



S h a d o w R e p o r t o n  
**GLENCORE**  
operations in Latin America

Executive Summary

*Shadow Network of Glencore Observers*

Abril, 2017



*AUTHOR: Red Shadow - Glencore observers*

*General Coordination: Santiago Machado Aráoz.*

*Research and general advice: Rafael Figueroa Rincón.*

*Research and editorial consultancy: Santiago Piñeros Durán.*

*This report was made possible thanks to the work and support of the following organizations:*

*Argentina: Bienaventurados los Pobres – BePe; Bolivia: Centro de Ecología y Pueblos*

*Andinos – CEPA; Colombia: Centro de estudios para la Justicia Social Tierra Digna*

*Pensamiento y Acción Social – PAS; Perú: Cooperación Derechos Humanos sin Fronteras-DHSF-*

*Local research team and support in the countries: Limbert Sanchez Choque, Jaime César Borda Pari, Vanessa Patricia Schaeffer, Rosa Peña, Gloria Holguin Reyes, Sofia Boscatto and Santiago H. Machado Aráoz.*

*Photos: Julio Carrizo, Santiago Piñeros Durán, Golda Fuentes, Miguel Gutierrez, DHSF and Be. Pe.*

*Translation: Kathleen Nygard.*

*English Style Correction: Liza Smith*

*Spanish Style Correction: Patricia Miranda.*

*Design and Edition: Ritalin.*

*Funded With funds from: Misereor.*

*With the support of: ASK !, Multiwatch and Broederlijk Delen.*

*The content of the publication does not necessarily reflect the viewpoints of MISEREOR or the Katholische Zentralstelle für Entwicklungshilfe e.V..*

*The content of the publication does not necessarily reflect the view points of MISEREOR*

The claims made about the operations of Glencore International PLC in documents Presentation and Executive Summary are based entirely on the research findings, studies, statistics, decisions and resolutions of judicial and administrative measures contained in the full document called Shadow Report of Operations Of Glencore in Latin America ([www.observadoresglencore.com](http://www.observadoresglencore.com)). Therefore, these two documents are only explanatory versions and should be considered as an integral part of the text of the main publication Shadow Report of the Operations of Glencore in Latin America forming a single report.

## *Presentation*

In 2012 a group of organizations from several countries began follow-up, oversight, and information collection on the impacts produced by Glencore's Latin American mining operations. This alliance was strengthened in 2013 under the name Shadow Network Glencore Observers, currently made up of ten non-governmental organizations located in Argentina, Germany, Bolivia, Belgium, Colombia, Peru, and Switzerland.

As the Shadow Network of Glencore Observers, today we have been able to carry out an initial exercise in follow-up, documentation, and critical analysis of the company's operational sustainability in Argentina, Peru, Colombia, and Bolivia. Since we are not organizations specializing in corporate research, but instead our background is with communities and in the field, we have used that experience to establish the most serious impacts and damages in nine of Glencore's mining operations based in our countries.

For years we have seen that Glencore does not provide in-depth information to the world in its sustainability reports. It is selective, incomplete, and sometimes contradictory. The reports lack structured texts and are more concerned with presenting insufficient and out of context numbers and corporate initiatives than showing the real consequences of their mining operations. The company promotes a prosperous vision of the extractive industry, hiding the true scope of its business structure, and the serious negative impacts for host communities and governments.

Many will ask, why write a shadow report on a transnational company of Glencore's scope and size, which has proclaimed itself to be an open door company implementing due diligence and best practices in all its activities. In several Latin American countries, the territories and populations adjacent to the company's raw material extraction projects, have been directly affected by these operations and to date, have not been recognized, much less achieved comprehensive redress from the company.

To understand this report's importance, it is necessary to know: What is Glencore? Why are its activities the object of this investigation?

Glencore is a transnational company whose operations currently include the entire supply chain, transformation, storage, and transportation of raw materials in three principle business sectors: metal-mineral, energy, and agricultural products. The diversification of its operations gives the company an incomparable market advantage. It is the fourth largest mining company in the world and fourth globally in the trade of raw materials. For over two decades, Glencore has been conducting mining operations in Argentina, Bolivia, Chile, Colombia, and Peru, occupying the top positions in the continental production of silver, copper, tin, zinc, gold, and coal. Glencore controls and has stock in the largest mineral reserves and carries out large scale investments like few other companies in the region.

Investigating Glencore's operations in Latin America has allowed us to demonstrate that the region provides the company with a very lucrative business. Its operations function using a hidden network of tax havens, through which it buys and sells to its subsidiaries and third parties, it incurs debt, fixes transfer prices, and saves on tax payments using elusive maneuvers. These operations hide the financial flow of capital and commodities, and prevent governmental fiscal control causing asset damages to the nations. Glencore bases this corporate model on permissive contractual systems, insufficient tax requirements, and commercial treaties that protect investment.

This business network has generated serious impacts and environmental liabilities in priority conservation ecosystems: they use massive amounts of water, and produce innumerable waste and contaminate discharges with serious repercussions on biodiversity and water balance, uncertain impacts for human health, lost sources of livelihood for local communities, and displacements due to contamination and economic factors. This research denounces the existing deficit in the comprehensive reparation of communities in affected regions, a lack of conclusive health studies, and innumerable environmental investigations and sanctions against the company. In addition, high levels of social- environmental conflicts, few economic opportunities, and a very low quality of life are constants in areas adjacent to Glencore's operations. Company actions to mitigate their activities' effects on climate change are insufficient and instead have worsened the local environmental crises. The overuse of water resources presents a very risky scenario of water shortages for the coming years in the studied provinces.

