

Increasing Glencore's Sustainable Management Performance:

Recommendation and Risks,

Statements based on Literature and Best Practices

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Arnaud GOTTSCHALL

Bachelor Project Advisor:

Eric MAEDER

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Declaration

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Geneva, May 31st 2013

Arnaud Gottschall

1. Executive Summary

The main purpose of this report is to provide Glencore with applicable recommendations so that it can improve its sustainable reputation. The second purpose of the work is to present all risks incurred by Glencore's non-application of sustainable recommendations. Recommendations and risks have been developed based on literature, interviews and companies' good practices. Sustainability reports of mining companies publicly quoted have been intensively used to grasp the different sustainability criterions known and applied in the sector. Recommendations and risks analysis have been presented in a consistent manner throughout the report as per the following: 1st good practice based on literature is presented, 2nd Glencore's practice is highlighted, 3rd recommendations are formulated and 4th risks if Glencore does not implement these recommendations are also developed.

The work starts with a brief presentation of Glencore including its flotation as well as its merger with Xstrata. The work then considers the global economic growth and its impact on the health of extractive companies as well as on the environment and the population.

Secondly, as the goal of this work is not to criticize the commodity sector but rather to improve it, the importance and knowledge of trading and mining activities, to balance supply and demand, is also demonstrated.

Thirdly, the environment of the sector going toward more transparency with many supporting initiatives and the reputational risk mining and trading will face if they do not reckon on this trend is mentioned.

Finally, in order to familiarize the reader with Glencore's top controversies, various examples on Glencore's past negative experiences are given and explained. These examples include tax, corporate, transparency, secrecy, pollution and human rights issues. This introduction phase is followed by the core of the analysis that features the following results:

The results of this report demonstrate that despite Glencore's relatively recent active engagement in sustainability development, the company is still classified as a relatively poor performer compared to competitors.

Moreover, a little less than thirty recommendations related mainly to transparency, communication and management have been formulated and eighteen risks have been established.

The report concludes with the responsibility companies have in developing countries. The role of a company active in the mining sector in countries where governance is very weak is not necessarily to improve governance, human rights and legal loopholes all by itself, but it is essential that it does not aggravate the situation. The job of a mining company is to win a so called “license to operate” through trust-building established over several years of upright practices and understands that many benefits will follow.

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3. Introduction

3.1 Brief presentation of Glencore

Glencore, headquartered in Baar, Switzerland, is one of the world's leading integrated extractive and trading companies *(Glencore AG website, visited January 2013)*. Glencore has three business units: Metals and Minerals, Energy Products and Agricultural Products. It sells its own production, as well as commodities obtained from other producers, to major industries active in the automotive, steel, power-generation and food processing business.

History

Glencore was established in 1974 under the name Marc Rich + Co. AG in central Switzerland. Marc Rich is a very controversial, successful trader who deported himself to Switzerland after being charged by the US government for selling oil to Iran during the hostage crisis that occurred between 1979 and 1981. After this fugitive scandal and a gossip scandal with his wife, Marc Rich went through much more serious reputational risks when in July 1992 some of his traders tried to manipulate the Zinc market by artificially creating a shortage and boosting up prices. As traders were not able to fool the market until the expiration of their future contract, the company had to face a loss of 172 million dollars *(Ammann, 2010: p.240-251)*. The accumulation of dubious and illicit practices lead to Marc Rich being supplanted in 1993. The chief position was taken over by a former colleague, Willy Strohotte, with whom Marc Rich had a dispute. Consequently and for obvious reasons, the company was renamed Glencore in 1994.

Since then the company has grown outstandingly from an equity value of approximately $1.2 billion, at its management buy-out in 1994, to a market value (including the Glencore Group’s 34.08 per cent. holding in Xstrata) of approximately $50 billion as of the 6 February 2012 *(Xstrata PLC, 2012).*

In January 2002, Ivan Glasenberg, a former top coal South African trader – and Swiss citizen since 2010 - who entered the company in 1984, made it to the top and become CEO at the age of 45.

Flotation

In order to expand its operations, Glencore has to run on a high level of debt. Before their IPO in May 2011 the company had been issuing bonds since 1996 and more recently in 2010 for a value of $2.9 billion with $300 million convertible. They also had a 10.26 billion dollars bank credit line provided by 97 banks *(Glencore Annual Report (AR), 2011: 16)* in 2010. Consequently, their debt ratio is quite high at 71.8%[1] and Glencore has a gearing of 42.9%[2] in 2010. The gearing ratio for the top 40 mining companies in 2010 is of 8% according to PwC *(PwC, 2011: 28)*.

In order to continue their inorganic growth and to reduce debt as well as bank reluctance to lend money after the financial crisis, Glencore had no choice but to raise funds through an Initial Public Offering (IPO) in May 2011 with a primary listing on the London Stock Exchange and a secondary listing on the Hong Kong Stock Exchange. This flotation left them with close to $7 billion of committed liquidity at the end of the year 2011.

As Marc Rich states in an Interview with the Weltwoche *(Weltwoche, 2011: n°4)* “It’s much more practical to be a company that is not listed on the stock exchange. You don’t have to give out any information. […] We preferred to keep our lips tightly sealed. It benefited the business.” As Glencore’s founder said, their IPO will have an impact on their “transparency” culture. First, their management style has been criticized for not having external staff at the top level. Indeed, having essentially internal staff at the top may lead their decision to a lack objectivity and independence. As a consequence, Glencore had to hire a Chief Risk Officer and a lawyer responsible for compliance with statutory provisions. They also hired an external chairman, to replace Willy Strothotte, named Simon Murray. Simon Murray is a British born former French Foreign Legionaire, famous for boarder-line comments in his first interview *(Cave, 2011)* after he was announced as the chairman,

[1] Non-current+current liabilities divided by total assets
[2] Net debt / Net debt + Glencore SH funds

Merger with Xstrata

On 7 February 2012, Glencore made the announcement of their $90bn merger with Xstrata. The merger - that received the final approval from the Ministry of Commerce in Beijing on the 15th of April 2013 *(Riseborough, 2013)* - will “maximize supply chain margin opportunities” as well as to “capitalize on more opportunities to grow the enlarged asset base*” (Glencore AR, 2011: 13)*. This merger has given birth to a behemoth that will dominate: sourcing, production, trading and marketing in many commodities and would produce about 11.5 percent of global supply, according to consultant Wood Mackenzie *(Barker, Blas, 2012)* and more than one third of the European Zinc Market.

Today (May 2013), Glencore Xstrata employs close to 190,000 people in its global marketing operations – including contractors - in some 90 offices in over 50 countries. Moreover, Glencore Xstrata has interest in many public companies including Economic Century Aluminium, Katanga Mining, Minara Resources and others.

3.2 Literature Review

The literature available on Glencore is rich and easily available. Many Non-Profit Organizations are actively involved in publishing extractive industries' dubious and sometimes illegitimate activities. Now that Glencore has become public, numerous newspaper articles and brochures are questioning the activities of the mining giant. However, the large majority of papers are pointing out environmental disasters, human conditions and communities mistreatments but very few of them are actually proposing solutions to improve these conditions. At best, some general recommendations are made to Board Members of large companies. In the report *The Role of Business in Society: An Agenda for Action* (2006) the authors explain to board members how to cope with the pressure of social and environmental concerns. The Berne Declaration published an extensive report (2011) on the Swiss commodity sector and proposes some solutions intended to Swiss commodity companies. These recommendations are unfortunately too vague, not clear and not realistic (P.382 of the report). On a similar note, the NGOs *Pain Pour le Prochain* and *Action de Carème* published a detailed report (2012) on the controversies surrounding Glencore in the Democratic Republic of the Congo. The report emphasizes the discrepancies existing between Glencore sustainability report and what actually happens on the field. Covalence, the ethical reputation index, issued a report on Glencore's controversies (2011). This report statistically demonstrates where Glencore is the most negatively advertised regarding key ethical topics such as corruption, tax issues, corporate governance, transparency or pollution. The goal of this report is not to make recommendation but to statistically demonstrate where Glencore is prejudicial. A special report issued by Price Waterhouse Coopers (2011) as well as another issued by Deloitte (2012) on the mining industry describes several challenges that the mining sector is about to undergo in the coming years. They raise interesting points about global threat to the industry. Despite the quality and the precision of the data given, no specific analysis on one company is carried. A study conducted by the research center Novethic and be-linked (2011) points out the influence of NGOs on the activity and the reputation of mining companies. This study is very successful in shedding light on the risks facing the mining industry and the associated negative effects for investors. However, the study does not deal with recommendations and only focuses on NGOs VS Mining companies.

3.3 Statement of the Business Administration challenges and context

Global economic growth

International economic development pushes forward millions of people every year out of poverty. As an example, it is estimated that more than 1 billion people were able to afford a manufactured product for the first time in the last decade. A study conducted by McKinsey demonstrates that the middle class is spending $6.9 trillion annually and is expected to reach $20 trillion in the next ten years *(Court, Narasimhan, 2010)*. Increasing consumption brings new challenges for companies but also for the society as well as its environment.

All the supply chain of consumption starts with the extraction of raw materials. The more we consume the more raw materials we will need. The extractive sector is coping with this trend. The revenues of major mining and commodity trading companies[3] have more than quintupled in the last ten years. Mining companies are taking more and more risks in order to exploit lands rich in metals and minerals. These risks usually involve a large and powerful extractive company and a small and politically unstable country. To date, the marriage between these two institutions has been detrimental in many cases to the resource rich country because of poor governance, weak institutions, and political instability that all lead to corruption, pollution, misery, and ultimately chaos or war. What the media has reported to us so far is a situation where poor indigenous people are striving for higher living standards with a government that has the incapacity to answer to this simple need through economic growth. It is of course worth mentioning that if the share of pain and misery had to be shared between mining companies and governments, mining companies would get a smaller portion of this pain than their fellow partner.

Not only is the local community affected by extracting activities. Maybe more importantly - because on a longer term - , the lands where mining companies are active suffer heavily from pollution and extraction. Different extraction methods are available to miners and do not share the same level of impact on the flora and fauna. However, they all have an effect on the ecology, on lands, on water regimes and on the atmosphere *(Saxena, Indian School of Mine*) to a certain extent.

[3] See Glencore, Vale, Rio Tinto, BHP Billiton

As demand is growing and available resources diminish prices increase, excavation methods evolve and become more sophisticated. For instance, to take the most recent example, technology advancement and high oil prices made readily available huge quantities of gas and shale oil. Shale oil extraction processes are reputed to involve a large variety of environmental risks such as global warming, greenhouse gas emissions, disturbance of mined lands, impacts on wildlife and air as well as on water quality[4]. As demand should not go down anytime soon, the extractive industry will keep on finding new methods to answer this demand, and sometimes with no or little consideration for the environment. In this business, the end justifies the means[5].

The utility of integrated trading activities and its importance to balance global demand and supply.

As the goal of this report is not to clash and criticize the extractive and trading industry but rather to demonstrate a deep understanding of the challenges faced by stakeholders and to come up with some value added sustainable proposition for Glencore, this section will exhibit the role and utility of such companies in the current environment.

As our economy runs on growth, we cannot live without energy and metals in massive quantity. However, can we maintain a high level of consumption while fulfilling all “sustainable requirements”? It gets scary when you know that we have consumed more resources since World War II than during the whole human life history before that *(Wellmer, Becker-Platen, 2007)*, and this statement was made in 1999(!).

This gives a sense about the quantity of metals, oil and many other commodities that have been traded on global market exchanges in the last seventy years. In monetary terms, commodity trades accounts for about 25% of world trade *(UNCTAD, 2010).* Such trades have occurred between countries to balance supply and demand worldwide as supply does not match the geographical demands. This is the fundamental purpose of trading houses. The second main purpose, is to adapt the quality of raw material supply to the demands of the industry or refinery, this is called geographical arbitrage *(Jaeggi, 2012).* A third role is to

[4] 2012 Oil Shale & Tar Sands Programmatic EIS. Online public information and involvement resource [on-line]. http://ostseis.anl.gov/guide/oilshale/index.cfm. Visited on 03.03.13

[5] Fortunately, the world isn’t black or white. Technology advancement and sustainability awareness brought on the market its lot of technology advancement. The example of Shell and its “Freeze Wall” that is establish around the perimeter of extraction to prevent groundwater from mixing with the extraction zone is a reassuring example[19]. Geotechnical methods are available for proper management and safe construction[21].

create tailored qualities for specific markets by blending products. A further role is to optimize the logistic supply chain and reduce risks at maximum to offer a steady quantity on the industrial market at the best price, this requires market intelligence.

