti-avoidance rules might be needed to deal with issues that are not necessarily confined to the extractive industries, but may be especially relevant to that sector because of its importance to a country’s economy.”<sup>254</sup>

### **Value added tax (VAT)**

Another issue not researched for this report is the potential problem of value added tax (VAT) from a revenue perspective. Although VAT is a tax on final domestic consumption and should thus have little impact on the generally export-oriented extractive industries, the “export orientation could pose problems as there are large up-front costs involved in extracting resources and relief for VAT charged on inputs cannot be obtained by crediting them against that liabilities but must instead be refunded [...]. Where VAT does apply, the opportunities for fraud are often great, and the administrative challenge of confronting VAT fraud is not always fully recognized.”<sup>255</sup>

It was mentioned in Chapter 2.4 that a portion of Hellas Gold SA’s debt of € 21.6 million (the illegal state aid plus interest and legal surcharges) to the Greek Ministry of Finance was offset by VAT credited to the company.<sup>256</sup> Whilst this might have been entirely legitimate, there should be transparency about these types of tax issues so that public scrutiny of potential fraud is made possible.

Again, Zambia serves as an example here: in the Zambian mining sector, the Revenue Authority has withheld over US\$ 600 million in VAT refunds to the mines based on failure by the mining firms to produce the relevant documents as prescribed under the VAT Rule No.18 of the country’s Incomes Tax Act. The mining companies have challenged the decision by the government and the matter has since been taken to court. It is believed that the decision by the Zambian government is due to suspicion that the country is losing out on revenue as a result of aggressive tax planning involving the under-invoicing of exports, overpricing of imports and transfer mispricing. To compel companies to disclose full information, this administrative rule is now being enforced. In the case of Vedanta Resource’s subsidiary KCM, “the [government’s] audit committee was informed that KCM had difficulties complying with the provision of documentation ‘bearing certification of importation documentation into the country of destination’ as required by Regulation 18(1)(b) of the VAT Act. To this effect, ZRA (Zambian Revenue Authority) has gone ahead and treated sales worth USD 600 million as standard rated and consequently withheld VAT refunds of USD 37 million due to KCM. KCM has since taken legal action against ZRA in an effort to recover USD 37 million from ZRA.”<sup>257</sup>

### **Issue of contracts**

Last but not least, civil society organisations should scrutinise whether taxation issues that might infringe on the state’s ability to raise fair revenues from extractive activities are contained in secret contracts. The UN Tax Committee highlights the fact that “the negotiation of contracts is a decisive stage that determines whether or not a country will be able to ensure a ‘fair’ share of the revenues but also whether the project is worth proceeding with from the company perspective. It is thus of utmost importance that contracts are clear, concise and easily enforceable.”

The Committee suggests for taxation issues, such as a definition of the taxable income and tax base, taxation rules that apply to the extractive industries, underlying debt to equity and depreciation rules and applicable transfer pricing rules, not to be regulated in contracts but rather in domestic law to increase transparency and public scrutiny and to give governments the opportunity to change fiscal regimes that apply to the extractive industries when new circumstances arise, such as volatile commodity prices. Secret agreements, such as contracts or stability clauses in agreements between the state and private companies are generally favoured by investors, as they provide certainty and hedge against future tax increases.<sup>258</sup> From a public interest perspective, however, they are undesirable. For instance, whilst Mongolia renegotiated tax treaties when it found that they were eroding the country's revenue base, the extractive company Rio Tinto said that the cancellation of the tax treaty with the Netherlands would not affect the use of its Dutch holding company, because the firm has a separate investment agreement with Mongolia that 'stabilises' treaties that were in force in 2009.<sup>259</sup> The clause therefore made a public interest ruling impossible.

## 4.7 Eldorado Gold's reported tax payments

Eldorado Gold Corporation reports tax expenses in several jurisdictions. According to its 2013 financial statements, the company has tax liabilities in Turkey, Greece, Romania, Canada, China, Brazil and 'other jurisdictions', together amounting to US\$ 144 million, while reporting a US\$ 505 million loss.<sup>260</sup> The loss is for a large part explained by the relatively (compared to 2012) high amount spent on impairment loss on property, plant and equipment and goodwill.<sup>261</sup> The vast majority of the US\$ 144 million income tax expenses consist of tax liabilities in Greece (US\$ 122 million). Between 2010 and 2013, the company reported the following tax gross profits and tax liabilities for Greece:

**Table 8 Tax payments of Eldorado Gold in Greece 2010-2013<sup>262</sup>**

Year	Gross profit	Income tax expense
2010	-	-
2011	0	260
2012	3,601	847
2013	- 5,022	122,657

Note: Expressed in thousands of US dollars

In 2011, the reporting segment included only the development activities of the Perama Hill project.<sup>263</sup> Since the project was in the development stage, there was no production or sales, and therefore no profit to be reported. After the acquisition of European Goldfields in 2012, the

reporting also included the Stratoni mine and the Olympias and Skouries development projects and exploration activities.

The income tax expenses increased substantially in 2013, while the company reported a gross loss for its Greek operations. This is because this increase consisted largely of deferred taxes, which are taxes that the company owes, but has not yet paid.

In its 2012 financial statements, Eldorado Gold explains that due to an increase in the Greek corporate income tax rate from 20 per cent to 26 per cent as of 1 January 2013, the company made a “non-cash adjustment [that is] required to be charged to deferred income tax expense. The Company recorded the adjustment [...] increasing its deferred tax liability and deferred tax expense by \$125.1 million”.<sup>264</sup> This would mean that prior to the adjustment, the company had a negative tax liability of US\$ 2.4 million for that year. Rather than actual income for the Greek state, deferred tax is “just an accounting entry and has literally nothing to do with tax that is being paid now”.<sup>265</sup> Indeed, large deferred tax liabilities obscure the non-payment of tax. Richard Murphy from the Tax Justice Network explains that:<sup>266</sup>

*“one of the main purposes of tax avoidance activity is to defer the time when tax is due by, for example, hiding profits in tax havens or seeking double allowances for tax or by postponing the recognition of income for tax in multitudinous ways [...] to include the deferred tax charge in a company’s accounts (itself one of, if not the most subjective number in any set of accounts) in the tax charge is to ignore the fact that this accounting is precisely designed to disguise the fact [...] that this tax avoidance is going on by suggesting a tax bill exists when there is none, and may not be for some considerable time to come, if ever.”<sup>267</sup>*

The ‘accounting entry’ of the company’s deferred tax liability in Greece thus distorts the picture of Eldorado Gold’s tax payments in Greece and, given that Greek tax expenses represent the major share of its reported tax liability, therefore also its worldwide tax contribution. As mentioned in section 4.5.2 above, the company itself has said that it has not yet paid tax in Greece because of the investments it has made there. Although the company has undoubtedly made large investments in Greece in 2013 and 2014, interest expenses and depreciations have helped to reduce reported profits as well.<sup>268</sup>

The company also reports tax liabilities (“corporation tax payable”) only in 2013, in the balance sheet of two Dutch subsidiaries, namely, around US\$ 1 million for Eldorado Gold (Greece) BV and some US\$ 622.000 for Eldorado Gold Treasury BV. The former owns and finances the Stratoni, Skouries and Olympias projects, collectively known as the Cassandra mines. The latter finances the Cassandra mines and the Romanian Certej mine. There is no detectable relationship between these reported tax liabilities and the interest payments from Greece to Barbados through the Netherlands, however, because the loans and bonds are largely equal in amount, currency and interest rate. The interest income and costs reported in the Netherlands are very similar and thus represent a simple pass-through between Greece and Barbados. Because the company does not provide profit and loss accounts and no specification of cash tax payments, it is unknown whether the reported tax liabilities will actually be paid in the Netherlands or whether they are only reserved. At a statutory corporate income tax rate of 25% in the Netherlands, the tax liabilities might refer to an expected profit of

US\$4 million and some US\$150.000 in the Netherlands. This could be profits generated by exchange rate differences, as older bonds were in Euro currency, whilst the Dutch entities now report in US dollars.

Regarding its overall company structure and related tax payments, the company notes that fiscal policies and tax regimes can have a material impact on the company's results, in particular, as quoted earlier, if this structure is classified as tax avoidance: "We structure, and restructure from time to time, our corporate organization in a commercially efficient manner and if any such planning effort is considered by a taxation authority to constitute tax avoidance, then this could result in increased taxes and tax penalties which could have a material adverse effect on our financial condition".<sup>269</sup>

## 4.8 Conclusion

Multinationals use aggressive tax planning methods to shift income from high-tax jurisdictions to low-tax jurisdictions. Dutch mailbox companies play a central role in international profit shifting since they act as conduit entities. This chapter researched the possible tax avoidance methods used by Eldorado Gold and the resulting tax revenue losses for Greece. Eldorado Gold owns multiple mailbox companies in the Netherlands, using them to finance activities in Romania, Greece, and Turkey as well as owning prospective mines in Canada.<sup>270</sup> With the exception of one subsidiary, none of the Dutch companies has any employees, while owning assets together worth almost € 2 billion. The structure became consolidated with the acquisition of European Goldfields in 2012, when Eldorado Gold inherited a corporate structure in which Dutch subsidiaries played a central role. The company has since built up and expanded this structure, by incorporating a cooperative (Eldorado Gold Coöperatief UA) and setting up a financing structure with a Barbados group company. Eldorado Gold's subsidiaries hold shares in and/or provide financing to other group companies.

There are several links between the Netherlands and Greece. Eldorado Gold (Netherlands) BV owns Eldorado Gold (Greece) BV, which in turn owns 95 per cent of Hellas Gold SA, the Greek company responsible for the Cassandra mines (the Stratoni mines and Skouries and Olympias projects). Both those Dutch subsidiaries, as well as two others, finance Hellas Gold SA through subscribing to bonds issued by Hellas Gold SA. The total value of the bonds and bond loans that four Dutch companies have subscribed to has increased from € 8 million in 2009 to € 96 million in 2013. As the amount and value of the bonds increased, so did the interest payments to these four companies, namely, from € 32,356 in 2009 to around € 3.4 million in 2013.

Two Dutch subsidiaries financed the increase in bond subscriptions by entering credit facilities with a Barbados group entity, with a total worth of US\$ 100 million. The resulting interest payments to Barbados are not subject to withholding taxes, since the Netherlands does not levy withholding taxes on interest and royalty payments. Moreover, the Dutch subsidiaries are allowed to deduct their interest payments from their profit, and Hellas Gold SA is entitled to do the same. Although it is expected that the interest income will be taxed elsewhere, this is not the case since the interest income is ultimately collected in the tax haven Barbados, which has no or next to zero income tax rates.

Because Hellas Gold SA is financed through Dutch entities rather than directly by the Canadian parent company, it can be argued that the Greek government has lost more than € 700,000 over five years in withholding taxes. More than € 250,000, over one third of the total amount, was lost in 2013 alone. If this financing structure persists, tax revenue losses generated by the company's tax planning practices can be expected to increase further in future.

A related tax loss is the reduced corporate income tax as a result of increasing amounts of interest payments being deducted from profits in Greece. Lost corporate income tax was calculated on the basis of interest payments from Greece to only those two Dutch subsidiaries that are themselves financed by the Barbados entity. The other two entities that are not directly financed by the Barbados entity were not included, because although there are indications of a link to Barbados, it is unknown whether the interest is ultimately taxed there. It is found that Greece lost out on € 1.7 million in corporate income tax resulting from interest payments in 2012 and 2013 alone.

Another area for further research is how far the Dutch financing structure reduces tax payments in Canada, i.e. in how far the profits from the company's global operations end up in tax haven subsidiaries or are reported in shareholders' countries of residence.

Eldorado Gold rerouted interest income and in the process avoided tax liabilities in Greece. This practice is facilitated by a number of policies, such as tax treaties setting low withholding tax rates, EU directives aiming to avoid double taxation but resulting in the opposite double non-taxation, and the possibility of setting up mailbox companies with no real economic activity in the Netherlands. Loan financing is not the only tax avoidance opportunity. This chapter addressed a number of other opportunities that have been found to exist in the extractive industry, such as transfer mispricing, the avoidance of capital gains tax, the potential problem of VAT, and the issue of contracts.

Finally, the chapter provided insights into Eldorado Gold's tax payments worldwide. Although the company reports its investments, profits and tax payments for each jurisdiction where it has mining activities, it does not provide these for the tax haven jurisdictions it is incorporated in, thus making it impossible to tell whether the company pays a fair share of tax on its global income. As yet the company has not paid any corporate income tax in Greece, and its large deferred tax liability might be postponed for a long period of time, if it will be paid at all.

In sum, Eldorado Gold's corporate structure is set up to shift its profits from and lower its tax payments in operating jurisdictions. This financing structure can wipe out any profits made in Greece when operations are at a low level, and together with other tax avoidance opportunities known to be widely used in this sector, can amount to significant tax base erosion. This is even more troubling in the context of the harsh economic reality of austerity policies in Greece, which are discussed in more detail in chapter six. The following chapter analyses Greek bilateral investment data, which shows that far from an isolated case, corporations active in all economic sectors in Greece use Dutch and Luxembourg mailbox companies to avoid tax.

## 5 Investments between Greece and EU tax havens

### 5.1 Introduction

Large investment stocks and flows usually indicate that there is an active economic relationship between two countries.<sup>271</sup> However, if a major part of the investment takes place through mailbox companies, this can also be an indication of tax planning through these jurisdictions. This chapter discusses the role of mailbox companies in investment stocks. It provides an overview of the origins and destinations of, respectively, Greece's inward and outward investment stocks and specifies how much of this investment is channelled through mailbox companies, which we term Special Purpose Entities (SPE) here (see chapter 1.6 for an explanation of terminology). It finds that the top seven counterpart economies of Greece's inward or outgoing investments include major tax haven jurisdictions, namely Luxembourg, Switzerland, the Netherlands, Cyprus and the Cayman Islands. Moreover, Greek investments to Luxembourg and the Netherlands and investments from these countries to Greece largely flow through SPEs. The chapter also provides names of some foreign companies using the Netherlands as a conduit for investing in Greece. Although this company list is far from comprehensive, it indicates the widespread use of Dutch tax planning structures in all economic sectors in Greece.

### 5.2 Greek inward and outward FDI positions

Compared to other EU countries, Greece attracts a relatively small amount of foreign direct investment.<sup>272</sup> As can be seen in Figure 6, total outward Greek investment slightly increased during the financial crisis, while inward investment decreased considerably.

**Figure 6** Greek global inward and outward FDI positions, 2009-2012 in million US\$

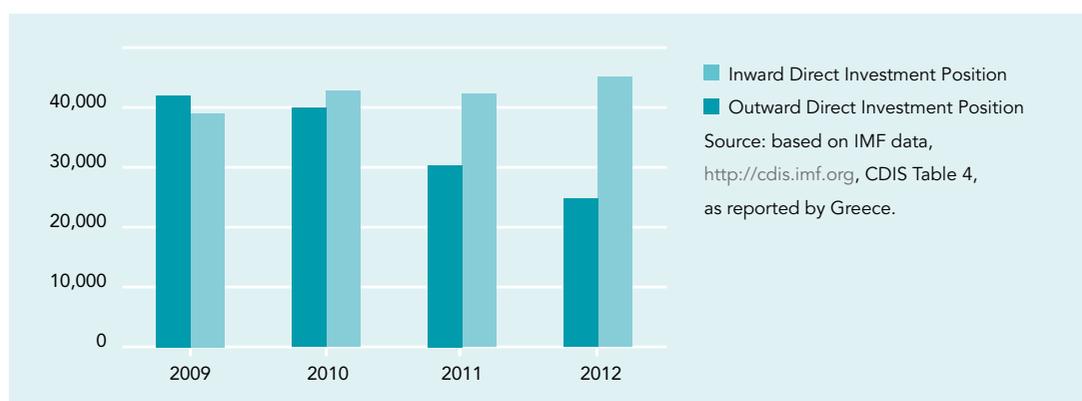


Table 9 shows that countries in the EU were the source of more than 70 per cent of the inward FDI stock of Greece between 2009 and 2012, with Luxembourg alone accounting for 20 per cent to 30 per cent of the total inward foreign direct investment (FDI) every year. The Netherlands (13-21%) is the second biggest source of FDI for Greece, followed by Germany (10-16%), France (8-16%) and Cyprus (5-6%). Switzerland joined the source countries in 2012 with 5 per cent inward FDI.

**Table 9 Inward Direct Investment Positions, Greece (million US\$)**

2009			2010		
From	FDI stock	% of total	From	FDI stock	% of total
Luxembourg	9,158	22%	Luxembourg	7,203	18%
Netherlands	8,818	21%	Netherlands	7,089	18%
Germany	4,600	11%	Germany	4,013	10%
France	4,077	10%	United States	3,675	9%
United States	2,494	6%	United Kingdom	3,199	8%
Cyprus	2,223	5%	France	3,002	8%
Austria	1,560	4%	Cyprus	2,925	7%
<b>Total</b>	<b>42,001</b>		<b>Total</b>	<b>39,959</b>	

2011			2012		
From	FDI stock	% of total	From	FDI stock	% of total
Luxembourg	6,586	23%	Luxembourg	7,943	31%
Netherlands	3,663	13%	France	4,149	16%
Germany	3,646	13%	Germany	4,051	16%
United States	2,643	9%	Netherlands	3,611	14%
France	2,614	9%	United States	2,835	11%
Cyprus	1,635	6%	Switzerland	1,338	5%
United Kingdom	1,493	5%	Spain	1,021	4%
<b>Total</b>	<b>29,094</b>		<b>Total</b>	<b>25,445</b>	

Source: <http://elibrary-data.imf.org/DataReport.aspx?c=11666795&d=33061&e=171392>, as reported by Greece.

Table 10 shows Greek investments in European destination countries between 2009 and 2012, headed by Cyprus (25-29%), the Netherlands (14-17%), Turkey (11-13%), Romania (8-11%), and Serbia and Bulgaria (5-7%). Investments in the Cayman Islands reached 5 per cent in 2012.

**Table 10** Outward Direct Investment Positions, Greece (million US\$)

2009			2010		
In:	FDI stock	% of total	In:	FDI stock	% of total
Cyprus	11,140	29%	Cyprus	11,829	28%
Netherlands	6,522	17%	Turkey	6,033	14%
Turkey	4,856	12%	Romania	5,048	12%
Romania	4,369	11%	Netherlands	3,282	8%
Serbia	2,661	7%	Serbia	2,841	7%
Bulgaria	1,994	5%	United States	2,819	7%
United States	1,890	5%	Bulgaria	2,761	6%
<b>Total</b>	<b>39,014</b>		<b>Total</b>	<b>42,761</b>	

2011			2012		
In:	FDI stock	% of total	In:	FDI stock	% of total
Cyprus	12,010	25%	Cyprus	11,690	26%
Netherlands	7,577	16%	Netherlands	7,132	16%
Turkey	6,309	13%	Turkey	4,921	11%
Romania	4,031	8%	Romania	3,702	8%
United States	2,981	6%	United States	2,584	6%
Bulgaria	2,622	5%	Bulgaria	2,567	6%
Serbia	2,359	5%	Cayman Islands	2,219	5%
<b>Total</b>	<b>48,153</b>		<b>Total</b>	<b>44,952</b>	

Source: <http://elibrary-data.imf.org/DataReport.aspx?c=11666795&d=33061&e=171392>, as reported by Greece.

In sum, it can be said that the top seven counterpart economies of Greece's inward and outgoing investments include major tax haven jurisdictions, namely Luxembourg (inward), Switzerland (inward), the Netherlands (in- and outward), Cyprus (outward) and the Cayman Islands (outward).

### 5.3 Mailbox companies (SPEs) and international tax avoidance

Recent economic globalisation – which includes an increase in cross-border capital flows and the shift of manufacturing bases from high-cost to low-cost locations – is typically attributed to the growth of international trade and FDI by internationally operating businesses.<sup>273</sup> Multinational corporations' intra-group transactions have become increasingly complex. Today, capital from a range of sources often flows to multiple destinations via group entities based in several countries.<sup>274</sup> Intra-company transactions account for a substantial part of global trade. With regard to the tax treatment of these intra-group global value chains, there are two important challenges.

The first concerns the assessment of how much value is added to a product or service at which stage and location of the production process (i.e. the determination of the taxable base). The second is the mismatch in national tax legislations regarding the treatment of global income, coupled with the flexibility of classification of passive income. Both these challenges are being exploited by MNCs with intricate tax planning schemes.

With an international economic system based on competition, there is an inherent tendency and, indeed, need, for profit maximisation by businesses. An obvious profit maximisation strategy is to cut costs, in particular labour costs and tax expenses. Whilst MNCs can relocate production hubs to low-wage countries, they can also locate intellectual property rights or financing subsidiaries in the Netherlands or Barbados, avoiding and evading tax in the process. The ability to set up subsidiaries in jurisdictions that offer 'preferential tax regimes' and financial secrecy is a central enabling element for MNCs' aggressive tax planning.

A number of countries have modified their fiscal systems in an attempt to attract FDI, not only genuine investment with material operations but also this type of 'pass-through capital', which, whilst minimally taxed in conduit jurisdictions, still provides substantial revenues, if the financial flows passing through this conduit jurisdiction are high. A central element of a preferential tax regime – or rather the precondition – is allowing corporations to access fiscal and treaty benefits without being materially present in the country. To this end, conduit jurisdictions have loose substance rules, that is, it is easy for foreign companies or corporate service providers to set up mailbox, shell or conduit companies as subsidiaries. On paper, these then handle investment, financing and royalty flows between group subsidiaries. They are commonly referred to as Special Purpose Entities (SPEs) by the IMF, UNCTAD and OECD (see chapter 1.6 for definitions). A major proportion of capital today flows through these SPEs.

In its 2013 World Investment Report (WIR), UNCTAD highlighted the increasing importance of FDI flowing through tax havens – which UNCTAD refers to as offshore financial centres (OFCs) – and the role of SPEs therein.<sup>275</sup> SPEs play an even bigger role than offshore financial centres relative to FDI flows and stocks in a number of important investor countries, acting as a channel for more than US\$ 600 billion of investment flows.<sup>276</sup> SPEs have thus gained increasing importance in investment stocks and flows in most countries that enable their legal presence, and the number of countries offering favourable tax treatment to SPEs is on the increase.<sup>277</sup> The implications this has for international investment data is outlined in more detail below.

As the previous chapter showed, Dutch SPEs have direct links with subsidiaries in tax havens, shifting profit through various types of passive income payments from operating subsidiaries via the Netherlands, making use of various fiscal rules and tax treaties in the process. This leads to a reduction of MNCs' tax payments in countries of operation; a process the OECD terms Base Erosion and Profit Shifting (BEPS).<sup>278</sup> There is currently no method available to calculate the precise amount of income channelled through SPEs (at SPE or FDI data level) for tax avoidance purposes and the related revenue loss in jurisdictions with taxing rights as this would require access to micro data at the individual firm level. However, as the following paragraphs show, aggregate SPE-related investment and the identification of conduit and tax haven jurisdictions in corporate structures can give an indication of the scale of profit shifting.

## 5.4 The relevance of SPEs to FDI statistics for the Netherlands and Luxembourg

Investment data show that the Netherlands and Luxembourg, both OECD members, are two of the most important global financial conduit countries. The Netherlands has headed global investment rankings – that is those that include SPEs in their data – in the last decade as a result of the vast amounts of capital flowing through its conduit entities.

At the end of 2012, FDI assets of the Netherlands abroad amounted to almost € 3,700 billion, 80 per cent of which was attributable to SPEs according to data provided by the Dutch Central Bank (DNB). The share of SPEs in the balance of FDI liabilities of more than € 3,000 billion was even larger, standing at 85 per cent.<sup>279</sup>

Most of these assets (outward investment positions) and liabilities (inward investment positions) of Dutch SPEs concern FDI, largely relating to intra-group loans; the remaining assets and liabilities are defined as other types of investment by the DNB.<sup>280</sup> The DNB points out that “these amounts dwarf the FDI positions of non-SPEs” and that the contribution of regular companies to Dutch net FDI positions “is mainly due to considerable capital participations of large multinational companies like Royal Dutch Shell, Unilever, Philips, Heineken etc.”<sup>281</sup> This means that material or ‘genuine’ Dutch investments are relatively low;<sup>282</sup> furthermore, the genuine Dutch investments are largely attributable to a few large Dutch MNCs.