This allows us to ask the following question: Why would a company with Glencore's experience and capacity not have adequately responded to the human rights complaints and demands from communities adjacent to its operations? We do not have an answer to this question.

With the aim of providing more detailed and precise information than what is included in the company's sustainability reports, this report presents the results of a rigorous investigation that took over five years, by means of which four case studies were constructed on the company's operations in Argentina, Bolivia, Colombia, and Peru. In each case, there is information related to corporate and environmental aspects, the open door policy, legal and administrative subjects, and finally, a series of recommendations and petitions directed at Glencore, as well as different government entities in the studied countries.

Shareholders, stakeholders, funders, and governments who are part of the transnational's value chain should take advantage of this report so they have information beyond what is officially produced by the company, and can evaluate, within their commercial decisions, the voices and recommendations that come from the communities and territories, taking into account the violation of rights, environmental destruction, and economic damages that these territories have faced for decades.

As the Shadow Network of Glencore Observers we encourage other organizations, platforms, social movements, and communities to work in coordination on corporate control and to exert social control and oversight from their regions to denounce major abuses of which they have been victims. Companies and states have yet to document, recognize or redress the majority of impacts and damages generated by these activities.

## Introduction

a.

- 1- Who is Glencore?
- 2- Who are we and why a Shadow Report?
  - a. The Shadow Network of Glencore Observers
  - b. A sustainability report from the shadows

## Chapter 1 Argentina

b.

- 1- Corporate aspects
  - a. Alumbreira mining contract
  - b. Mining revenue and payments to the Republic of Argentina
- 2- Environmental aspects of Alumbreira
  - a. Responsible water use and consumption
  - b. Air emissions, loss of biodiversity, and soil contamination
- 3- Legal proceedings against Glencore
  - a. For concealment of earnings
  - b. For environmental damages
- 4- Open door policy: Closing of mine without dialogue, information, and community participation
- 5- Petitions and recommendations

## Chapter 2 Bolivia

c.

- 1- Corporate aspects
  - a. Glencore mining contracts in Bolivia
  - b. Mining profits and payments to the Bolivian state
- 2- Environmental aspects of Illapa - Sinchi Wayra
  - a. Water use in the Bolívar mining project
  - b. Pollutants discharged by Illapa - Sinchi Wayra
- 3- Open door policy: Community conflicts in Oruro and Potosí
- 4- Petitions and recommendations

## Chapter 3 Colombia

d.

- 1- Corporate aspects
  - a. Glencore's fragmented contracts and payments in Cesar
  - b. The minimal impact of Glencore's economic contribution to Colombia
- 2- Environmental aspects
  - a. Water consumption, diversion, and contamination by the Prodeco Grupo and Cerrejón
  - b. Airborne pollutants from coal dust
  - c. Resettlements due to pollution: Displacements due to development
    - i. The El Hatillo community
    - ii. The Boquerón community
- 3- Open door policy: A year of updates without dialogue on the impacts and complaints
- 4- Legal and administrative actions
- 5- Petitions and recommendations

## Chapter 4 Perú

e.

- 1- Corporate aspects
  - a. Glencore mining contracts in Antapaccay and Antamina
  - b. Mining profits and payments to the Republic of Peru
- 2- Environmental aspects
  - a. Water use by the Titntaya Antapaccay mine
  - b. Water, air, and soil contamination with heavy metals
  - c. Concentration of heavy metals in the Espinar local population
- 3- Open door policy: Dialogues without commitments regarding pollution and police violence
- 4- Environmental sanctions for dumping and discharging of contaminants
- 5- Petitions and recommendations

f.

General conclusions: Parameters for Glencore's behavior

Glencore is one of Switzerland's companies with the most difficulty demonstrating the sustainability of its copper, coal, zinc, and silver mining operations in Latin America. There are numerous protests and complaints from local communities across the continent to demand respect of their fundamental rights, such as water and territory. The Shadow Network of Glencore Observers reports that a majority of social, environmental, and economic impacts and damages from their mines in Argentina, Bolivia, Peru, and Colombia, are not recognized by the company nor are they included or monitored in their reports.

# 1. Who is Glencore?



Graphic 1. Glencore Board of Directors. 2015 Governance Report

The company currently known as Glencore PLC - henceforth, Glencore - is product of the May 2013 merger between Glencore International PLC and Xstrata PLC. Xstrata's origins date back to 1926 when the company Südelektra was founded. Marc Rich & Co. acquired this company in 1990, and in 1999, after several restructurings, changed its name to Xstrata. Xstrata initially operated in the Latin American infrastructure

and electricity industry, but during the nineties after it was acquired by Rich, diversified its operations to raw materials and mining. The year of the merger, the Glencore Xstrata PLC shareholders meeting decided to remove the name Xstrata from the merged company. Since then the company is called Glencore PLC. With the merger, one of the world's most powerful consortiums of raw materials

producers was created, becoming the third largest copper producer and the largest exporter of coal for power plants. The Swiss multinational is listed on Hong Kong and London stock exchanges since 2011, whereas Xstrata had been active in the London stock market since 2002.