The knowledge of integrated trading houses is essential to extract oil and other minerals. Very often, rich resource countries are developing countries and do not have the required knowledge nor materials to extract the raw material.

Last but not least and contrary to prejudice, trading activities participate in limiting price volatilities. When price goes up, traders will want to benefit from the contango future curve and store the product. As many traders will do it, this should eventually bring down prices as stocks will rise. When a commodity price goes down, traders will want to purchase it, eventually bringing up the price. Despite bringing more liquidity on the exchange market, Commodity Index Traders (CIT)[6] or Hedge Funds are probably the one to blame when it comes to increased price volatility *(Hailu, Weersink, 2010)*.

Explanation of the issues

As the Guiding Principles on Business and Human Rights recognizes: *« The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights »*. Every company has the right to assess the importance of the economic, social and environmental aspect for fulfilling its role in the society as long as it does not violate laws and rights. It is a strategic business decision as any other decision comes around when leading a business. However, due to the role in society of some large companies and their heavy impact on the environment, their decision has to consider more than the simple financial interest or basic compliance with existing mandatory ESG requirements. It has to consider the position and concerns of all stakeholders affected and involved in the running of the business. This is typically valid for any integrated commodity trading companies or mining enterprises. Their impact on the society is so huge that missing their responsibility would lead to catastrophic events for the people, the environment and for the company. As natural resources are the key components that keep commodity business going, missing the challenge of sustainability in this business is like an airplane company foregoing security: it has no future.

[6] A Commodity Index is a traded index that fluctuates according to a basket of commodities. It is a way to easily beneficiate from commodities volatilities without engaging into future contracts.

Missing a trend for a business can lead to a loss of market share, a loss of competitive advantage and, if the trend is major, it can eventually lead to the company closure. The trend today is about transparency, international justice, company responsibility and sustainability. More concretely some reforms triggered by the coalition "Publish What You Pay" and some deputies have been actually carried out recently such as the Dodd Frank Act that came into force in July 2010 in the US and is bringing important change in the financial regulation sector. The Parliament of the European Union has also voted, in September 2012, a packet of propositions obliging the extractive companies to publish their payments.

Some initiatives and standards have also been implemented quite recently: The Extractive Industry Transparency Initiative (EITI) that aims "to strengthen the governance by improving transparency and accountability in the extractive sector" *(EITI, 2012: 1)* is one of them. Over 70 of the world's largest mining, gas and oil companies support and actively participate in the EITI *(EITI, 2012: 4)*. Moreover, sustainability indexes were launched by the Dow Jones in 1999 and today they work in cooperation with RobeccoSAM[7]. These indexes assess the stock performance of the world's biggest companies in terms of economic, social and environmental criteria[8].

In this environment rapidly evolving toward more transparency, it seems unlikely that some companies will continue to be left out for a long time. As the director of OXFAM France, Luc Lamprière, is saying, "*From the United States to the European Union, the laws on transparency are spreading and are about to establish a unified international standard that companies will no longer be able to avoid wherever they are" (Smée, 2012).* As a consequence, there is indeed a real threat coming that is well underway and that should soon become one of the major risks for mining as well as for integrated trading companies.

As demonstrated by the Enron scandal, the enormous power, the quantity of money and the size do not constitute a sufficient barrier to prevent companies such as Glencore, Trafigura, Rio Tinto, Vale or BHP Billiton from suffering from public scrutiny and state regulations. Not divulging precise and detailed financial information is the most fertile ground for corruption and other unauthorized accounting manipulation.

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[7] RobecoSAM is an investment specialist in Sustainability investing [on line]. http://www.robecosam.com/en/about-us/index.jsp. Visited on 26.02.13

[8] DOW JONES SUSTAINABILITY INDICES [on line]. http://www.sustainability-indexes.com/about-us/dow-jones-sustainability-indexes.jsp. Visited on 26.02.13

In commodity trading, actors often talk about reputational risk. According to the Financial Times, reputational risk is "*the potential loss in reputational capital based on either real or perceived losses in reputational capital*". It is often considered among the most important risk in business because according to Deloitte *(Copulsky, 2012),* reputational risk is a "*meta-risk reflecting the impact of many other types of risks"*. The problem is that apparently only one side of the definition is understood by the sector. Only the individual business side of the risk is considered: traders make sure that their sale contract[9] is respected in order to avoid having a bad reputation in the business and therefore losing the confidence of customers and/or suppliers. However, the global reputational risk that threatens the whole company through the behavior of individual traders is never considered and never takes into account an ethical/sustainable basis.

Many years of deregulated trading and extracting practices as well as bad surveillance have led to almost jungle-like business practices where everything is authorized by the management as long as you make money. Different scandals illustrate and support this argument: Marc Rich trading with the US state enemy Iran despite the US hostage. He was prosecuted by the United States in 1983 for tax evasion as well as trading with an enemy state. The trading company Trafigura that was involved in a smuggling scandal that occurred in 2001 with Iraqi Oil during the Oil for Food program of the UN. The same company was also involved in an environmental disaster in Ivory Coast for illegally dumping, through a contractor, a large quantity of toxic waste in open air in 2006. There is also Glencore's tax evasion scandal through their Mopani Copper mine in Zambia[10] that will be further explained in "*Glencore's top controversies*" on page 18. All these events have been highly mediatized and heavily affected the credibility and the reputation of the trading sector. Of course, this list is not exhaustive as many other matters have been brought to the public attention by the media and by NGOs. However it gives a clear sense of the type of issues faced by mining and integrated trading companies.

As protagonists felt the pressure from the public and understood the importance of mitigating the risks associated, most of these large companies active in the commodity sector started to publish some sustainability reports. It is a great break-through to propose to the public, information that has been really sought after during many years. Despite not being often comprehensive due mainly because of the large portion of mining and integrated trading

[9] Mainly: delivery, quantity, price, deadline, quality
[10] Glencore has 73.1 % interest in Mopani Copper Mine

companies that are still privately held, the step made toward greater environmental and social responsibility is a first step toward more credibility and responsibility. Disclosing the way they deal with their environment, their people, the community affected by their operation, the health and safety, the energy, water and land usage and with their waste management is a true key turning point in the development of this industry toward a more sustainable deontology in carrying out their business.

The example of Glencore's 2011 sustainability report demonstrates that the challenges and impacts pertaining to the conducting of their business are perfectly understood by their CEO, Ivan Glasenberg. According to I. Glasenberg, the role of their report is not only to share with the public, investors, employees and community their improvement made since their first sustainable report issued in 2010[11] as well as their commitment for the upcoming years, but it is also to open and maintains a dialogue with the media and NGOs (*Glencore AR, 2011: 8-9)* This demonstrates clearly a huge improvement compared to three years ago.

That being said, it is also worth mentioning that it is unfortunately not enough to claim sustainability. As mentioned earlier, it is a first step toward gaining customer confidence but then the company has to behave in a consistent way with the statements made in order to gain *credibility*. The recent 2010 *"Deep-water Horizon*" case is the perfect example that called a company sustainability statements and reports into question. All necessary safety measures were said to be taken but the largest oil spill in history has demonstrated the opposite. Today BP is working hard to restore trust. The most recent Findus case, where horsemeat has been found in Lasagna, is another example of a company claiming to commit to take a special look at the composition of its products. According to their CEO they are *"committed to sourcing their products from reputable food processors*" *(Findus, Den Hollander, 2013)*, despite these statements, they still sold several tons of meat horse in their Lasagna.

These two recent examples demonstrate first that credibility needs to be gained through effective implementation of the stricter health and safety measures and second that if statements written in a well-constructed sustainability report are not effectively implemented, soon or later people will find out.

[11] many issues have been raised about this report and according to Peter Coates, the non-executive director, chairman of board's health, safety, environment committee for Glencore (PC), this report is "a first step; drawing a line in the sand. It will be a marker for the board. The next time we produce a sustainability report there will be a lot more comparison of progress in there"[11].

Glencore's top controversies related to governance, tax and environment

Several controversies are surrounding Glencore's environment. It is indeed not by chance that Glencore was rated among the ten[12] top most controversial mining companies in 2011 by the business intelligence firm *RepRisk* (*Duffy, 2012)*. Predominantly and by decreasing order of appearance in the news: tax issues, corporate governance, transparency & secrecy, corruption and pollution are the main topic found in newspapers and on the web. Here are the major ones:

Tax issues

Two major tax related concerns come up front when discussing about Glencore. The first one is the Mopani Copper Mine in Zambia and the second is their sophisticated networks of subsidiaries located in tax havens to escape taxation.

Mopani Mines, Zambia (*Glencore Interest: 73.1%)*

Despite the boom in copper price, Glencore has officially always run at a loss in the Zambia Mopani mine. European established auditor Grant Thornton and the Norwegian consultancy firm Econ Pöyry mandated by the Zambian government found many grey and black zones in the accounting of the mine. It is true that the mining laws in Zambia are very flexible but nonetheless existing, unauthorized inflated costs and underestimated commodity prices lead the mine to pay no taxes for several years. According to the audit report transmitted to NGOs, between 2003 and 2007 sales of copper were $700 million lower than they should have been if they took the LME price *(BERNE Declaration, 2011*). More precisely and according to the report available on the web,[13] *"it seems like the company may be using incorrect disposal proceeds for tax purposes. There is an inconsistent profit and loss on disposal of fixed assets"* and moreover, *"We [they] believe that the related party sales and pricing mechanisms are not in accordance with agreement disclosed, or the arm's length principle. This should have impact on the tax assessments for the period under review."*

[12] 1st: Alpha Natural Resources 2nd: Newmont Mining 3rd: Glencore International

[13] Pilot Audit Report – Mopani Copper Mines Plc. Found on: http://fr.scribd.com/doc/48560813/Mopani-Pilot-Audit-Report. Visited 4.03.2013

In response to this report, Glencore denies all allegations and mandated the audit firm *Deloitte* to *"provide initial comments in relation to the methodologies and analysis outlined in the report"* (*Deloitte AG, Atkinson, Quinlin, 2011*). *According to Deloitte, "the Report contains fundamental flaws in terms of methodology and approach applied and thus the conclusions reached by the Auditors."*

The two reports are contradictory in terms of conclusion but they seem to share the same opinions on the lack of reliable available data and the lack of cooperation shown by the Mopani mine throughout the auditing process. Secondly, despite the obligation auditors have to remain objective in their report, it is worth mentioning that the two reports draw conclusions that go in favor of their client. A third party ought to be hired to straighten these reports out.

Subsidiaries in tax havens

According to a report of the coalition Publish What You Pay *(Mathiason, 2011)*, *"Glencore International AG is the most opaque mining company in our survey with 46% of its 46 subsidiaries incorporated in Secrecy Jurisdictions"*. The important number of subsidiaries allows Glencore to play with transfer pricing and to use its own subsidiaries to charge expenses, such as hedging, to where it wants in order to reduce dramatically its tax payments. Their operations are in essence not illegal but raise questions about the societal responsibility of such behavior.

Corporate Governance

As stated briefly in the *history* and in the *flotation* part, Glencore's leaders are controversial by themselves. The initial founder, former fugitive, Marc Rich, the new chairman, veteran Hong Kong businessman, Simon Murray or former BP CEO Anthony Hayward are all as controversial as powerful in this mining company.

Concerns about Corporate Governance are emphasized by the non-publication of a report into Glencore's corporate governance by the European Investment Bank that lent $40millions in 2005 to Mopani *(Davies, 2012)*. The European Investment Bank also froze lending to Glencore based on "*serious concerns about corporate governance and the tax situation of a copper smelter in Zambia*" *(Blas, Burgess, 2011*).

Moreover, when Glencore started its IPO campaign to raise up to $11 billion, they had not made up their mind on a chairman to lead their board of directors. They first decided on electing former BP John Browne but he declined the offer shortly after his name was known by the public. After this debacle, Veteran Simon Murray took the position *(Nixon, Peaple, 2011)*. The election of Simon Murray has not been made by the rule book or in accordance with corporate governance principle. Indeed, Simon Murray is believed to have not been nominated by an election committee but by Ivan Glasenberg and a big shareholder solely (*Guthrie, 2011)*.