For Luxembourg, the percentages for global inward investment stocks being made through SPEs were around 81 per cent in 2011. The same year, more than 90 per cent of the global outward investment stocks were attributed to SPEs.<sup>283</sup>

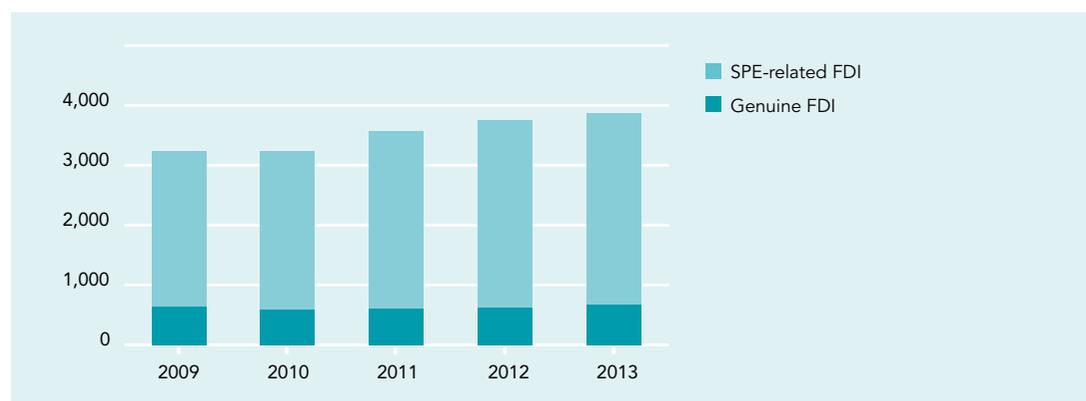
The reason for this extraordinarily high share of SPE investment is that the Netherlands acts as a financial conduit for tax and investment reasons for all major corporations and financial institutions in the world. The same applies to Luxembourg. Although the United States and the United Kingdom also have high sums of SPE-related assets and liabilities, the Dutch Central Bank points out that whilst it is “not surprising to find countries like the US and the UK in the top ten of positions, in view

*of the size of their economies and the presence of financial centres within their borders [...] Luxembourg's share is large because it acts as a financial turntable, just like the Netherlands".*

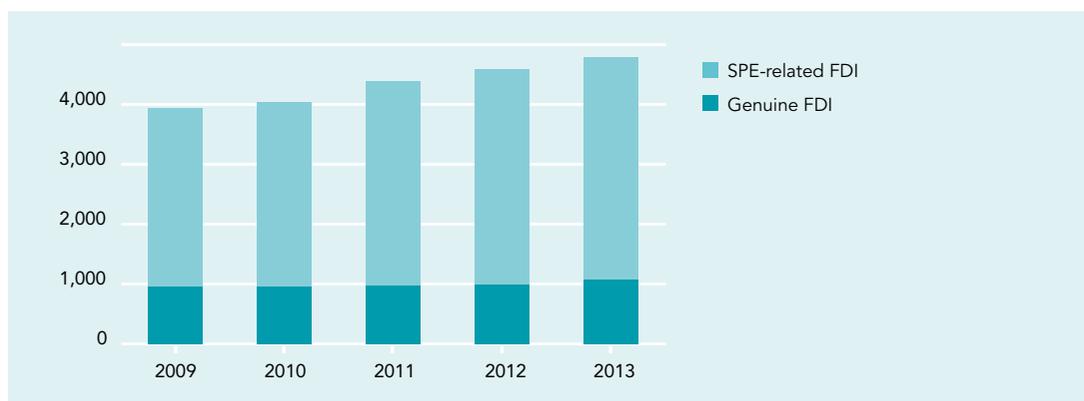
This means the high proportion of SPE-related investments when compared to these two countries' real economic activities can only be explained by their tax and investment climate, for which the Dutch not only have a specific term (*Vestigingsklimaat*) but also a specific Action Plan as part of the government's top sector policy<sup>284</sup>, including a dedicated business-oriented policy team (*Topteam Hoofdkantoren*), which until recently advised the government on how to attract more international businesses to the Netherlands with attractive fiscal measures.<sup>285</sup> Although the 'top team business headquarters' is no longer presented online, the rationale of fiscal incentives is still the overarching competition strategy of the Netherlands. In relation its top sector policy the Dutch Government's website on entrepreneurship and innovation states that *"The government will set lower taxes in return for fewer subsidies. There will be less red tape and better services. And tax benefits for investors in innovative products"*.<sup>286</sup>

Figures 7 to 10 graphically represent the SPE share in global outward and inward positions of the Netherlands and Luxembourg on the basis of OECD data.<sup>287</sup> The Dutch SPE share vs genuine investments calculated below for outward and inward FDI positions (respectively, 78% and 83% in 2012) differs from the Dutch SPE asset and liability positions (respectively, 80% and 85% in 2012) reported by the Dutch Central Bank above. This is because next to FDI, the DNB includes an additional category 'Other' in its asset and liability data.

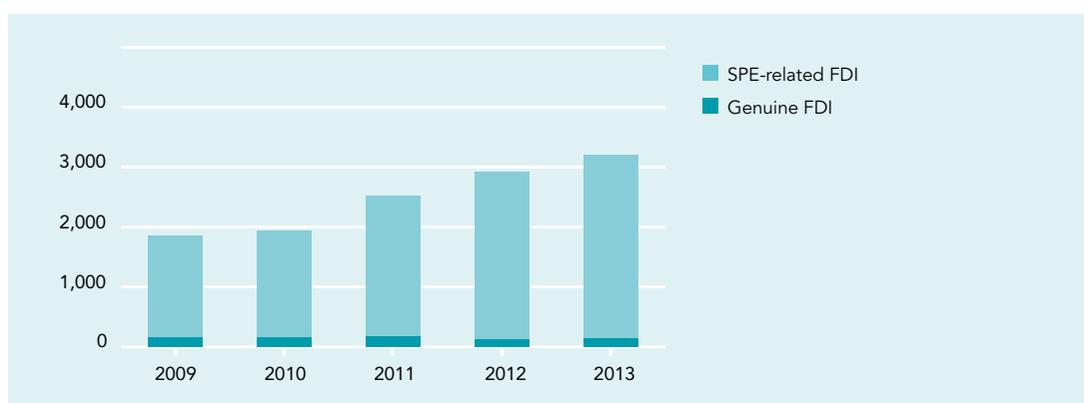
**Figure 7** SPE share in global inward FDI in the Netherlands in billion US\$



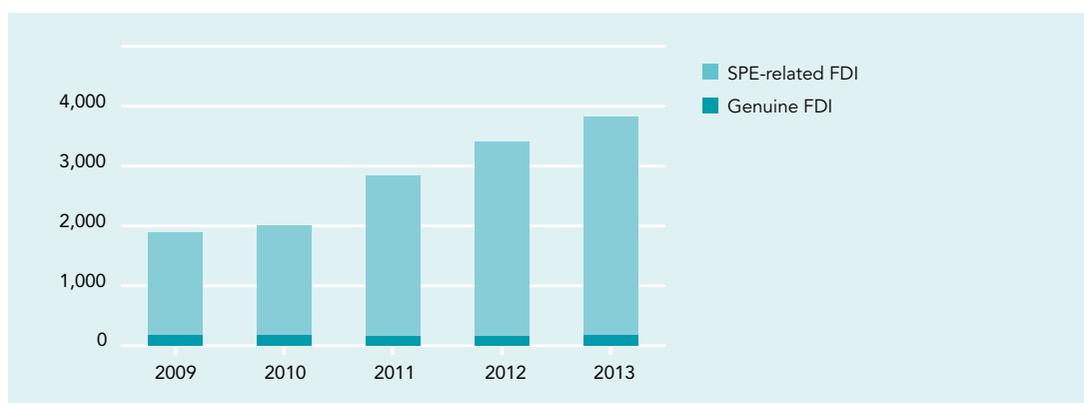
**Figure 8** SPE share in global outward FDI in the Netherlands



**Figure 9** SPE share in global inward FDI in Luxembourg



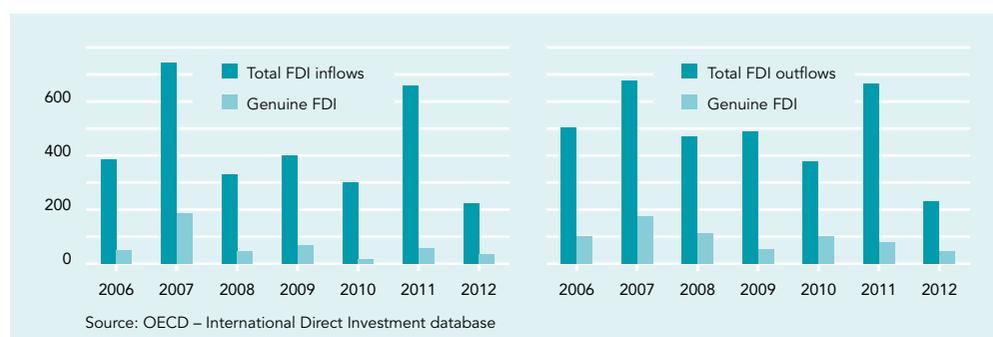
**Figure 10** SPE share in global outward FDI in Luxembourg



## SPE specification in OECD FDI data: new methodology comes into effect<sup>288</sup>

Starting in late 2014, a new methodology for collecting and reporting FDI statistics will come into effect. This is the OECD's revised Benchmark Definition for FDI (4<sup>th</sup> edition), also known as BMD4. This new methodology will provide better measures of where international investment comes from, where it is going, and, most importantly, where it is creating jobs and value-added. It does so by distinguishing between 'real FDI' as opposed to various financial flows that are currently counted as FDI but which do not add to the 'real economy'. By providing a better measure of 'real FDI', BMD4 will provide governments and other stakeholders with a powerful new tool for measuring and better understanding the economic and social effects of international investment and the activities of multinational enterprises. One of the biggest distortions in FDI statistics concerns SPEs. Under previous methodologies, there was no systematic or agreed way of dealing with SPEs. Under BMD4, OECD countries will begin reporting separately for SPE investments, thus factoring this investment out of 'real FDI' flows. Figure 11 shows the extent to which SPEs can distort FDI statistics for four countries.

**Figure 11** FDI inflows and outflows with and without SPEs for Austria, Hungary, Luxembourg and the Netherlands



While these four countries represent extreme examples of SPE distortions, a recent survey of countries that will begin implementing BMD4 in 2014 indicated that at least 19 countries are aware of non-trivial SPE flows in their economies.

Another important improvement introduced by BMD4 will be the treatment of round-tripping and capital in transit through intercompany loans. Such loans can transit between fellow enterprises (sister companies), which have a common parent but have little (or no) equity stake in each other. These are in many cases treasury centres that transit funds on behalf of their parents, often resulting in round tripping or capital in transit. Such flows can result in a significant overstatement of FDI flows through double (or triple) counting. They can also distort our understanding of bilateral investment relationships and mask the location of the ultimate controlling parent.

As the above examples of the Netherlands and Luxembourg show, in countries that serve as financial turntables (i.e. tax conduit havens), investment statistics are massively distorted by SPE-related investment stocks and flows. Until recently SPE-related investments were not separately recorded by most authorities. Because of the increasing SPE-distortion of global investment data, however, the OECD has recently revised its method for collecting and reporting FDI statistics, recording SPE-related FDI separately from 'genuine' FDI. The box above provides more detail on this recent reform and more generally the implications of growing SPE-related investment for global investment statistics.

## 5.5 Investments in Greece routed via Dutch Special Purpose Entities

The fact that the destination or source countries of FDI are tax havens indicates profit shifting, especially when FDI is being routed through SPEs. SPE investment indicates that the inward investments do not originate from these jurisdictions but are rather foreign investments from other countries that are re-routed for tax or other investment benefit purposes, such as the ability to sue host states for introducing public interest measures.<sup>289</sup> For outward Greek FDI, the motivation is also likely to be tax avoidance and/or financial secrecy. For instance, Greek elites or companies could invest in Greece via SPEs in the Netherlands, Luxembourg or Cyprus to avoid paying tax in Greece (a practice called round-tripping, which occurs when domestic investors pretend to be investing from abroad to make use of international tax loopholes, see also the box on FDI data above). Greek investors could also invest in, say, Eastern Europe through these SPEs, to make use of advantageous double taxation treaties or other loopholes.

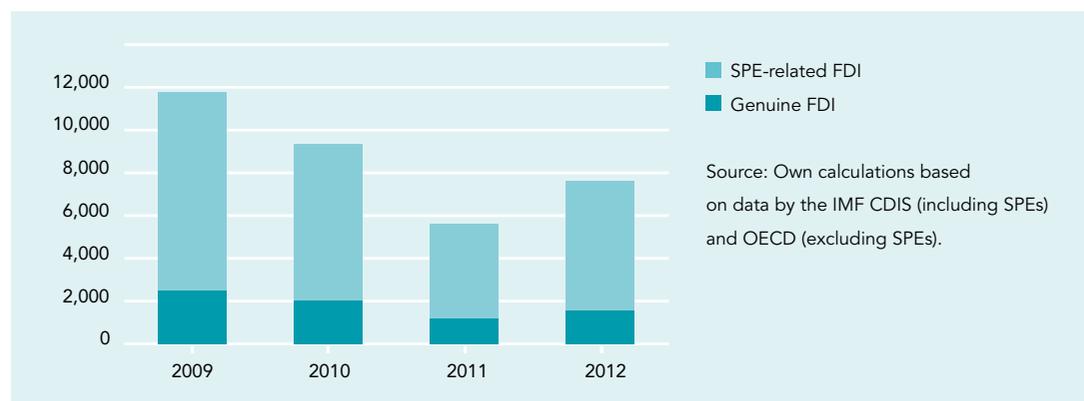
Currently, an analysis of SPE-related bilateral investment on the basis of publicly available data is only possible for the Netherlands due to data constraints in existing collection methods (not all central banks collect the data) and secrecy by national authorities. Luxembourg keeps bilateral investment data confidential, for instance.<sup>290</sup> The following section outlines an analysis of FDI data to arrive at the percentage of Dutch mailbox company related investments in Greece.

### **Method: comparing IMF and OECD direct investment data**

Both the OECD and IMF collect data on bilateral direct investment. The OECD, however, excludes SPE-related investment positions for the Netherlands, because the Dutch Central Bank differentiates between and discloses SPE-related and non-SPE-related data at bilateral level. The IMF data also specifies Dutch bilateral investment data but includes SPEs. If we therefore subtract the OECD (excluding SPEs) from the IMF (including SPEs) data, the SPE portion of total direct investment remains. The result for Dutch outward FDI in Greece is shown in Figure 12.<sup>291</sup> Almost 80 per cent of direct investments from the Netherlands to Greece are routed through SPEs. The Netherlands therefore serves as a financial conduit for companies investing in Greece.

Although this calculation could only be done for the Netherlands, it can be assumed that SPE-related investments in Greece for Luxembourg and Cyprus are equally high. Given that Luxembourg's global outward and inward FDI positions are also shown to consist largely of SPE investments (81 per cent for inward and 90 per cent for outward stock),<sup>292</sup> it can be assumed that this applies also to the

**Figure 12** SPE share in outward FDI position of the Netherlands in Greece in million US\$



country's FDI stock in Greece. Published FDI data is currently insufficient to calculate the SPE share of FDI stock related to Cyprus.

If Greece, and specifically the EU and its members states, aim to end tax base erosion in Greece, coordinated measures should be taken by the Netherlands, Luxembourg and Cyprus to collect and analyse these data in more detail to identify specific corporate tax avoidance mechanisms and sectors underlying them. These insights should be used to tackle the use of these SPEs.

## 5.6 Companies active in Greece using conduit entities in the Netherlands and Luxembourg

There are indications that corporate tax avoidance has grown as a result of the financial crisis in at least Greece, Italy, Portugal<sup>293</sup> and Spain, which can possibly be explained by the increases in corporate income tax rates in those countries in an attempt to raise more domestic revenues to tackle their public deficits. FDI data suggest that the Netherlands is a preferred choice for companies to restructure their investments to avoid paying taxes in these countries: the total accounts receivable owed to SPEs – established in the Netherlands – by Greece, Italy, Portugal and Spain grew from € 178 billion to € 304 billion (an increase of 71 per cent) between 2006 and 2011.<sup>294</sup> The debts owed by Dutch SPEs to these countries grew in this period from € 72 billion to € 63 billion (125%).<sup>295</sup> This is in stark contrast to the development of the receivables and debts by Dutch SPEs to Germany, for instance, where in the same period the increase in debt was also high at 73 per cent, but where the increase in receivables was only at 13 per cent.

From a public interest perspective, it is of course interesting – both for the Greek revenue authorities and for the general public – to identify the companies that are using profit-shifting techniques to circumvent corporate taxes, in particular in times of crisis. In the short-term, the identification of aggressive tax planning methods is necessary to close loopholes in existing tax laws and, if there

are sufficient legal grounds, to impose fines on companies using these methods to recuperate some of the losses that are currently occurring. They also serve to understand the problem of profit shifting and work towards longer term solutions such as unitary taxation.

This chapter therefore attempts to identify some companies behind the investment data analysed above. Whilst the LuxLeaks scandal has provided hard proof of aggressive tax planning methods, the company list regarding the Netherlands can only give an indication as to which companies could be further screened for possibly contributing to tax base erosion in Greece.

### **Companies using Dutch SPEs to invest in Greece**

Publicly available investment data currently do not provide the level of detail necessary to analyse tax losses. The aggregate level FDI data does not identify companies and, due to inadequate financial reporting requirements, there is no publicly available company transaction data, or country-specific corporate tax data. There are therefore only incomplete methods for identifying companies engaging in aggressive tax planning. However, because corporate tax avoidance requires the use of legal entities in tax havens, incorporation in these jurisdictions without a material presence can be an indication of tax avoidance.

A number of company databases and individual chamber of commerce searches were used here to identify Dutch SPEs used to invest in Greece. Although not comprehensive, Table 11 might provide grounds for careful screening by tax authorities in both the Netherlands and Greece.

### **German multinationals found to evade tax in Greece**

Recently, there have been some tax evasion scandals involving German multinationals operating in Greece. In September 2014, an Athens court confirmed the Greek government's tax claims from the German construction company Hochtief.<sup>296</sup> The Greek government can now claim approximately € 600 million from the company that runs Athens airport "Eleftherios Venizelos". The company has not paid any VAT since 2001.

Also in September 2014, fines worth € 600 million were issued over German car imports to Greece. Greece's tax authorities are reported to have issued these fines to representatives of German car manufacturers following the uncovering of a transfer mispricing scam whereby top-range cars were exported to Greece at extremely low factory prices in order to avoid luxury taxes and duties.<sup>297</sup> The investigation, which was initiated last year by the Financial and Economic Crime Unit (SDOE), is focused on luxury cars manufactured by BMW, Mercedes-Benz and Opel that were imported into Greece from 2011 to 2013. The investigation also involved the European Anti-fraud Office (Olaf).<sup>298</sup>

**Table 11** Greek subsidiaries of foreign companies with Dutch SPEs

Company	Greek subsidiary	Industry	Dutch holdings and/or investment institutions	Staff in NL	Total assets in NL (€ m)
Bayer (Germany)	Bayer Hellas	Pharmaceutical	Bayer Global Investments BV		
BMW (Germany)	BMW Hellas	Automobile	BMW Holdings BV		
Dole (USA)	Dole Hellas	Packaged Foods	Dole Europe BV	0	92
Coca-Cola HBC AG (Switzerland)	Coca Cola Hellenic Bottling Company SA	Beverages and bottling	Coca-Cola HBC Finance BV	1	3,477
Dupont (USA)	Du Pont Agro Hellas	Chemicals	Pioneer Seed Holding Nederland BV	0	90
Edison Spa (Italy)	Elpedison	Energy	Edison International Holding NV	5	175
Eldorado Gold Corp, (Canada)	Hellas Gold SA	Mining	Eldorado Gold's Dutch subsidiaries	3	1,873
Emc Corporation (USA)	Tellas (EMC)	IT Hardware	Emc (Benelux) BV	0	339
Euronet Worldwide Inc (Delaware USA)	Euronet Card Services Greece	Electronic Payments	Eft Services Holding BV	1	562
Footlocker (USA)	Foot Locker Greece	Sportswear & Footwear	Fle Holdings BV	4	326
Havells India Ltd (India)	Havells Sylvania Greece	Lightings	Flowil International Lighting (Holding) BV	0	167
Inchcape Corporate Services Li (UK)	Inchcape Shipping Services	Automotive Distribution & Retail	Inchcape International Group BV	3	545
Mondi Plc (UK)	Mondi	Packaging & Paper	Mondi Industrial Bags BV	0	201
Mylan Inc (USA)	Generics Pharma Greece	Pharmaceuticals	Mylan Group BV	0	130
Robert Bosch Gmbh (Germany)	Bosch Greece	Household Appliances	Robert Bosch Investment Nederland BV	4	7,561
Safilo Group Spa (Italy)	Safilo Hellas	Eyewear	Safilo International BV	0	209
The Sol Group (Italy)	SOL Hellas	Medical, Industrial Gas	Airsol BV	0	134

Sources: Bloomberg, Bureau Van Dijk (Orbis), Dutch Chamber of Commerce

### Greek companies and LuxLeaks

Companies revealed by the recent LuxLeaks scandal to be using Luxembourg to reduce its tax payments in Greece are provided in Table 12. ThePressProject, an independent platform of Greek investigative journalists, has launched a special LuxLeaks website with reports on *“Greek firms or the Greece-related entities involved in the case, and the powerful people, in the government, in PwC and in the companies implicated that played a key role in it”*.<sup>299</sup>

In November 2014, the Washington DC-based International Consortium of Investigative Journalists (ICIJ) broke the LuxLeaks story showing how hundreds of international corporations have multi-million euro agreements with the Luxembourg authorities that help them to reduce their tax bills. Almost 28,000 pages of leaked correspondence between PricewaterhouseCoopers (PwC) in Luxembourg and the tax authorities were shared with more than 40 media groups around the world.<sup>300</sup> The confidential PwC documents are ‘Advance Tax Agreements’ (ATAs) or tax rulings (see chapter 4.2 for an explanation of Dutch tax rulings), enabling intra-group financing deals of Luxembourg entities involving hundreds of millions of euros by agreeing on interest rates and profit margins and enabling the companies to engage in aggressive risk-free tax planning, reducing profits elsewhere.

Nine companies active in Greece were implicated by the documents to have had secret tax deals approved by the Luxembourg authorities. These include Coca Cola, the EFG Group, in which the powerful Latsis family is involved, and many large investment funds.

**Table 12 Foreign firms and Greek subsidiaries revealed by LuxLeaks**

Company	Related Greek entities/ investments	Industry
Babcock & Brown	Wind power parks	Investment / consultancy
BAWAG PSK	Various	Banking
BlueHouse	McArthurGlen (designer outlets)	Investment Fund
Coca Cola	Coca Cola Hellenic Bottling Company	Beverages and bottling
Damma Holdings	Various	Investment / financial services
EFG Group	Eurobank (owned by Spiro Latsis)	Banking
Macquarie Group (bought by BlackRock in 2013)	Akadimia Platonos mall	Investment Fund
Olayan	Various investment	Investment Fund
Weather Investments	Wind Hellas (until 2010)	Telephony

Sources: ThePressProject, 2014, based on ICIJ, <<http://www.icij.org/project/luxembourg-leaks>>

Eurobank was part of the EFG Group when the deals were signed in 2009 and 2010. Spiro Latsis, whose net worth is some US \$ 3.2 billion is chairman of EFG International, which is 55 per cent owned by the EFG Group. In 2012, when it owned 44.7 per cent of Eurobank, the EFG group announced it was transferring 43.55 per cent to nine younger members of the Latsis family and would retain 1.15 per cent. While these private deals are legal in Luxembourg, The Guardian described the tax deals as painting “a damning picture of an EU state which is quietly rubber-stamping tax avoidance on an industrial scale”.<sup>301</sup>

Luxembourg’s huge tax avoidance industry was developed during the years when the new President of the European Commission, Jean-Claude Juncker, was the Finance Minister and then the Prime Minister of the EU member state. Some 340 other international companies like Pepsi, IKEA and FedEx have secured the secret tax deals from Luxembourg, the documents show.

## 5.7 Conclusion

This chapter analysed the origin of investments in Greece (FDI stock held by foreign entities) and Greek FDI stock abroad. It further specifies how much of this stock was related to SPEs, commonly known as ‘mailbox companies’, which is an indication of tax planning occurring through a jurisdiction. It finds that the top seven counterpart economies of Greece’s inward or outgoing investments include major tax haven jurisdictions, namely Luxembourg, Switzerland, the Netherlands, Cyprus and the Cayman Islands. The Netherlands in particular, but most probably also Luxembourg and Cyprus have high SPE-related investments. All three countries have relatively small economies and financial centres, yet they offer generous tax incentives to and serve as large financial turntables for MNCs. This indicates significant tax base erosion of the volume of taxable transactions in Greece’s counterpart economies. Furthermore, bilateral data between crisis-ridden EU economies and the Netherlands points to corporations reacting to corporate income tax rate increases in these countries – in an attempt to tackle public deficits – by avoiding tax through the Netherlands.

This chapter also provides an indicative, albeit incomplete, list of foreign companies using the Netherlands as a conduit for investing in Greece. The data presented in this chapter should be taken by the revenue authorities in Greece and the Netherlands to identify companies that are potentially eroding Greece’s tax base. It should also create a sense of urgency among policy-makers, not only in Greece, the Netherlands and Luxembourg but also in the EU to take political and policy steps to coordinate better and implement binding legislation to end tax base erosion and profit shifting by large multinationals.

## 6 Regressive taxation and Troika measures in Greece

### 6.1 Introduction

As we have seen in previous chapters, Greece is suffering revenue losses through corporate tax avoidance. The Netherlands and other EU jurisdictions as well as EU Directives have been shown to play a central role in facilitating these losses. However, public and political debates on the Greek debt crisis also raise the question whether Greece's tax gap should largely be explained by shortcomings of domestic tax policy or administration. This chapter therefore provides a brief discussion on Greece's tax regime from a public interest perspective to put the debate of corporate tax avoidance in Greece in context. It also outlines Troika-imposed fiscal and investment measures that are contributing towards the further privatisation of public assets and services, with a view to analysing the weaknesses of the crisis measures and offering alternatives. In addition, it takes a look at the devastating social impact of these measures and argues that to solve the current shortfalls in tax policies that benefit large corporations at the expense of ordinary people, radical reform is urgently necessary at Greek and EU level as well as at Dutch level. Given recent political developments in Greece, where elections have resulted in a clear victory for the left-wing anti-austerity party SYRIZA and thereby outright rejection of Greek debt repayments and austerity measures, there is a unique window of opportunity to change the economic response of Greece and of the EU to the European debt crisis.