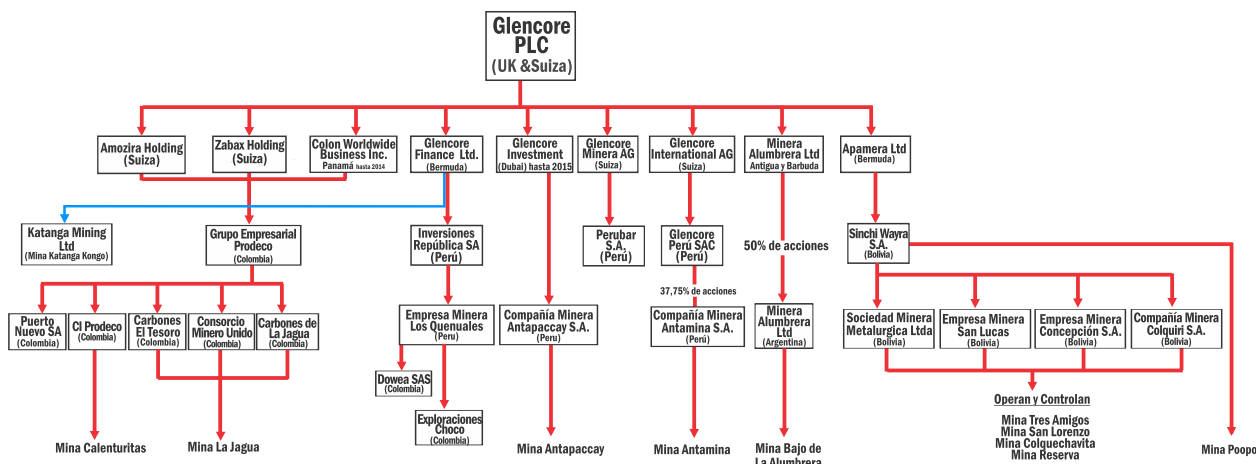
Map N° 1. Expanse of Glencore's International Operations

Today, Glencore's operations around the world include the entire production chain, transformation, storage, and transportation of raw materials in three principle business sectors: metal-mineral, energy, and agricultural products. The diversification of its operations gives the company an incomparable market advantage. Its storage and transportation capacities are so gigantic that the

company has been accused of speculating on commodity prices, taking advantage of its future market revenue. It is the fourth largest mining company in the world and first globally in the trade of raw materials.

Glencore's global structure of affiliates and subsidiaries is an international giant and the number of companies that it currently has in tax havens or

controls in total is not completely known. Everything indicates that Glencore, far from having an integrated and transparent business structure, has controlled holdings and partner companies over the last 20 years within a structure of international corporate and banking tax havens, which has been seriously questioned and accused of wrongdoing in several countries.



Graphic 2. Estimated business structure in Latin America

## *Glencore in latin america: a corporate structure directed by a network of hidden holdings*

Glencore has a corporate structure indirectly controlled through more than 15 holdings located in tax havens. These holdings are protected by the financial confidentiality offered to them by these countries. Glencore has contracts with other companies to blur its direct participation in the mining business, even though from its central offices in Zug it has complete direction and knowledge of the spectrum of its holdings and subsidiaries' risks in Latin America. Aspects such as the centralized risk management framework in its global board of directors, global and country sustainability reports, and annual financial reports to the shareholders' meetings are evidence of this.

This maneuver formally and legally hides the direct control and corporate responsibility of the Glencore head office in each country. It impedes appropriate monitoring, follow-up, and calculations by tax authorities and control bodies for the payment of royalties and economic compensations to governments. It also avoids establishing direct responsibilities for sanctions, administrative, and criminal procedures, especially for the head office in Switzerland. The parent companies' level of control, decision-making power, and responsibility over its affiliates, subsidiaries, and controlled societies throughout Latin America is unknown.

This indirect control gives the company a huge advantage in terms of earnings and financial results as they don't create business groups by country. The company has property, assets, and responsibilities that are independent and limited to each holding and subsidiary. Glencore hides its corporate unit from governments. The capital flows and transfer prices from and into the head office do not levy taxes, they do not share financial information about the companies with the international community, nor does it regulate in any way accounts, property, assets, and capital flows of the registered companies. This highly fragmented, complex, and disperse corporate design generates serious obstacles to establish real responsibility, corporate governance, and transparency on Glencore's operational profits and losses, especially related to tax payments, royalties, and economic compensations to governments.

For over two decades Glencore has been conducting mining operations in Argentina, Bolivia, Chile, Colombia, and Peru, and is the primary company involved in the continental production of silver, copper, tin, zinc, gold, and coal. Glencore controls and participates in the extraction of the largest mineral reserves and carries out large scale investments like few other companies in the region.

The company's production of raw materials has progressively increased thanks to its low operational costs and high inflation rates in Latin American countries, which is why it continues to be very lucrative for Glencore to operate in the region. As we will see, the impressive numbers and earnings generated by Glencore's lucrative business bring with them serious consequences for the region's communities and environment.

The company has faced more than 40 investigations and administrative and legal sanctions in several countries due to serious environmental damages and impacts such as air and soil contamination, and their effects on people, illegal diversions of rivers, and illegal interventions in protected areas. In its sustainability reports the company does not recognize the damages or accidents it has caused as "serious environmental incidents."

This report has information corresponding to the following Latin American mining projects that Glencore either controls or participates in: Minera Alumbrera (Catamarca, Argentina), Minera Illapa - Sinchi Wayra (Oruro and Potosí, Bolivia), El Cerrejón (33%), Puerto Nuevo, Puerto Zuñiga, the Calenturitas and La Jagua mines (Guajira, Magdalena, and Cesar, Colombia), and Minera Antapaccay - Tintaya (Cuzco, Peru).