The planned merger and acquisition between Xstrata and Glencore is also raising some question on the way the future senior position will be allocated between Xstrata and Glencore's top executives. In this merger of "equal", the expectation was to split relatively evenly senior positions in the future "Glenstrata", but in facts the chairman, the CFO and the CEO of Xstrata, who all were supposed to take over key senior positions after the merger, stepped down leaving Ivan Glasenberg in full control again (*Collins, 2012)*. This event may raise further concerns about Glencore's corporate governance and about the ability of Glencore to deal properly with Xstrata core competences.

Transparency & secrecy

After 37 years of private ownership, Glencore decided to go public, which they did in May 2011. This was a surprising event, going not quite in the same direction of Marc Rich testimonial: "*discretion is an important factor of success in the commodity business*" and *"it's much more convenient not to be a public company*" (see also chapter Flotation, p. 9) (*Blas, 2011)*. However, despite these statements, Marc Rich understood this new strategy as it would allow them to *"get access to more money, and to have more liquid shares".* As their history of legal issues, tax issues and bribing issues has demonstrated, dealing with transparency will not be an easy task for Glencore.

First, the chosen location for Glencore's headquarters will let the company have more room to manipulate financial transactions. Indeed, in comparison to the USA or even the EU where reforms have been or are being implemented (see. Explanation of the Issue on p. 14), Switzerland allows companies quite a substantial quantity of freedom.

Secondly, according to an investigation conducted by the NGO Global Witness, they suspect Glencore of secret and possibly corrupt sales of stakes through a businessman named Dane Gertier in the Kansuki[14] and Mutanda mines[15] in Congo's southern Katanga province in 2010 and 2011 *(Global Witness, 2012)*.

Thirdly, despite the statement in the annual report that "*they will not tolerate bribery or corruption of any kind*", a subsidiary of Glencore was found guilty in June 2012 of bribing an European Commission's Agriculture department official in order to get sensitive information about EU export subsidy (*Deighton, 2012*). They had to pay a fine of Eur 500,000.-

Pollution

Mining activities are harmful to the environment. Despite many precautionary measures, it is very difficult for mining companies to reject no hazardous chemicals such as uranium, sulphur or diesel on the ground and worse, in water. The example of the mines in Congo, in the south part of the region of Katanga, where Glencore has 75.2% (*Peyer, Mercier, 2012: 11*) (*Glencore AR, 2012: 52)* interest in *Katanga Mining Limited* illustrates the kind of damages that a mine can cause on its surroundings.

Researchers from the *Benchmarks Foundation* have found that many pipes evacuating wastewater from the Katanga mines are in bad shape and leak on the ground and therefore affect the phreatic tables and the nearby lands. Recycled water is also a source of pollution because it is said to be ejected directly in rivers.

Secondly, in 2010, Glencore had to pay four environmental fines due to infringement on protected land, emissions, water discharge and tailings disposal with a total monetary value of approximately USD 780,000 (*Glencore SR, 2010: 63)*. Fortunately, in 2011, this amount decreased to reach USD 210,000 (*Glencore SR, 2011: 63)*.

In the Mopani Copper mine in Mufulira, Zambia in which Glencore has a 73.1% stake, the environment is affected by the emission of sulphur dioxide in the atmosphere. In contact with water, sulphur dioxide turns into sulphuric acid. Therefore, rains are not welcome in the

[14] Glencore has 37.5% interest
[15] Glencore has 60.0% interest

region. Sulphuric acid in rain water reduces significantly the field fertility and makes it difficult for indigenous people to cultivate their vegetable gardens (*BERNE Declaration, 2011: 93*).

Moreover, acid is frequently used to extract copper. Its properties enable miners to dissolve the metal from its ore. This mixture is then stored in reservoirs and then pumped to the surface. According to the “Guidebook for evaluating Mining Projects EIAs” (*ELAW, 2010*) and the non-profit Organization Earthworks, “Acid mine drainage is considered one of mining’s most serious threats to water resources. Fortunately, the Mopani Copper mine is trying to fix the situation and they expect to capture over 97% of all sulphur dioxide emissions by the end of 2013 *(Glencore SR, 2011: 82).*

Katanga’s Luilu refinery in the Democratic Republic of the Congo, which is part of Katanga Mining Limited in which Glencore owns 75.15% stake, has been recently under the spotlight for acid water discharge. Glencore became operator of Luilu’s refinery in 2009 and has been rejecting acid water into the Luilu River for three years before putting an end to this (*Sweeney, 2012) (Glencore International plc, 2012)*.

Human Rights

Katanga Mining Limited (Glencore Interest: 75.2%)

According to the report conducted by Yvan Maillard and Chantal Peyer from the NGO "*Pain pour le prochain*" 2011 p.301, Glencore subsidiaries indirectly buy in large quantities of minerals extracted from artisanal mines that have, for the large majority, been illegally established and therefore have miners working in poor conditions. Glencore claims that "we don't have any involvement in artisanal mining in the Democratic Republic of the Congo", but due to the lack of transparency in the production process, it is possible that some of these minerals are exported to some other regions without being declared.

This topic is sensitive because buying from artisanal mines would mean that Glencore supports indirectly this production, thus becoming, to some extent, responsible of the miners. These artisanal mines employ children who are highly sought-after because of their capacity to go where adults cannot. As long as the illegal artisanal miners will be able to sell their ores, they will continue to exist. Neither the government nor extractive companies have a real interest to stop illegal miners. The state profits from this situation in two ways: first, some state officials get bribes and secondly, this situation discharges the state from dealing with unemployed citizens. From the company's point of view, they get to pay a considerable undervalued price for the minerals, so they directly profit from it.

Glencore denies all these allegations (*Glencore International plc, 2012).*

A résumé of the theoretical concepts relating to the selected problems

The Dawn of a New Order in Commodity Trading, S. Meersman, R. Rechtsteiner & G. Sharp. Risk Journal, Vol. 2. Sept 2012.

This article discusses the growing importance of commodity trader giants. They predict more commodity trading acquisitions, investments, public offerings, and new entrants. They expect the industry to undergo its largest transformation in 30 years. They argue that the players, who will benefit the most, are the one who can master optionality.

Commodities: Switzerland's most dangerous business, Berne Declaration. 2011.

This book describes the extractive industry and its implication with Switzerland, the world's largest trading house. The authors want to understand why companies make billions of profit while resource-rich countries make peanuts. They look at history, scrutinize business practice and political context. They give insights about the social and environmental consequences of trading/extractive activities.

Glencore Controversies Report. Covalence SA. August 2011.

This report conducted by Covalence SA, explores the ethical controversies relating to Glencore in the August 2009 – July 2011 period. Covalence is an ethical reputation index tracking the world's largest companies.

Contrats, droits humains et fiscalité: comment une entreprise dépouille un pays. Le cas de Glencore en République Démocratique du Congo. C. Peyer & Y. Maillard. Pain pour le prochain. Mars 2011.

The report is scrutinizing Glencore's activity in the Democratic Republic of the Congo (RDC) in the region of Katanga in 2007. The analysis. is emphasized on the strategy and commercial activities of Glencore in RDC. The report is based on a desk-research as well as on two missions on the field.

Glencore in the Democratic Republic of the Congo: profit before human rights and the environment. C. Peyer & F. Mercier. Brot für alle. April 2012

In this new study on Glencore in the DRC, the authors criticize the activities of Glencore in the DRC. They claim that Glencore engages in tax avoidance, violates labour rights, benefits from child labour and causes massive environmental damage.

Glencore Sustainability Report 2010

Glencore's first sustainability report. The report demonstrates their commitments to their people, communities, the environment and their investors. The report summarizes where they currently stand in relation to the achievements and challenges ahead of them in terms of non-financial performance.

Glencore Sustainability Report 2011

Glencore's second sustainability report. The report details their non-financial performance. It discusses their progress since 2010, and as their first publication, shows their commitments and intentions toward their employees, investors, customers, the environment and the communities in which they operate.

The Role of Business in Society: An Agenda for Action. N. Fitzgerald & M. Kormack. 2006

"This paper brings together an international business leader Niall FitzGerald, former Chairman and CEO of Unilever and Chairman of Reuters, and corporate responsibility executive Mandy Cormack, who headed up Corporate Responsibility at Unilever. They explore why the role of business in society is on the agenda of the Chief Executives and Boards of leading international companies and what they can do about it".

The Responsible Investor's Guide To Commodities: An overview of Best Practices Across Commodity-Exposed Asset Classes. I. Knoepfel & D. Imbert. OnValues Ltd. September 2011

Sponsored by the Swiss Federal Department of Foreign Affairs, the UN backed Principles for Responsible Investment and the UN Global Compact Secretariat, the goal of this paper is to improve the understanding of environmental, social and governance issues in commodity investments with a view to identifying and promoting best practice in this area.

Mine 2011. The Game Has Changed. PwC, 2011.

The reviews in this paper provide a comprehensive analysis of the financial performance and position of the global mining industry as represented by the Top 40 mining companies by market capitalization.

Secteur Minier Coté et Risques ESG: De l'Influence des ONG sur l'Activité et la Réputation des Entreprises Minières. C. de Foucaucourt et al. (BeLinked) & T. Lafarie et al. (Novethic), Sept. 2011.

This study examines the communication on Company Social Responsibility of major publicly quoted mining companies, the ESG problem they face, the way they collaborate with the civil society and the way they deal with NGOs. The goal is to alert investors on the ESG risks that can affect the long and medium term performance of companies.

Tracking the trends 2012: The top 10 trends mining companies may face in the coming years. Deloitte. 2012

This report gives the reader a feeling on how the mining industry may develop in the upcoming years. They realize that the mining industry "has come to take a more central role on the world stage". As Glenn Ives, Americas Mining Leader at Deloitte notes: "Today, for mining companies, greater visibility comes with greater responsibility".

The Recovery of Trust : Case studies of organizational failures and trust repair. G. Dietz & N. Gillepsie. Institute of Business Ethics. February 2012.

This paper talks about the “fundamental building block to any successful organization” that trust is. They try to demonstrate how trust is built, supported and recovered in an organization through several case studies. The featured case studies are of Siemens, Mattel, Toyota, BAE Systems, The BBC and Sevem Trent.

Most Controversial Mining Companies of 2011. REPRISK AG, March 2012

This report features the 10 most controversial mining companies of 2011. RepRisk captures allegations and controversies surrounding major mining companies. The company monitor, the issues related to environmental, social and governance risk across a broad stakeholder audience of NGOs, academics, media, politicians, regulators and communities.

4. ESG best practice – Analysis

4.1 Methodology

The first part of the analysis of Glencore's sustainable performance regards the practice they have versus three other mining companies active worldwide and publicly quoted. Among the three mining companies, Xstrata is considered to be the "best in class". All best practices are classified in function of Environmental, Social and Governance (ESG) criterions.

Best practice comparison and evaluation criteria were selected and inspired from mainly Xstrata Sustainability Report 2011 but also on the booklet: *Overview of Best Practice Environmental Management in Mining.* Environment, Australia. 2002. As well as Vale and First Quantum sustainability report 2011.

Once the comparison and evaluation best practices were established, three different grades have been given to each of them depending on how well the company performs. The methodology for the rating assessment has been carried out in the following manner:

1) When the company fully displays a chosen best practice or is performing very well in comparison to the other mining companies, the best grade is given: five out of five[16]
2) When the company does not give any clear evidence on the selected best practice or Is not clear on whether it fully respects it, a grade of 2.5 out of 5 is given. If no information is given at all and the grade 2.5 has been given instead of 0, I assumed that it didn't calculate this number but still has the potential of performing well if it was calculating it. .
3) When the company does not respect at all a chosen best practice and it is clear that it doesn't, the grade 0 is given.

5 pts **2.5 pts** **0 pts**

[16] For simplification purpose, colours have been given to each grade: 5 = green, 2.5 = orange 0 = red.

When ratings require a subjective evaluation such as for the LTIFR or the number of complaints by local people, no assessments are given but a global assessment is made under the form of a positive, neutral or negative sign.