### 6.2 Focus of public debate and (imposed) reforms in Greece

The tax system in Greece is generally regressive, i.e. skewed against the poor and favouring the rich, whilst compliance is undermined by large-scale tax evasion of especially richer sections of society.<sup>302</sup> Reporting on tax scandals in Greece has focused in particular on the favouring of certain professions (e.g. lawyers and doctors) and industries (e.g. shipping) over and above others (wage labourers or small and medium-sized businesses) as well as on the use of offshore havens by wealthy and well-known individuals.<sup>303</sup> Whilst domestic measures are badly needed to tackle tax base erosion as well as certain unnecessary fiscal incentives and preferential treatments, there are two issues that require highlighting.

First, large-scale corporate tax avoidance by foreign companies and the role of EU jurisdictions in facilitating these have received less attention in debates on the debt crisis in European peripheries such as Greece.

Second, the policy choices made under the conditionalities attached to the EU, ECB and IMF (Troika) loans granted to Greece under the European bail-out programmes harm the public interest.<sup>304</sup> They have not only limited democratic decision-making in Greece to protect the public interest in economic and fiscal policies. The recipes proposed for Greece under the Troika-imposed

'Economic Adjustment Programme' (EAP) contain shockingly regressive tax reform measures. Conditional policy measures range from privatisation and deregulation to fast-track investment and tax measures hitting the poor. Whilst spending cuts and higher taxes in themselves have a contracting effect on the economy and hit workers the hardest for a number of reasons, these measures have a particularly damaging effect if they take place in an already regressive tax regime.

It is in this context that Troika-imposed fiscal 'adjustment' or 'consolidation' – that is, cuts in government spending on the one side and higher tax rates on the other – and the EU's response to the crisis in general, have to be assessed.

### 6.3 Greece's regressive tax regime and its causes

The domestic tax system in Greece, just like the international tax regime, is skewed against the interests of the poor and middle classes for a variety of reasons. This situation has been exacerbated since the country entered the debt crisis. When the crisis first started in 2009, both personal income taxes and VAT were increased, while corporate tax was reduced from 25 per cent to 20 per cent.<sup>305</sup> It should be noted, however, that with a corporate income tax rate increase from 20 per cent to 26 per cent in 2013 this regressive measure was overturned, although the related revenue has not materialised, as shown below.<sup>306</sup>

The overall reform package is viewed as regressive by many commentators. The statutory rates do not take into account tax exemptions, for instance. Generally, there has been a large shift in the Greek tax burden from corporate income and import duties to personal income tax and excise and consumption taxes in particular. Most of the tax increases in Greece have affected workers rather than large corporations, with an increase of personal income taxes constituting 4.8 per cent of gross domestic product (GDP) in 2007 to 6.9 per cent of GDP in 2012. At the same time, corporate income tax revenues have fallen from 2.6 per cent of GDP to 1.1 per cent of GDP.<sup>307</sup>

Tax collection statistics for Greece show that the country's revenue structure has shifted dramatically to collecting more direct taxes on employees and indirect excise taxes on goods and services. Meanwhile, corporate tax income is historically low as are import duties. Tax revenues from corporate income tax dropped by € 3.5 billion, from € 5.7 billion in 2007 to € 2.2 billion in 2012, a drop of a staggering 62 per cent. In comparison, the corporate income tax in the 28 EU countries in that period diminished by 22 per cent (€ 9.2 billion). In absolute terms, Greek tax collection has dropped by more than € 9 billion from 2007 to 2012, whilst tax collection in the 28 EU countries only suffered a short drop in 2008-2009 and grew by 4 per cent between 2007 and 2012.<sup>308</sup>

Greece therefore has a bad track tax collection record. Although tax rates in Greece are at the top end of the EU range, the ratio of tax revenues to GDP is considerably lower than that of the EU on average. Data show that, whilst the statutory rates in Greece might be above average in the EU, the revenue authorities collect far less direct taxes on personal and corporate income than their European neighbours, while social contributions are also much lower. Indeed, a recent study by the IMF estimates that in 2011, revenues from taxes amounting to approximately 12 per cent to 17 per cent of GDP were lost as a result of a number of factors.<sup>309</sup>

The IMF study provides an in-depth analysis of the reasons for Greece’s tax gap, reviewing the relevant literature. Large-scale tax avoidance and evasion are identified as one of the main reasons. The liberal professions (doctors, engineers, educators, accountants, lawyers) tend to underreport their income, for instance, with income estimated to be potentially 2.5 times higher than reported.<sup>310</sup> Tax evasion, i.e. the illegal part of tax dodging, is estimated at € 19.1 billion in 2009 based on figures concerning the shadow economy, equivalent of 27.5 per cent of government spending that year.<sup>311</sup> It is likely that evasion of VAT contributed to the largest share of this tax gap.<sup>312</sup> Sectors with a high propensity to use undeclared work include tourism, catering, construction, agriculture, homecare and commerce.<sup>313</sup> Greece also has many (often discretionary) exemptions in the tax code that erode the tax base. The shipping industry enjoys many tax subsidies, but similar schemes were once introduced to boost economic development of agricultural and tourist industries.

**Figure 13** Reasons for Greece’s tax gap as identified by the IMF

Where is Greece Losing All Its Tax Revenue?		
Channel	Explanation	Estimated annual loss
Tax exemptions ↓	Several exemptions for VAT and PIT. Discretionary investment incentives.	2.5% of GDP in 2011
Tax avoidance schemes ↓	Status of self-employed versus salaried employee. Presumptive taxation and objective values. Location specific VAT rates.	-
Non-declaration of taxes ↓	Non-declared labor income and income of liberal professions. Non-filing of VAT. Unrecorded and under recorded transactions.	4%-5% of GDP (Avanidis et al)
Assessed debt through audits is discounted ↓	No audits of the auditors. No tracking of the originally detected amount, discounts, and finally assessed amount. Up to 80 percent reduction of interest and penalty charges on undeclared liabilities.	0.1% of GDP (only a small share of tax liability is collected through audits)
Large share of assessed debt remains unpaid ↓	Insufficient focus of collection effort on new and collectable debts.	5% of GDP
Administrative delays	Extension of filing/payment deadlines. Many and generous deferred payment arrangements. Lengthy court proceedings.	-

Source: IMF staff estimates.  
IMF, Country Report No. 13/155, June 2013, p. 21.

### Turning a blind eye to corporate tax avoidance – and its facilitation by EU tax havens

It is noteworthy that not only the public debate but also the IMF focuses on tax avoidance and evasion by individuals and certain professions rather than by foreign and Greek corporations in general.

The role that EU jurisdictions play is thus also underreported. This omission ignores the internationally recognised problem of tax base erosion and profit shifting and the public knowledge that tax dodging not only requires financial secrecy jurisdictions such as Luxembourg, Switzerland or Barbados, but also a willing coalition of conduit jurisdictions such as Ireland and the Netherlands, all offering different fiscal benefits tailored to the needs of tax-avoiding corporations. Due to the size of their profits and ample opportunities to shift these out of the country through transfer pricing – in particular with loan financing and royalty payments – internationally operating businesses are by far the biggest potential source of tax base erosion, including for Greece. This is confirmed by a recent report by the Budgetary Affairs Policy Department of the European Parliament, which found that 43 of the world's largest companies operate in Greece, although only two publicly disclose their revenues and none disclose the income taxes paid in Greece.<sup>314</sup> The IMF only makes one mention of this, noting that “*transfer pricing is commonly used by Greek companies to route profits to low-tax jurisdictions*”.

### Eldorado Gold and CETA: mining for profits in international law

On 26 September 2014, the EU and Canada announced that they concluded a trade agreement, the so-called Comprehensive Economic and Trade Agreement (CETA).<sup>315</sup> In the next year, it will go through the ratification process in Canada and the EU. CETA includes an investor state dispute settlement (ISDS) mechanism, which allows investors to challenge a state before an international tribunal if that state impinges on their treaty rights. Canadian investors in the mining and oil and gas extraction sectors can use the ISDS mechanism and investment protection clauses in CETA to sue EU member states that want to regulate mining. In Finland, Ireland, Romania amongst others, Canadian mining companies are already engaged controversial natural resource projects.<sup>316</sup> These countries' right to regulate Canadian mining companies will be hindered by CETA.

In case CETA will be ratified, Eldorado Gold could sue Greece through the ISDS mechanism. CETA could endanger the possibilities and policy space of the Greek government to cancel or amend Eldorado Gold's contract. Kriton Arsenis, a Greek Member of the European Parliament from Thessaloniki, has been outspoken about the risks that investor state and the Canada EU trade deal in particular would have on European communities fighting unwanted resource projects.<sup>317</sup> He has written, “*The adverse effect of investor state dispute settlement clause on environment and public health laws is already evident. In recent years, investor state arbitration has become a powerful tool giving standing to private commercial entities to bring actions against states in order to circumvent any law restrictions. This clause if finally included in the EU Canada trade agreement will end up to being an easy way to bypass democracy.*”<sup>318</sup> If CETA and its current investment chapter go into effect, Eldorado Gold – indeed any company in Greece registered as Canadian – will be able to threaten and file lawsuits against Greece and other EU member states with potential huge negative impacts on the environment and human rights. With CETA in their hand, Eldorado Gold could threaten Greece for the future loss profits going into the billions.

Turning a blind eye towards corporations in the discussion on how to solve the debt crisis, or more importantly at whose cost, might be changing in Greece, however. As mentioned in chapter 5.6, German car companies Mercedes-Benz, BMW and Opel are under investigation by Greek tax authorities, for VAT, registration tax and luxury tax evasion.<sup>319</sup> On 28 September 2014, a Greek court ruled on another tax evasion case – in favour of the Greek state – after a long legal battle with the German construction company Hochtief's failure to pay VAT tax owed to the Eleftherios Venizelos Athens International Airport for over 20 years. The Greek state will now be able to claim € 600 million in unpaid taxes.<sup>320</sup>

## 6.4 Troika-imposed 'fiscal consolidation'

*The objective of the adjustment programme is to restore market confidence and lay the foundations for sound medium-term growth through strong and sustained fiscal consolidation and deep structural reforms, while safeguarding financial sector stability and reducing the risk of international systemic spillovers. Greece was to stay in the euro area and an estimated 20-30% competitiveness gap would be addressed through wage adjustment and productivity gains.*

IMF, 2013<sup>321</sup>

Since the European bail-out programmes, Greece's tax and investment policy has been strongly determined by external loan conditionalities imposed on the country by the Troika (European Commission, ECB and IMF).<sup>322</sup> At the time of writing, Greece has had two Economic Adjustment Programmes (EAPs).<sup>323</sup> As with the structural adjustment programmes of the 1980s imposed on developing countries, the public loss mechanism inherent in debt regimes is the fact that the debt is largely used to pay back banks, in Greece's case largely European and more specifically German, French, British and Dutch banks.<sup>324</sup> Indeed, of the total € 237.5 billion and € 214 billion disbursed until December 2013, more than 75 per cent has been channelled back to the financial sector largely of the Eurozone area and, to a smaller extent, of Greece.<sup>325, 326</sup> The Financial Times calculated that the southern periphery countries together have to pay more than € 130 billion in 2014 just to meet the interest payments. According to research by Attac Austria, a staggering 77.12 per cent of the Greek EAP funds went directly (via bank recapitalisations) or indirectly (via repaying government debt) to the financial sector.

As such, what sounds like a scientific exploration of abstract economic theory here is in actual fact a highly political reform programme that favours the interest of elites, corporations and largely the financial sector, over and above ordinary people. The economic crisis and ensuing reform programme has led to enormous human suffering for the people of Greece, details of which are outlined further below.

### Attac investigation shows: EU crisis management policy saves banks, not the general population<sup>327</sup>

Due to the lack of publicly available information on who benefits from the enormous Greek bail-out, Attac Austria initiated research on loan repayments and found that at least 77 per cent of the loans directly or indirectly flow to the financial sector.<sup>328</sup> "The goal of the political elites is not the rescue of the Greek population but the rescue of the financial sector", concludes Lisa Mittendrein of Attac. "They used hundreds of billions of public money to save banks and other financial players – and especially their owners – from the financial crisis they caused."

Among those actually rescued is the multi-billion Latsis Group, which also has holdings in the Netherlands and has bought up the controversial Hellinikos former airport site amidst accusation of corruption and below-market prices. Latsis owns large parts of the state-rescued Eurobank Ergasias (see also chapter chapter 5.6). Speculators benefitted as well, with the hedge fund Third Point receiving € 500 million with the aid of European public funds during the debt buyback in December 2012.

#### 6.4.1 Troika-imposed fiscal and investment policies

The austerity-led crisis response implemented in Greece since 2010 encompasses measures of labour market deregulation, large-scale privatisations, cuts in government spending and fiscal consolidation, i.e. higher tax rates. Whilst tax rates on income and consumption increased, taxes have been lowered or exempted for the private sector under investment promotion measures (see chapter 3.3).

The main components of the fiscal and investment policies imposed on Greece, and the public loss mechanisms inherent to them, can be classified into a number of areas, namely:

- ❑ Fast-track investment procedure, providing benefits to mega projects with no long-term economic impact assessment with regard to added-value to the public interest.
- ❑ A regressive tax regime, worsened by fiscal measures imposed by the Troika as well as continued tax avoidance and evasion opportunities.
- ❑ Privatisation and other deregulation measures and the corruption scandals surrounding them.
- ❑ Public expenditure cuts, leading to social and economic destitution.
- ❑ Anti-social labour market reforms including wage freezes/cuts and flexibilisation leading to job insecurity and worsening of labour conditions.

A number of measures with devastating social impacts are not covered here, such as the home foreclosures leading to increased homelessness in Greece;<sup>329</sup> these are documented elsewhere.<sup>330</sup>

## 6.4.2 The impact of fiscal consolidation

Between 2010 and 2014, fiscal austerity measures amounted to over 30 per cent of GDP of which 54 per cent is derived from expenditure cuts and 46 per cent from increases in revenue. In actual terms, the combined budget cut measures until the end of 2013 added up to € 13.5 billion.<sup>331</sup> Tax increases are expected to produce additional receipts equal to 15 per cent of GDP, although only 3 per cent of GDP is expected to come from improving tax compliance.

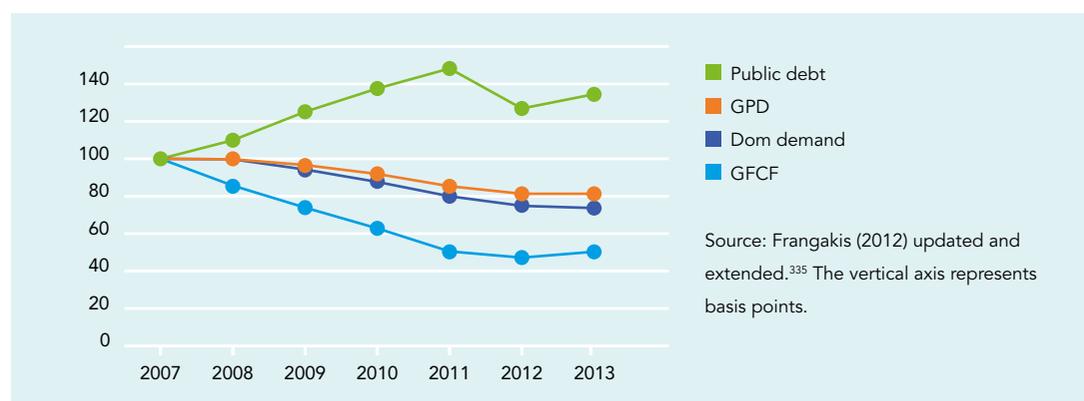
Not surprisingly, four years into the Programme, the main drawbacks of the Greek taxation system have not been tackled. Namely, (a) its regressive nature – more than 40 per cent of all revenue is derived from indirect taxation; (b) tax avoidance by particular segments of the population that have been granted preferential treatment, such as ship owners, as well as large corporations; (c) tax evasion mainly by corporations with offshore accounts, as well as by the liberal professions, and – as this report shows – (d) corporate tax avoidance through EU tax havens. Thus the burden of the increase in taxation has fallen on the salaried and waged labour, while the lower and middle income groups have been hit especially hard. For example, in 2011, wage earners paid on average 35 per cent more income tax than business owners and professionals, while 46 per cent of the income tax proceeds was paid by those in the € 30,000 to € 50,000 income bracket.<sup>332, 333</sup> The situation has been exacerbated by the fuel tax hike, which has led to a 40 per cent increase in heating oil prices and to a steep decline in the consumption of heating oil. Some of the side effects include people not being able to heat the houses they live in, illegal logging for firewood in the countryside and wood-smoke smog appearing over Athens.<sup>334</sup>

## 6.5 The impact of austerity in Greece

The impact of these regressive fiscal measures and of corporate tax avoidance in Greece must be viewed in the context of the larger impact of the debt crisis and related austerity regime. The economic consequences of the austerity measures have been dire, as shown in Figure 14 below, which includes the values of the different indicators across time, taking the year 2007 as a basis (i.e. equal to 100). The debt increased by 34.5 per cent in relation to 2007, while GDP declined by 19 per cent (=100-81.3), domestic demand by 26.3 per cent (=100-73.67) and investment (gross fixed capital formation, or GFCF in the figure below) by 50 per cent (=100-50.34). In other words, the six-year period from 2007-2013, the economy shrank by nearly one-fifth, domestic demand fell by one-quarter (a shortfall not made up by exports) and investment fell by one-half, whilst public debt has risen by more than one-third. Troika's adjustment programme has clearly not been effective in achieving its purported goal to 'restore market confidence and lay the foundations for sound medium-term growth'.

Interest payments by Greece – traditionally amongst the highest in the world in relation to GDP – are steadily absorbing 5 per cent of GDP. During this time, unemployment has more than trebled, reaching the unprecedented level of 28 per cent.

Figure 14 An economy in collapse. Selected indicators 2007-2013 (2007=100)



### Economic and social pain inflicted on the Greek population in percentages:

- ❑ Unemployment increased from 8.3 per cent of the labour force in 2007 to 17.7 per cent in 2011 and to 28 per cent in late 2013.<sup>336</sup>
- ❑ Certain groups have been hit especially hard. In September 2013, the unemployment rate was equal to 28 per cent for women and 58 per cent for the under 25s, having increased from 13 per cent and 23 per cent, respectively, in 2007. The emigration of young, qualified people from Greece is gathering pace; a brain drain that will have long-term consequences, exacerbating Greece's position as a peripheral country.
- ❑ Long-term unemployment (longer than one year) also climbed to 14.4 per cent of the labour force in 2012 from 4.1 per cent in 2007, highlighting the mounting pressure on social cohesion, as well as economic development.
- ❑ The enhanced flexibility of the labour market has resulted in a steep increase in individual and firm-level work contracts, as well as a decline in private sector wages by more than 30 per cent.

These developments have been intensified by the high share of the self-employed in the labour force (31 per cent in 2011 as opposed to 15 per cent in the EU), 47.5 per cent of whom are in the services sector. These are mostly family enterprises, with no employees, the shutting down of which often drives the whole family into unemployment and economic hardship.

Regarding public finances, public debt increased from 125 per cent of GDP in 2009 to 175 per cent in 2013, whilst the public deficit fell from 15.7 per cent to 10.5 per cent of GDP in the same period. Given these economic consequences, austerity measures associated with the bail-out agreements are generally viewed to have exacerbated the economic situation and favoured the interests of creditors over and above those of society in general.

Many international bodies, civil society organisations and academics have documented the developments in Greece and classified them as human rights violations. Noteworthy examples are an Office of the High Commissioner for Human Rights (OHCHR) special report,<sup>337</sup> a Unicef-sponsored study on the consequences of the crisis on children,<sup>338</sup> Amnesty International reports,<sup>339</sup> a European University Institute collection of essays on social rights,<sup>340</sup> studies on labour rights<sup>341</sup> and rising maternal and child mortality<sup>342</sup> and reports by TroikaWatch.<sup>343</sup> According to the Legal Opinion commissioned by the Chamber of Labour in Vienna, the fiscal consolidation and structural reforms included in the 2010 and 2012 Economic Adjustment Programmes for Greece are in violation of human rights.<sup>344</sup>

*“The implementation of the second package of austerity measures and structural reforms, which includes a wholesale privatization of state-owned enterprises and assets, is likely to have a serious impact on basic social services and therefore the enjoyment of human rights by the Greek people, particularly the most vulnerable sectors of the population such as the poor, elderly, unemployed and persons with disabilities.”*

*Cephas Lumina, UN expert on foreign debt and human rights, June 2011<sup>345</sup>*

As might have been expected, poverty and inequality have become especially acute. In 2012, 35 per cent of the population were at risk of poverty or social exclusion, while the rate was higher for children under 15 (38.7 per cent) and for women (35.2 per cent).<sup>346</sup> Income inequality is also high and rising. For example, the income received by the top 20 per cent of the population was 6.6 times larger than that of the bottom 20 per cent in 2012, having increased from 6 per cent in 2005 and exceeding the average ratio of 5.1 per cent in the EU.<sup>347</sup> Research has shown that austerity measures in Greece have left nearly one million people with no access to health care, leading to an increase in infant mortality, HIV infection and suicides.<sup>348</sup>

It has been argued that the Greek depression exceeds the Great Depression experienced by the United States in 1929.<sup>349</sup> Commentators following developments in Greece closely argue that the six-year long depression and the ensuing social and economic devastation are ushering in a new political era. They say what is at stake is not only democracy in Greece, but the legitimacy of democracy in Europe as a whole. Political instability, corruption scandals surrounding the privatisation waves and the rise of the far-right in Greece confirm this analysis.

## 6.6 Conclusion

Viewed from a public interest perspective, the domestic tax system in Greece works against the interests of the poor and middle classes; a situation that has been aggravated by the debt crisis. Troika-imposed austerity and reform programmes have also been regressive on ordinary Greek taxpayers. The burden of the increase in taxation has fallen on the salaried and waged labour, while the lower and middle income groups have been hit especially hard. At the same time, reform has benefitted large corporations with investment-friendly measures. Troika-imposed fiscal and investment measures have added to the privatisation of areas of public interest, with devastating social and economic consequences. While tax evasion has been recognised to be a huge problem for resource mobilisation, the debate on tax avoidance has primarily focused on wealthy individuals and particular segments of the population that were granted preferential treatment. Foreign companies such as Eldorado Gold or others highlighted in this report have been largely excluded from public and policy discussions, as have the European countries facilitating corporate tax avoidance, in particular the Netherlands and Luxembourg.

The link between a states' duty to mobilise maximum resources to realise human rights and its ability to deliver social programmes is increasingly being recognised.<sup>350</sup> Illicit flows, including tax evasion, divert resources intended for social development, thereby undermining government efforts to provide basic services and their ability to comply with social needs and human rights obligations. Rising unemployment and cuts in public expenditure have left many people impoverished. Reform in fiscal and economic policy is necessary to roll back current fiscal and economic policies that promote private gain over and above public interest, and to put peoples' well-being first.

## 7 Conclusions

### **Eldorado Gold in Greece: a human rights case**

This report has shown that there are serious environmental and human rights controversies related to Eldorado Gold's activities in Greece (chapter two). The planned open-pit mine – which has already destroyed large swaths of old-growth forest – is expected to cause considerable future damage to the environment and livelihoods, resulting in job losses in the existing sectors of the local economy. Scientific critique of the companies' environmental impact reports have supported these concerns and found that mining operations and related clearing of forests in mountainous areas are expected to cause serious soil erosion, water and air pollution, as well as depleting scarce local water resources.

The feasibility of the ore processing technology proposed by Eldorado Gold is also contested and the community was not adequately consulted. Local opposition to Eldorado Gold's operations has been heavily repressed by the Greek state and met with police brutality and far-reaching criminalisation. The operations of Eldorado Gold in Greece thus come at a high cost to the environment as well as to local communities. Any meaningful democratic control over decision-making relating to Eldorado Gold's projects for the people involved is absent. An evidence-based assessment on the real social and economic contribution that offers a clear view of who exactly would benefit is also missing.

With the advent of UN 'Protect, Respect and Remedy' Framework and related implementation of supply chain due diligence, this case illustrates how not only Greece, but also the Netherlands and Canada are at risk of failing in their duty to protect human rights. To prevent this failure to protect, a number of recommendations are made below.

### **State subsidy**

Eldorado Gold receives public financing in a number of different ways, which should be taken into account in a cost-benefit analysis of whether the company will provide an overall economic benefit to Greece's economy (chapter three). The company has received state support in form of export credit and potential future tax breaks. Public financial support is subjected to more stringent social and economic criteria in domestic and international guidelines. Yet the Canadian and Greek states providing this public support are failing to take into account the concerns of the affected communities and the scientific evidence projecting serious environmental damage caused by the operations. As mentioned above, no in-depth economic impact assessment has been conducted, looking at potential tax base erosion, job losses resulting from the operations or environmental impact.

### **Avoiding tax through the Netherlands**

Eldorado Gold's tax planning structure involves a number of Dutch subsidiaries that are linked to tax havens, indicating tax base erosion in Greece (chapter four). Together with other tax avoidance opportunities the company has, which were not researched for this report, it might well be that this project represents a financial loss for Greece, even without calculating externalities such as environmental destruction. Interest payments on bonds from Hellas Gold SA to the Netherlands remain virtually untaxed in both Greece and the Netherlands. Furthermore, there is a trend of increasing

bonds and interest payments over the past few years. This tax base erosion in Greece represents a potentially significant corporate income tax loss. In particular in times of limited operational activity and profit, this could mean wiping out all taxes due in a given year. Indeed, the company has as yet not paid any taxes in Greece. Whilst the Greek tax liability reported in its annual accounts appears very large, this is entirely made of deferred taxes, which are no indication of taxes that have been paid or, indeed, will be paid in future.