Glencore controls factories, ports, railway lines, and slurry pipelines making it possible to control the entire value chain.

2015 = Control of just three of its Colombian coal mines ensured the company an operational income of US\$1.711 billion, which is equivalent to 19% of Glencore's international operational income for coal..

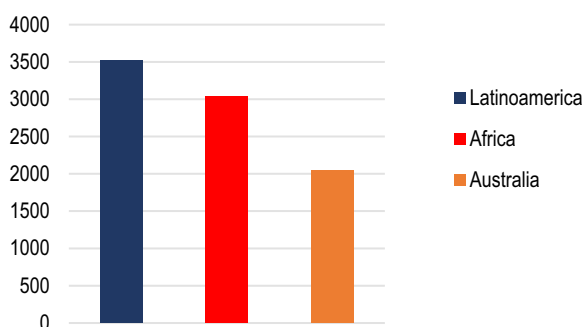
Antamina, Antapaccay, La Alumbrera, and Sinchi Wayra mines, among others on the continent, provided Glencore with 51% of its global profits for copper.

2015 = 263 million cubic meters of water extracted in the region. 2015 = 26,000 employees.

Ranked second among the continents with the highest production, sales, and profits for the company. Ranked third in payments and compensations to the governments.

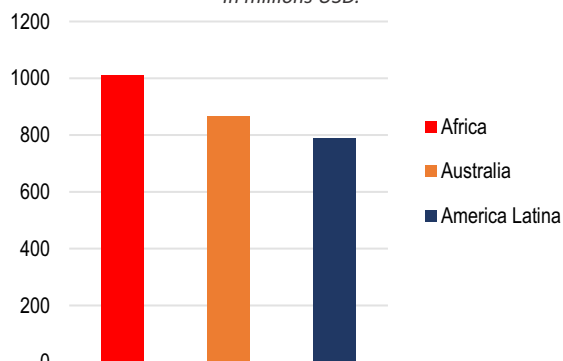
**Graphic No. 3. Glencore's earnings for copper.**

In millions USD.



**Graphic No. 4. Payments to governments by region**

In millions USD.



Map No. 2. Glencore operations in South America. Sustainability Report 2015

This report contains information on the following mining projects in which Glencore has control or participation in Latin America: Minera Alumbrera (Catamarca, Argentina); Minera Illapa - Sinchi Wayra (Oruro and Potosí, Bolivia); El Cerrejón (33%), Puerto Nuevo, Puerto Zuñiga, the Calenturitas and La Jagua mines (Guajira, Magdalena and Cesar, Colombia); And Minera Antapaccay - Tintaya (Cuzco, Peru).

### *Glencore and Transfer Prices: Raw Materials and Assets without Regulation*

Transfer price is the price that two companies, of the same group, agree upon to transfer between them: goods, services, or rights. Currently, in the financial world the use of transfer prices is based on the arm's length principle, which refers to the possibility of conducting operations between companies under the control of the same head office, as if they were operations between independent companies for accounting and tax purposes.

The transfer price is relevant to tax payments when the companies that agree on a price jointly own property or are controlled by the same head office, with one company outside the national territory, domiciled in a tax haven, as they can establish sales prices that are different from those declared where the commodities were produced. This price is the transfer price. Other cases of transfer prices are transactions where the price is set higher or lower than those established by the market. A company like Glencore, that controls all its Latin American operations through holdings located in tax havens, cannot only speculate on commodity values (by increasing or decreasing values outside of market prices) but can also elude tax and royalties calculations on the transfer price (declaring the value of raw materials lower than the price for which the company will sell it to the holding and later to the global market).

Glencore's Legal Stability and Tax Contracts with Peru and Joint Venture Contracts with Argentina allow for the use of transfer prices without any kind of reporting to the state. Bolivia does not have any regulations related to transfer prices or Glencore's Partnership Contracts to control these aspects. Only Colombia has specific legislation on transfer prices, since Law 788 of 2003 was issued. However, it only requires the company to present a declaration, which tax authorities rarely verify. Very few countries have managed to sign double taxation agreements with tax havens like Switzerland, including Argentina, Peru, and Colombia, nevertheless, the capacity of Latin American states to control transfer prices in transactions for companies such as Glencore, are null or minimally effective.

### *Payments to governments: What the sustainability reports do not show*

Without a doubt, since its 2011 listing on the stock market, Glencore has improved its reporting system and information production for its operations, which were nonexistent before the listing. Also, Glencore has begun to incorporate relevant and specific information in its reports, for example, its first Payments to Governments Report in 2015, in compliance with the EU Directives on transparency and reporting. However, a lot of information has yet to be revealed, generating confusion about the reported data. There is very little consistency and various contradictions between the sustainability report, the payments report, and EITI reports (Extractive Industries Transparency Initiative) by country. Although Glencore welcomed the EITI Principles, there are still no reports for Latin America in 2015 or 2016 that can corroborate payments reported in Latin American sustainability reports.

Glencore does not report the state's legal actions against the company due to lack or evasion of compensation payments. Millions of dollars in resources would make a difference in access to and coverage of basic needs for millions of people in Latin America, which is why it is transcendental to have knowledge of and reporting on these issues. The Payment to Governments Report does not include compensations resulting from joint venture mining operations such as Cerrejón in Colombia or Antamina in Peru. No explanation is given regarding this omission. There is a total lack of financial information related to refinery, trade, and sales activities between companies in the same business group. Glencore alleges that these operations are regulated by the free market and arm's length principles. Recent revelations that show Glencore controlled holdings in Panama and managed by the much questioned Mossack Fonseca Firm, accused of helping companies evade taxes, are crucial for the public equity of Latin American nations.