The company who gets the highest grade is the best practitioner.

4.2 Environment best practice

Environmental best practice 2011	Glencore	First Quantum	Xstrata	Vale
ISO 14001	No	Yes	Yes	Yes
Number of environmental incidents “moderate or higher”	42[17]	9	No	N/A
Environmental fines	$ 210,000	N/A	$ 77,897	N/A
Environmental Impact Assessment (EIA)	(Yes)[18]	Yes	Yes	Yes
Member of the International Council on Mining and Metals	No	No	Yes	Yes
European Union's REACH	Yes	No	Yes	N/A
Targets, scorecard	(yes)[19]	Mitigation but no goal	Yes	Yes
Committed to ensure no loss of any threatened species as defined under the International Union for the Conservation of Nature	Yes	No	Yes	Yes

[17] P.78 of their Sustainability report. 42 classified as moderate and 295 minor
[18] Not carried out on a systematic basis
[19] No clear numbers are presented, mainly some intentions of improvement.

UN global Compact	No	No	Yes	Yes
Carbon Disclosure Project	Participate	Participate	Participate	Participate
Global CCS Institute	No	No	Members	No
Launched funds linked to improve their behaviour in sustainable development	Yes[20]	Yes	Yes[21]	Yes
AA1000 AccountAbility Principles Standard 2008	No	No	Comply	No
Equator Principles	No	Yes	No	No
International Finance Corporation's Performance Standards in environmental management	Yes[22]	Yes	(Yes)[23]	No
Evaluation	**30**	**35**	**57.5**	**47.5**

[20] Mopani funds HIV/AIDS and care for 14,000 people
[21] Low Emissions Research and Development Fund
[22] Glencore is said to collaborate closely with the local communities and authorities in accordance with all relevant international standards (such as the International Finance Corporation's Performance (IFC's) Standard
[23] Xstrata engages with the IFC to seek clarification of the definition of the term in the accompanying guidance notes".

4.3 Social best practice

Social Best Practice 2011	Glencore	First Quantum	Xstrata	Vale
Lost time injury frequency rate (LTIFR)[24]	3.58	0.22	1.3	0.8
Total recordable injury frequency rate	N/A[25]	3.4	5.2	3.3
Number of complaints by local people	1,900	N/A	1,374	N/A
Corporate social involvement spent in % of EBIT	2.6%[26]	3.04%[27]	1.2%[28]	1.5%[29]
Number of fatalities	18	0	6	15
Ratified the UN Guiding Principles on Security and Human Right	Yes[30]	Yes	Yes	(Yes)[31]
Regularly consult and are open in its communications, often face-to-face, with its local communities, governments, industry bodies and NGOs	Yes/No[32]	Yes	Yes	Yes
Occupational Health and Safety Assessment Series (OHSAS18001)	No	Yes	Yes	No[33]

[24] Per millions hours worked
[25] According to Glencore, they will use the total recordable injury frequency rate and other benchmark indicators to compare safety performance in the coming years.
[26] Community investment: US$ 140 mio EBIT: US$ 5,398 mio
[27] Social expenditure: US$ 35.629 and EBIT US$ 1,169
[28] Xstrata set aside a minimum of 1% of profit before tax to fund community initiatives and consultation
[29] Social spending: US$ 457.2 mio and EBIT of US$ 30,112 in 2011
[30] They support the UN's Guiding Principles on Business and Human Rights
[31] They have a Human Rights Policy, they have committed to the United Nations Global Compact
[32] There is no discussion carried on a systematic basis. They don't clearly specify that they regularly consult the communities.
[33] They created a Global Department for Health and Safety. Some of their business unit has the certification see on p. 99 of their sustainability report 2011.

ISO 31001 for risk management	No	No	Yes	No
Addressing HIV and AIDS	Yes	Yes	Yes	Yes
Social, Health and safety clear indicators	Yes/No[34]	Yes	Yes	Yes
ILO Conventions	Yes	Yes	Yes	Yes[35]
Evaluation	***25***	***40***	***42.5***	***27.5***

[34] According to their sustainable report, they will disclose more detailed data in the coming years. P. 31 Glencore Sustainability Report 2011.

[35] They respect the eight fundamental conventions of the ILO.

4.4 Governance best practice

Governance Best Practice 2011	Glencore	First Quantum	Xstrata	Vale
Income Tax	4.6%[36]	35.2%[37]	27.2%[38]	19.7%[39]
Board Health, Safety, Environment and Community (HSEC) Committtee[40]	Yes	Yes[41]	Yes	Yes[42]
Third party Audit	Deloitte for Limited Assurance	No	Ernst & Young for Limited Assurance	KPMG for Limited Assurance
EITI Initiative	Yes	No[43]	Yes	Yes[44]
Global Code of Conduct	Yes[45]	Yes	Yes	Yes[46]
Bribery, Corruption and Fraud policy	Yes	(Yes)[47]	Yes	No

[36] Profit before taxation: US$m 5,398 Income Tax Charge: US$m 250. Glencore Annual Report 2011.
[37] Profit before taxation: US$m 1,308 Income Tax Charge: US$m 460.7. First Quantum Annual Report 2011.
[38] Profit before taxation: US$m 8,148 Income Tax Charge: US$m 2,215. Xstrata Annual Report 2011.
[39] Profit before taxation: US$m 26,799 Income Tax Charge: US$m 5,282. Vale Annual Report 2011.
[40] Meets quarterly, and visit operations
[41] Environmental, Health & Safety and Corporate Social Responsibility Committee.
[42] There is a global department for OHS and an Executive Officer for HR, sustainability, Health and Safety and Energy.
[43] According to their Sustainability report, they do align with the EITI, but based on the EITI website, they cannot be found.
[44] According to the EITI website, they support "through membership of ICMM".
[45] Glencore has a Corporate Governance Code
[46] They have a code of Ethical Conduct
[47] In their Code of Conduct there is a few paragraph on "Giving and Receiving Gifts or Benefit"

Confidential Reporting Line[48]	(yes)[49]	No	Yes	Yes[50]
Evaluation	***27.5***	***12.5***	***30***	***25***

4.5 Results

The addition of all evaluation criterions classified the four featured mining companies in the following manner:

Xstrata :... 130 points (neutral)

Vale : .... 100 points (neutral)

First Quantum :... 87.5 points (positive)

Glencore : ....82.5 points (negative)

The results are consistent with the purpose of this work and illustrate that despite its recent efforts, Glencore still has much room for improvement. Glencore is a company that is missing important details in order to become a good sustainable performer. Recommendations here below should help the company to make a further step toward a good ESG practitioner.

[48] Through which any suspected breach of business principles or legislation can be reported
[49] Marketing employees are required to report to the local compliance coordinator, a business ethics officer, or another member of the Business Ethics Committee. Some of their Coal operations have external hotline.
[50] Vale has a Reporting Channel for complaints and information

5. ESG Recommendations and risks analysis

5.1 Methodology

The second part of the analysis is about Glencore versus good practices based on the literature and interviews. This part of the work aims at proposing recommendations to Glencore and at identifying risks the company is facing if it does not improve its practice. All existing practices, proposed recommendations and statement of risks are detailed in several sentences in order to make Glencore sensitive to the challenge it is facing.

In order to become familiar with the sustainable criterions that are of relevance when a financial institution is investing in a company, *Simon Perrin* from Banque Sarasin was contacted the 28th March 2013. *Vanessa Ardenti* from Inrate, has also been contacted the 9th April 2013. Vanessa Ardenti provided me with a professional opinion on the Sustainability report published by Glencore in 2011, this has been useful to improve and support the existing recommendations. Last but not least, *Antoine Mach* from the company Covalence was contacted the 14th November 2012. This interview provided me with an evaluation of the controversies associated with Glencore based on what can be found in the Medias.

All interviews which I was allowed to transcript can be found in the appendixes.

The methodology is the following: the research was conducted based on ESG criterions. Under each of the ESG criterions there are several breakdowns displayed in a systematic manner as per the following:

- Good practice based on literature
- Glencore’s practice
- Recommendations
- Risks If Glencore does not implement these recommendations.

There are between four and five best practices under each topic.

In the case Glencore complies with best practices based on literature, recommendations and risks are obviously not elaborated.

5.2 Environmental - Environment

Good practice based on literature

[1.1] Does the company have a policy to control water and energy use on the mining sites? (*De Foucaucourt et al. 2011: 41)* [51]

Glencore practice

[1.2] Through its Glencore Corporate Practice (GCP), Glencore is said to have programs and targets for the continuous improvement of efficient resource use. *(Glencore SR, 2011: 9)*. It also plans to have a water management plan “to mitigate water scarcity risk” by June 2015. It measures the quantity of water it uses as well as the energy use. However, the company doesn’t have a systematic energy or water control policy. It measures but does not have any targets for the coming years.

Recommendations’

[1.3] - Have a systematic energy or water control policy.

[1.4] - Have targets for water and energy consumption for the upcoming years based on the current consumption.

Risks if Glencore does not implement these recommendations

[1.5] Controlling water consumption reduces environmental impacts and will automatically reduce consumption of a scarce resource thus diminishing the intensity of negative publicity from Environmental NGOs as well as other parties concerned with the environment of the mines such as communities.

Secondly, energy efficiency is a key indicator of industries’ environmental footprints. Tax on Greenhouse gas emissions is coming and therefore not considering it will lead to much higher expenses (due to tax and to uncontrolled high consumption). Today, companies that have a negative environmental impact not only face legal suit but are often convicted under

[51] Vale is very active in controlling its water and energy usage, especially through their “Vale Fund for Sustainable Development”.

the public spot light. When it comes to environmental damage, the public memory can be very long *(Commexus Inc, Compliance Management Series: Part one)*.

Access to new projects can become more difficult if the company is famous for its lack of environmental measures to limit pollution in the best possible way.

Good practice based on literature

[2.1] Does the company have a field rehabilitation policy? [2]

Glencore practice

[2.2] Glencore "*generally rehabilitates land that has been disturbed by their operations as soon as possible*" *(Glencore SR, 2011: 65)*. Glencore appears to rehabilitate lands and gives precise numbers on the surface of land disturbed and not yet *rehabilitated (Glencore SR, 2011: 65)*. It also has a general closure plan *(Glencore SR, 2011: 47)* in which it assesses the rehabilitation costs. However, the lack of policy dedicated to sites rehabilitation surely plays an important role in keeping very low (nonetheless increasing since 2009) the percentage of "*land newly rehabilited*" *(Glencore SR, 2011: 62*)

Recommendations'

[2.3] Have a policy dedicated to sites rehabilitation developed in partnership with specialists such as NGOs and consultants and publish it.

Risks if Glencore does not implement these recommendations

[2.4] Land rehabilitation is part of Glencore's global footprint. Mining sites have an impact on the environment, neighboring property, human health, fauna and flora. Therefore not taking care of it in a consistent way throughout their operation may lead to important financial compensation plans to be paid to the state or to the neighboring community.

There is a high risk that the financial compensation will be higher than the cost of rigorously rehabilitating sites based on a well-defined policy adapted to each plant.

Good practice based on literature

[3.1] Does the company conduct an assessment of the impact of its activity on the environment and on biodiversity (EIA)? [2]

Glencore practice

[3.2] "*Its environmental impact is identified, assessed and monitored*". A case study example is available on page 80 of its Sustainability Report, 2011 for the Puerto Nuevo project, at Santa Maria. The mining company could subscribe to the Equator Principles to reinforce the credibility of its engagement.

However, Environmental Impact assessment seems not to be carried out on a systematic basis by Glencore, as it is written in its 2011 sustainability report "*As appropriate, the plan may include EIAs*." *(Glencore SR, 2011: 64)*

Recommendations

[3.3] - Subscribe to the Equator Principles

[3.3] - Conduct EIAs on a systematic basis

Risks if Glencore does not implement these recommendations

[3.4] EIAs are essential to take necessary measures to counter any negative effect on human health and the environment, and on safety in the short run. It is important to ensure that the EIAs are appropriate and consistent with the local law as well as international standards. If needed, external experts should be brought in. Not conducting EIAs properly will also increase the risk of not receiving any funding for a given project *(Ovind, Sneve, 2006*) as well as increasing the risk of non-compliance with international standards *(Environment Australia, 2002).*

Good Practice based on literature

[4.1] Does the company try to mitigate and reduce its impact on the environment and on biodiversity?[2]

Glencore practice

[4.2] According to its Sustainibility report "*Glencore must consider its impact on the environment and mitigate this as far as possible*" *(Glencore SR, 2011: 62)*. It minimizes the direct physical impact of its mines by removing as little topsoil and vegetation as possible. The topsoil removed is reserved for further usage and to rehabilitate new areas. Its mining operations have a "*site-specific land management plan"*. *(Glencore SR, 2011: 64*). Still according to Glencore's report, it closely monitors its activities in or near protected areas (ex: Colombian mining sites).