### **Corporate tax avoidance in Greece**

Looking beyond this individual company case, an analysis of Greek bilateral investment positions shows that the Netherlands, but also Luxembourg and Cyprus, serve as a common tax haven for foreign companies operating in Greece (chapter five). All three countries offer generous tax incentives and serve as large financial turntables for MNCs, indicating significant tax base erosion of the volume of taxable transactions between these jurisdictions and Greece. FDI data suggest that the Netherlands and Luxembourg are preferred choices for companies to restructure their investments to avoid paying taxes in Greece.

Investment data also indicate that corporations from Greece, Italy, Portugal and Spain are increasingly structuring their investment through the Netherlands and other EU tax havens to avoid tax, probably due to corporate income tax increases introduced in these countries to tackle the public deficit. A number of large foreign firms that structure their investments in Greece through the Netherlands were identified in this report, but they represent only the tip of the iceberg given that these findings at company level will only be partial and do not include Luxembourg (with the exception of some companies mentioned in the context of the LuxLeaks scandal) or Cyprus. The list does, however, indicate the widespread use of these structures in all economic sectors.

### **Regressive taxation and Troika measures in Greece**

Tax avoidance by foreign firms in Greece is an issue of economic justice. Greece already has a regressive tax regime, whereby the burden of taxation, especially the recent increase in taxation, has occurred on salaried and waged labour, with the lower and middle income groups being hit especially hard. At the same time, tax incentives and investment measures favour large corporate taxpayers. While Greece's failure to levy taxes due from certain professions and low tax morale are certainly a problem for resource mobilisation, the public debate in Greece, and that led by the EU and IMF, has primarily focused on wealthy individuals and particular segments of the population that were granted preferential treatment. Tax avoidance by large and often foreign companies such as Eldorado Gold or others highlighted in this report has been largely excluded in public and policy discussions. Incidentally this tax avoidance is facilitated by EU member states such as the Netherlands and Luxembourg (chapters four and five). The company's aggressive tax planning structure is also ignored by Canada in its own domestic business promotion agenda, which includes diplomatic lobbying as well as state-backed loans (chapter three).

In conclusion, whilst a case is made by the former Greek government and its creditors that FDI would provide Greece with economically beneficial investment in terms of tax revenue and jobs, there are ample indications that such benefits will not be generated by Eldorado Gold's mining projects once all externalities and tax issues have been included in the equation. Even if we disregard the distribu-

tion of potential benefits altogether, it seems that not much good will come from the company's operations in Greece.

### **Fiscal and human rights policy implications**

The tax avoidance case of Eldorado Gold in Greece illustrates that responsibility for this tax gap lies not only with the Greek state, but also with the Netherlands, Luxembourg and the EU as well as Canada, since their fiscal and investment regimes facilitate tax base erosion and prioritise private above public interests in Greece. This denies the country and its citizens much-needed domestic resources to pay for basic social services. By facilitating tax avoidance of Eldorado Gold, the Netherlands (chapter four) and Luxembourg (chapter five) thus hinder Greece (where the tax is being avoided) to use its maximum available resources to realise the human rights of its citizens. The failure to impose tax on corporations – in a context of severe cuts to basic social services that have led to serious violations of social and economic rights – is a pressing human rights issue.

## **7.1 Recommendations**

*“An important precondition to close the global accountability gap in the face of negative impacts that occur as a result of business activities is not only to address the responsibility of the ultimate parent and local operating subsidiaries of a multinational group; responsibility should also apply to other important legal entities within the group that fulfil central functions, such as group financing activities and registered head offices which might not carry out daily management but are used by a corporation to enjoy tax benefits and investment protection.”*

*SOMO, 2013<sup>351</sup>*

Many general recommendations already exist with regard to mining operations and how to bring them in line with human rights. All involved parties, that is Eldorado Gold and the governments of Greece, the Netherlands and Canada, should implement relevant human rights standards and familiarise themselves with the legal framework to ensure they do not act in contradiction to them. MiningWatch Canada is a useful reference point, as they have outlined the main standards in this area.<sup>352</sup> With regard to transparency, the civil society network Publish What You Pay<sup>353</sup> and the Extractive Industries Transparency Initiative (EITI),<sup>354</sup> a multi-stakeholder coalition, have set standards that governments and companies should be aware of and follow.

With a specific focus on the findings presented in this report, the following recommendations are made:

### **Eldorado Gold**

- ❑ The company should refrain from using aggressive tax planning techniques and publish all its financial accounts of subsidiaries located in Barbados, the Cayman Islands and the British Virgin Islands.
- ❑ The company should respect the opposition to its mining plans by the local community and refrain from promoting and pursuing mine development in the face of clear community divisions and opposition.
- ❑ The company should provide transparency about its planned ore processing technology and adequately respond to claims by experts that flash smelting, the technology approved by the Greek government, is not a viable option in the case of the specific concentrates found in the Halkidiki area, which are high in arsenic.

### **The Netherlands**

- ❑ The government should refrain from providing fiscal benefits to Eldorado Gold and make publicly available any Advance Pricing Agreement or Advance Tax Ruling Eldorado Gold has or had with the Dutch revenue authority to allow for public scrutiny of its tax effects. In addition, the government should introduce effective substance rules and end allowing firms to deduct interest payments to tax havens. To this aim, it should implement the general anti-abuse rule as proposed by the European Commission in its Action Plan against tax fraud.
- ❑ The government should take coordinated measures together with Greece to identify corporate tax avoidance through its jurisdiction, close loopholes in existing tax laws and impose fines on companies found to engage in aggressive tax avoidance.
- ❑ The Dutch government should swiftly transpose recent EU country-by-country reporting requirements, ensuring that these are followed by all companies incorporated in its jurisdiction and promote financial transparency at the highest level. Through the transposition of the EU Anti-Money Laundering Directive, it should make registries of beneficial owners of companies available to the general public.
- ❑ The government should require by law that Eldorado Gold undertakes specific human rights due diligence measures with regard to its human rights impact in its foreign operations, including Greece and publicly reports on them.
- ❑ The government should refrain from pursuing an austerity-led reform programme through the Eurogroup and support SYRIZA's reform programme in Greece, amongst others, in form of a debt write-off.

### **Canada**

- ❑ Canada's export credit agency EDC should end its financial support to Eldorado Gold on the basis of the evidence presented to it by Hellenic Mining Watch and in this report.
- ❑ The government should propose and implement a binding law for enhanced due diligence by EDC to ensure that Canada is in compliance with its international human rights obligations. This implies that EDC's financial support should be made conditional on corporate compliance to existing human and environmental rights laws and guidelines.
- ❑ EDC should make publicly accessible information about the agency's operations, including its due diligence processes. Specifically, it should disclose information about how it conducts its loan reviews, including its assessments of factors such as a potential client's capacity to manage environmental and social risks or their compliance with domestic law.

## Greece

- ❑ The Greek government should review its contract with Hellas Gold SA and assess whether the mining project serves the public interest and initiate a full and transparent review of Eldorado Gold's projects in Halkidiki in accordance with Article 6 of the Aarhus Convention.
- ❑ The Greek government should investigate the incidents of reported police brutality against protesters in Halkidiki, protect the democratic right to protest and end the criminalisation of the local community resisting Eldorado Gold's mining operations in Halkidiki.
- ❑ The local community should be given direct and unequivocal decision-making powers with regard to the land they live on and derive economic subsistence from. Declarations of national interest or eminent domain over the land should require the highest standard of proof.
- ❑ The Greek government should lift the current exemption of the Skouries / Mavres Petres and Olympias areas of Halkidiki from protection under the recently (2014) approved River Basin Management Plan (RBMP) for Central Macedonia and fully implement the EU Water Framework Directive 2000/60.
- ❑ The Greek government should carry out an impact assessment of the claimed future economic contribution of Eldorado Gold to Greece's economy, including the quantification of externalities and the cost of fiscal incentives or any other public support extended to the company.
- ❑ The Greek government should devise a more progressive tax regime and put an end to large-scale tax avoidance and evasion by wealthy individuals and above all, multinational corporations. Immediate concerns are the use of European tax haven jurisdictions such as the Netherlands, Luxembourg and Cyprus by domestic and foreign firms. All involved jurisdictions should cooperate to identify companies engaging in aggressive tax avoidance, impose relevant fines and devise anti-abuse strategies.

## The European Union

*"The greatest uncertainty of international trading companies is the specter of more stringent tax and trading regulation."*

*KPMG, 2012<sup>355</sup>*

The European Union has not been able to effectively tackle tax avoidance by multinational companies so far. In fact the Eldorado Gold tax case shows that EU Directives contribute to the tax system that allows profit shifting. The Interest and Royalty Directive lowers withholding taxes on interest payments to 0 per cent within the EU, which can be harmful for vulnerable economies like Greece. Furthermore, its member states engage in harmful tax competition despite ongoing attempts by the Code of Conduct Group (on Business Taxation) to roll back domestic harmful measures.

However, multiple developments in recent years show that the European Union is taking the issues of tax avoidance seriously. From the European Commission's Action Plan to fight tax abuse to recent state aid investigations into harmful tax rulings, it is clear that tax is high on the political agenda.<sup>356</sup> Powerful member states are, however, often blocking necessary reforms. Yet the fight against tax avoidance and evasion requires political will as well as international and structural reform measures.

At the European level it is necessary that:

- ❑ **Financial transparency is increased:**

  - Mandatory country-by-country reporting should be extended to all multinational corporations and include an obligation to report on activities, including staff numbers, turnover, profit and loss before tax, tax expenses, cash taxes paid, and public subsidies received in every country of operation and incorporation (see also the OECD's Guidance on Transfer Pricing Documentation and Country-by-Country Reporting). The case of Eldorado Gold shows that it is necessary that companies report not only on its total tax charge in all countries (especially tax havens), but also that it is split between current and deferred tax, as well as reporting on the actual cash tax payments.
  - All European Union countries should disclose their tax rulings and advance pricing agreement with multinational corporations, to enable a fair assessment by all stakeholders of governments' decisions regarding taxation and state aid. To this aim, a public register for tax rulings should be created at EU level.
  
- ❑ **Harmful tax regimes should be ended:** The EU should work with all member states to implement a general anti-abuse rule proposed in its Action Plan to ensure that artificial legal arrangements set up for the sole purpose of tax avoidance cannot make use of any tax breaks, incentives and treaties. It should also carefully review of the Interest and Royalty Directive with this aim in mind. Specifically, the EU should fund an analysis of SPE-related FDI stocks in Greece and its counterpart economies to identify underlying tax planning techniques and devise appropriate policy measures to tackle them.
  
- ❑ **Pursue common tax base for corporate taxation:** In order to ensure that there is a minimum taxable base in every EU country, the implementation of a common tax base under the Common Consolidated Corporate Tax Base in the EU is needed, as well as the creation of a minimum corporate income tax rate to end the race to the bottom in corporate taxation.

#### **All EU member states should ensure democratic decision-making on tax matters**

The UN Special Rapporteur on extreme poverty and human rights recommends:

- ❑ Decision-making processes regarding tax and public revenues should be based on full transparency and the broadest possible national dialogue, with effective and meaningful participation of civil society and those who will be directly affected by such policies.
- ❑ Fiscal policies must be subjected to the scrutiny of the population during design, implementation and evaluation stages, with the various interests transparently identified. This will require capacity-building and fostering fiscal literacy in the population. The population must have access to all relevant information in an accessible and understandable format, and inclusive mechanisms must be put in place to ensure that they are actively engaged in devising the most appropriate policy options.
- ❑ Owing to the asymmetries of power, expertise and interests in this debate, specific measures must be taken to ensure equal access and opportunities to participate, particularly for people living in poverty.

- ❑ To ensure accountability, fiscal policies (including, for example, tax incentives granted to foreign investors) must be open to judicial oversight, while public officials must be accountable for decisions that endanger the enjoyment of human rights. Accessible mechanisms for complaints and redress must also be put in place.

## 7.2 Further research

Eldorado Gold's tax planning structure in the Netherlands allows for a number of different tax avoidance practices that have the potential to seriously erode Greece's tax base. The only one scrutinised in this report is loan financing of one of the company's Greek subsidiaries. Further research is needed on the potential tax base erosion in Eldorado Gold's operations in other countries, as well as the avoidance of taxation in the home state of Canada.

A human rights assessment of the company's operation in Romania in Turkey is also due, as the mining operations there are also opposed by local communities. A similar research with regard to tax avoidance and human rights should therefore be conducted to detect possible tax base erosion and human rights abuses and to identify the responsibilities of the Netherlands and Canada therein.

Finally, the report raises wider concerns about fiscal justice, human rights and austerity in the European Union. Corporate tax avoidance takes place on a massive scale and if it is to be tackled, the legal loopholes and harmful tax competition need to be identified and ended. Progressive tax regimes need to be implemented.

Further research areas are:

- ❑ An analysis of other profit-shifting methods that may be used by Eldorado Gold in Greece and potential tax base erosion in all operating countries, in particular Romania and Turkey.
- ❑ Research on the company's human rights impacts in countries of operation and the responsibility of countries offering state support, including Netherlands and Canada therein.
- ❑ Research into fiscal justice in the European Union; this entails an analysis of corporate tax avoidance in relation to human rights and austerity and research into necessary conditions for progressive tax regimes.

## Endnotes

### Chapter 1

- 1 Antonis Samaras is party leader of the liberal-conservative party New Democracy (Néa Dimokratía, ND), one of the two major parties in Greece. New Democracy governed in coalition with the Panhellenic Socialist Movement (PASOK) and Democratic Left (DIMAR) until January 2015.
- 2 Naomi Klein, *This Changes Everything: Capitalism vs. the Climate* (New York: Simon & Schuster, 2014), p. 297.
- 3 The UN framework on business and human rights was adopted by the UN Human Rights Council in 2008 and rests on three pillars, namely, (1) the state duty to protect against human rights abuses by third parties, including business; (2) the corporate responsibility to respect human rights; and (3) greater access by victims to effective remedy, both judicial and non-judicial. This led to the Guiding Principles implementing and operationalising the framework. These were endorsed by the UN Human Rights Council in June 2011. See <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11164>
- 4 See SOMO, *Private gain, public loss. Mailbox companies, tax avoidance and human rights*, 2013, <[http://somo.nl/publications-en/Publication\\_3975](http://somo.nl/publications-en/Publication_3975)> .
- 5 See, for instance, Council of Europe, *Safeguarding human rights in times of economic crisis*, November 2013, <<https://wcd.coe.int/ViewDoc.jsp?id=2130915>>; Oxfam, *The true cost of austerity and inequality. Greece Case Study*, September 2013, <<http://www.oxfam.org/sites/www.oxfam.org/files/cs-true-cost-austerity-inequality-greece-120913-en.pdf>>
- 6 Richard Murphy, *Closing the European tax gap. A report for group of the Progressive Alliance of Socialists & Democrats in the European Parliament*, 2013, <[http://www.socialistsanddemocrats.eu/sites/default/files/120229\\_richard\\_murphy\\_eu\\_tax\\_gap\\_en.pdf](http://www.socialistsanddemocrats.eu/sites/default/files/120229_richard_murphy_eu_tax_gap_en.pdf)>
- 7 UN Human Rights Council, 26th Session, Report of the Special Rapporteur on extreme poverty and human rights, Ms. Maria Magdalena Sepúlveda Carmona, on taxation and human rights, 2014, A/HRC/26/28, <<http://www.ohchr.org/EN/Issues/Poverty/Pages/AnnualReports.aspx>>
- 8 Ibid.
- 9 Giorgos Kallis, "Extractivism", the Greek way, 23 May 2013, <<http://greeklish.info/en/greece/environment/33>>
- 10 Jonathan Stearns, *Mountain of Gold Sparks Battles in Greek Recovery Test*, Bloomberg, 9 April 2013, <<http://www.bloomberg.com/news/2013-04-09/mountain-of-gold-sparks-battles-in-greek-recovery-test.html>>.
- 11 George Tzogopoulos, Research Fellow at the Hellenic Foundation for European and Foreign Policy in Athens, cited in *ibid*.
- 12 Council of Europe, *Safeguarding human rights in times of economic crisis*, November 2013, <<https://wcd.coe.int/ViewDoc.jsp?id=2130915>>, p. 10.
- 13 See the Greek debt audit campaign (<<http://www.elegr.gr>>), or Jubilee Debt Campaign UK, October 2013, *Life and debt: Global studies of debt and resistance*, <<http://jubileedebt.org.uk/reports-briefings/report/life-debt-global-studies-debt-resistance>>; Larry Elliot, *Eurozone ignoring parallels with Latin American debt crisis of the 1980s*, *The Guardian*, 19 August 2012, <<http://www.theguardian.com/business/2012/aug/19/eurozone-latin-america-debt-crisis-1980>>; John Paul Rathbone, *Eurozone can learn grim Latin lessons*, *Financial Times*, 21 December 2010, <<http://www.ft.com/intl/cms/s/0/ac9b6954-0d33-11e0-82ff-00144feabdc0.html#axzz3GgV8vSob>>
- 14 See, for instance, *Written evidence submitted by The Centre for Trade Policy and Development (Zambia) to the UK House of Commons International Development Select Committee*, February 2012, <<http://www.publications.parliament.uk/pa/cm201213/cmselect/cmintdev/130/130we07.htm>>
- 15 *Global Financial Integrity, Illicit financial flows from developing countries 2001-2010*, <<http://www.financialtaskforce.org/2012/12/13/what-billions-in-illicit-and-licit-capital-flight-means-for-the-people-of-zambia>>
- 16 Matthew Hill, *Zambia says tax avoidance led by miners costs USD 2 billion a year*, *Bloomberg News*, 25 November 2012, <[www.bloomberg.com/news/2012-11-25/zambia-says-tax-avoidance-led-by-miners-costs-2-billion-a-year.html](http://www.bloomberg.com/news/2012-11-25/zambia-says-tax-avoidance-led-by-miners-costs-2-billion-a-year.html)>

- 17 MiningWatch Canada, Tax Evasion in Zambia: NGOs file complaint against Glencore, first quantum for violation of OECD Guidelines, 12 April 2011, <<http://www.miningwatch.ca/news/tax-evasion-zambia-ngos-file-complaint-against-glencore-first-quantum-violation-oecd-guidelines>>
- 18 UN Tax Committee's ninth session, Issues concerning the taxation of the extractive industries for consideration by the Committee, Geneva, 21-25 October 2013, <[http://www.un.org/esa/ffd/tax/ninthsession/CRP13\\_ExtractiveIndustries.pdf](http://www.un.org/esa/ffd/tax/ninthsession/CRP13_ExtractiveIndustries.pdf)>, p. 4.
- 19 Jonathan Stearns, Mountain of gold sparks battles in Greek recovery test, Bloomberg, 9 April 2013, <<http://www.bloomberg.com/news/2013-04-09/mountain-of-gold-sparks-battles-in-greek-recovery-test.html>>
- 20 See SOMO, *Eldorado Gold - Discussion Paper. The role of Dutch mailbox companies in tax avoidance and Human Rights violations in Greece*, November 2014, <[http://www.somo.nl/publications-en/Publication\\_4113](http://www.somo.nl/publications-en/Publication_4113)>
- 21 "SOSste to nero" (SOS Water) is a wide coalition against the privatisation of water in Greece.
- 22 F.H.H. Weekers, *Kamerbrief betreft uitvoering motie leden Braakhuis en Groot*, Doc. IFZ/2012/85, 25 June 2012, <<http://www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2012/06/25/kamerbrief-inzake-uitvoering-substance-motie-braakhuis-en-groot/kamerbrief-inzake-uitvoering-substance-motie-braakhuis-en-groot.pdf>>
- 23 OECD, *Addressing base erosion and profit shifting*, 2013, <<http://www.oecd.org/tax/beps-reports.htm>>, pp. 18 and 22.  
The full OECD definition of SPEs is as follows: "Multinational enterprises (MNEs) often diversify their investments geographically through various organisational structures. These may include certain types of Special Purpose Entities. Examples are financing subsidiaries, conduits, holding companies, shell companies, shelf companies and brass-plate companies. Although there is no universal definition of SPEs, they do share a number of features. They are all legal entities that have little or no employment, or operations, or physical presence in the jurisdiction in which they are created by their parent enterprises which are typically located in other jurisdictions (economies). They are often used as devices to raise capital or to hold assets and liabilities and usually do not undertake significant production. An enterprise is usually considered as an SPE if it meets the following criteria:  
(i) The enterprise is a legal entity, a. formally registered with a national authority; and b. subject to fiscal and other legal obligations of the economy in which it is resident. (ii) The enterprise is ultimately controlled by a non-resident parent, directly or indirectly. (iii) The enterprise has no or few employees, little or no production in the host economy and little or no physical presence. (iv) Almost all the assets and liabilities of the enterprise represent investments in or from other countries. (v) The core business of the enterprise consists of group financing or holding activities, that is – viewed from the perspective of the compiler in a given country – the channelling of funds from non-residents to other non-residents. However, in its daily activities, managing and directing plays only a minor role."
- 24 Eurostat, *International trade and foreign direct investment*, 2013, <[http://epp.eurostat.ec.europa.eu/cache/ITY\\_OFFPUB/KS-FO-12-001/EN/KS-FO-12-001-EN.PDF](http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-FO-12-001/EN/KS-FO-12-001-EN.PDF)>, p. 64.
- 25 Dutch Central Bank, *Balance of Payments Reporting Instructions*, 2003, <[http://www.dnb.nl/en/binaries/Balance%20of%20Payments%20Reporting%20Instructions%202003\\_tcm47-147523.pdf](http://www.dnb.nl/en/binaries/Balance%20of%20Payments%20Reporting%20Instructions%202003_tcm47-147523.pdf)>
- 26 F.H.H. Weekers, *Kamerbrief betreft uitvoering motie leden Braakhuis en Groot*, Doc. IFZ/2012/85, 25 June 2012, <<http://www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2012/06/25/kamerbrief-inzake-uitvoering-substance-motie-braakhuis-en-groot/kamerbrief-inzake-uitvoering-substance-motie-braakhuis-en-groot.pdf>>
- 27 Ibid.
- 28 See website: <http://www.financialsecrecyindex.com>
- 29 See SOMO, *The Netherlands: a tax haven?*, 2006, <[http://somo.nl/publications-en/Publication\\_1397](http://somo.nl/publications-en/Publication_1397)>
- 30 See SOMO, *Private gain, public loss. Mailbox companies, tax avoidance and human rights*, 2013, <[http://somo.nl/publications-en/Publication\\_3975](http://somo.nl/publications-en/Publication_3975)>

## Chapter 2

- 31 Naomi Klein, *This Changes Everything: Capitalism vs. the Climate* (New York: Simon & Schuster, 2014).
- 32 Costas Kantouris, *Greek gold mine savior to some, curse to others*, Associated Press, 11 January 2013, <<http://bigstory.ap.org/article/greek-gold-mine-savior-some-curse-others>>

- 33 See the annual report for the United States Securities and Exchange Commission (SEC), for the fiscal year ended 13 December 2011, <<http://www.eldoradogold.com/uploads/investor-relations-pdf/40F-2011.pdf>>, p. 4 and Eldorado's website: <http://www.eldoradogold.com/s/Operations.asp> and <http://www.eldoradogold.com/i/pdf/Greece-Whitepaper.pdf>. Information on dividends can be found in in the US SEC report 2013, p. 103. 2010: annual dividend of CA\$ 0.05 per common share. 2011: semi-annual dividends of CA\$ 0.05 per common share and CA\$ 0.06 per common share, respectively. 2012: semi-annual dividends of CA\$ 0.09 per common share and CA\$ 0.06 per common share, respectively. 2013: semi-annual dividends of CA\$ 0.07 per common share and CA\$ 0.05 per common share, respectively. First semi-annual dividend for 2014: CA\$ 0.01 per common share.
- 34 A corporation formed under laws other than the federal laws of Canada may apply to be "continued" under the federal Canada Business Corporations Act (the CBCA) by applying for a certificate of continuance from the Corporations Directorate. Once the certificate is issued, the CBCA applies to the corporation as if the corporation was incorporated under the CBCA, *ibid*, p. 103.
- 35 Annual report for the SEC, for the fiscal year ended 13 December 2013, <[http://www.eldoradogold.com/uploads/general-pdfs/Form\\_40F\\_\(FYE\\_2013\).pdf](http://www.eldoradogold.com/uploads/general-pdfs/Form_40F_(FYE_2013).pdf)>, p. 103.
- 36 Working at Eldorado's operations at the end December 2013, see annual report for SEC, for the fiscal year ended 13 December 2013, <[http://www.eldoradogold.com/uploads/general-pdfs/Form\\_40F\\_\(FYE\\_2013\).pdf](http://www.eldoradogold.com/uploads/general-pdfs/Form_40F_(FYE_2013).pdf)>, p. 15.
- 37 The assets of any subsidiary not exceeding 10 per cent of Eldorado's consolidated assets are not included in that number.
- 38 Annual report for the SEC, for the fiscal year ending 13 December 2013, <[http://www.eldoradogold.com/uploads/general-pdfs/Form\\_40F\\_\(FYE\\_2013\).pdf](http://www.eldoradogold.com/uploads/general-pdfs/Form_40F_(FYE_2013).pdf)>, p. 5.
- 39 Eldorado Gold, Investor fact sheet, February 2014, <[http://www.eldoradogold.com/uploads/fact-sheets/FYFactSheet-asofFeb21\\_2c2014English-FINAL.pdf](http://www.eldoradogold.com/uploads/fact-sheets/FYFactSheet-asofFeb21_2c2014English-FINAL.pdf)>
- 40 See Information on Eldorado and Eldorado Gold Corporation in takeover bid by Eldorado Gold Coöperatief UA for Glory Resources Limited, November 2013, <[http://member.afraccess.com/media?id=CMN://6A658788&filename=20131122/GLY\\_01468914.pdf](http://member.afraccess.com/media?id=CMN://6A658788&filename=20131122/GLY_01468914.pdf)>
- 41 Annual report for SEC, for the fiscal year ending 13 December 2013, <[http://www.eldoradogold.com/uploads/general-pdfs/Form\\_40F\\_\(FYE\\_2013\).pdf](http://www.eldoradogold.com/uploads/general-pdfs/Form_40F_(FYE_2013).pdf)>, p. 6.
- 42 Information on financing construction of Eldorado is based largely on Bloomberg database, accessed 19 August 2014.
- 43 BlackRock, corporate website, <<http://www.blackrockinternational.com/individual/en-zz/about-us>>
- 44 ELLAKTOR Group Presentation June 2013, <[content-mcdn.feed.gr/pegasus/Multimedia/pdf/Ellaktor\\_Group\\_Presentation\\_June\\_2013\\_NY\\_id5769333.pdf](http://content-mcdn.feed.gr/pegasus/Multimedia/pdf/Ellaktor_Group_Presentation_June_2013_NY_id5769333.pdf)>
- 45 A revolving credit facility is a type of flexible loan whereby the company has the possibility of deciding when and how much money it will borrow (until an agreed maximum). Banks that are part of this syndicate of banks are: HSBC Securities (bookrunner), JP Morgan Securities (bookrunner), Bank of America NA (lender), Citibank NA/Canada (lender), Export Development Canada (lender), HSBC Bank USA (lender), JP Morgan Chase Bank NA (lender).
- 46 Eldorado Gold, Consolidated financial statements 31 December 2013 and 2012, p. 23 (notes 14 to the financial statements), <<http://www.eldoradogold.com/uploads/news-release-pdfs/14-02-FS-MDA-2013.pdf>>
- 47 Eldorado Gold Press Release, Eldorado Gold Corporation Completes Acquisition of European Goldfields, 24 February 2012, <<http://www.eldoradogold.com/news-media/news/eldorado-gold-corporation-completes-acquisition-of-european-goldfields>>
- 48 Takeover bid by Eldorado Gold Coöperatief UA for Glory Resources Limited, November 2013, <[http://member.afraccess.com/media?id=CMN://6A658788&filename=20131122/GLY\\_01468914.pdf](http://member.afraccess.com/media?id=CMN://6A658788&filename=20131122/GLY_01468914.pdf)>
- 49 Eldorado Gold website, <<http://www.eldoradogold.com/assets/europe/http://www.eldoradogold.com/assets/europe>>
- 50 SOS Halkidiki, Social, economic and environmental impacts of gold mining in Halkidiki, November 2012, <http://soshalkidiki.files.wordpress.com/2012/11/impacts-of-gold-mining.pdf>
- 51 The reprocessing of old tailings produces a saleable concentrate that contains gold and silver and is considered to be Phase I of the Olympias project, before actual mining begins.