## 2. *Who are we and why a Shadow Report?*

### — A. The shadow network of glencore observers —

In 2012 a group of organizations from several countries began monitoring, oversight, and information collection related to the impacts produced by Glencore with its Latin

American mining operations. This alliance was strengthened in 2013 under the name Shadow Network: Glencore Observers, currently made up of ten non-governmental organizations

located in Argentina, Germany, Bolivia, Belgium, Colombia, Peru, and Switzerland.

#### *Our work*

- Documenting Glencore's impacts in four countries.
- Lending visibility to the main denunciations from communities and trade unions affected by Glencore.
- Nominating Glencore for the Public Eye Award 2015 as the world's worst company.
- Participating in Glencore's annual shareholder meetings in 2013 and 2016.
- Organizing the first gathering of communities affected by Glencore operations in Latin America, held in Oruro, Bolivia, 2015.

1 Currently the Shadow Network is made up of: the Asociación Civil Bienaventurados Los Pobres - BP of Argentina; the centro de Documentación e Información Bolivia and Centro de Ecología y Pueblos Andinos - CEPA of Bolivia; Pensamiento y Acción Social - PAS and the Centro de Estudios y para la Justicia Social - Tierra Digna of Colombia; Derechos Humanos Sin Fronteras y CooperAcción of Peru; Misereor of Germany; Broedelijk Djelen of Belgium; MultiWatch, and the Swiss-Colombia Working Group - ASK! of Switzerland..

In this context, for the first time it is possible as the Shadow Network of Glencore Observers to carry out follow-up, documentation, and critical analysis of the sustainability of

the company's operations in Argentina, Peru, Colombia, and Bolivia. Since we are not organizations specialized in corporate research, but rather our background is with

communities and in the field, we have established the most serious impacts and damages of nine of Glencore's mining operations in our countries.

## — b. A sustainability report from the shadows —

Monitoring and follow-up of multinational companies is increasingly urgent and necessary in Latin America. Foreign investment, specifically in extractive industries, has significantly increased over the last two decades in the region. The majority of impacts and damages generated by this activity have not been documented, recognized, or repaired by the companies or states.

As the Network we have been able to show Glencore's common behavioral patterns, which violate national and international regulatory frameworks, and cause irreversible damages to our communities and territories. At the same time, we have expressed great concern about Glencore's active role violating fundamental rights and threatening the means and sources of livelihood for

small-scale farmer and indigenous communities in the regions where it operates. This dynamic has worsened as these impacts and damages have increased and accumulate irreversibly on an ecological, demographic, and economic level.

Most of the information Glencore presented in its reports related to the cases studied in Peru, Colombia, Argentina, and Bolivia is superficial, selective, incomplete, and contradictory. This report is not what Glencore expects from civil society: an attempt to recognize positive aspects and achievements in its sustainability programs, the benefits of their contributions to our countries, for the people they employ and those who are positively affected by their activities.

This report contrasts the company's sustainability reports

on a national, regional, and international level (between 2013 and 2016) with verifiable information and findings reported in criminal investigations, administrative and environmental sanctions, audit reports, contracts, files, reports, and documents scattered through thousands of sources from four Latin American countries. This research is a critical and alternative reading of Glencore's sustainability in Latin America to monitor and require responsibility from this major transnational corporation. As the Shadow Network of Glencore Observers we encourage other organizations, platforms, social movements, and communities to coordinate work on corporate control and to exert social control and oversight from the territories to denounce the major abuses of which they have been victims.

2GLENOCORE. *Respuesta a PAS-ASK!. Ver: PAS-ASK!. Informe Sombra de Sostenibilidad de las Operaciones de Glencore en Colombia. Enero, 2015. Bogotá. P. 240.*