On the down side, Glencore still receives many reproaches regarding the way it monitors and takes measures to reduce at maximum its environmental impact *(see Glencore's Top Controversies> Pollution on p.40 for further details and references)*

Katanga Mining, Congo (Glencore Interest: 75.2%)

- Pipes evacuating wastewater and leaks on the ground.
- Acid water discharge
  - ⇨ Grounded for several years before Glencore addressed effectively the issue *[the problem is today solved (Glencore International plc, 2012)*

Mopani Copper Mine, Zambia (Glencore Interest: 73.1%)

- Emission of sulphur dioxide, reduces field fertility ➔ Glencore has invested several millions dollars to increase the capture of sulphur dioxide gas from 50 to 97%, this should be finished by the end of 2013
- Acid used to extract copper

Recommendations

[4.3] Many environmental concerns raised by stakeholders emphasize the sentence written in a report by "Environment Australia" in 2002 (*Environment Australia, 2002)* that, "it is not acceptable for a mining operator to simply conform to regulatory standards without ensuring that those standards will provide adequate protection of the environmental values at the actual mine site". The recommendation here is to strictly apply environmental commitments and realize that stakeholders will be always looking for details to catch the public attention on bad environmental management. It is also essential to improve the understanding of environmental issues among workers and local managers. It is key to build a sense of responsibility amongst all the staff so that they report any incident more easily.

- ⇨ Conducting an environmental auditing will be very well perceived; It should show to stakeholders or even the court in case of judgment that Glencore took due diligence in trying to reduce its environmental impact.
    - o According to the report "Overview of Best Practice Environmental Management in Mining" on p. 33, auditing can benefit the company in " identifying management of risk, lower probability of non-compliance, preferred access to lending institutions, lower insurance premiums for environmental risk and improved public image."

Risks if Glencore does not implement these recommendations

[4.4] The Risks here are quite obvious. Significant savings can be made if environmental risks mitigation is done with due diligence. Environmental fines amounting to $780,000 in 2010 and $210,000 in 2011 could be further reduced. Moreover, stakeholders are really not forgiving when it comes to environmental damages. Environmental damages are a reputational breaker. According to Covalence SA *(Covalence SA, 2011)*, pollution related issues rank among the top five main controversies surrounding Glencore and communicated by the media. Last but not least, lower environmental related scandals will eventually lead to lower insurance premiums (*Environment Australia, 2002).*

5.3 Social - Human Rights

Good practice based on literature

[1.1] Guiding Principles on Business and Human Rights

Glencore practice

[1.2] Glencore supports the UN's Guiding Principles on Business and Human Rights (*Glencore SR, 2011: 41*).

Recommendations

[1.3] It is essential for Glencore to ensure that the Guiding Principles are respected throughout their operations. The example available on p. 23 *Glencore's top controversies > Human Rights* demonstrates that there still exist some room for improvement, especially when it comes to verification and controls.

When no recommendations are possible because Glencore is already performing well in the area, the acronym **N/A** will be displayed under *Recommendations and Risks*

Risks if Glencore does not implement these recommendations

[1.4] N/A

Good practice based on literature

[2.1] Collaboration with NGOs for trainings, prevention or fight against HIV/AIDS

Glencore practice

[2.2] Glencore plans to develop a Group-wide human rights training course from June 2014 onwards *(Glencore SR, 2011: 33).*

In 2011, their employees received an average of 80 hours[52] of training and instruction (*Glencore SR, 2011: 41)*.

Mopani mines (owned at 73.1% by Glencore) funds HIV/AIDS anti-retrovirals and cares for 14,000 people.

Glencore often talks about its business partners such as customers, suppliers, service providers or contractors. It also frequently mentions community relationships; however it does not appear to work in collaboration with NGOs and profit from their experience in certain areas where Glencore is not an expert, such as environmental management or community relationship. Again, this would add credibility to their projects.

Recommendations

[2.3] Glencore should include NGOs when it lists their stakeholders on page 27 of its report. Including NGOs in their projects would bring knowledge, credibility and, more important, would demonstrate their motivation to improve its sustainable performance and therefore reduce the number of NGOs complaining about their controversial practices.

[52] 80 hours for metals & minerals, 33 hours dedicated to Agricultural activities, and 229 for Energy related activities.

Risks if Glencore does not implement these recommendations

[2.4] Lack of communication and partnership with NGOs will eventually lead to incomprehension and further criticisms. Negative advertising by NGOs can bring about many different risks *(De Foucaucourt et al. 2011: 22):*

Operational risks

Local activities can be threatened. "*Strong mobilization form local citizens added to the strong mobilization of NGOs on mining sites can lead to the blockage of constructions or operation, that all can result in important financial spending*" *(De Foucaucourt et al. 2011: 22)*.

Example: Xstrata has been hit by a one week protest in its copper mine Tintaya in Peru (*Aquino, Wade, 2012)*. They could not run the operation during the protest leading to a loss of income.

Judicial risk

Lawsuits can be brought against mining companies and important compensation can result from these trials. Cost can represent several hundred millions dollars. *"Legal suit can materialize in front of national jurisdiction of country where the mine is located and through legal complaint filed by NCPs[53] of the OECD. The current tendency is more to develop collective actions brought in front of developed countries where the mining companies have their headquarters. Potential financial condemnation is also accompanied by an even more important media risk"* (*De Foucaucourt et al. 2011: 23*).

Example: Chevron, the US oil giant is accused of environmental damages in Ecuador, Amazon. The court told Chevron to pay more than $8 billion in compensation *(Gomez, 2011).*

[53] NPCs are "National Contact Points that ensure the follow-up of the OECD Guidelines". [on line] http://oecdwatch.org/oecd-guidelines/ncps?set_language=en . visited 24/04/2013

Investor risk

“Large NGOs (Amnesty International, Greenpeace, les Amis de la Terre, etc.) are doing shareholders activism or specific actions to sensitise investors and to convince them to put pressure either directly or indirectly in withdrawing capital from companies that are considered irresponsible. Typically, Verdanta, ArcelorMittal or Rio Tinto have been confronted to these actions.” (De Foucaucourt et al. 2011: 23)

Moreover, important financial institutions such as Sarasin Bank or rating agencies such as Inrate, are considering highly public controversies associated with companies when advising clients or writing reports. All events that may have an impact on the financial health of a company (fines, legal suit) are considered as important.

Example: Norway’s sovereign wealth fund has got rid of its full $850 million participation in Rio Tinto in the first half of 2008. The stake withdrawal was due to environmental concerns linked with a joint venture of Rio Tinto *(Acher, 2008).*

Reputational risks.

“When several risks are combined, practices condemned by NGOs end up building a threat on the intangible asset of a company, that constitutes an important part of the value of a listed company (its branding, the pride of employees, the facility to recruit) but also on the facility to access new capital” (De Foucaucourt et al. 2011: 23)

Besides, the facility to obtain permits for mineral extractions is also built on the sustainable reputation of a company. The example of Xstrata in 2006 when they bought the copper mine Faclonbridge in Canada illustrates this argument. The head of corporate affairs at Xstrata says “We were able to hold up the example of our earlier acquisition of Mount Isa in Australia” *(Tieman, 2011)* their good sustainable reputation has helped them to acquire the consent of local citizens as well as local authorities.

Good practice based on literature

[3.1] Is there a discussion between the company and workers union? (*De Foucaucourt et al. 2011)*

Glencore practice

[3.2] Glencore recognizes and upholds workers' rights to collective representation*. (Glencore SR, 2011: 42).*

It is saying to communicate "*significant organizational changes*" *(Glencore SR, 2011: 43).* They noticed a significant improvement in the relationships between workers and management ever since it opened dialogue (i.e less strikes). Nonetheless, their mining sites still had three strikes exceeding one week duration and according to *Pain pour le Prochain (Peyer, Mercier, 2012)*, their employees are regularly protesting to raise salaries at Kamoto Copper Company[54] and Mutanda mining[55] where workers protest to ask for more salary, drinkable water, setting up a canteen and respect for the 45h week.

Recommendations

[3.3] As the company noticed a significant improvement in the relationship between workers and management ever since it opened dialogue, Glencore ought to be motivated to spread and increase communication throughout their operations (i.e p.60 Point [4] Governance) It would be well received if a number or a percentage of their workers, who participate in collective representation, would be given.

Risks if Glencore does not implement these recommendations

[3.4] More dialogue between workers and managerial staff lead to fewer strikes. According to Neil Gunningham and his book "Mine Safety: Law Regulation Policy*" (Gunningham, 2007)* "*effective workers participation is crucial to improved OHS outcomes. Such participation is unlikely to be effective in the absence of constructive dialogue between the two sides of the industry*".

[54] Joint venture of Katanga Mining
[55] owned at 60% by Glencore

Good practice based on literature

[4.1] Does the company respect Human Rights (conventions, standards, internal policy or chart)?

Glencore practice

[4.2] It supports the UN's Universal Declaration of Human Rights, the UN's Guiding Principles on Business and Human Rights and International Humanitarian Law. Glencore received no reports of harassment or human rights violations. It also respects the rights of workers in accordance with the ILO declaration on Fundamental Principles and Rights at Work, and ILO's Core Labour Standards.

Recommendations

[4.3] N/A

Risks if Glencore does not implement these recommendations

[4.4] N/A

Good practice based on literature

[5.1] Does the company set a minimum percentage level to fund social expenses?[56]

Glencore practice

[5.2] Glencore is not doing it yet. It plans to have a minimum of 1% of their profit to be used for community investment by December 2013.

Recommendations

[5.3] Should have in their future Sustainability Report a sentence specifying that the company sets a minimum percentage level of their benefit before taxation to fund social expenses.

Risks if Glencore does not implement these recommendations

[5.4] Even though the company is already spending more than 1% of its profit to fund community investment it is important to clearly specify it because it is part of the image of the company. It is part of an improved communication on its sustainable performance. It does not cost much but is nonetheless important

[56] Xstrata set aside a minimum of 1% of profit before tax to fund community initiatives and consultation

5.4 Social - Communities

Good practice based on literature

[1.1] Does the company assess its impact on the local community? (health, food, site)

Glencore practice

[1.2] "*Glencore makes it a priority to control and mitigate*" (*Glencore SR, 2011: 46*) its impact on the land where the local community lives and works. It says it uses "*impact assessments, monitoring and direct engagement with the neighboring communities*" (*Glencore SR, 2011: 46).*

It has received a complaint from inhabitants of the *Kamoto Copper Company*[57] about the dust that is rejected by the truck from KCC (*Peyer, Mercier, 2012: 55)*. An audit carried out by Golder Associates in 2011 (*Golder Associates Africa, 2011: 117)* testimony of the high rate of dust. These rates would be qualified as a threshold warning in South Africa. Nothing proves that the mine has done or not done something.

Recommendations

[1.3] Glencore needs to better communicate the result of its assessment and it should improve its communication and transparency after the meetings carried out with local communities.

Regarding the dust rejection in the surroundings of Katanga Mining, Glencore should take appropriate dust suppression measures such as redirecting roads that go close to villages. Xstata uses different methods to control dust emissions such as: "*Particulate filtering and collection units within processing operations, regular spraying of recycled water on mine roads, stockpiles and mining areas, they also use monitors that alert mine supervisors when dust levels are too high or increasing"* (*Xstrata AG SR, 2011: 36*). Numerous other universally applicable measures can be found in the following brochure: COLINET, Jay F. & Al. *Best Practices for Dust Control in Coal Mining*. Department of Health and Human Services, National Institute for Occupational Safety and Health, January 2010.