- 52 Eldorado Gold, Eldorado's growth continues; annual gold production to reach 1.7 M oz. within 5 years, 12 April 2012, <<http://www.eldoradogold.com/news-media/news/eldorados-growth-continues-annual-gold-production-to-reach-17-m>>
- 53 Joint ministerial decision 201745/26 July 2011, <<http://static.diavgeia.gov.gr/doc/4%CE%91%CE%A3%CE%94-%CE%A9%CE%94>>
- 54 Council of State ruling 1492/2013, <<http://antigoldgr.org/blog/2013/04/17/1492-201/>>
- 55 The procedures regarding permissions for the mining activities, however, are ongoing. Under Greek law, apart from the environmental permit, every specific activity (i.e. mining, plant construction and operation, waste disposal) requires an "approval of technical study" (along with other permits). Several such approvals have been issued since 2011, the most recent one (17 September 2014) being the "Approval of Technical Study for the Tailings Management Facilities of the Skouries Mine", which has already been challenged by local associations at the Council of State. See newspaper To Choni, "Skouries: complaint filed with Council of State against Tailing Pond Dams", <<http://www.toxwni.gr/ellada/item/30841-skouries-prosfeygoun-sto-ste-kata-ton-fragmaton-toksikon-apovlito>>
- 56 Articles 3.2-3.4 of the contract as ratified by Article 52 of Greek Law 3220/2004. Also, JMD 201745/2011, p. 19 states: "The investment plan of Hellas Gold SA aims at the production of lead and zinc concentrates, along with the production of metallic gold, copper and silver through a vertical metal recovery process".
- 57 Eldorado Gold, corporate website, <<http://www.egoldfields.com/s/Olympias.asp?ReportID=518477>>
- 58 See letter of Hellas Gold Vice President and CEO to the Mayor of Aristotle published at <<http://vasilinos.wordpress.com/2014/10/29/%CE%B1%CF%80%CE%B1%CE%BD%CF%84%CE%B7%CF%83%CE%B7-%CF%84%CE%B7%CF%83-%CE%B5%CE%BB%CE%BB%CE%B7%CE%BD%CE%B9%CE%BA%CE%BF%CF%83-%CF%87%CF%81%CF%85%CF%83%CE%BF%CF%83-%CF%83%CF%84%CE%BF-%CE%B1/>>
- 59 Theodora Oikonomides Skouries: branding the local community a criminal organization, 7 July 2014, <<http://theirategreek.wordpress.com/2014/07/07/skouries-branding-the-local-community-a-criminal-organization/>>
- 60 According to Judgment No. 613 / 2002 of the plenary session of the Council of State, which was hailed as "historic" by civil society, "10. Whereas, given the data presented in the aforementioned reasoning, the weighing attempted by the Government through the contested act and on the basis of the above assessed data between the benefit expected from the operation of the project and the imminent damage in the natural environment from the project's installation and operation, is inadequate and violates the principle of sustainable development." <[http://www.ngo.ro/date/17ef04f0530a65b2f4e73d9a4b5d99ea/Olympiasruling\\_english.doc](http://www.ngo.ro/date/17ef04f0530a65b2f4e73d9a4b5d99ea/Olympiasruling_english.doc)>
- 61 Mining Watch Canada, Good News from Greece: Stratoniki Citizens Win Against TVX Gold, 30 November 2002, <<http://www.miningwatch.ca/good-news-greece-stratoniki-citizens-win-against-tvx-gold>>
- 62 A new environmental permit was issued for the Mavres Petres mine to the new owner, Hellas Gold and mining resumed in 2005. Local residents appealed again to the Council of State but the permit was judged legal (Plenary rulings 462/2010 and 463/2010). The Mavres Petres mine is now covered by the aforementioned JMD 201745/26 July 2011.
- 63 Globeandmail.com, Bankruptcy raises ante for Kinross mining subsidiary in Greece, 10 June 2003, <[http://www.globeinvestor.com/servlet/ArticleNews/story/GAM/20030610/RKINN/stocks/news?back\\_url=yes](http://www.globeinvestor.com/servlet/ArticleNews/story/GAM/20030610/RKINN/stocks/news?back_url=yes)>
- 64 Greek Law No 3220/2004, articles 51-53, <[http://www.et.gr/ids-nph/search/pdfViewerForm.html?args=5C7QrtC22wGQ\\_kZuUB4NxdtvSoClrL8suaQnuDva5rtl9LGdkF53Ulxsx942CdyqxSQYNUqAGCF0fB9HI6hq6ZkZV96F17L0dZCU52zloCUIfMW-LYHh4\\_SbbJnVjE9xVfcm9UOhk](http://www.et.gr/ids-nph/search/pdfViewerForm.html?args=5C7QrtC22wGQ_kZuUB4NxdtvSoClrL8suaQnuDva5rtl9LGdkF53Ulxsx942CdyqxSQYNUqAGCF0fB9HI6hq6ZkZV96F17L0dZCU52zloCUIfMW-LYHh4_SbbJnVjE9xVfcm9UOhk)>
- 65 Theodora Oikonomides, Skouries: branding the local community a criminal organization, 7 July 2014, <<http://theirategreek.wordpress.com/2014/07/07/skouries-branding-the-local-community-a-criminal-organization/>>
- 66 In Greece, the Social Insurance Institute – Unified Insurance Fund for Employees, known as IKA-ETAM is the country's largest employees' social security organisation, which covers most of the population. The system consists of insurances (pensions, health and unemployment) and family allowances, housing benefits and social assistance for vulnerable groups.
- 67 Kathimerini , 'IKA social security fund running low on cash, causing worry', 13 September 2013, <[http://www.ekathimerini.com/4dcgi/\\_w\\_articles\\_wsite1\\_1\\_13/09/2013\\_518621](http://www.ekathimerini.com/4dcgi/_w_articles_wsite1_1_13/09/2013_518621)>

- 68 On 9 December 2003 a new company called Hellas Gold was founded by Dimitrios Koutras, then President of the Greek construction company AKTOR, subsidiary of ELLAKTOR (which now owns 5 per cent of Hellas Gold and shares of Eldorado Gold), and George Sossidis with a capital of the minimum required € 60,000. Act of incorporation of Hellas Gold SA: <[http://www.et.gr/ids-nph/search/pdfViewerForm.html?args=5C7QrtC22wFalhF2BrTT7HdtvSoClrL8L0XCZRk17YXgFAFz5NPI-YflgfrTN\\_OYbt19F4WHQv-snlvFcqirQNK\\_x\\_ymQSUQUlRXiR6RnH-FKM9uFmN-U33jyMPUZ1x8ycrwOLwcC16ZZK9UPVS-T1umoPPrlmmgpsiBl3koXnm4ucy130HSC7oKyMEbWLy](http://www.et.gr/ids-nph/search/pdfViewerForm.html?args=5C7QrtC22wFalhF2BrTT7HdtvSoClrL8L0XCZRk17YXgFAFz5NPI-YflgfrTN_OYbt19F4WHQv-snlvFcqirQNK_x_ymQSUQUlRXiR6RnH-FKM9uFmN-U33jyMPUZ1x8ycrwOLwcC16ZZK9UPVS-T1umoPPrlmmgpsiBl3koXnm4ucy130HSC7oKyMEbWLy)>
- 69 See amongst others, Stamatis, Nikolaos et al., 'Sediment Pollution by Heavy Metals in the Strymonikos and Ierissos Gulfs, North Aegean Sea, Greece', 2002, in *Environmental Monitoring and Assessment*, November 2002, Vol. 80(1), pp 33-49, <<http://link.springer.com/article/10.1023/A%3A1020382011145>>; Kelepertzis, Efstratios, 'Heavy Metals Baseline Concentrations In Soft Tissues Of Patella Sp. From The Stratoni Coastal Environment, NE Greece', 2013, in *Ecological Chemistry and Engineering S/Chemia i Inzynieria Ekologiczna S (ECE S)*. Vol 20(1), pp. 141-149, <<http://users.uoa.gr/~keleper/pdf/Heavy%20metals%20baseline%20baseline%20concentrations%20in%20soft%20tissues%20of%20Patella%20sp.%20from%20the%20Stratoni%20coastal%20environment,%20NE%20Greece.pdf>>; Argyraki, Ariadne, 'Garden soil and house dust as exposure media for lead uptake in the mining village of Stratoni, Greece', August 2014, in *Environmental Geochemistry and Health*, Vol. 36(4), pp. 677-692, <<http://link.springer.com/article/10.1007%2Fs10653-013-9589-9>>
- 70 Greek Government Gazette B' 407/1980, <[http://www.et.gr/ids-nph/search/pdfViewerForm.html?args=5C7QrtC22wH-TYtwQ1DmBJndvSoClrL8etzVAp\\_14rZ5MXD0LzQTLf7MGgcO23N88knBzLCmTXKaO6fpVZ6Lx9hLslJUqeiQmIJ47g1Ui7tflzOL87kG862RmO2JpgtnpJ-762MfOlw](http://www.et.gr/ids-nph/search/pdfViewerForm.html?args=5C7QrtC22wH-TYtwQ1DmBJndvSoClrL8etzVAp_14rZ5MXD0LzQTLf7MGgcO23N88knBzLCmTXKaO6fpVZ6Lx9hLslJUqeiQmIJ47g1Ui7tflzOL87kG862RmO2JpgtnpJ-762MfOlw)>
- 71 Hellenic Mining Watch, Mine Spill in Greece Leaves Red Streak of Pollution in Scenic Bay, 13 December 2002, <<http://www.miningwatch.ca/mine-spill-greece-leaves-red-streak-pollution-scenic-bay>>
- 72 Furthermore, press releases by European Goldfields reveal the existence of a Memorandum of Understanding (MOU) between EG, AKTOR, Dimitrios Koutras and other entities, with the purpose of acquiring the Greek assets European Goldfields press release, 23 December 2003. Document on SEDAR database, <<http://www.sedar.com>>
- 73 Greek Law 210/1973, <http://www.ypeka.gr/LinkClick.aspx?fileticket=BvSKuWn5iNQ%3D&tabid=296&language=el-GR>
- 74 SOS Halkidiki, November 2012, Social, economic and environmental impacts of gold mining in Halkidiki, <<http://soshalkidiki.files.wordpress.com/2012/11/impacts-of-gold-mining.pdf>>. The Mining Regulation was modified by law 4042/2012, which abolished the provision under which private mining concessions were exempt from royalties and fees of any kind. However, it took nearly two years for the necessary bylaws to be expressed in the form of a ministerial decree issued on 1 July 2014 (Δ8/ΔΦ1/οικ.10697/2714/1.7.2014) by the ministers of environment and finance, which determines the amount of royalties, and while the decree has retroactive value starting from 1 January 2013, Eldorado Gold is yet to pay any royalties or fees to the state.
- 75 On 9 July 2007, the Commission received a complaint alleging that Greece had granted two State aid measures in favour of Hellas Gold SA (Ellinikos Xrysos in Greek), upon which the Commission opened the formal investigation procedure on the alleged measures in December 2008. Comments were received from four parties, namely Hellas Gold, European Goldfields Ltd, the main shareholder of Hellas Gold on 10 April 2009, the Cassandra Mines trade unions and the advocacy group Hellenic Mining Watch.
- 76 Commission decision, 23 February 2011, on the State Aid, C (2011) 1006 final, No C 48/2008 (ex NN 61/2008), Implemented by Greece in favour of Ellinikos Xrysos SA [Hellas Gold SA], <[http://ec.europa.eu/competition/state\\_aid/cases/228780/228780\\_1201019\\_131\\_2.pdf](http://ec.europa.eu/competition/state_aid/cases/228780/228780_1201019_131_2.pdf)>
- 77 Official Journal of the European Union, 2011, OJ C 204/45, 9 July 2011, Action brought on 28 April 2011 – Hellenic Republic v Commission, Case T-233/11, <[http://eur-lex.europa.eu/legal-content/en/TXT/PDF/?uri=uriserv%3AOJ.C\\_.2011.204.01.0024.01.ENG](http://eur-lex.europa.eu/legal-content/en/TXT/PDF/?uri=uriserv%3AOJ.C_.2011.204.01.0024.01.ENG)>
- 78 Capital.gr, Dimitri Delevegkou, 18 October 2013, Τι πραγματικά συμβαίνει με το πρόστιμο στην Ελληνικός Χρυσός [What is really happening to the fine of Hellas Gold], <<http://www.capital.gr/Articles.asp?id=1891705>>

- 79 SOS Halkidiki, November 2012, Social, economic and environmental impacts of gold mining in Halkidiki, <<http://soshalkidiki.files.wordpress.com/2012/11/impacts-of-gold-mining.pdf>>
- 80 Quoted in MiningWatch Canada, Violence around Eldorado Gold's mining projects in Northern Greece brings critics to Canada, 24 May 2013, <<http://www.miningwatch.ca/news/violence-around-eldorado-golds-mining-projects-northern-greece-brings-critics-canada>>
- 81 UN Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, <<http://www.unece.org/index.php?id=25695>>
- 82 See, for instance, Jonathan Stearns, Mountain of Gold Sparks Battles in Greek Recovery Test, Bloomberg, 9 April 2013, <<http://www.bloomberg.com/news/2013-04-09/mountain-of-gold-sparks-battles-in-greek-recovery-test.html>>
- 83 Telephone interview, 19 September 2014.
- 84 In its April 2011 critique of Hellas Gold's EIS, the Technical Chamber of Greece (TEE/TKM) confirms that until the time its report was written, no consultation with the affected public had taken place. Technical Chamber of Greece, Central Macedonia Chapter, "TEE/TKM considerations on the Environmental Impact Assessment study for the project 'Hellas Gold's Extractive and processing installations for the Cassandra Ore Mines'", <[http://portal.tee.gr/portal/page/portal/teetkm/THESEIS\\_TEETKM\\_2014\\_16/THESEIS\\_TEE\\_TKM\\_2010\\_13/ellinikos\\_xrysos.pdf](http://portal.tee.gr/portal/page/portal/teetkm/THESEIS_TEETKM_2014_16/THESEIS_TEE_TKM_2010_13/ellinikos_xrysos.pdf)>
- 85 Margarita Karavassili, Public consultation in Halkidiki, 18 December 2010, <[http://oikomargarita.blogspot.gr/2010/12/blog-post\\_18.html](http://oikomargarita.blogspot.gr/2010/12/blog-post_18.html)>, <[http://oikomargarita.blogspot.gr/2010/12/blog-post\\_18.html](http://oikomargarita.blogspot.gr/2010/12/blog-post_18.html)>
- 86 Leonidas Oikonomakis, Halkidiki: where neither numbers nor people thrive, 13 March 2013, <<http://roarmag.org/2013/03/halkidiki-eldorado-gold-mine-greece>>. <<http://roarmag.org/2013/03/halkidiki-eldorado-gold-mine-greece>>
- 87 Special Report: Greece's triangle of power, 17 December 2012, <[www.reuters.com/assets/print?aid=USBRE8BG0CF20121217](http://www.reuters.com/assets/print?aid=USBRE8BG0CF20121217)>
- 88 New York Times, Greece sees gold boom, but at a price, 13 January 2014, <<http://www.nytimes.com/2013/01/14/world/europe/seeking-revenue-greece-approves-new-mines-but-environmentalists-balk.html?pagewanted=all&r=0>>
- 89 Leonidas Oikonomakis, Freedom of speech suspended "until further notice", 30 October 2012, <<http://roarmag.org/2012/10/greece-journalist-arrested-fired-swiss-accounts/>>. Papaconstantinou will now stand trial before a Special Court over breach of faith and doctoring a document. See Special Court for Papaconstantinou over 'Lagarde list' scandal, 11 December 2014, <[http://en.enikos.gr/politics/20804,Special\\_Court\\_for\\_Papaconstantinou\\_over\\_.html](http://en.enikos.gr/politics/20804,Special_Court_for_Papaconstantinou_over_.html)>; Leonidas Oikonomakis, 30 October 2012, Freedom of speech suspended "until further notice", <<http://roarmag.org/2012/10/greece-journalist-arrested-fired-swiss-accounts/>>
- 90 Aristotle University of Thessaloniki, "Recommendations of the AUTH environmental council regarding ore mining activities in northern Halkidiki", 27 February 2013, <<http://www.auth.gr/news/announcements/15528>>
- 91 Technical Chamber of Greece, 13 April 2011, "TEE/TKM considerations on the Environmental Impact Assessment study for the project 'Hellas Gold's Extractive and processing installations for the Cassandra Ore Mines'", <[http://portal.tee.gr/portal/page/portal/teetkm/THESEIS\\_TEETKM\\_2014\\_16/THESEIS\\_TEE\\_TKM\\_2010\\_13/ellinikos\\_xrysos.pdf](http://portal.tee.gr/portal/page/portal/teetkm/THESEIS_TEETKM_2014_16/THESEIS_TEE_TKM_2010_13/ellinikos_xrysos.pdf)>
- 92 SOS Halkidiki, Social, economic and environmental impacts of gold mining in Halkidiki, <<http://soshalkidiki.files.wordpress.com/2012/11/impacts-of-gold-mining.pdf>>
- 93 Hellas Gold's Environmental Impact Assessment, <[http://soshalkidiki.gr/sos\\_documents/Kyria\\_Meleti.pdf](http://soshalkidiki.gr/sos_documents/Kyria_Meleti.pdf)>. Unless otherwise indicated, all data pertaining to technical aspects of the mining projects in this report are taken from this document.
- 94 Hellenic Mining Watch, Open Complaint "Carcinogenic Tremolite/Asbestos at Skouries", 22 October 2014, <<http://antigoldgr.org/wp-content/uploads/2014/10/tremolite-asbestos.pdf>>
- 95 Technical Chamber of Greece, 13 April 2011, "TEE/TKM considerations on the Environmental Impact Assessment study for the project 'Hellas Gold's Extractive and processing installations for the Cassandra Ore Mines'", <[http://portal.tee.gr/portal/page/portal/teetkm/THESEIS\\_TEETKM\\_2014\\_16/THESEIS\\_TEE\\_TKM\\_2010\\_13/ellinikos\\_xrysos.pdf](http://portal.tee.gr/portal/page/portal/teetkm/THESEIS_TEETKM_2014_16/THESEIS_TEE_TKM_2010_13/ellinikos_xrysos.pdf)>
- 96 Special Secretariat for Water, Central Macedonia River Basin Management Plan, <[https://dl.dropboxusercontent.com/u/94188257/documents/10/SXEDIO\\_DIAXEIRISHS\\_GR10.pdf](https://dl.dropboxusercontent.com/u/94188257/documents/10/SXEDIO_DIAXEIRISHS_GR10.pdf)>

- 97 Article 4.1 of the Directive 2000/60/EC (WFD) lays down that all surface and groundwater bodies should achieve good status by 2015 and that all further deterioration should be prevented.
- 98 WWF Greece, "Report on violations of EU legislation by the River Basin Management Plan (RBMP) for Central Macedonia", January 2015, <<http://www.wwf.gr/images/pdfs/WWF-Report-to-European-Commission-Skouries.pdf>>
- 99 Second Technical Report of the special committee for monitoring compliance with environmental terms at the Cassandra Mines (ΕΠΙΤΗΡΩ), May 2008. Also, TVX Hellas, Environmental Impact Study for the Stratoniki Mining Facilities, 1998.
- 100 George Psychogiopoulos, "The utilization of tailings with high concentration in sulphide minerals as backfilling material for the Mavres Petres mine", January 2014, <<http://www.iekemtee.gr/images/%CE%86%CF%81%CE%B8%CF%81%CE%BF.pdf>>
- 101 Hellas Gold's Environmental Impact Assessment, Annex X, Seismotectonic Study, <[http://soshalkidiki.gr/sos\\_documents/Parartima\\_X.pdf](http://soshalkidiki.gr/sos_documents/Parartima_X.pdf)>
- 102 MiningWatch Canada, Violence around Eldorado Gold's mining projects in Northern Greece brings critics to Canada, 24 May 2013, <<http://www.miningwatch.ca/news/violence-around-eldorado-golds-mining-projects-northern-greece-brings-critics-canada>>
- 103 MiningWatch Canada, Good news from Greece: Stratoniki citizens win against TVX Gold, 30 November 2002, <<http://www.miningwatch.ca/good-news-greece-stratoniki-citizens-win-against-tvx-gold>>
- 104 The Sunday Funnel, Stratoniki's problem for 14 years, mining blasts under the village's houses, 22 September 2014, <<http://stratoniki.wordpress.com/2014/09/22/%CF%84%CE%BF-%CE%BC%CE%B5%CE%AF%CE%B6%CE%BF%CE%BD-%CF%80%CF%81%CF%8C%CE%B2%CE%BB%CE%B7%CE%BC%CE%B1-%CF%84%CE%B7%CF%82-%CF%83%CF%84%CF%81%CE%B1%CF%84%CE%BF%CE%BD%CE%AF%CE%BA%CE%B7%CF%82-%CE%BC%CE%B5/>>
- 105 Hellenic Mining Watch, Urgent Complaint: "Illegal Activities of Hellas Gold at the location Skouries of Megali Panagia", 6 September 2012, <<http://antigoldgr.org/blog/2012/09/07/kataggelia-skouries/>>
- 106 SOS Halkidiki, Suspension of Hellas Gold works in the Kokkinolakas area, 19 December 2013.
- 107 See Hellenic Mining Watch, "Prosecution initiated against Hellas Gold for failing to comply with security standards in transportation of dangerous materials... as a minor offense," 18 September 2014, <<http://antigoldgr.org/blog/2014/09/18/poiniki-diwx-i-gia-ptaisma/>>
- 108 "AUTH Faculty of Forestry and Natural Environment Findings regarding ore mining activities in Skouries", <<http://antigoldgr.org/blog/2013/07/09/sxoli-dasologias-auth/>>
- 109 MiningWatch Canada, Background on Eldorado Gold's Proposed Mines in Northern Greece, 24 May 2013, <<http://www.miningwatch.ca/article/background-eldorado-gold-s-proposed-mines-northern-greece>>
- 110 Sakis Apostolakis, "Land grab to serve private interests," 15 July 2013, <<http://www.enet.gr/?i=news.el.article&id=374749>>. A total area of 100 hectares is to be expropriated from the Mount Athos monastery of Iviron and other owners. Source: <[http://epitropiagonapanagias.blogspot.gr/2013/07/blog-post\\_5.html](http://epitropiagonapanagias.blogspot.gr/2013/07/blog-post_5.html)>
- 111 Eldorado Gold, undated, Eldorado Gold in Greece fallacies and facts, <<http://www.egoldfields.com/i/pdf/Greece-Facts-Fallacies.pdf>>
- 112 Sarah Steffen, Gold mining stirs up controversy in Greece, 16 January 2014, <<http://www.dw.de/gold-mining-stirs-up-controversy-in-greece/a-17365784>>
- 113 Theocharis Zagkas Hellenic Mining Watch, 8 July 2012, "Η σημασία των δασών της Αν. Χαλκιδικής και οι επιπτώσεις του Επενδυτικού Σχεδίου της ΕΛΛΗΝΙΚΟΣ ΧΡΥΣΟΣ (The importance of forests in Halkidiki and the impact of the Hellas Gold investment plan", Greek Gold), <<http://antigoldgr.org/blog/2012/07/08/zagas-gnomodotisi/http://antigoldgr.org/blog/2012/07/08/zagas-gnomodotisi/>>
- 114 Greek Law 4280/2014, <<http://www.forin.gr/laws/law/3210/periballontikh-anabathmish-kai-idiwtikh-poleodomhsh-biwsimh-anaptuksh-oikismwn-ruthmiseis-dasikh-nomothesias-kai-alles-diatakseis#!?article=17221>>
- 115 SOS Halkidiki, Illegal construction works at the Skouries mining project in Halkidiki, Greece to be legalized by a scandalous new bill of Parliament, June 2014, <<http://antigoldgr.org/en/2014/07/31/illegal-construction-works-at-the-skouries-mining-project-in-halkidiki-greece-to-be-legalized-by-a-scandalous-new-bill-of-parliament-skouries/>>
- 116 Hellenic Mining Watch, Complaint regarding Hellas Gold's construction licenses, 8 December 2014, <<http://antigoldgr.org/wp-content/uploads/2014/12/kataggelia-poleodomia-8-12-14.pdf>>