---



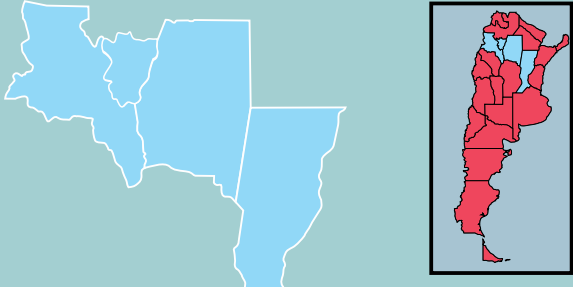
*b. Chapter 1: Argentina*





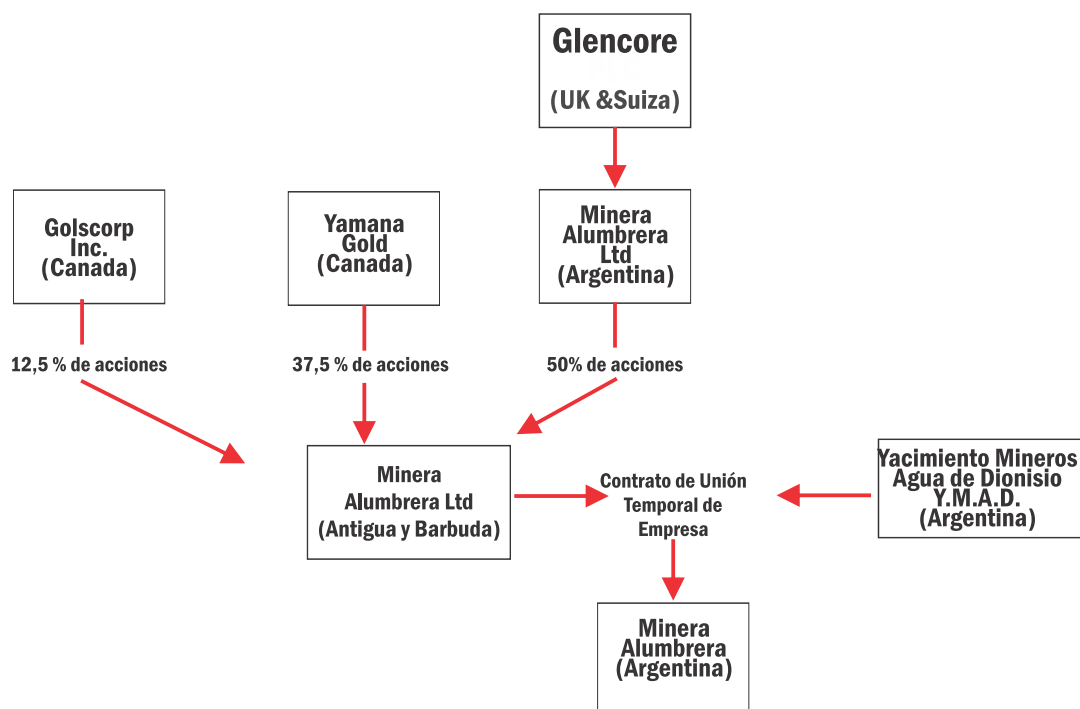
Since the 2013 Xstrata merger, Glencore operates the Bajo la Alumbreira project, located in the northwest of Catamarca Province. To operate the mine, Glencore obtained 50% control of the shares of holding Miner Alumbreira Limited, registered in Antigua and Barbuda, of which the Canadian companies Yamana Gold and Goldcorp control 12.5% and 37.5% respectively. The mine is currently in the closure stage. It is the largest mining operation in the country and one of the largest in Latin America.

Mining contract: Xstrata since 2003 and Glencore since 2013  
 MINERALS EXTRACTED: Copper, Molybdenum and Gold.  
 PROJECT STAGE: Exploitation - Closing  
 HECTAREAS OCCUPIED: 5,800  
 EXTRACTED TONS 2015: 246,923 copper, 1,730 molybdenum concentrate and 21,219 troy ounces of gold  
 OPERATING INCOME 2015: USD \$ 4.693.419.684  
 PEOPLE AFFECTED: 10,000 directly and more than 100,000 indirectly in Catamarca, Tucumán and Santiago del Estero



## 1. Corporate aspects

Glencore enjoys a joint venture mining contract (Unión Temporal de Empresas - UTE) that is excessively favorable and does not obligate the company to report its consolidated financial statements or make them public to authorities and communities. This prevents due fiscal control on the profits and taxes paid by the company. In addition Minera Alumbreira's mining activity has a series of benefits and tax deductions that leave very little mining revenue for the Republic of Argentina. There are several open criminal investigations and complaints from the Argentinean state against Glencore for concealment of earnings and illegal deductions in the payment and liquidation of royalties.



Graphic No. 5. Glencore's business structure in Argentina. Source: Glencore Sustainability Reports and business structure published on the La Alumbreira webpage.

## a. Alumbreira mining contract

To operate the mine, the state company YMAD created a Unión Transitoria de Empresas - UTE [similar to a Joint Venture] with Minera Alumbreira Limited, which was controlled by Xstrata PLC (Switzerland and Great Britain). After decades operating and changes in owners, in 2013 Glencore became the holder of a confidential UTE contract with Argentina. Glencore's operation at La Alumbreira does not comply with principles Nº 3, 9, and 10 of the Extractive Industries Transparency

Initiative - EITI, which establishes the need to make public how the finances of extractive industries are managed and handled, including payments and economic compensations due to the nations where they operate. Minera Alumbreira is not obligated to publicize the numbers and annual financial statements for mining operations. It only requires annual accounting statements but not a consolidated common financial statement that

integrates the entire operation carried out under the contract. Government and civil society control depends on the numbers that Glencore voluntarily decides to make public, without any possibility of material verification against its accounting books. Glencore has a dual role as both investor and operator of the mine, making the differentiation and verification of the operation's financial periods almost impossible.

## b. Mining revenue and payments to the Republic of Argentina

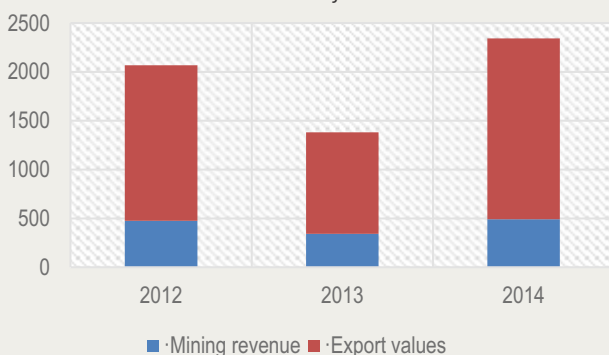
Glencore reports a simple presentation declaring the amounts and value of gold, copper, and molybdenum concentrate exports. Of the declared net value, 20% of the profits go to YMAD and then calculations are made for the different taxes and

compensations that it pays to the nation. Glencore has reported that in 2015 it paid close to USD \$525 million to Argentina, of which only USD \$16.5 million was paid to the provincial government of Catamarca, continuing the previous years' trend. Scarce

mining revenue for Argentina, and in particular for the province of Catamarca, is fruit of legal and fiscal frameworks with minimal requirements and used by Glencore to obtain an extremely favorable treatment and consequent reduction in mining revenues. On the other