[57] *Joint venture of Katanga Mining*

Risks if Glencore does not implement these recommendations

[1.4] Assessment of the mining impact on the community is a process that ensures a positive development of the operation in the long-run because negative mining impact is rapidly understood and corrected. It is important to assess community impact during the extraction phase because, according to Oxfam[58], mining can negatively affect people by:

- Preventing them from accessing clean land and water.
- Impacting on their health and livelihoods.
- Causing divisions in communities over who benefits from the mine and who doesn't.
- Changing social dynamics of a community.

All these effects can result in legal suits by NGOs, the government or by communities. Compensation can be very high, especially if the company is found during the trial to have taken no measures to assess the impact of their activity on the community. Rio Tinto's Mt. Thorley Warkworth coal mine has been recently fined after failing to minimize dust emissions[59].

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[58] OXFAM Website. [on line]. https://www.oxfam.org.au/explore/mining/impacts-of-mining/. Visited on 16/04/2013

[59] Hunter coal mine fined for dust emissions. Australian Mining, May 2012. [on line] http://www.miningaustralia.com.au/news/hunter-coal-mine-fined-for-dust-emissions. Visited 25/04/2013

Good practice based on literature

[2.1] Does the company have a resettlement policy (*De Foucaucourt et al. 2011: 42)* (consultation and compensation)[60]

Glencore practice

[2.2] It is giving an example of a resettlement project in Cesar Province, Colombia. *(Glencore SR, 2011: 32)*. After an assessment and a consultation with the community, it has appointed an external team working permanently at the site to support the resettlement activities. This is exemplary conduct.

Recommendations

[2.3] Appointing an external team to facilitate resettlement is a good practice. It is essential that it does it on a systematic basis.

Risks if Glencore does not implement these recommendations

[2.4] Poor resettlement policies and non-cooperative measures can lead again to legal suits, negative publicity and even mining sites closure. The example of the coal mine jointly owned by *AngloAmerican, Xstrata and BHP Biliton* in Cerrejon (Colombia) where NGOs have brought a charge against the mining companies because of the way autochthones were relocated *(De Foucaucourt et al. 2011: 13)* illustrates these risks.

[60] Vale and Xstrata have such a policy.

Good practice based on literature

[3.1] Does the company's management have a hotline accessible to the local community?

Glencore practice

[3.2] It does not have a formal phone line that the community can call. Each mine counts on the community leader to report to the local management. It also has a formal system of procedures "*for recording, investigating and addressing local concerns and complaints*".(*Glencore SR, 2011: 47)*. However, Glencore's work on the field is apparently not sufficient as at the Kamoto Copper Company (KCC) in DRC, the large reclamation made by local citizens remained unanswered (*Peyer, Mercier, 2012: 48).*

Recommendations

[3.3] Glencore should fix a minimum acceptable target answer and satisfaction rate regarding the complaints they receive. It would facilitate discussion if a telephone line or an email address (that "*are commensurate with local infrastructure and do not cause communities to incur costs*") *(International Finance Corporation, 2009: 12)* would be made available to workers and the community to report complaints or any abuse, infringement to laws, internal process failure, etc.. either anonymously or named. "This "hotline", email addresses or websites should be publicized through brochures, at meetings, via posters on a gate (…)" (*International Finance Corporation, 2009: 12)*

Risks if Glencore does not implement these recommendations

[3.4] A phone line is simple to implement and demonstrates to the local community and to any concerned stakeholders that Glencore is open to dialogue and willing to listen to complaints. It reduces the chance of misunderstandings by the community due to bad communication campaign and all risks related (complaints by the government, NGOs and local as well as international media).

Good practice based on literature

[4.1] Have mines been restored after usage (to limit dust volatility and reduce embankment) *(Peyer, Mercier, 2012: 55).*

Glencore practice

[4.2] It is not clearly specified whether Glencore restores mining sites directly after usage. However, through its rehabilitation procedure (see point 2 of Environment), it restores the site after usage to limit any side-effects.

This point has been raised following several complaints near the Kamoto Copper Company[61] mines where inhabitants are complaining about high levels of dust. See more details above on point [1] of the community part.

Recommendations

[4.3] Glencore appears to "*rehabilitate areas as quickly as possible after operations have finished*" *(Glencore SR, 2011: 63)* however, it should follow the evolution of the site once rehabilitated for duration of 5 to 10 years to see how the lands are recovering and to see if the community is affected once rehabilitation has been done.

Risks if Glencore does not implement these recommendations

[4.4] Restoring mines after usage limits environmental risks as well as risks related with the health of people living nearby the site. *Example*: Dust and embankment in the DRC (*Peyer, Mercier, 2012: 55).*

According to the International Energy Agency[62], Xstrata Coal is rehabilitating sections of a State Forest in New South Wales, in Australia for the closure of their Mount Owen mine. They plan to develop woodland that *is "five times larger than the forested area on the site before the mining began*". Moreover, Xstrata is cooperating with environmentalist specialists and academicians to make the effort worthwhile.

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[61] Joint venture of Katanga Mining
[62] The Greening of Open-Pit coal Mines. http://www.iea.org/newsroomandevents/news/2012/december/name,34438,en.html Visited on May 7 2013

Good practice based on literature

[5.1] Has the mine/company organized meetings with local representatives and key stakeholders (NGOs) on a continual basis? *(Peyer, Mercier, 2012: 47)*

Glencore practice

[5.2] Glencore is said to cooperate with communities in case of resettlement. *See P.11 Colombian mines*. According to its Glencore Corporate Practice, it provides sufficient staff and infrastructure to manage community relations. (*Glencore SR, 2011: 28).*

However, the lack of clear processes and policies on consultation with local communities and stakeholders can result in incomprehension and failure of the consultation campaign. The example of Kamoto Copper Company[63] where the majority of stakeholders and local communities have not received any documents before a meeting organized to discuss an Environmental Impact Assessment study (*Peyer, Mercier, 2012: 47*) is striking. Despite Glencore's commitment to engage discussion, the lack of defined and recognized processes makes the reality different on the field.

Recommendations

[5.3] Processes and policies are paramount to leave no room to inconsistency in the consultation process.

Best in class: Tenke Fungurume that is Kamoto Copper Company's competitor has organized more than 100 meetings with local representatives. These meetings have been carried out over several weeks and have been announced by local media

[64]Anglo American with their *Socio-Economic Assessment Toolbox*[65] that is a process that helps to implement sustainable development policies, such as the improvement of each operation's understanding of local stakeholders, is also exemplary.

[63] joint venture of Katanga Mining

[65] ANGLOAMERICAN Corporate Website. [on line]. http://www.angloamerican.com/development/social/seat. Visited 25/04/2013

Anglo American reinvests a share of its benefits in the maintenance of water pipes in order to improve its image. On its side, Glencore invested $10 million in 2011 in social projects in Katanga but the utility of the investment did not make unanimity because some of these investments failed to answer the real need of indigenous people due to a lack of dialogue before the investment (*Peyer, Mercier, 2012: 56).* They could maybe decrease the amount invested by better targeting the basic needs of the local community. But to do this, discussion and consultation must be conducted on a regular basis.

Setting up a Radio Station

Xstrata set up a radio station in one of their copper project in southern Peru. “Radio is not just about writing a script and speaking into the microphone…it represents a direct connection with the community and tries to give residents the opportunity to say what they think and feel” *(Xstrata AG SR, 2011: 56)* It improves the image of the mining company, improving awareness.

Risks if Glencore does not implement these recommendations

[5.4] Lack of communication/consultation leads to incomprehension. Incomprehension leads to protest. As the example of the Marlin Gold Mine in Guatemala, where the government agreed to momentarily suspend its operation permits due to heavy protest form the indigenous community supported by NGOs[66], incomprehension by the local community brings in more trouble than is solved by non-communicating important business strategy to people concerned.

[66] OXFAM Website. [on line] http://www.oxfamamerica.org/articles/marlin-mine-violence-and-pollution-lead-to-call-for-suspension. 16.04.2013

5.5 Governance – Governance (Swiss Business Federation, 2007)

Good practice based on literature

[1.1] Is the company publishing the amount of taxes and royalties transferred to the hosting country?

Glencore practice

[1.2] On page 49 of its Sustainability Report (SR), Glencore shares the amount of payments by continent. It would have been appreciated if it could have given more details on the level of royalties and tax paid on a country-by-country basis (See BHP Billiton SR P.43). The EITI Report for the year 2010 shows that Glencore and its affiliate have numbers available.

Glencore has to face many allegations by NGOs and the media regarding the way it manages taxation throughout the world.

Tax Issues (see further information on p.18 Glencore's top controversies related to governance, tax and environment: Tax Issues)

- Mopani Mines in Zambia (Glencore interest: 73.1%)
- Glencore HQ in Switzerland
- Subsidiaries in tax havens
- European Investment Bank non-publication of corporate governance report

Recommendations

[1.3] Glencore should publish on a country by country basis the economic value distributed as well as its revenues.

Risks if Glencore does not implement these recommendations

[1.4] There are all sorts of risks associated with taxation. At the *company level* the biggest risk lays in the fines Glencore may have to pay if the company is found to have profited from tax evasion.

However at the *macro level*, it is a fact that resource rich countries want to get more and more money from their own resources. Privately owned companies may face two risks if they do not make a step in the direction of states:

(1) To observe an increase in tax without the state concerting the commodity company
(2) An increase in state owned mining companies in order for states to get a bigger share of the cake than if they lease their land and see no cooperation from private companies.

Peru is the first example: Recently elected president Humala Ollanta signed three bills raising taxes and royalties on the mining sector in September 2011 *(Cespedes, 2011).* Similarly, in India, the federal government raised iron ore export taxes and even banned export of higher grade iron ore *(PTI, 2013)* most likely to make more room in the market and subsequently increase their own production. A further example supports this argument, in South Africa, the Minister of Natural Resources said that the state owned mining company "African Exploration Mining & Finance Corp. is still in its infancy, but will grow and have a greater presence*"(Mavile, 2012).*

Good practice based on literature

[2.1] Does it have a membership with the Extractive Industry Transparency Initiative (EITI)?

Glencore practice

[2.2] Glencore does have a membership with the Extractive Industry Transparency Initiative (EITI).

Recommendations

[2.3] N/A

Risks if Glencore does not implement these recommendations

[2.4] N/A

Good practice based on literature

[3.1] Does the company have an audit/remuneration/Nomination committee?[67]

Glencore practice

[3.2] Yes, Glencore does have an Audit, a Remuneration and a Nomination committee. P.20

Recommendations

[3.3] N/A

Risks if Glencore does not implement these recommendations

[3.4] N/A

[67] Considered as good governance for listed companies. Inspired from the Swiss Code of Best Practice for corporate governance. Swiss Business Federation, 2007.

Good practice based on literature

[4.1] Does the company have a formal process to consult stakeholders?[68] *(*Communication with stakeholders (*De Foucaucourt et al. 2011: 42))*

Glencore practice

[4.2] "Stakeholders can report issues to the highest level of the organization for appropriate action" *(Glencore SR, 2011: 29).* Moreover, on p.27, Glencore lists the stakeholders group with whom it engages. Unfortunately, this list does not mention NGOs. It is regrettable that it does not include NGOs especially when we know that the company has been highly criticized over the past few years and that Peter Coates, who chairs the Health, Safety, Environment and Community (HSEC) committee, says that "the Board and management team are concerned about the negative media and NGO attention. We take such reports and enquiries very seriously and I know that Glencore engages directly with all the parties' scrutinizing our activities (…) We are happy to engage in a transparent dialogue with all of them". *(Glencore SR, 2011: 12)*

Moreover, Glencore does not have a formal process or tool to be used across the organization to engage discussion with stakeholders[69].

Recommendations

[4.3] Have a formal process or tool to be used across the organization to engage discussion with stakeholders[70]. Glencore ought to establish a community consultation scale ranking its practices from one to four in the following manner:

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[68] AngloAmerican has a communication process called « AngloAmerican's Socio-Economic Assessment Toolbox », it defines for each project the steps to respect. Xstrata is also communicating well but they don't have any formal process. See page 39 of secteur minier et risques ESG, 2011

[69] AngloAmerican has a communication process called « AngloAmerican's Socio-Economic Assessment Toolbox », it defines for each project the steps to respect. Xstrata is also communicating well but they don't have any formal process. See page 39 of *Secteur Minier et Risques ESG, 2011.*

[70] AngloAmerican has a communication process called « AngloAmerican's Socio-Economic Assessment Toolbox », it defines for each project the steps to respect. Xstrata is also communicating well but they don't have any formal process. See page 39 of *Secteur Minier et Risques ESG, 2011.*

(1) *Communication with stakeholders*; the company communicates its strategy and any measure that may affect stakeholders. This is the basic level of communication.