- 117 Flash smelting is a smelting process for sulphur-containing ores. The process was developed by the company Outokumpu in Finland and first applied at the Finnish Harjavalta plant in 1949 for smelting copper ore. It has also been adapted for nickel and lead production, <<http://www.outotec.com/en/About-us/Our-technologies/Smelting/Flash-smelting-Flash-converting/>>
- 118 Joint ministerial decision 201745/2011, p.19. "The investment plan of Hellas Gold SA aims at the production of lead, zinc and copper/gold concentrates, along with the production of metallic gold, copper and silver through a vertical metal recovery process. The application of the pyrometallurgical flash smelting technology is a necessary condition for the exploitation of the produced Olympias gold concentrates and the Skouries gold/copper concentrates as feed of the new metallurgy plant."
- 119 George Psychogiopoulos, December 2012, Observations on the planned application of the Flash Smelting method on the processing of the Olympias pyrite concentrate – A proposal for the removal of arsenic from the concentrate before its processing with the Flash Smelting method, <<https://docs.google.com/viewer?a=v&pid=sites&srcid=ZGVmYXVsdGRvbWVpbmxcnHn5Y2hvZ3ljb3xneDoyNTU0Y2UwZjY2NjgxNTc3>>
- 120 Eldorado Gold, Olympias Technical Report, July 2011, <[http://www.eldoradogold.com/uploads/operations-reports/Olympias\\_Technical\\_Report\\_%E2%80%93\\_July\\_2011.pdf](http://www.eldoradogold.com/uploads/operations-reports/Olympias_Technical_Report_%E2%80%93_July_2011.pdf)>
- 121 Statement made by Mr. Dimitris Dimitriadis of Hellas Gold during the visit of Canadian MP Elizabeth May to the company's headquarters in Stratoni on 26 June 2013, telephone interview with Hellenic Mining Watch, 19 September 2014.
- 122 George Psychogiopoulos, "Commentary on the Council of State Ruling Nr 1492/2013, with regard to the applicability of the metallurgical method of flash smelting", July 2013, <<http://www.iekemtee.gr/images/arthro.pdf>>
- 123 Eldorado Gold presentations to investors, <[http://www.eldoradogold.com/uploads/presentations-events-pdf/Olympias\\_-\\_Investors\\_Trip\\_-\\_June\\_2014.pdf](http://www.eldoradogold.com/uploads/presentations-events-pdf/Olympias_-_Investors_Trip_-_June_2014.pdf)>, p. 14, for example, presents the same processing flowsheet as the company's July 2011 technical report, which is not different from the one approved. The more recent presentation (September 2014). Olympias Phase III does not mention metallurgy at all, <[http://www.eldoradogold.com/uploads/presentations-events-pdf/Eldorado\\_Gold\\_-\\_Investor\\_Presentation\\_%28Sept\\_2014%29.pdf](http://www.eldoradogold.com/uploads/presentations-events-pdf/Eldorado_Gold_-_Investor_Presentation_%28Sept_2014%29.pdf)>
- 124 The EIA is reproduced at: <[http://soshalkidiki.gr/sos\\_documents/Kyria\\_Meleti.pdf](http://soshalkidiki.gr/sos_documents/Kyria_Meleti.pdf)>
- 125 Hellenic Mining Watch, Letter to the Special Environment Agency of the Environment, Energy and Climate Change, , 28.7.2013, <<http://antigoldgr.org/wp-content/uploads/2013/01/flashsmelting-EYPE.pdf>> and evidence presented on flash smelting, <<http://antigoldgr.org/wp-content/uploads/2013/01/flashsmelting41.pdf>>
- 126 Until 1990 the MDK (now Aurubis Bulgaria AD) smelter processed the high arsenic concentrate of the nearby Chelopech mine resulting in significant pollution of the area, which in turn led to the Bulgarian Government decreeing on 1 April 1990 that the Chelopech concentrate could no longer be treated at the Pirdop smelter, see <<http://www.dundeepriceous.com/English/operations/producing-mines/Chelopech/overview/default.aspx>>. Despite extensive modernisation and adoption of the flash smelting technology by the Pirdop smelter, the prohibition of treatment of the Chelopech concentrate has not been lifted.
- 127 Naomi Klein, This Changes Everything: Capitalism vs. the Climate (New York: Simon & Schuster, 2014).
- 128 SOS Halkidiki Magazine, Issue 1, March 2013, <[http://issuu.com/soshalkidikisintfor/docs/soshalkidiki\\_01\\_en/17?e=0](http://issuu.com/soshalkidikisintfor/docs/soshalkidiki_01_en/17?e=0)>
- 129 Jonathan Stearns, Mountain of Gold Sparks Battles in Greek Recovery Test, Bloomberg, 9 April 2013, <<http://www.bloomberg.com/news/2013-04-09/mountain-of-gold-sparks-battles-in-greek-recovery-test.html>>
- 130 Amnesty International, Policing demonstrations in the EU, October 2012, <[http://www.amnesty.org.gr/wp-content/uploads/2012/10/Policing\\_demonstrations\\_in\\_the\\_EU.pdf](http://www.amnesty.org.gr/wp-content/uploads/2012/10/Policing_demonstrations_in_the_EU.pdf)>
- 131 See also Naomi Klein, This Changes Everything: Capitalism vs. the Climate (New York: Simon & Schuster, 2014) for a description of police brutality and military-type controls in Halkidiki in relation to the protests.
- 132 Alter Thess, Chalkidiki: Brutal repression at demonstration against gold-mining industry in Skouries, 23 October 2012, <<http://www.alterthess.gr/content/chalkidiki-brutal-repression-demonstration-against-gold-mining-industry-skouries>>
- 133 Hellas Gold, 'Mining News', July/August 2013, <[http://issuu.com/hellasgold/docs/miningnews\\_07/11?e=8543748/10446458](http://issuu.com/hellasgold/docs/miningnews_07/11?e=8543748/10446458)>, p. 10.
- 134 Naomi Klein, This Changes Everything: Capitalism vs. the Climate (New York: Simon & Schuster, 2014), p. 298.

- 135 Theodora Oikonomides, Skouries: from intimidation to terror, 5 March 2013, <http://theirategreek.wordpress.com/2013/03/05/skouries-from-intimidation-to-terror/>
- 136 Amnesty International, Public Statement, Greece: Need for investigation of police conduct towards residents of town objecting gold mining operations, 22 March 2013, <<http://www.amnesty.org/en/library/asset/EUR25/004/2013/en/c6ae7452-3b08-42c9-8e59-f333e8544091/eur250042013en.pdf>>
- 137 SOS Halkidiki, Social, economic and environmental impacts of gold mining in Halkidiki, November 2012, <<http://theirategreek.wordpress.com/2013/07/14/rbnews-weekly-bulletin-06-12-july-2013/>>
- 138 Amnesty International, A Law Unto Themselves: a Culture of Abuse and Impunity in the Greek Police, April 2014, <<http://www.amnesty.org/ar/library/asset/EUR25/005/2014/en/47005cd7-f536-4c21-851f-e595076dcaef/eur250052014en.pdf>>
- 139 Theodora Oikonomides, Skouries: branding the local community a criminal organization, 7 July 2014, <<http://theirategreek.wordpress.com/2014/07/07/skouries-branding-the-local-community-a-criminal-organization>>
- 140 In the case of Goodwin v. United Kingdom, the European Court of Human Rights stated that: "Protection of journalistic sources is one of the basic conditions for press freedom [...].Without such protection, sources may be deterred from assisting the press in informing the public on matters of public interest. As a result the vital public-watchdog role of the press may be undermined and the ability of the press to provide accurate and reliable information may be adversely affected". The Decision is published at <[http://www.iidh.ed.cr/comunidades/libertadexpresion/docs/le\\_europeo/goodwin%20v.%20united%20kingdom.htm](http://www.iidh.ed.cr/comunidades/libertadexpresion/docs/le_europeo/goodwin%20v.%20united%20kingdom.htm)>
- 141 Protected under Article 19 of the Universal Declaration of Human Rights and Article 10 of the European Convention on Human Rights.
- 142 [www.newsit.gr](http://www.newsit.gr), Skouries turned into 'Guantanamo' after the arson attack, claims of arbitrary police actions, 22 February 2013, <[http://www.newsit.gr/default.php?pname=Article&art\\_id=193724&catid=4](http://www.newsit.gr/default.php?pname=Article&art_id=193724&catid=4)>
- 143 [www.epohi.gr](http://www.epohi.gr), Skouries: all the accused walk free, 22 June 2014, <<http://www.epohi.gr/portal/koinonia/17194-skouries-eleytheroi-oloi-oi-katigoroymeni>>
- 144 Reuters, Insight: gold mine stirs hope and anger in shattered Greece, 13 January 2014, <<http://www.reuters.com/assets/print?aid=USBREA0C0DG20140113>>; New Statesman, Shock therapy and the gold mine, 18 June 2013, <<http://www.newstatesman.com/austerity-and-its-discontents/2013/06/shock-therapy-and-gold-mine>>
- 145 Al Jazeera, Greeks rally against Canadian gold mine project, 9 March 2013, <<https://www.youtube.com/watch?v=ZVZ8bK1bQt4#t=14>>; Theodora Oikonomides, The demonstration against ore mining in Thessaloniki on 9 March 2013, 10 March 2013, <<http://theirategreek.wordpress.com/2013/03/10/the-demonstration-against-ore-mining-in-thessaloniki-on-09-march-2013/>>; EnetEnglish, Thousands protest against gold mines in Thessaloniki, 9 March 2013, <<http://www.enetenglish.gr/?i=news.en.home&id=225>>
- 146 See, for instance, the petition by MiningWatch Canada, <<http://www.change.org/p/the-government-of-canada-stop-support-for-eldorado-gold-corporation-in-northern-greece>>; or SOS Halkidiki for solidarity declarations, <<http://soshalkidiki.wordpress.com/category/in-english/>>.
- 147 For an overview of solidarity messages and petitions over the past years, see <<http://soshalkidiki.wordpress.com/category/in-english/>>
- 148 Citizens Initiative of the Aristotle Municipality, To the politicians and public-office holders of Halkidiki: Where is this going? 25 June 2013, <[http://politesaristoteli.blogspot.gr/2013/06/blog-post\\_9132.html](http://politesaristoteli.blogspot.gr/2013/06/blog-post_9132.html)>
- 149 Group interview with local residents held in Megali Panagia, 3 November 2014.
- 150 Hellenic Foundation for European and Foreign Policy (ELIAMEP), Case study report. Does media policy promote media freedom and independence? The case of Greece, December 2011, <<http://www.mediadem.eliamep.gr/wp-content/uploads/2012/01/Greece.pdf>>, p. 5.
- 151 Reuters, Special Report: Greece's triangle of power, 17 December 2012, <[www.reuters.com/assets/print?aid=USBRE8BG0CF20121217](http://www.reuters.com/assets/print?aid=USBRE8BG0CF20121217)>
- 152 Telephone interview, 23 June 2014.

- 153 Eldorado Gold website, <<http://www.eldoradogold.com/assets/europe/projects/perama-hill/>>
- 154 Hellenic Mining Watch, 30 years of struggle against gold mining – a brief history”, 13 November 2014, <<http://antigoldgr.org/blog/2014/11/13/30-hronia-agonas/>>
- 155 Rulings 2170/2006 and 2315/2008 of the 5th Section of the Council of State annulled the PEIS approvals for the Sappes and Perama Hill projects respectively.
- 156 Glory Resources ASX announcement 16 July 2014, <<http://www.asx.com.au/asxpdf/20120716/pdf/427dzdm0jp8z6y.pdf>>
- 157 Eldorado Gold Greece Activity Update 22 March 2012, <<http://www.eldoradogold.com/news-media/news/greece-activity-update>>
- 158 Resolution of Mayors of the Eastern Macedonia and Thrace Region on the Perama Hill Gold Project, published 21 March 2012 on <http://www.pamemprosta.org/2012/03/21/%CF%88%CE%AE%CF%86%CE%B9%CF%83%CE%BC%CE%B1-%CE%B4%CE%B7%CE%BC%CE%AC%CF%81%CF%87%CF%89%CE%BD-%CF%84%CE%B7%CF%82-%CF%80%CE%B5%CF%81%CE%B9%CF%86%CE%AD%CF%81%CE%B5%CE%B9%CE%B1%CF%82-%CE%B1%CE%BC%CE%B1/#.VKGL00CoA>
- 159 The Wall Street Journal, Greece to Approve Gold Project, 21 February 2013, <<http://online.wsj.com/news/articles/SB10001424127887323549204578317991953925204>> or <<http://greece.greekreporter.com/2013/02/23/greece-will-ok-gold-mine-project/>>
- 160 Xronos newspaper, Komotini proved that protesters are not a minority – A matter of honour for Thracians to keep gold out, 13 March 2013, <<http://www.xronos.gr/detail.php?ID=87868>>
- 161 Eldorado Gold, 2nd quarter 2014 financial and operating results, 31 July 2014, <<http://www.eldoradogold.com/news-media/news/eldorado-gold-corporation-2014-second-quarter-financial-and-operating-resul>>. “The Company continues to work with Greek government authorities to facilitate approval of the Environmental Impact Assessment”.
- 162 Enetenglish.gr, Mayor to Canadian Ambassador: “Leave us alone”, 28 February 2013, <<http://www.enetenglish.gr/?i=news.en.article&id=130>>
- 163 Hellas Gold Environmental impact assessment, reproduced at: [http://soshalkidiki.gr/sos\\_documents/Kyria\\_Meleti.pdf](http://soshalkidiki.gr/sos_documents/Kyria_Meleti.pdf), page reference: 7.8-5.

### Chapter 3

- 164 European Commission press release, State aid: Commission investigates transfer pricing arrangements on corporate taxation of Apple (Ireland) Starbucks (Netherlands) and Fiat Finance and Trade (Luxembourg), 11 June 2014, <[http://europa.eu/rapid/press-release\\_IP-14-663\\_en.htm](http://europa.eu/rapid/press-release_IP-14-663_en.htm)>; Wall Street Journal, Starbucks’s Dutch Tax Deal May Constitute Illegal State Aid, Says EU, 14 November 2014, <<http://www.wsj.com/articles/starbucks-dutch-tax-deal-may-constitute-illegal-state-aid-says-eu-1415952205>>
- 165 EDC does not disclose the precise dollar amounts of its loans.
- 166 Within the commercial terms and conditions of the credit facility.
- 167 Personal communication from Yolanda Banks, Senior Corporate Social Responsibility Advisor, EDC to Lauren Sheffield. 14 September 2010.
- 168 EDC website, <<http://www.edc.ca/EN/About-Us/Pages/default.aspx>>
- 169 EDC, Corporate Social Responsibility Report 2013, <<http://www.edc.ca/EN/About-Us/Corporate-Social-Responsibility/Documents/csr-report-2013.pdf>>, p. 16.
- 170 Halifax Initiative, Greeks question EDC financing for Eldorado, June 2013, <<http://www.halifaxinitiative.org/content/greeks-question-edc-financing-eldorado>>
- 171 Personal communication from Signi Schneider, VP Corporate Social Responsibility, EDC to Maria Kadoglou, Hellenic Mining Watch. 2 October 2013.
- 172 MiningWatch Canada, undated, The Government of Canada: Stop Support for Eldorado Gold Corporation in Northern Greece, <<http://www.change.org/p/the-government-of-canada-stop-support-for-eldorado-gold-corporation-in-northern-greece>>
- 173 European Commission, July 2013, DG Economic and Financial Affairs, European Economy Occasional Papers 159, The Second Economic Adjustment Programme for Greece Third Review, <[http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2013/pdf/ocp159\\_en.pdf](http://ec.europa.eu/economy_finance/publications/occasional_paper/2013/pdf/ocp159_en.pdf)>, p 8.

- 174 IMF, Country Report No. 13/241, Greece: Fourth review under the extended arrangement under the extended fund facility, and request for waivers of applicability and modification of performance criterion – staff report, staff statement, press release, July 2013; and statement by the Executive Director for Greece, <<http://www.imf.org/external/pubs/ft/scr/2013/cr13241.pdf>>, p. 21.
- 175 These apply to investments in all economic sectors by both Greek and foreign entities for a period of six years for existing companies and eight years for start-ups.
- 176 See Nomiki Bibliothiki, Greek Law Digest, 2012, <[http://www.mfa.gr/usa/images/stories/washington/docs/greek\\_law\\_digest.pdf](http://www.mfa.gr/usa/images/stories/washington/docs/greek_law_digest.pdf)> and TMS Auditors, Greek Tax Overview, 2012, <[http://tms-auditors.gr/uploads/greek\\_tax\\_overview.pdf](http://tms-auditors.gr/uploads/greek_tax_overview.pdf)>, amongst others.
- 177 Invest in Greece Agency, April 2012, newsletter, <<http://www.investingreece.gov.gr/default.asp?pid=127&nwslID=21&sec=2&la=4>>
- 178 See Annex 3 and IIG website, <<http://www.investingreece.gov.gr/default.asp?pid=127&nwslID=21&sec=2>>
- 179 The committee comprised the Ministers from the Departments of Finance, Development-Competition and Merchant Marine; Transportation, Environment and Energy, and the Deputy Minister of Foreign Affairs. See Eldorado Gold press release, Greece Activity Update, 22 March 2012, <<http://www.eldoradogold.com/news-media/news/greece-activity-update>>
- 180 Eldorado Gold Corporation second quarter 2014 financial results conference call, 1 August 2014, <[http://www.eldoradogold.com/uploads/investor-relations-pdf/2014\\_08\\_01\\_Q2\\_Call\\_Transcript.pdf](http://www.eldoradogold.com/uploads/investor-relations-pdf/2014_08_01_Q2_Call_Transcript.pdf)>
- 181 Invest in Greece Agency, newsletter, April 2012, <<http://www.investingreece.gov.gr/default.asp?pid=127&nwslID=21&sec=2&la=4>>
- 182 Sarah Steffen, Gold mining stirs up controversy in Greece, 16 January 2014, <<http://www.dw.de/gold-mining-stirs-up-controversy-in-greece/a-17365784>>
- 183 Among other reasons, due to the finite life of a mine and commodity price volatility.

#### Chapter 4

- 184 Eldorado Gold Corp, 2013 SEC Filings Form 40-F, <[https://www.sec.gov/Archives/edgar/data/918608/000091228212000284/ex99\\_2.htm](https://www.sec.gov/Archives/edgar/data/918608/000091228212000284/ex99_2.htm)>, p. 97.
- 185 SOMO, Private gain, public loss. Mailbox companies, tax avoidance and human rights, 2013, <[http://somo.nl/publications-en/Publication\\_3975](http://somo.nl/publications-en/Publication_3975)>.
- 186 Philippe Le Billon, Extractive sectors and illicit financial flows: What role for revenue governance initiatives? Chr. Michelsen Institute (CMI), U4 Issue, no 13, November 2011, <<http://www.u4.no/publications/extractive-sectors-and-illicit-financial-flows-what-role-for-revenue-governance-initiatives/downloadasset/2537>>
- 187 Kevin Watkins et al., Africa Progress Panel, Equity in extractives. Stewarding Africa's natural resources for all. Africa Progress Report 2013. <[http://africaprogresspanel.org/wp-content/uploads/2013/08/2013\\_APR\\_Equity\\_in\\_Extractives\\_25062013\\_ENG\\_LR.pdf](http://africaprogresspanel.org/wp-content/uploads/2013/08/2013_APR_Equity_in_Extractives_25062013_ENG_LR.pdf)>
- 188 Gravelle, Jane, US Congressional Research Service, Tax Havens: International Tax Avoidance and Evasion, 2013, <<http://www.fas.org/sgp/crs/misc/R40623.pdf>>
- 189 Dutch outward FDI is comprised mainly of mining, oil, chemicals and quarrying activities, as well as investment in banking and insurance. Dutch Central Bank (2010) in OECD, 'Report on implementing the OECD Anti-Bribery Convention in the Netherlands', December 2012, available at <<http://www.oecd.org/daf/briberyininternationalbusiness/NetherlandsPhase3ReportEn.pdf>>, p. 8.
- 190 Publish What You Pay Norway, Piping Profits, Mapping the 6,038 subsidiaries owned by 10 of the world's most powerful Extractive Industry giants and the quest by Latin American journalists to find out more, 2011, <<http://www.publishwhatyoupay.org/sites/publishwhatyoupay.org/files/FINAL%20pp%20norway.pdf>>, p. 8.
- 191 See Eldorado Gold Corp, 2013 SEC Filings Form 40-F, <[https://www.sec.gov/Archives/edgar/data/918608/000091228212000284/ex99\\_2.htm](https://www.sec.gov/Archives/edgar/data/918608/000091228212000284/ex99_2.htm)>, p. 7, reproduced here in Annex 2.

- 192 Eldorado Gold finances the Greek subsidiary through bonds and sometimes uses the term 'bond loans'. Inter-company bonds are essentially loans that are tradable. Until 2013, the Dutch entities had not sold these bonds on to third entities, so that they still form part of the intra-group financing structure.
- 193 Transfer prices in effect allocate profit to subsidiaries in a group and therefore the jurisdiction in which it is located, based on the amount of value added at each step along the supply chain of a product from extraction to consumption.
- 194 Capital might not be paid out to its parent. A Dutch holding company that receives low-taxed income or payments from its own subsidiary companies can effectively defer these gains for its parent company, almost indefinitely, and reinvest it in the group in a tax-efficient manner.
- 195 NFIA website, 'Q&A: Legal Issues, Taxation and Corporate Structure', <[http://www.nfia.com/qa\\_legal\\_tax\\_corporate.html#How%20is%20the%20corporate%20...](http://www.nfia.com/qa_legal_tax_corporate.html#How%20is%20the%20corporate%20...)>, emphases added.
- 196 Vrij Nederland, 'Nederland belastingparadijs, met dank aan de PvdA' by Tomas Vanheste & Map Oberndorff, 6 August 2013, <<http://www.vn.nl/Archief/Politiek/Artikel-Politiek/Nederland-belastingparadijs-met-dank-aan-de-PvdA.htm>>
- 197 A good description of the global network of tax havens can be found in: Ronen Palan et al., Tax havens: How globalization really works, 2010, Cornell University Press.
- 198 See SOMO, Private gain, public loss. Mailbox companies, tax avoidance and human rights, 2013 <[http://somo.nl/publications-en/Publication\\_3975](http://somo.nl/publications-en/Publication_3975)>, Chapter 3.5.
- 199 See SOMO, Private gain, public loss. Mailbox companies, tax avoidance and human rights, 2013 <[http://somo.nl/publications-en/Publication\\_3975](http://somo.nl/publications-en/Publication_3975)>, Chapters 5 and 6.
- 200 The company's total corporate structure as published in its annual accounts is reproduced in Annex 2.
- 201 The Canadian subsidiary Quetico Resources Ltd is owned by a Dutch entity and manages a prospective (i.e. not active) copper, nickel and platinum project in Ontario.
- 202 Dutch Chamber of Commerce website, <[www.kvk.nl](http://www.kvk.nl)>
- 203 Eldorado Gold Coöperatief U.A, Annual report 2013, Dutch Chamber of Commerce.
- 204 Dutch Chamber of Commerce, history of SG Resources BV (33213149).
- 205 Figures are from annual reports for 2013 (the year ending on 31 December 2013) as deposited by the companies at the Dutch Chamber of Commerce, <[www.kvk.nl](http://www.kvk.nl)>. Exceptions are Scarborough Minerals Internationals BV and Thrace Investments BV. For these two companies, the figures are based on the annual accounts 2013, for the year ending 30 September 2013. The total figures for these two companies represent total net assets.
- 206 History of the company as retrieved from the Chamber of Commerce, <[www.kvk.nl](http://www.kvk.nl)>
- 207 Eldorado's acquisition of European Goldfields was finalised in February 2012, although the takeover process started in 2011. See <<http://www.eldoradogold.com/uploads/news-release-pdfs/12-10.pdf>>
- 208 Amendment to the statutes, as submitted to the Chamber of Commerce by the company on 12 May 2014. The amendment states that, since 6 May 2014, the company moved from Delft to Amsterdam and is now based at the Barbara Strozilaan 101, Amsterdam, like all other Eldorado subsidiaries.
- 209 Hellenic Mining Watch, Letter to the Special Environment Agency of the Environment, Energy and Climate Change, 28 July 2013, <<http://antigoldgr.org/wp-content/uploads/2013/01/flashsmelting-EYPE.pdf>> and evidence presented on flash smelting, <<http://antigoldgr.org/wp-content/uploads/2013/01/flashsmelting41.pdf>>
- 210 Annual report for the SEC for the fiscal year ended 13 December 2013, <[http://www.eldoradogold.com/uploads/general-pdfs/Form\\_40F\\_\(FYE\\_2013\).pdf](http://www.eldoradogold.com/uploads/general-pdfs/Form_40F_(FYE_2013).pdf)>
- 211 Private limited liability company, which means the company is owned by shareholders and its shares are privately registered and not freely transferable.
- 212 See also Deloitte The Netherlands, as an intermediary, undated, <[https://www.deloitte.com/assets/Dcom-Azerbaijan/Site%20SMF/EN/Events/The%20Netherlands\\_As%20an%20Intermediary.pdf](https://www.deloitte.com/assets/Dcom-Azerbaijan/Site%20SMF/EN/Events/The%20Netherlands_As%20an%20Intermediary.pdf)>
- 213 A holding also reduces risk in case operating companies go bankrupt and centralises ownership and management of the shareholdings of a group of companies.