**Mining revenue and the value of exports from Alumbreira**

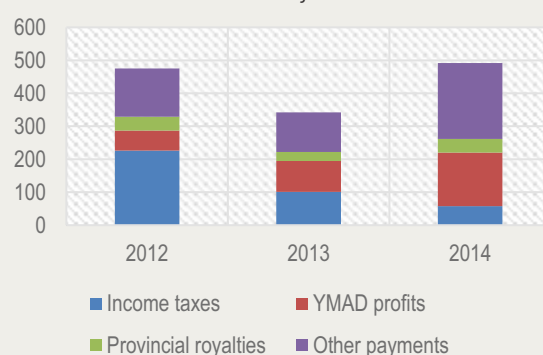
*In millions of dollars*



Graph 6. Mining income and value of exports of Alumbreira. Glencore Sustainability Reports - Alumbreira 2012 - 2014.

**Breakdown of mining revenue La Alumbreira**

*In millions of dollars*



Graph No. 7. Conformation of the mining income La Alumbreira. Glencore Sustainability Reports - La Alumbreira 2012 - 2014.

hand, included in a Unión Temporal de Empresas is the advantage of a corporate tax exemption with the provincial government.

In Argentina mining is one of the activities with the lowest tax burden according to a World Bank study. Thus, Glencore receives at least nine kinds of deductions, discounts, and tax

benefits, directly generating low payments to the government. In the best case, the company's tax burden ends up being around 25% of declared exports, less than half of the tax burden established for an average Argentinean family. According to studies from the Instituto Argentino de Análisis Fiscal - IARAF (Argentinean Institute on

Fiscal Analysis), this burden is currently between 47% and 60% for a wage-earning family, a percentage significantly higher than Glencore pays to operate the Minera Alumbrera.

#### *Glencore's tax benefits in argentina*

- Ceiling for royalties at 3% (Article 22, Law 24.196)
- Freezing of national, provincial, and municipal taxes for 30 years and a 5 year grace period without payment (Article 8, Law 24.196)
- Tax deduction for earnings in exploration, purchase of equipment, machines, and vehicles (Article 12, Law 24.196)
- 100% discount for the Liquid Fuels Tax (Law 23.966)
- Early return and financing of the VAT (Law 24.402)
- Reimbursements for exports shipped from Patagonia ports (Law 23.018)
- Check tax exemption (Decree 613 of 2001); Return of VAT tax credits (Law 25.429)
- Elimination of municipal levies and fees that directly affect the activity and stamp taxes (Law 24.228).

Minera Alumbrera has also arbitrarily deducted expenses, paying less to the Argentinean state than it should. In July 2015, the Secretaría del Estado de Minería - SEM (State Department of Mines) sent a note to the company demanding an additional ARS \$9,492,339 corresponding to the third trimester of 2014, which was not paid by the company as it had

applied a double deduction reducing the total. The company rejected this claim citing that "export duties constitute a deductible concept" and that "they are necessary to be able to export and are included within the concept of direct and/or necessary operational costs to move the mineral from the pit-head" to the sale stage. The Control body rejected this

argument and proceeded in ordering a calculation of the royalties missing by law to demand they be paid by Glencore. To date this conflict continues and the Mining Department of Catamarca Province was in the process of requiring the company to pay the balance.



## *2. Environmental aspects of la Alumbrera*

*For over 20 years of production in Catamarca, Alumbrera has a balance of serious accumulated environmental damages, which in several cases will have territorial effects for over 50 years. There is not a clear closure plan for the operation and the few tax benefits that have been created for the Argentine state and populations adjacent to the project, are insufficient to compensate damages to ecosystems and sources of livelihood for these communities. There are multiple unrecognized impacts and serious environmental damages that have been hidden from the communities and the state. The contradictions between their IIA (Environmental Impact Report) and most recent reports are evident as the company continues without acknowledging the impacts and damages it has caused.*

**Project's initial IIA: "permanent damages" and "irreversible impacts"**

The Informe de Impacto Ambiental (IIA- Environmental Impact Report) presented by Minera Alumbraera shows the magnitude the operation's impacts on the ecosystems; specifically a reduction of the watershed, depression of aquifers, a reduction in river volume, alterations in water and air quality, destruction of habitats, and impacts on flora and fauna. As the years have gone by and in the face of increasing social protests from the affected communities, they began modifying the reports, systematically slanting and hiding information to deny environmental impacts.

**Current Alumbraera reports**

"The mining operation may potentially disturb the ecological habitat" or it says, "we seek to mitigate any potential consequences through environmental programmes." Instead of real measures that respond to environmental damages, it is limited to possible impacts for which it is developing recuperation areas and monitoring programs. However, with these programs it will be difficult to have a real effect on repairing the damages caused during so many years of operations.

**A bad start**

Minera Alumbraera began its production phase by violating the country's current environmental legislation as it did not comply, in time or form, with the presentation of the Informe de Impacto Ambiental (Environmental Impact Report) required by Law N° 24.585. Production also began without having the required Declaración de Impacto Ambiental (DIA - Environmental Impact Declaration) issued by the competent authority. It was issued in October of 1999, that is to say, almost two years after the operation began. The mine operated without establishing environmental impacts or mitigation and compensation measures during a period of almost 2 years.