(2) Consultation with stakeholders; before communicating the company's strategy regarding its future operation in a region, Glencore would consult stakeholders. It could organize round tables with all concerned parties before implementing anything.

(3) On the third level, Glencore could have *an advisory committee including stakeholders* set up to discuss the company's future operations, ambitions and strategy for each new mining plant and their implication for the environment and the community.

(4) On the fourth level, Glencore could integrate their employees, NGOs and community representative in the board. This is called a multi-stakeholders initiative. Glencore could become a member of the Ethical Trading Imitative (ETI). *Example:* GAP Inc. became an ETI member in 2006. Their goal was to build a positive relationship between GAP inc. staff, suppliers, and workers unions. As a result of their collective work, the business "has already reaped major benefits, including far fewer strikes and stoppages (…) they have seen about a 90% drop in issues that have had to be escalated to their head office"[71].

Include NGOs in their "key stakeholders" on page 27 of their sustainability report.

Risks if Glencore does not implement these recommendations

[4.4] see point [3] & [5] *community* risks

[71] Ethical Trading Initaitve Website. [on line] http://www.ethicaltrade.org/in-action/member-performance/Gaps-work-with-the-global-garment-union. Visited 25/04/2013

Good practice based on literature

[5.1] Does the company have a clear and defined policy in response to incidents of corruption?

Glencore practice

[5.2] Glencore counts on individuals to report misconduct related to bribes to the "local compliance coordinator*" (Glencore SR, 2011: 87).* However, it does not appear to have any defined or clear policy to respond to incidents of corruption. This is regrettable, especially in light of the relatively recent bribery scandals that Glencore had to face (see Glencore's Top controversies > Transparency and secrecy on p.20):

- Secret/corrupt sales by Dane Gertier
- Bribing an European Commission's Agriculture department official

Their newly acquired Xstrata, is one of the best practitioners when it comes to set clear policies regarding bribery and corruption: Indeed, it has a *Bribery Corruption and Fraud Policy* (*Xstrata AG SR, 2011: 17).*

Recommendations

[5.3] It is not enough to count on individuals to report misconduct related to bribes to the "local compliance coordinator". Glencore definitely ought to have a published *Bribery Corruption and Fraud Policy,* as its colleague Xstrata is doing.

To take actions in response to incidents of corruption is part of the GRI requirements. Moreover, in light of the recent scandal Glencore had to face, a clear and accessible to the public policy that demonstrates clearly their engagement to reduce corruption is paramount.

Risks if Glencore does not implement these recommendations

[5.4] As the company mentions in the flotation prospectus, Glencore is exposed daily to potential fraud or corruption and *"it may fail to live up to laws such as the UK's new Bribery Act" (Foley, 2011).*

Moreover, deals agreed upon bribery may fall short as soon as a new government takes over. The company exposes itself to difficulty to prove the rights they have over a land. This is especially valid in countries where there is high government instability and where governments may be easily dismantled: In Guinea-Bissau, the transitional government is asking to renegotiate a mining contract with a company called *Angola Bauxite* as the current agreement seemed unfair on paper *(Security Council Report, 2012).*

6. General Voluntary Principles and Good Practice

The third part of the analysis is about all general voluntary principles and good practices that are well known in the mining sector but that could not fall into one of the ESG criterions listed above.

The same methodology as for the second part of the analysis is applied.

Good practice based on literature

[1.1] Has the company published a sustainability report in accordance with GRI?

Glencore practice

[1.2] Glencore does publish its Sustainability Reporting in accordance with the Global Reporting Initiative version 3.0. The report meets level A+ of the GRI guidelines. However, if you look at a best in class reporting company such as Agnico-Eagle Mines (AEM) recommended by the rating agency *Inrate,* it is not difficult to notice that Glencore is way too much evasive on much of the information given.

Ex:

- Percentage and total volume of water recycled and reused is not clearly specified p.67.
- It is not explained whether partnerships exist with third parties to protect or restore habitat distinct from where the organization has overseen and implemented restoration or protection measures.
- Initiatives to mitigate environmental impacts of products and services concentrate solely on the shipping activities. P.69
- Level of details of the data in general (waste, spills,..).
- Regarding the number and percentage of operations with closure plans it is said that "all the operation has closure plans in place" p.47 but no numbers are given.

Recommendations

[1.3] Glencore has done what is required to fall into the GRI and meet the level A+. The main criticism lies in the level of accurateness in the published data. This is especially valid when you look at other “best in class” reporting mining companies. It is better perceived when information is fully shared, even if it means giving information that are not as good as a stakeholder would expect from Glencore.

Risks if Glencore does not implement these recommendations

[1.4] N/A

Good practice based on literature

[2.1] Does the company respect (sign) the Global Compact 10 principles[72]?

Glencore practice

[2.2] Glencore does not participate, at any of its sites, to the Global Compact ten principles. Xstrata is participating in Peru and in Argentina. AngloGold Ashanti Limited also participates in South Africa and in Colombia.

Recommendations

[2.3] Engaging to this initiative offers many benefits to one organization. It has become an essential initiative *"to assist the private sector in the management of increasingly complex risks and opportunities in the environmental, social and governance realms*"[73].

Risks if Glencore does not implement these recommendations

[2.4] & [3.4] The fact that Glencore does not respect the Global Compact 10 principles and the Voluntary Principles on Security and Human Rights is another reason that makes Glencore a bad sustainable performer. The reputation and the credibility of the statements available in the sustainability report depend highly on their commitment in international principles and standards.

[72] The UN Global Compact is the largest voluntary corporate responsibility initiative in the world.
[73] UN GLOBAL COMPACT Website. http://www.unglobalcompact.org/AboutTheGC/index.html. visited on 14/04/2013

Good practice based on literature

[3.1] Has the company signed the Voluntary Principles on Security and Human Rights?[74]

Glencore practice

[3.2] Glencore is not a participant to the Voluntary Principles. Current participants are (list not exhaustive): AngloGold Ashanti, Anglo American, BHP Billiton, Newmont Mining Corporation, Rio Tinto, Xstrata[75],..

Recommendations

[3.3] Glencore ought to adhere and express its support for the voluntary principles regarding security and human rights in the extractive sector. It is the best way to engage in a dialogue on security and human rights with essential stakeholders such as Governments (US, UK, Netherlands and Norway), NGOs and many extractive and energy companies[76]. It is surprising that such an important mining player as Glencore is not already involved in such a dialogue.

Risks if Glencore does not implement these recommendations

[2.4] & [3.4] The fact that Glencore does not respect the Global Compact 10 principles and the Voluntary Principles on Security and Human Rights is another reason that makes Glencore a bad sustainable performer. The reputation and the credibility of their statements depend highly on their commitment in international principles and standards.

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[74] The Voluntary Principles on Security and Human Right is a dialogue involving governments, companies in the extractive and energy sectors and NGOs, all with an interest in human rights and corporate social responsibility. More info on: http://www.voluntaryprinciples.org/principles/introduction

[75] The Voluntary Principles on Security + Human Rights website. http://www.voluntaryprinciples.org/participants/. Visited on 10/04/2013

[76] The Voluntary Principles on Security + Human Rights website. http://www.voluntaryprinciples.org/participants/. Visited on 14/04/2013

Good practice based on literature

[4.1] Does the company respect the International Finance Corporation (IFC) Performance Standards on Environmental and Social Sustainability?

Glencore practice

[4.2] Glencore writes on page 51 of their report that it is respecting International Finance Corporation's Performance Standard 5: Land Acquisition and Involuntary Resettlement. However it is not mentioned whether the 7 other IFC standards are respected.

Recommendations

[4.3] It is not clear whether Glencore follows and respects International Finance Corporation's Performance Standards. But since it has no membership with the ICMM and that IFC and ICMM are joined on many projects, it is unlikely that International Finance Corporation Performance standards are all respected.

Risks if Glencore does not implement these recommendations

[4.4] The IFC offer to their client: Risk mitigation, knowledge/innovation, standard setting and policy work. "*It provides guidance on how to identify risks and impacts, and is designed to help avoid, mitigate, and manage risks and impacts as a way of doing business in a sustainable way" (International Finance Corporation, 2012).*

The IFC offers a practical way to reduce risks for workers, communities and the environment during mining operations.

Good practice based on literature

[5.1] Is the company a member of the ICMM: International Council Mines and Metals?[77]

Glencore practice

[5.2] Glencore is not a member of the International Council on Mining & Metals. Members are (list not exhaustive): Anglo American, Barrick, BHP Billiton, Newmont, Rio Tinto, Vale and Xstrata[78].

Recommendations

[5.3] Become a member of the ICMM is THE strategic move to accomplish in the direction of a better sustainable performance. All major mining companies have already become members. It is again very surprising that Glencore has decided not to become a member yet.

Risks if they do not implement these recommendations

[5.4] "*The mining industry must win the public trust to stay in our own business. To this end, our first priority must be full compliance with laws and regulations, but we also need to go beyond our legal obligations, fulfilling our duty to society through corporate social responsibility programs and engaging in regular communication with the public about those activities"*
Yoshimasa Adachi, President and CEO, JX Nippon Mining & Metals. Taken from the ICMM annual review 2012.

Not having a membership with the ICMM demonstrates that Glencore does not understand what the extractive sector is currently undergoing. There are important risks that have been raised since the public eye started to watch the sustainability performance of the mining sector. In order for this business to remain on track, it is essential that mining companies become irreproachable when it comes to shape the perception stakeholders have about the industry. So the risk of not being a member of the ICMM for such an important mining company is very high and may affect not only Glencore but the whole sector.

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[77] "The International Council on Mining and Metals (ICMM) is dedicated to improving sustainable development performance. It creates a platform for members to work together and with others to strengthen the contribution of mining, minerals and metals to sustainable development"[77] More information on] http://www.icmm.com/about-us/strategy-and-action-plan.

[78] International Council on Mining & Metals website. [on line] http://www.icmm.com/members/member-companies. Visited on 10/04/2013

Good practice based on literature

[6.1] Does the company openly respond to NGOs complaints and criticisms?

Glencore practice

[6.2] Yes it does. In response to a BBC *Panorama* broadcast on 16 April 2012 that highly criticized Glencore's practice in Colombia and DRC, Glencore gave a public response published on its website *(Glencore International plc, 2012)*. This kind of exchange between Glencore and NGOs or the media should be published in its SR.

Recommendations

[6.3] Glencore needs not to undermine the power of allegations and criticisms raised by NGOs and by media.

On the net it is much easier to find criticisms on Glencore than Glencore's response to such allegations and criticisms - even though the two are easily accessible on the net -.

This is even truer when we know that ESG analysts in financial institutions or in ESG/ethical rating agencies base their assessment also on what they find on the web. If they do not find any valid and clear answer to these allegations, they rely on their self-judgment.

It is therefore really important that Glencore advertise and publish the dialogue it conducts with NGOs and media *(Glencore International plc, 2012).*

Risks if Glencore does not implement these recommendations

[6.4] The risks here to get bad publicity from NGOs and therefore being badly rated by rating agencies (ref. [My recommendation [6]] on ESG criteria. Moreover, risks found in Human Rights under point [2] apply also here.

7. Synthesis

The large integrated commodity trader Glencore has gone through many important strategic changes recently. From a very secret company lead by some controversial leaders such as Marc Rich, Glencore has been obliged to become more transparent ever since the flotation in May 2011. This date has been the trigger of much of the NGOs attention. The public attention focused on the ethical and sustainable behavior of this integrated trading behemoth. Two years after it became listed on the London Stock Exchange, Glencore took the decision to merge with Xstrata, another key player of the mining sector. This merger has raised a few concerns about the future power and market control of the so called Glenstrata. The present work has demonstrated that contrary to Glencore, Xstrata is a relatively good sustainable performer. The way they will shape their future sustainable image and performance is not part of this work and will remain unelaborated.