- 214 Without a holding structure, the regular corporate income tax rate of 25 per cent would apply. If assets are held by a Dutch holding company and sold, then the profits can be deferred indefinitely and reinvested in the group.
- 215 Fasken Martineau DuMoulin LLP, Eldorado Gold acquires Glory Resources, March 2014, <<http://www.fasken.com/en/eldorado-gold-acquires-glory-resources/>>; Takeover bid by Eldorado Gold Coöperatief UA for Glory Resources Limited, November 2013, <[http://member.afraccess.com/media?id=CMN://6A658788&filename=20131122/GLY\\_01468914.pdf](http://member.afraccess.com/media?id=CMN://6A658788&filename=20131122/GLY_01468914.pdf)>
- 216 Eldorado Gold Coöperatief UA, 2012 annual accounts as deposited at the Dutch Chamber of Commerce, <[www.kvk.nl](http://www.kvk.nl)>
- 217 The company has minority shareholdings in Kopy Goldfields (Russian mines), Nordic Mines AB (Finnish and Swedish gold mines) and Glory Resources (Canadian prospective metals project and the Sappes gold project in Greece). Kopy Goldfields website, <<http://www.kopygoldfields.com>>; Nordic Mines website, <<http://www.nordicmines.com/en>>; Glory Resources website, <<http://www.gloryresources.com.au/projects/overview>>. Quarterly Report Period Ended 31 March 2013, Glory Resources, <<http://www.gloryresources.com.au/wp-content/uploads/2013/05/009-GLY-Quarterly-Report-and-App5B-31-Mar-2013-FINAL-MERGED.pdf>>
- 218 Eldorado Gold Corporation, annual report for the SEC, for the fiscal year ended 13 December 2013, <[http://www.eldoradogold.com/uploads/general-pdfs/Form\\_40F\\_\(FYE\\_2013\).pdf](http://www.eldoradogold.com/uploads/general-pdfs/Form_40F_(FYE_2013).pdf)>
- 219 Aktor, Mining activities, <<http://en.aktor.gr/article.asp?catid=20139>>
- 220 See SOMO, Nederlandse belastingfaciliteiten voor concernfinanciering. Gebruik van het CFA-regime en consequenties voor nieuwe wetgeving [Dutch tax facilities for group financing. The use of the GFA regime and implications for new legislations], <[http://somo.nl/publications-en/Publication\\_2875](http://somo.nl/publications-en/Publication_2875)>. See also Rubicon, Belastingwijzigingen 2013 [Tax changes 2013], 2012, <<http://www.rubbel.nl/sites/default/files/Userfiles/Pdf/Prinsjesdag/Belastingwijzigingen%202013,%20vennootschapsbelasting.pdf>>
- 221 See SOMO, The Netherlands: a tax haven?, <[http://somo.nl/publications-en/Publication\\_1397](http://somo.nl/publications-en/Publication_1397)>. These were contrary to the bases of calculation of tax liabilities usually used, lowering the effective rates of tax charged to 6%, even though the standard rate of corporate income tax was charged on the remaining 20% of income (29.6% corporate tax on 20% of income is 5.9% effective tax on income). Tax allowable reserves could be made, for example, for the cost of replacing assets and investments, which is almost unknown in any other taxation system where the anticipation of expenditure is normally strictly forbidden.
- 222 Article 12c of the Corporate Income Tax Law, see <<http://maxius.nl/wet-op-de-vennootschapsbelasting-1969/artikel12c>>. The proposal reduced tax on interest received from group companies to 5%, while paid group interest would have been deductible at a rate of 5%.
- 223 See, amongst others, Kemmeren, Eric, Group Interest Tax Regimes and State Aid: EC on the Wrong Track, 19 EC Tax Review, Issue 4, 2010, pp. 146–148; Tax Treatment of Interest for Corporations, 2013, Marres & Weber (eds.), IBFD, Amsterdam; Schellmann, Die Staaten, nicht Google & Co. verteilen Besteuerungsrechte [States and not Google & co allocate taxing rights], DiePresse.com, 2013 <<http://diepresse.com/home/recht/rechtallgemein/1474696/Die-Staaten-nicht-Google-Co-verteilen-Besteuerungsrechte>>
- 224 Eldorado Thrace (Greece) BV and Eldorado Gold Treasury BV did not conclude direct loans with a Barbados entity, but received financing from their shareholder, Eldorado Gold Coöperatief UA, against the issuance of promissory notes, worth respectively US\$ 0.5 million and US\$ 10 million (in 2013). Eldorado Gold Coöperatief, in turn, received loans from Eldorado Gold (Barbados) Ltd. (amounting to US\$ 100 million at 31 December 2013) and TJS Ltd (amounting to US\$ 25 million at 31 December 2013), which is another group entity of Eldorado, located in Barbados. Because it is not clear whether Eldorado Gold Coöperatief, Eldorado Thrace (Greece) BV and Eldorado Gold Treasury BV form a fiscal unity, it cannot be assumed that interest payments made by the subsidiaries are deducted from its shareholders' (Eldorado Gold Coöperatief) taxable profits – an advantage that a fiscal unity would offer. That is why neither the bonds of Eldorado Thrace (Greece) BV and Eldorado Gold Treasury BV, nor the credit facility of Eldorado Gold Coöperatief are included in the calculations regarding lost corporate income tax in Greece, because although there are indications of a link to Barbados, it is unknown whether the interest is ultimately taxed there.
- 225 Deloitte, International Tax – Barbados Highlights 2014, available at <<http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-barbadoshighlights-2014.pdf>>

- 226 Tax incentives reduce the standard income tax rate of 25% to tax on income on a sliding scale, from a maximum of 2.5% to a minimum of 0.25% for foreign corporations (International Business Companies, IBCs) and other entities. Other corporate tax benefits include a tax credit for tax paid outside Barbados, an exemption from exchange control and an exemption from customs duty, consumption tax and stamp duty on the import of machinery and equipment. IBCs and International Societies with Restricted Liability (ISRLs) are also exempt from dividends and interest paid to another IBC, ISRL or to a person resident outside Barbados. See Deloitte, Barbados Highlights 2014, <<http://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-barbadoshighlights-2014.pdf>>
- 227 UN Tax Committee's ninth session, Issues concerning the taxation of the extractive industries for consideration by the Committee, Geneva, 21-25 October 2013, <[http://www.un.org/esa/ffd/tax/ninthsession/CRP13\\_ExtractiveIndustries.pdf](http://www.un.org/esa/ffd/tax/ninthsession/CRP13_ExtractiveIndustries.pdf)>, page 7.
- 228 Ibid.
- 229 See, amongst others, Martin Hearson, Learning from past mistakes in tax and investment treaties, 2014, <<http://martinhearsen.wordpress.com>>; Finnwatch, Tax Justice and Finnish tax treaties, June 2014, <<http://finnwatch.org/images/verosopimukset5.pdf>>; SOMO, Should the Netherlands sign tax treaties with developing countries?, 2013 <[http://www.somo.nl/publications-en/Publication\\_3958](http://www.somo.nl/publications-en/Publication_3958)>
- 230 International Monetary Fund, Michielse, IMF Country Report No. 12/306, Mongolia: Technical Assistance Report. Safeguarding Domestic Revenue. A Mongolian DTA Model, July 2012, <<http://www.imf.org/external/pubs/ft/scr/2012/cr12306.pdf>>
- 231 Greece (as well as Portugal) made use of transitional arrangements, meaning that the 0% rate was not applicable to them until July 2013. The transitional arrangements were designed for countries with weak fiscal systems and intended to prevent profit shifting. See Council Directive of 3 June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States (2003/49/EC), <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0049:en:HTML>>
- 232 See Annex 7, which describes the methodology of these calculations, explaining which data has been used and which assumptions have been made. In the methodology Annex, our calculations that are based on loan and interest payment data from the Dutch annual accounts are also compared to those reported by Hellas Gold SA in Greece. Differences between these figures and our calculations are explained there as well.
- 233 Including bonds, subscribed to by Dutch companies at end of year.
- 234 Until 30 June: since the 0% WHT on interest was applicable since July 2013, after the ending of the transitional period for Greece of the implementation of the EU Interest and Royalty Directive, the total amount of interest payments due by Hellas Gold SA in 2013 (€ 7,015,724) was divided by two in order to reflect the two different WHT rates applicable in 2013.
- 235 Since 1 July, see above.
- 236 See Hellas Gold Annual Financial Statements 2009 to 2013 on SOMO's website.
- 237 Kostas Georgantzis, Hellas Gold SA's communications officer, interviewed by Macedonian news channel Εδω Μακεδονια, 5 November 2014, <[http://www.dailymotion.com/video/x29e9ks\\_%CE%B5%CE%B4%CF%89-%CE%BC%CE%B1%CE%BA%CE%B5%CE%B4%CE%BF%CE%BD%CE%B9%CE%B1-05-11-14\\_news](http://www.dailymotion.com/video/x29e9ks_%CE%B5%CE%B4%CF%89-%CE%BC%CE%B1%CE%BA%CE%B5%CE%B4%CE%BF%CE%BD%CE%B9%CE%B1-05-11-14_news)>
- 238 On the bonds issued only to Eldorado Gold (Netherlands) BV and Eldorado Gold (Greece) BV, as these subsidiaries receive loan financing from a Barbados entity at similar interest rates, so that the interest income remains virtually untaxed at group level.
- 239 Eldorado Gold Coöperatief UA, Annual Accounts 2013, as deposited at the Dutch Chamber of Commerce.
- 240 Eikelenboom & De Groot, Cooperatie als fiscale vluchtroute [The cooperative as a fiscal escape route], Financieel Dagblad, 13 September 2011, <<http://fd.nl/economie-politiek/613456/cooperatie-als-fiscale-vluchtroute>>
- 241 The number of cooperatives registered in the Dutch Chamber of Commerce rose from 3,834 in 2006 to 5,062 in 2010. The 'members' of the cooperative were mostly incorporated in tax havens such as the Cayman or Channel Islands, Bermuda or Delaware, see Eikelenboom & De Groot, Fiscale coöperatie schaadt imago [Fiscal cooperation damages reputation], 13 September 2011, <<http://fd.nl/ondernemen/613455/fiscale-cooperatie-schaadt-imago>>
- 242 Ramon Groen, Het einde van het paradijs. Introductie van antimisbruikbepalingen in de Wet op de dividendbelasting 1965, M.A. Thesis, Vrije Universiteit Amsterdam, October 2012, <[http://www.iusaudit.com/Uploaded\\_files/Zelf/scriptie%20Ramon.pdf](http://www.iusaudit.com/Uploaded_files/Zelf/scriptie%20Ramon.pdf)>

- 243 European Commission, press release, 11 June 2014, State aid: Commission investigates transfer pricing arrangements on corporate taxation of Apple (Ireland) Starbucks (Netherlands) and Fiat Finance and Trade (Luxembourg), <[http://europa.eu/rapid/press-release\\_IP-14-663\\_en.htm](http://europa.eu/rapid/press-release_IP-14-663_en.htm)>
- 244 See <[http://en.wikipedia.org/wiki/Luxembourg\\_Leaks](http://en.wikipedia.org/wiki/Luxembourg_Leaks)>
- 245 Unless otherwise indicated, the following section is based on the report of the UN Tax Committee's ninth session, Issues Concerning the Taxation of the Extractive Industries for Consideration by the Committee, Geneva, 21-25 October 2013, <[http://www.un.org/esa/ffd/tax/ninthsession/CRP13\\_ExtractiveIndustries.pdf](http://www.un.org/esa/ffd/tax/ninthsession/CRP13_ExtractiveIndustries.pdf)>
- 246 To name but a few: Costas Lapavistas, <<https://www.soas.ac.uk/staff/staff31299.php>>; Right2Water, the European Citizen Initiative (ECI), <<http://www.right2water.eu>>; Stephan Kaufmann et al., "Sell your islands, you bankrupt Greeks". 20 popular fallacies concerning the debt crisis, July 2011, <<http://www.rosalux.de/publication/37664/sell-your-islands-you-bankrupt-greeks.html>>; Rosa Luxemburg Foundation Brussels (eds.), The World Crisis and Beyond: Alternatives and transformation paths to overcome the regime of crisis-capitalism, 2009, <[http://rosalux-europa.info/publications/books/the\\_world\\_crisis\\_and\\_beyond/](http://rosalux-europa.info/publications/books/the_world_crisis_and_beyond/)>
- 247 The information is taken from a report by the Government of Zambia's Technical Audit Committee, KCM Audit from December 2013.
- 248 Kevin Watkins et al., Africa Progress Panel, Equity in extractives. Stewarding Africa's natural resources for all. Africa Progress Report 2013, <[http://africaprogresspanel.org/wp-content/uploads/2013/08/2013\\_APR\\_Equity\\_in\\_Extractives\\_25062013\\_ENG\\_LR.pdf](http://africaprogresspanel.org/wp-content/uploads/2013/08/2013_APR_Equity_in_Extractives_25062013_ENG_LR.pdf)>, p. 65.
- 249 ActionAid, Glencore: tax dodging in Zambia, 2011, <<http://www.actionaid.org.uk/tax-justice/glencore-tax-dodging-in-zambia>>
- 250 BBC News, EIB freezes Glencore lending on governance concerns, 2011, <http://www.bbc.co.uk/news/business-13620185>
- 251 KPMG, Commodity trading companies Centralizing trade as a critical success factor, October 2012, <<http://www.kpmg.com/Global/en/IssuesAndInsights/ArticlesPublications/commodity-trading-companies/documents/centralizing-trade.pdf>>
- 252 OECD, Part 1 of a Report to G20 Development Working Group on the impact of BEPS in low-income countries, July 2014, <[https://www.g20.org/sites/default/files/g20\\_resources/library/1%20OECD%20Report%20to%20the%20G20%20DWG%20on%20the%20impact%20of%20base%20erosion%20and%20profit%20shifting%20in%20low%20income%20countries.PDF](https://www.g20.org/sites/default/files/g20_resources/library/1%20OECD%20Report%20to%20the%20G20%20DWG%20on%20the%20impact%20of%20base%20erosion%20and%20profit%20shifting%20in%20low%20income%20countries.PDF)>
- 253 Martin Hearson, Capital gains tax avoidance: can Uganda succeed where India didn't?, 23 September 2014, <<http://martinhearsen.wordpress.com/2014/09/23/capital-gains-tax-avoidance-can-uganda-succeed-where-india-didnt/>>
- 254 UN Tax Committee's ninth session, Geneva, Issues Concerning the taxation of the extractive industries for Consideration by the Committee, 21-25 October 2013, <[http://www.un.org/esa/ffd/tax/ninthsession/CRP13\\_ExtractiveIndustries.pdf](http://www.un.org/esa/ffd/tax/ninthsession/CRP13_ExtractiveIndustries.pdf)>, p. 6.
- 255 UN Tax Committee's ninth session, Geneva, Issues Concerning the taxation of the extractive Industries for Consideration by the Committee, 21-25 October 2013, <[http://www.un.org/esa/ffd/tax/ninthsession/CRP13\\_ExtractiveIndustries.pdf](http://www.un.org/esa/ffd/tax/ninthsession/CRP13_ExtractiveIndustries.pdf)>, pp. 7-8.
- 256 Capital.gr, Dimitri Delevegkou, Τι πραγματικά συμβαίνει με το πρόστιμο στην Ελληνικός Χρυσός [What is really happening to the fine of Hellas Gold], 18 October 2013, <<http://www.capital.gr/Articles.asp?id=1891705>>
- 257 Government of Republic of Zambia's Technical Audit Committee, KCM Audit, December 2013.
- 258 These are legally binding commitments by the host country's government and either guarantee the contract's fiscal terms or guarantee investors a share of economic rents over an agreed upon period or for the length of the agreement.
- 259 Reuters, Special report: In tax case, Mongolia is the mouse that roared, 2013, <<http://www.reuters.com/article/2013/07/16/us-dutch-mongolia-tax-idUSBRE96F0B620130716>>
- 260 Eldorado Gold Corp, 2013 SEC Filings Form 40-F, note 17, <<https://www.sec.gov/Archives/edgar/data/918608/000113717114000057/fins.htm>>
- 261 Eldorado Gold Corp, 2013 SEC Filings Form 40-F, note 11, 12, <[https://www.sec.gov/Archives/edgar/data/918608/000091228212000284/ex99\\_2.htm](https://www.sec.gov/Archives/edgar/data/918608/000091228212000284/ex99_2.htm)>
- 262 All figures are based on the Financial Statements as displayed by Eldorado in SEC Filings Form 40-F, <<https://www.sec.gov/cgi-bin/browse-edgar?action=getcompany&CIK=0000918608&type=40-F&dateb=&owner=exclude&count=40>>

- 263 Eldorado Gold Corp, 2011 SEC Filings Form 40-F, note 30, <[https://www.sec.gov/Archives/edgar/data/918608/000091228212000284/ex99\\_2.htm](https://www.sec.gov/Archives/edgar/data/918608/000091228212000284/ex99_2.htm)>
- 264 Eldorado Gold Corp, 2013 SEC Filings Form 40-F, note 17, <[https://www.sec.gov/Archives/edgar/data/918608/000091228212000284/ex99\\_2.htm](https://www.sec.gov/Archives/edgar/data/918608/000091228212000284/ex99_2.htm)>
- 265 Richard Murphy, 'CBI tax misinformation – effective tax rates include the deferred tax charge', 23 April 2012, <<http://www.taxresearch.org.uk/Blog/2012/04/23/cbi-tax-misinformation-effective-tax-rates-include-the-deferred-tax-charge/#sthash.kbspFIZG.dpuf>>. See also Tax Justice Network, On the need for improved deferred tax accounting, 30 November 2010, <<http://taxjustice.blogspot.nl/2010/11/on-need-for-improved-deferred-tax.html>>
- 266 Richard Murphy, 'CBI tax misinformation – effective tax rates include the deferred tax charge', 23 April 2012, <<http://www.taxresearch.org.uk/Blog/2012/04/23/cbi-tax-misinformation-effective-tax-rates-include-the-deferred-tax-charge/#sthash.kbspFIZG.dpuf>>
- 267 However, the company does note that the US\$ 125.1 million is a “non-cash adjustment” that “is required to be charged to deferred income tax expense”.
- 268 Kostas Georgantzis, Hellas Gold SA's communications officer, interviewed by Macedonian news channel *Εδω Μακεδονία*, 5 November 2014, <[http://www.dailymotion.com/video/x29e9ks\\_%CE%B5%CE%B4%CF%89-%CE%BC%CE%B1%CE%BA%CE%B5%CE%B4%CE%BF%CE%BD%CE%B9%CE%B1-05-11-14\\_news](http://www.dailymotion.com/video/x29e9ks_%CE%B5%CE%B4%CF%89-%CE%BC%CE%B1%CE%BA%CE%B5%CE%B4%CE%BF%CE%BD%CE%B9%CE%B1-05-11-14_news)>; Eldorado Gold's Consolidated Financial Statements December 31, 2014 and 2013, <[http://www.eldoradogold.com/uploads/presentations-events-pdf/15-02\\_YE\\_2014\\_FS\\_MDA.pdf](http://www.eldoradogold.com/uploads/presentations-events-pdf/15-02_YE_2014_FS_MDA.pdf)>, p. 35
- 269 Eldorado Gold Corp, 2013 SEC Filings Form 40-F, <[https://www.sec.gov/Archives/edgar/data/918608/000091228212000284/ex99\\_2.htm](https://www.sec.gov/Archives/edgar/data/918608/000091228212000284/ex99_2.htm)>, p. 97.
- 270 The Canadian project Way Lake concerns an exploration for metals in Ontario, that was bought up in 2012 from Australian Glory Resources Ltd. See Glory Resources, Way Lake Property. 2011 Prospecting and Sampling Program, September 2011, <<http://www.geologyontario.mndmf.gov.on.ca/mndmfiles/afri/data/imaging/20000006371//20009096.pdf>>

## Chapter 5

- 271 Note that the tables here are based on investment stocks. Flows are measured annually and stocks are investments that are built up over time.
- 272 UN Conference on Trade and Development (UNCTAD), Investment country profiles: Greece, February 2012, <[http://unctad.org/en/PublicationsLibrary/webdiaeia2012d9\\_en.pdf](http://unctad.org/en/PublicationsLibrary/webdiaeia2012d9_en.pdf)>; investment data for Greece used in this report is taken from the IMF's Coordinated Direct Investment Survey (CDIS), <<http://cdis.imf.org>>
- 273 OECD, Measuring globalisation. OECD Handbook on economic globalisation indicators, 2005, <[http://www.realinstitutoelcano.org/materiales/docs/OCDE\\_handbook.pdf](http://www.realinstitutoelcano.org/materiales/docs/OCDE_handbook.pdf)>
- 274 UNCTAD, World Investment Report 2013, <[http://unctad.org/en/publicationslibrary/wir2013\\_en.pdf](http://unctad.org/en/publicationslibrary/wir2013_en.pdf)>. Value to products and services is no longer only added in only one but in several production processes or locations, leading to global value chains whereby “intermediate goods and services are traded in fragmented and internationally dispersed production processes”. These chains are not incidental but typically coordinated by MNCs with an integrated corporate strategy, “with cross-border trade of inputs and outputs taking place within their networks of affiliates, contractual partners and arm’s-length suppliers”.
- 275 According to the latest World Investment Report, investment in OFCs remains at historically high levels. Flows to OFCs amounted to almost US\$ 80 billion in 2012, down US\$ 10 billion from 2011, but well above the US\$ 15 billion average of the pre-2007 period. OFCs account for an increasing share of global FDI flows, at about 6 per cent. See UNCTAD (2013). Indeed, “in consultation with a number of countries that offer investors the option to create SPEs, and on the basis of information on SPE-related FDI obtained directly from those countries, UNCTAD removes SPE data from FDI flows and stocks, in order to minimise double counting. The countries include Austria, Hungary, Luxembourg, Mauritius and the Netherlands. <[http://unctad.org/en/publicationslibrary/wir2013\\_en.pdf](http://unctad.org/en/publicationslibrary/wir2013_en.pdf)>, p. xiv.
- 276 UNCTAD, World Investment Report 2013, <[http://unctad.org/en/publicationslibrary/wir2013\\_en.pdf](http://unctad.org/en/publicationslibrary/wir2013_en.pdf)>, p. ixv.

- 277 UNCTAD, World Investment Report 2013, <[http://unctad.org/en/publicationslibrary/wir2013\\_en.pdf](http://unctad.org/en/publicationslibrary/wir2013_en.pdf)>, p. xv.
- 278 OECD, Addressing Base Erosion and Profit Shifting, 2013, <<http://www.oecd.org/tax/beps-reports.htm>>, pp. 73-81.
- The OECD explains the role of SPEs in aggressive tax planning rather carefully as follows: "Although the use of a low or no tax company for holding or intra-group financing purposes does not imply that they are being used for BEPS purposes, a closer analysis of the data related to these structures may well provide useful insights on the use of certain regimes to channel investments and intra-group financing from one country to another through conduit structures. This includes, for example, issues related to reduction of source and residence country taxation of dividends and interest during the course of the investment and the taxation of capital gains upon exit." The OECD BEPS report, based on preceding NGO, governmental and media reports, has identified a number of corporate structures that have been shown to be commonly used for a number of aggressive tax planning strategies. They all involve SPE group entities holding licensing and IP rights or fulfilling financing and holding functions.
- 279 Dutch Central Bank, 2013, The effects of including SPEs on BOP and FDI statistics, 26th meeting of the IMF Committee on Balance of Payments (BOP) Statistics, October 2013, <<http://www.imf.org/external/pubs/ft/bop/2013/13-15.pdf>>, pp. 3-4.
- 280 At the end of 2012, SPEs had outstanding loans of no less than € 900 billion with foreign group companies, versus liabilities of € 675 billion. See Dutch Central Bank, The effects of including SPEs on BOP and FDI statistics, 26th meeting of the IMF Committee on Balance of Payments Statistics, October 2013, <<http://www.imf.org/external/pubs/ft/bop/2013/13-15.pdf>>, p. 3.
- 281 Idem, p. 4.
- 282 In 2013, US\$ 670 billion Dutch FDI stock excluding mailbox companies vs US\$ 3.862 billion including mailbox companies, see OECD, April 2014, FDI in Figures. International investment stumbles into 2014 after ending 2013 flat, <<http://www.oecd.org/daf/inv/FDI-in-Figures-April-2014.pdf>>, p. 10.
- 283 OECD, 2013, <<http://www.oecd.org/tax/beps-reports.htm>>, p.18.
- 284 The top sector policy of the Dutch government dates back to the 2010 Coalition Agreement of the then Government, and was reaffirmed by the new Government formed after early general elections in 2012 (see chapter III of the Coalition Agreement 2012, <<http://www.government.nl/government/coalition-agreement/sustainable-growth-and-innovation>>). Its core is to make targeted investments in nine leading sectors of the economy, abolishing 'red tape' and granting fiscal incentives. The sectors to be promoted are (1) water, (2) agri-food, (3) horticulture, (4) high-tech, (5) life sciences, (6) chemicals, (7) energy, (8) logistics and (9) creative industries. See the Government's response to the industry plans presented to it as part of the policy in its letter 'To the Top. Enterprise policy in action', 4 February 2011, <<http://www.government.nl/files/documents-and-publications/parliamentary-documents/2011/02/04/to-the-top-towards-a-new-enterprise-policy/to-the-top-towards-a-new-enterprise-policy.pdf>>. See also, Statistics Netherlands, PBL Netherlands Environmental Assessment Agency, 'The rationale of spatial economic top sector policy', 2013, <[http://www.pbl.nl/sites/default/files/cms/publicaties/PBL\\_2013\\_The-rationale-of-spatial-economic-top-sector-policy.pdf](http://www.pbl.nl/sites/default/files/cms/publicaties/PBL_2013_The-rationale-of-spatial-economic-top-sector-policy.pdf)>
- 285 The Topteam Hoofdkantoren (Top team business headquarters) presented an Action Plan on 17 June 2011 ('Met hoofdkantoren naar de top', <<http://www.rijksoverheid.nl/documenten-en-publicaties/rapporten/2011/06/17/met-hoofdkantoren-naar-de-top.html>>), but has disappeared from the government's top sector policy website (<<http://topsectoren.nl>>). This is possibly due to debates on whether this active policy constitutes state aid (see Geursen, W, 'Hoofdkantoren aantrekken en behouden voor Nederland begrensd door staatssteunregels', in Boulogne, G.F. & L.J.A. Pieterse (eds.), 'Aanbevelingen ter verbetering van het vestigingsklimaat voor ondernemingen - Tribuut aan Jaap Bellingwout', Kluwer, 2012, <<http://dare.uvu.vu.nl/bitstream/handle/1871/35426/Hoofdkantoren?sequence=2>>, pp. 51-63. See KPMG - Meijburg & Co, for a summary of the fiscal measures proposed by the Topteam Hoofdkantoren in 2011: 'Plan van aanpak Topteam Hoofdkantoren gepresenteerd', 20 June 2011, <<https://www.meijburg.nl/nieuws/plan-van-aanpak-topteam-hoofdkantoren-gepresenteerd>>).
- 286 Dutch government website, 'Entrepreneurship and innovation', <<http://www.government.nl/issues/entrepreneurship-and-innovation>>
- 287 OECD, FDI in Figures. International investment stumbles into 2014 after ending 2013 flat, April 2014, <<http://www.oecd.org/daf/inv/FDI-in-Figures-April-2014.pdf>>, Table 4: Foreign Direct Investment Stocks, p. 10.

- 288 This box is taken from OECD, FDI in Figures. International investment stumbles into 2014 after ending 2013 flat, April 2014, <<http://www.oecd.org/daf/inv/FDI-in-Figures-April-2014.pdf>>, p. 5.
- 289 For the role of Dutch investment treaties herein, see SOMO, 'Dutch Bilateral Investment Treaties. A gateway to 'treaty shopping' for investment protection by multinational companies', October 2011, <[http://somo.nl/publications-nl/Publication\\_3708-nl](http://somo.nl/publications-nl/Publication_3708-nl)>
- 290 See Annex 4 for more detail on OECD, IMF and Eurostat aggregate and bilateral FDI data.
- 291 See Annex 4 for more methodological specifications and underlying data sheets. There are differences in the total FDI figures reported by the IMF and OECD due to different statistical methods applied. The comparison between the IMF and OECD data sets is thus not accurate with regard to the total investment figures but rather serves as an indication of the SPE-proportion of a country's total FDI stocks. Figure 12 thus only indicates the ratio between genuine and SPE-related Dutch outward FDI positions abroad.
- 292 OECD, 2013, <<http://www.oecd.org/tax/beps-reports.htm>>, p.18.
- 293 See SOMO, 'Avoiding Tax in Times of Austerity, September 2013, <[http://www.somo.nl/publications-en/Publication\\_3987](http://www.somo.nl/publications-en/Publication_3987)>
- 294 DNB, 'Tabel 1: Vorderingen en schulden van BFI's op het buitenland', <[http://www.dnb.nl/binaries/Tabellen\\_tcm46-284530.pdf](http://www.dnb.nl/binaries/Tabellen_tcm46-284530.pdf)> and SOMO, *ibid.*, p. 8.
- 295 SOMO, *ibid.*
- 296 Newsroom, 'Greece's gravest tax evasion inflicted by a German', 29 September 2014, <<http://en.protothema.gr/greeces-gravest-tax-evasion-inflicted-by-a-german/>>
- 297 International rules such as the OECD Model Tax Convention, its Commentaries and corresponding Transfer Pricing Guidelines state that intra-group transactions should take place under the same comparable conditions as transactions between independent third parties. In the Netherlands this principle was set out on 1 January 2002 in Article 8b of the Corporate Tax Act, and almost all OECD countries apply it, while an increasing number of non-OECD countries also adopt transfer pricing rules in the 2000s. The Netherlands also makes use of Advance Tax Ruling (ATR) or an Advance Pricing Agreement (APA), which are arrangements of transfer prices between MNCs and tax authorities. The key problem is that there are no comparable prices of transactions between unrelated parties that can be easily applied to determine a market price for an intra-firm transaction (so-called 'comparables'). This is especially true for transactions involving so-called 'intangibles' such as royalties, transfers of intellectual property, or financial services. Due to the difficulty of establishing transfer prices, the OECD has launched a project called Base Erosion and Profit Shifting (BEPS), which addresses some of the shortcomings of the current transfer pricing regime.
- 298 Enet English, Fines worth € 600 million issued over German car imports to Greece, 5 September 2014, <<http://www.enetenglish.gr/?i=news.en.article&id=2052>>
- 299 ThePressProject, An Introduction to the Greek LuxLeaks, 2014, <[http://www.thepressproject.net/luxleaks\\_en/details.php?aid=68998](http://www.thepressproject.net/luxleaks_en/details.php?aid=68998)>
- 300 International Consortium of Investigative Journalists (ICIJ), 2014, <<http://www.icij.org/project/luxembourg-leaks>>
- 301 ThePressProject, An Introduction to the Greek LuxLeaks, 2014, <[http://www.thepressproject.net/luxleaks\\_en/details.php?aid=68998](http://www.thepressproject.net/luxleaks_en/details.php?aid=68998)>

## Chapter 6

- 302 CESifo Forum, The crisis and tax evasion in Greece: What are the distributional implications?, 2012, <<http://www.cesifo-group.de/ifoHome/publications/docbase/details.html?docId=18767809>>
- 303 IMF, Greece 2013 Article IV Consultation concluding statement of the IMF mission, 2013, <<http://www.imf.org/external/np/ms/2013/050313.htm>>
- 304 Oxfam, The true cost of austerity and inequality. Greece case study, September 2013, <<http://www.oxfam.org/sites/www.oxfam.org/files/cs-true-cost-austerity-inequality-greece-120913-en.pdf>>

- 305 The IMF also talks about so-called 'strategic spillover', which occurs when a country reduces its Corporate Income Tax (CIT) rate in response to tax competition from other countries and in hope of slightly increasing the tax revenue base by motivating companies to book more revenue in their jurisdiction. In Greece this has also taken place, with a reduction in the CIT from 25 per cent to 20 per cent, introducing a further 5 per cent strategic spillover as a response to the high amount of base erosion and profit shifting via SPEs. The rate has, however, since then risen back to 25 per cent in 2013 (see also Annex 5).
- 306 See [http://ec.europa.eu/economy\\_finance/indicators/economic\\_reforms/taxation\\_reforms\\_database/](http://ec.europa.eu/economy_finance/indicators/economic_reforms/taxation_reforms_database/) for a list of reforms as of 2013.
- 307 See Annex 5 for the underlying Eurostat data.
- 308 Ibid.
- 309 IMF, Country Report No. 13/155, Greece: selected issues, June 2013, <https://www.imf.org/external/pubs/ft/scr/2013/cr13155.pdf>
- 310 Artavanis, N., A. Morse, M. Tsoutsoura, Tax evasion across industries: soft credit evidence from Greece, Chicago Booth Paper 12-25, June 2012, Fama-Miller Center for Research in Finance, The University of Chicago, Booth School of Business.
- 311 Richard Murphy, Closing the European tax gap. A report for Group of the Progressive Alliance of Socialists & Democrats in the European Parliament, 2013, [http://www.socialistsanddemocrats.eu/sites/default/files/120229\\_richard\\_murphy\\_eu\\_tax\\_gap\\_en.pdf](http://www.socialistsanddemocrats.eu/sites/default/files/120229_richard_murphy_eu_tax_gap_en.pdf)
- 312 In another study, the VAT collection gap was measured at € 9.76 billion, or 4.7 per cent of GDP in 2011  
[http://ec.europa.eu/taxation\\_customs/resources/documents/common/publications/studies/vat-gap.pdf](http://ec.europa.eu/taxation_customs/resources/documents/common/publications/studies/vat-gap.pdf)
- 313 IMF, Country Report No. 13/155, June 2013, <http://www.imf.org/external/pubs/ft/scr/2013/cr13155.pdf>, p. 20.
- 314 European Parliament, DG for Internal Policies, Policy Department D: Budgetary Affairs, European initiatives on eliminating tax havens and offshore financial transactions and the impact of these constructions on the Union's own resources and budget, April 2013, [http://www.europarl.europa.eu/meetdocs/2009\\_2014/documents/cont/dv/staes\\_study/staes\\_studyen.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/cont/dv/staes_study/staes_studyen.pdf)
- 315 <http://www.transportenvironment.org/sites/te/files/publications/CETA-ISDS-en-2.pdf>
- 316 Idem p. 8
- 317 <http://rabble.ca/blogs/bloggers/council-canadians/2013/03/ceta-investor-state-provision-could-be-invoked-if-greek-gol>
- 318 Idem
- 319 Spiegel Online, Schuldenkrise: Griechische Steuerfahnder ermitteln gegen Mercedes, BMW und Opel, 20 December 2013, <http://www.spiegel.de/wirtschaft/soziales/griechische-steuerbehoerden-ermitteln-gegen-mercedes-bmw-und-opel-a-940196.html>
- 320 ProtoThema, Greece's gravest tax evasion inflicted by a German, 29 September 2014, <http://en.protothema.gr/greeces-gravest-tax-evasion-inflicted-by-a-german/>
- 321 IMF, Country Report No. 13/156, Greece: Ex Post Evaluation of Exceptional Access Under the 2010 Stand-By Arrangement, June 2013, <https://www.imf.org/external/pubs/ft/scr/2013/cr13156.pdf>, p. 1.
- 322 See Annex 6 for more details on the two Economic Adjustment Programmes for Greece and related loan repayments.
- 323 European Commission, Economic and Financial Affairs, Financial assistance to Greece, [http://ec.europa.eu/economy\\_finance/assistance\\_eu\\_ms/greek\\_loan\\_facility/index\\_en.htm](http://ec.europa.eu/economy_finance/assistance_eu_ms/greek_loan_facility/index_en.htm). The release of each disbursement to Greece must be approved by its creditors, both the Eurogroup and the IMF's Executive Board. Prior to this approval, the European Commission, the ECB and the IMF staff conduct joint review missions to Greece in order to monitor compliance with the terms and conditions of the Programme.
- 324 At the end of 2010, Greek government bonds held by banks in countries reporting to the BIS totalled US\$ 54.2 billion, of which 96 per cent was owned by European banks. German banks owned the greatest share (42%), followed by French banks (28%), Italian banks (8%) and British banks (6%). BIS Quarterly Review, June 2011, [http://www.bis.org/publ/qtrpdf/r\\_qa1106.pdf](http://www.bis.org/publ/qtrpdf/r_qa1106.pdf), Table 9E. See also: IMF, Country Report No. 13/156, Greece: Ex Post Evaluation of exceptional access under the 2010 stand-by arrangement, June 2013, <https://www.imf.org/external/pubs/ft/scr/2013/cr13156.pdf>, paragraph 12, p. 8. The exposure of European banks to Greek government bonds declined sharply between 2010 and 2012, from US\$ 52.2 billion to US\$ 2.1 billion (see BIS Quarterly June 2011 and June 2013, respectively). The share of German and French banks (main

- owners of bonds) declined from 70 per cent of the total to 4 per cent. No formal agreement was actually made between the EU leaders and the banks about holding on to Greek government bonds. In fact, the banks were helped to offload their Greek bonds to the ECB (Securities Market Programme) and via a very favourable debt restructuring programme in 2012.
- 325 See Frangakis, Marica, The Puzzle of European Integration: Will Greece Be the First Piece to Fall Through? In TRANSFORM! Journal, Issue 11/2012, <<http://transform-network.net/es/revista/issue-112012/news/detail/Journal/the-puzzle-of-european-integration-will-greece-be-the-first-piece-to-fall-through.html>>. Also, the 2013 report by Attac Austria, Three years of 'Greek bail-out': 77% went into the financial sector; background material, <<http://www.attac.at>>
- 326 The amount of approx. € 50 billion has been allotted to the recapitalisation of Greek banks through the Hellenic Financial Stability Fund – a private legal entity – expressly set up in 2010 <[www.hfsf.gr](http://www.hfsf.gr)>
- 327 Attac website, Greek bail-out: 77% went into the financial sector, <<http://www.attac.org/en/Stories/greek-bail-out-77-went-financial-sector>>
- 328 Specifically, the report shows that € 58.2 billion (28,13%) were used to recapitalise Greek banks. Instead of restructuring the sector in a sustainable way and letting the banks' owners pay for their losses. "€ 101.331 billion (48,98%) went to creditors of the Greek state. € 55,44 billion of these were used to repay maturing government bonds – instead of letting the creditors bear the risk for which they had received interest payments before. Another € 34.6 billion served as incentive to make creditors agree to the so-called 'haircut' in March 2012. € 11,3 billion were used in a debt buyback in December 2012, when the Greek state bought back almost worthless bonds from its creditors. € 43.7 billion (22,46%) went into the national budget or couldn't be definitively attributed. € 0,9 billion (0,43%) were used as Greek contribution to the new bail-out fund ESM."
- 329 As of 2014, banks will be able to foreclose following the lifting of the moratoria from 2010 (L.3869/2010, as amended by L. 4161/2013), which shielded households and small- and medium-sized enterprises from bank foreclosures.
- 330 Council of Europe, Safeguarding human rights in times of economic crisis, November 2013, <<https://wcd.coe.int/ViewDoc.jsp?id=2130915>>
- 331 Helena Smith & Graeme Wearden, Greek MPs approve hefty budget cuts, The Guardian, 12 November 2012, <<http://www.theguardian.com/business/2012/nov/11/greece-2013-budget-vote>>
- 332 Evgenia Tzortzi, Unequal distribution of income tax, Kathimerini, 23 February 2014 (in Greek).
- 333 Furthermore, under the pressure of the terms of the loan having to be met, ad hoc taxes have been imposed, such as a property tax collected by the Public Power corporation (PPC) via electricity bills, which was introduced in 2011 as a temporary measure (until 2013), to be replaced by an augmented real estate tax. However, the Troika has expressed reservations as to how effective such a real estate tax is going to be in terms of revenue collection. It has thus been suggested that the property tax paid via the PPC should be kept on for longer, even though it is recognised that it is "deeply unpopular and sanctioning non-payment by shutting off electricity service has been deemed unconstitutional", IMF, Greece: Fourth Review under the Extended Arrangement under the Extended Fund Facility, 2013, <<https://www.imf.org/external/pubs/cat/longres.aspx?sk=40838.0>>, p. 14.
- 334 Karolina Tagaris, Greeks forgo winter heating after jump in fuel tax, 7 February 2013, <<http://www.reuters.com/article/2013/02/07/us-greece-fuel-idUSBRE9160R220130207>>
- 335 Marica Frangakis, Die Staatsschuldenkrise in Griechenland und das europäische Projekt Dynamik und Folgen, Z - Nr. 92 Dezember 2012. Graph inspired by F. Saraceno's portrayal of the 'Greek tragedies', <<http://www.fsaraccon.wordpress.com>>
- 336 For example, in November 2013, 1,399,680 people were unemployed (28 per cent of the labour force), having risen from 324,780 in May 2008. See Eurostat, Unemployment Statistics, January 2014, <[http://epp.eurostat.ec.europa.eu/statistics\\_explained/index.php/Unemployment\\_statistics](http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Unemployment_statistics)>
- 337 See <<http://www.un.org/apps/news/story.asp?NewsID=38901#.VGXZdWefv5M>>
- 338 Unicef, June 2014, <[www.unicef-irc.org/publications/pdf/b\\_martorano\\_05\\_layout\\_2.pdf](http://www.unicef-irc.org/publications/pdf/b_martorano_05_layout_2.pdf)>
- 339 See, for instance, its annual report on Greece from 2013, <<http://www.amnesty.org/en/region/greece/report-2013>>

- 340 European University Institute (EUI), Social Rights in Times of Crisis in the Eurozone: The Role of Fundamental Rights' Challenges, Claire Kilpatrick, Bruno De Witte, EUI Department of Law Research Paper No. 2014/05, April 2014, <[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2428855](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2428855)>
- 341 See, amongst others, Aristeia Koukiadaki and Lefteris Kretsos, Opening Pandora's Box: The Sovereign Debt Crisis and Labour Market Regulation in Greece, *Industrial Law Journal*, (2012), 41 (3): p. 276-304, <<http://ilj.oxfordjournals.org/content/41/3/276.short>>; or the anti-austerity Manifesto of the Transnational Trade Union Rights Experts' Network, <<http://www.etui.org/Networks/The-Transnational-Trade-Union-Rights-Experts-Network-TTUR>>
- 342 George Michasemail et al., Maternal and child mortality in Greece, *The Lancet*, (2014) 383 (9918): p. 691-692, <<http://www.thelancet.com/journals/lancet/article/PIIS0140-6736%2814%2960251-8/fulltext>>
- 343 Website: <<http://www.troikawatch.net>>, see in particular the newsletters.
- 344 Andreas Fischer-Lescano, Human rights in times of austerity policy: the EU institutions and the conclusion of Memoranda of Understanding, 17 February 2014, <[http://www.akeuropa.eu/\\_includes/mods/akeu/docs/main\\_report\\_en\\_328.pdf](http://www.akeuropa.eu/_includes/mods/akeu/docs/main_report_en_328.pdf)>
- 345 UN News Centre, Greek austerity measures could violate human rights, UN expert says, 30 June 2011, <[http://www.un.org/apps/news/story.asp?NewsID=38901#.Vls\\_tWOAyj9](http://www.un.org/apps/news/story.asp?NewsID=38901#.Vls_tWOAyj9)>
- 346 Eurostat, Europe 2020 indicators – poverty and social exclusion, July 2013; <[http://epp.eurostat.ec.europa.eu/statistics\\_explained/index.php/Europe\\_2020\\_indicators\\_-\\_poverty\\_and\\_social\\_exclusion](http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Europe_2020_indicators_-_poverty_and_social_exclusion)>
- 347 Eurostat, Income distribution statistics, July 2013; <[http://epp.eurostat.ec.europa.eu/statistics\\_explained/index.php/Income\\_distribution\\_statistics](http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Income_distribution_statistics)>
- 348 Alexander Kentikelenis, Marina Karanikolos, Aaron Reeves, Martin McKee, David Stuckler, Greece's health crisis: from austerity to denialism, in *Lancet*, 22 February 2014, <<http://www.enetenglish.gr/resources/article-files/piis0140673613622916.pdf>>
- 349 Levy Economics Institute of Bard College, Strategic Analysis, July 2013 - The Greek economic crisis and the experience of austerity, <<http://www.levyinstitute.org/publications/the-greek-economic-crisis-and-the-experience-of-austerity>>
- 350 SOMO, Private gain, public loss, Mailbox companies, tax avoidance and human rights, 2013, <[http://somo.nl/publications-en/Publication\\_3975](http://somo.nl/publications-en/Publication_3975)>

## Chapter 7

- 351 SOMO, Private Gain, Public Loss. Mailbox companies, tax avoidance and human rights, 2013, <[http://somo.nl/publications-en/Publication\\_3975](http://somo.nl/publications-en/Publication_3975)>
- 352 MiningWatch Canada, The Social Licence to Mine: Passing the Test, 2006, <[http://www.miningwatch.ca/sites/www.miningwatch.ca/files/MWC\\_roundtable\\_0.pdf](http://www.miningwatch.ca/sites/www.miningwatch.ca/files/MWC_roundtable_0.pdf)>; Canadian Mining Policy in Practice, 2011, <<http://www.miningwatch.ca/article/canadian-mining-policy-practice>>; Rhetoric vs. Reality: Investing as if Human Rights Mattered, 2003, <<http://www.miningwatch.ca/rhetoric-vs-reality-investing-if-human-rights-mattered>>. See also Ramsey Hart & Catherine Coumans, Evolving Standards and Expectations for Responsible Mining: A Civil Society Perspective, August 2013, <<http://www.miningwatch.ca/publications/evolving-standards-and-expectations-responsible-mining-civil-society-perspective>>
- 353 See <<http://www.publishwhatyoupay.org/>>
- 354 See <<https://eiti.org/eiti>>
- 355 KPMG, Commodity trading companies: Centralizing trade as a critical success factor, October 2012, <<http://www.kpmg.com/Global/en/IssuesAndInsights/ArticlesPublications/commodity-trading-companies/documents/centralizing-trade.pdf>>
- 356 European Commission, COM(2012) 722, 6 December 20120, available at <[http://ec.europa.eu/taxation\\_customs/resources/documents/taxation/tax\\_fraud\\_evasion/com\\_2012\\_722\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/taxation/tax_fraud_evasion/com_2012_722_en.pdf)>

## More information



### Read the full story of Eldorado Gold in Greece: [www.somo.nu/eldorado-gold](http://www.somo.nu/eldorado-gold)

The executive summary of the report and relevant research documents – such as company accounts, investment data and methodological Annexes – are available on SOMO's website.



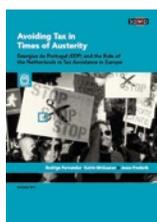
SOMO's economic justice work assesses the impact of Dutch foreign and economic policy on sustainable development and public interests. Aiming to identify current 'Private Gain, Public Loss' mechanisms, Dutch policies attracting foreign investment (the so-called 'vestigingsbeleid', or business location policy) are assessed in relation to economic equality, development policy and human rights coherence. Other reports in this series:



### **Socialising Losses, Privatising Gains** January 2015

R. Knottnerus, R. van Os (SOMO), H. van der Pas, P. Vervest (Transnational Institute)

Dutch investment treaties (BITs) are frequently used by foreign companies to sue governments in the North and South for policies that might harm their future profits. 75% of these cases were brought by mailbox companies with no real economic substance in the Netherlands, making use of the vast web of Dutch BITs and the rights and protection given to foreign investors.



### **Avoiding Tax in Times of Austerity** September 2013

K. McGauran, R. Fernandez, J. Frederik

This briefing looks at the role that the Netherlands plays in reducing the tax payments of Portuguese multinational corporations (MNCs) in Portugal. FDI statistics show that capital flows between Portugal and the Netherlands are largely related to Dutch mailbox companies. This results in profit-shifting from Portugal to tax havens.



### **Private Gain, Public loss** July 2013

R. van Os, K. McGauran, I.D.J. Römgens

This report examines the human rights record of eight extractive industry companies incorporated in the Netherlands and discusses the Dutch state's human rights responsibility therein. The research focuses on two related areas that affect the Dutch state's duty to fulfill human rights, namely, (1) corporate tax avoidance and tax base erosion and (2) the extra-territorial responsibility for human rights violations resulting from resource extraction.

## Fool's Gold

### Canadian firm Eldorado Gold destroys Greek environment and uses Dutch mailboxes to dodge taxes

This report looks at the negative human rights impact of the Canadian mining company Eldorado Gold Corporation in Halkidiki – a north-eastern region of Greece – and identifies potential and actual revenue losses the Greek state suffers as a result of the company's Dutch tax avoidance structure.

The human rights impact ranges from deforestation and expected land, water and air pollution to the violent repression of protests and criminalisation of the broad and diverse local opposition movement. Locals argue that the mining operations threaten local livelihoods that depend on fishery and tourism, and that they have not been properly consulted.

Whilst the project has been presented as crucial for Greece's economic recovery, a cost-benefit analysis of the investment has as yet not been conducted. This report finds that the Canadian, Greek and Dutch governments all provide generous state support in various forms. Furthermore, Eldorado Gold's Dutch loan financing structure is set to significantly reduce future profits in Greece, and channeling of interest income through Dutch mailbox companies to Barbados constitutes tax avoidance. The Greek state might thus not gain financially from the investment, in particular when considering the costly externalities of the project.

Looking beyond this individual company case, an analysis of Greek bilateral investment positions shows that the Netherlands, as well as Luxembourg and Cyprus, serve as common tax havens for foreign companies operating in Greece. The report looks at the identified corporate tax avoidance in the context of the economic depression Greece has experienced since the EU bail-out programmes, in particular the Troika-imposed fiscal consolidation and structural adjustment.

The report concludes that corporate tax avoidance not only leads to the redistribution of wealth from the poor and middle-classes to the rich, but also to the violation of basic economic rights. Corporate tax avoidance in Greece is not only a problem of Greece's tax administration, but is actively facilitated by harmful tax regimes in the EU – in particular the Netherlands and Luxembourg – as well as EU law itself. These facilitating jurisdictions not only enable tax base erosion in Greece's debt-ridden economy. Through their responsibility for the extraterritorial impact of the businesses they promote financially and politically, they also fail in their duty to protect human rights. There is an urgent need for radical economic and fiscal reform to serve public, rather than corporate, interest.