The business administration challenges and context consist of a statement of the global economic growth and its impact on the environment and on people. The utility of integrated trading activities has also been explained in order to support the idea that this work is in no way written to bring down Glencore but rather to develop some recommendations for them to improve their sustainable performance. The extractive industry is facing many sustainability challenges, one of the most important being the route toward more transparency. Several initiatives have been developed to promote transparency in the extractive sector. Failing to adopt such initiatives can result in considerable reputational risks. The reputation of the sector is very weak due to numerous scandals involving major commodity companies and developing countries. Fortunately, Glencore seems to have understood the importance of reputational risk and have made a huge progress in publishing sustainability reports and some Corporate Practices guidelines. However, it is not enough to claim sustainability; credibility needs to be gained through effective implementation of the stricter measures. This is especially true when governance, social or environmental scandals keep on surging on the table. Indeed, despite their verbal commitment, Glencore still had to face many issues related to tax, corporate governance, transparency and Secrecy, pollution and human rights.

Now that Glencore has acquired Xstrata, it has a market capitalization of roughly GBP 46 billion. That makes it the fourth largest mining company in the world. Before the merger, Glencore has been compared to four others large mining companies (including Xstrata) in order to see how it positions itself compared to competitors. The results found validated the assumption that Glencore is the worst performer. They ranked on the last position with 82.5 points and with a negative global appreciation. Of course, Xstrata ranked first with 130 points and a neutral global appreciation. Now that the two form one unit, it will be interesting to see how Glencore will incorporate Xstrata's good practice.

In the second part of the analysis, Glencore was positioned versus good practices based on the literature and ESG criterions. The results showed mainly that Glencore was missing many memberships to voluntary principles and did not comply with all good practice standards. The lack of systematic processes and policies such as water control management prevent them from presenting detailed and evolutionary results. Other recommendations have been formulated for the company to implement, such as including NGOs in their stakeholders on p.27 of its Sustainability Report 2011 or appointing an external team to facilitate resettlement on a systematic basis.

To demonstrate the risks the industry and the company are facing if no recommendations or too few of them are implemented, a risk analysis was also elaborated. Risks facing the company and the industry can be summarized as per the following:

- **Operational risks**
- **Judicial risks**
- **Investor risks**
- **Reputational risks**

The third part of the analysis proved that Glencore does not respect other important general standards. These standards have been presented in a third part because they represent broader and more general principles and therefore they could not be classified in the previous part of the analysis.

Recommendations and risks statements were also given for this third part of the work. Major standards and practices are the following: The sign shows whether Glencore respects or not the standard/principle/practice. Essentially, the results showed that Glencore does not respect the Global Compact 10 principles, the Voluntary Principles on Security and Human Rights and is not a member of the International Council on Mines and Metals.

8. Conclusion

It is evident that Glencore has no means to change the governance, human rights and legal loopholes in the Democaratic Republic of the Congo or anywhere else by itself. As it says "the development challenge is much greater than one company can solve" *(Glencore International plc, 2012)*. However, according to the ILO (*ILO Evaluation Summaries, 2011: 5)* the mining company's social responsibility should be carried out through a *"responsible and transparent management of resources to contribute to the social and economic development*" of the country solicited [and of the mining sector]. Companies do not have the capacity nor the interest in improving the social and governmental failure of many developing states. Yet, if States cannot fulfill their basic duty to protect the population, the least companies have to do is not to worsen the situation, not to become accomplice of the poor situation.

What is essential in all this work toward more sustainability performance is not the direct impact of a company on a community or on the environment of a mine; it is really the sustainability, seen through Glencore, of the whole business that is at stake. It is possible not to respect the community or the environment once, maybe two times. But the third time it will become impossible for the mine to obtain the regulatory permits for mineral extraction. The globalizing world accompanied by the population's rising awareness of the ecological problematic, makes it simply impossible to continue without concern for the environment.

The job of a mining company is also to win this so called "license to operate". To take an example, it took seven years of discussion, trust building and negotiation for Xstrata to obtain a permit in a copper project in Southern Peru. It is true that initial investments and risks are huge for these companies. However, these efforts should not become pretext to overlook ESG considerations. Today, not only the regulatory permit issued by the state is important, but the support companies get from the local community has also become a prerequisite to sustain the business long term *(Tieman, 2011)*. People need to trust the company. Trust is at the basis of the company's reputation. Lack of trust comes from when the CEO says one thing but does another: When Glencore states in its Code of Conduct or Business Principles that it cares about the environment and that one month later an environmental scandal pops up in the news it cannot be trusted. The company is not credible.

License to operate has also become essential when the mine has to deal with something that goes wrong. It is indeed much easier to reduce responsibility exposure when the company is seen as the best student in the class by all stakeholders. If *trust* has been established among a community and a country through several years of sustainable good practices. If an *understanding* of the related mining activities risks has been developed among employees and community through effective *communication*, and if most of the applicable international initiatives and voluntary principles have been adopted, the company has much more chance to reduce its culpability when an accident occurs.

Not being self-centered and considering stakeholders interests and becoming an exemplary ESG performer has the potential to offer many benefits on the medium and long term for the whole sector. Indeed, regulations can become less strict, permits to operate easier to obtain, and above all else, stakeholders and justice will be much more forgiving in case a disaster happens. It is in fact so important that good ESG performers have today a clear and significant competitive advantage over bad performers.

Investing times, people and money in social actions “is not a one-way street” as say Mike Kelly, KPMG head of corporate social responsibility, “there are very tangible benefits coming back to the firm”.

Finally, we have to acknowledge that there is still a long way to go for these mining companies. It is important to maintain a constant pressure on their societal commitment and corporate responsibility. It is nonetheless pleasing to see that an important portion of them are on the right track.

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10. Appendix 1

10.1 Interview with Vanessa Ardenti: Glencore Sustainability Report – Inrate view

The 7th of September 2011 Glencore published its first sustainability report. Inrate provides below its opinion regarding the quality of this report:

By no means the opinion expressed below represents an assessment of Glencore's environmental and social performance. Our considerations are limited to the quality of reporting.

The Glencore Sustainability Report is a first step in the right direction. It provides a good overview of the situation, helping the reader to understand where they are standing and demonstrates an effort to collect and report performance data; considering Glencore disclosure practices in the past, it is definitely an improvement.

However, we note that the report:

- **Does not allow for an easy, systematic and comprehensive assessment of Glencore impact on environment and society neither of the efforts and operational measures in place to mitigate these impacts. This is particularly due to lack of detailed information regarding the various programmes seemingly implemented.**

- **does not reach best practice level, as exemplified by the following elements:**

  a) *reporting of tax payments to government (normative reference: see EITI)*
  Glencore is a supporter of the EITI and states "we believe that transparency in the disbursement of our direct economic contributions is important, both for us and those who receive them. This will allow these payments to be redistributed and invested with maximum efficiency and effectiveness" (p. 56). It is regrettable then that the figures disclosed in the report are at an aggregate (continent) level, where a country-level (as far as feasible) is more appropriate. This is even more regrettable that, as it can be seen in the EITI Report for Peru, Glencore is already disclosing detailed data. (see BHP Billiton for a best practice example of disclosure)

  b) *readability, GRI indicators*

Glencore states that its reporting is aligned with the Global Reporting Initiative G3 Guidelines and it believes to achieve Application Level A (best level). The report includes a comprehensive GRI Index in which all indicators are listed, but these indicators referenced by giving a Section nr or even an entire Chapter nr. This does not facilitate reading. At least some cases have been identified by our analysts where the way the information is disclosed is clearly not following the GRI guidelines. It has to be stressed that the benefit of using GRI is not (only) in making sure all issues are addressed, but more particularly that they are reported in a standard way, following strict guidelines and format. (see Agnico-Eagle Mines (AEM) for a best practice example of disclosure).

c) *transparency in discussing critical issues*

In the recent years, Glencore has been the subject of a number of criticisms by NGO's and other stakeholders regarding a variety of issues. In such a context one would expect a direct and transparent discussion on these issues in the report (see Fibria for a best practice example of disclosure)

d) *discolure of detailed policies:*

Throughout the report, a number of policies and guidance documents – other than the GCP - are mentioned but not disclosed, example of which are: GCP guidance document, global anti-corruption policy, corporate ethical guide. (see Rio Tinto for a best practice example of disclosure)

As explained in the report, it is only very recently that Glencore started to adopt a group-wide, co-ordinated approach to sustainability issues. This is a positive move. However, we remain with the impression that the need for disclosure – in the context of the IPO and criticisms by some stakeholders – was the main driver for implementing a more systematic approach to sustainability issues (as opposed to a thoughtful assessment of Glencore's activities impact on the environment and society and an awareness of the need – and commitment - to mitigate these impacts). At the end, the report per se does not fully convince that Glencore is seriously addressing the main challenges they are facing (which do not mean they are not doing it).

11. Appendix 2

11.2 Interview conducted in French with Simon Perrin, Sustainability Analyst, Bank Sarasin.

- **Which criteria do you use and value the most when you assess a company such as Glencore?**

Avant toute chose, ils analysent la stratégie de l'entreprise. Voir ce qu'elle projette de faire dans le futur. Est-ce que ces futurs investissements sont en lignes avec les valeurs durables ?

Ils regardent aussi la durabilité du secteur de l'entreprise. Le secteur minier n'est pas durable comparé à la télécommunication, aux énergies renouvelable, etc… Ensuite ils recherchent les « best in Class » et les comparent aux autres entreprises du secteur pour avoir une idée de leur performance.

Plus spécifiquement, les critères utilisés sont les suivants :

- Environnement (60%)
- Question sociale (40%)
  - Dans la question sociale, les droits humains forment un critère important (community,…)
  - Ils analysent les stakeholders et les classifient par importance, par impact. Par exemple, l'impact des clients sera moins important que les travailleurs.
- La gouvernance n'est pas un sujet si importante pour l'évaluation durable d'une entreprise minière.

- **What are the risks that are considered the most dangerous for the investors? (from your point of view) and why?**

Tout ce qui attrait à la santé financière de l'entreprise est jugé comme important. S'il y a des risques d'amendes ou de risque lié à la réputation, c'est dangereux pour l'investisseur.

- **What is the level or risk acceptance that will determine if you invest or not in a mining company?**

Si par exemple, plus de 5% du chiffre d'affaire d'une des entreprises provient d'un secteur pas responsable (armement, tabac, énergie nucléaire, OGM).

Si ils voient que l'entreprise sur laquelle ils effectuent des recherches obtient son chiffre d'affaire dans des domaines qui sont jugés peu recommandable par la banque (armement, tabac, énergie nucléaire, OGM), l'entreprise est exclue, ils n'investiront pas dedans. Pour Glencore, la banque a rapidement réalisée que l'entreprise ne pouvait pas être considérée comme un investissement durable. Sarasin juge qu'ils y a trop de risques liés à cette entreprise. Donc ils n'ont pas investis.

En général le secteur minier est peu investi par Sarasin car ils estiment que ce n'est pas un secteur durable ni complétement sans reproche d'un point de vue social et environnemental. Trop de risques sont associés à ce secteur (amendes, expropriations).

- **Can you send me a recent example of the fact sheet report developed by one of the rating/investment agency such as Ethos or EIRIS that are not freely accessible?**

Comme Sarasin n'investit pas dans Glencore, ils n'ont pas d'information particulière sur eux.

- **Est-ce qu'un changement du cadre légal actuel (Suisse), qui pourrait influencer positivement le secteur minier, pourrait influencer les investissements de Banque comme Sarasin ou Ethos (supportée par Pictet) ?**

Ils suivent le développement des normes (CH) et regardent si les sociétés identifient ces normes. La Banque Sarasin fait aussi une distinction entre les lois applicables qui ont force de droit et les initiatives qui n'ont pas de force de droit mais qui sont souvent importantes pour l'image et la réputation de l'entreprise.

Les normes et lois sont suivies car elles peuvent former des risques de réputation, risques légaux, et peut en résulter des sanctions financières. Donc oui ils vont suivre les changements politiques et analyser si la non-conformité d'une delle peut mener l'entreprise en question à payer des amendes.

12. Appendix 3

The interview conducted with Antoine Mach, co-founder of Covalence SA, can unfortunately not be disclosed. Indeed, the interview carried out related essentially to one of the report Covalence prepared, which he did not want me to publicly disclose.