**a. Responsible water use and consumption**

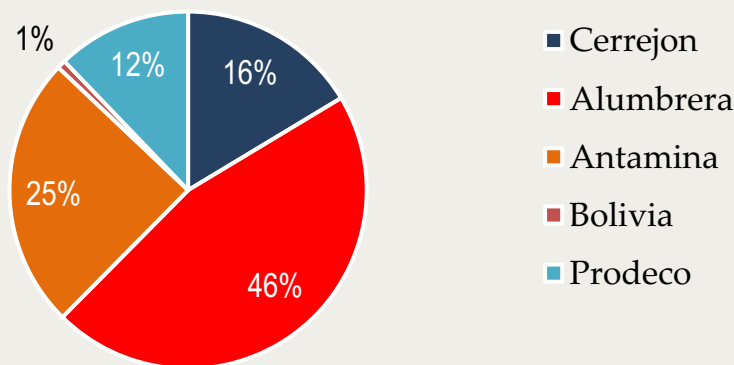
Minera Alumbraera's water consumption is not proportionate and has led to years of ongoing water stress with water shortages for human consumption and irrigation in Catamarca. Local communities have been extremely affected and a water, environmental, and

agricultural emergency was declared on several occasions. Technical studies indicate irreversible and permanent contamination of the water, air, soil, flora and fauna. This directly affects the adjacent communities' health and ways of life. Glencore is currently

defending itself in several legal proceedings on the contamination of water sources and the soil in Catamarca Province. These are environmental damages not recognized by the company.

**Glencore's water consumption in Latin America**

+266 millions of m3 annually



Graph No. 8. Glencore Water Consumption in Latin America

Minera Alumbrera diverts attention from its water use in the region, stating that its use does not affect availability for communities, that it does not dump in rivers and aquifers, and that it does not have any influence on the water flow of

the mentioned rivers (Excerpt No.1). Its consumption numbers are not controlled by the authorities and therefore they are not verifiable. The information presented is contrary to their use permits and environmental impact studies.

As the IIA anticipated, serious impacts on aquifers and rivers will last at least 50 more years and those most affected will be the local communities in its influence area.

### *The impacts on campo del Arenal*

Minera Alumbrera has permission to extract underground water from Campo del Arenal, an aquifer with fossil water reserves over 60 million years old and 4,700 kms<sup>2</sup> in area. This hydro-geological reserve is located in an extremely arid zone and is a strategically important resource for Catamarca Province's population due to its functions in regulating the environment and water provision. The company has acquired a 53,620 hectare area (80% of the watershed's total area) to install pump shafts and an aqueduct over 25 km long, between the well and mine area.

### *Recycling water*

Minera Alumbrera reported in 2015 that 72.4% of the water used in the operation is recycled. Nevertheless, the mine's water use permits establish that the operation requires 800 liters per second, making the information's veracity doubtful. The numbers presented are not verifiable due to lack of control by the Dirección Provincial de Agua (Provincial Water Office).

### *Glencore's initial IIA*

"Water quality will continue to be affected after the mine's closure, due to tailings and waste rock drainage, considering a 20 year operational life for the mine and, according to the simulation models carried out, the impact will reduce significantly 50 years after the mining operations began."

### *Alumbrera water use*

- Permits for 1,200 liters of water per second.
- Consumption = + 100 million liters of fresh water per day and 37,850,500 m<sup>3</sup> annually. This is equivalent to 80.4% of the water consumed in a year by all the residents of Capital, Valle Viejo and Fray Mamerto Esquí de Catamarca.
- Repercussions: Affects and pushes out priority uses for water, such as human consumption. An important part of the affected population lives off of agriculture and livestock, activities that are affected by irrigation water shortages. Alumbrera's impact reduces cultivated areas leading to a smaller agricultural output and loss in crop quality due to water stress.
- A water, environmental, and agricultural state of emergency has been decreed by authorities several times for the entire Catamarca Province; the last times were in 2016 and 2012.

*Evident contradictions.*

GLENCORE 2015: The effect of the extraction in the aquifer does not affect the flows flowing through the Santa María River or the Los Nacimientos river basin, which is the head of the Belén river.

IIA ALUMBRERA: "Part of the underground flow of the river Vis Vis will be intercepted by a system of retro pumping. For the Santa María and Nacimientos rivers, whose underground contribution is affected by the pumping of the Campo del Arenal production wells, there has been a decrease in the contribution equal to 0.75 percent and 6.6 percent, respectively, among the 10 And 20 years of pumping. This should translate into a drop in the level of the water table in the vicinity of both rivers not more than 0.5 meters. "

*Technical report from the national water institute 1998*

In direct relation to extraction from the Campo del Arenal aquifer, it states: "The maximum vacuum of the water table that will be generated (...) has been estimated at 4-5 meters in the first years and 14-22 meters after 20 years (...) Causing four hand dug wells near Roadway 40 to dry out, used as watering holes for animals."

*Water contamination*

During the drying process for mineralized mud the company dumps water with heavy metals in the DP2 channel which flows into the Salí and Dulce river basins. Later, they flow into the Termas de Río Hondo dam, affecting the agricultural and fishing activities of several families. A report from the Universidad Nacional de Tucumán revealed heavy metals contamination, mainly copper, originating from company effluents

*Santa María, Catamarca*

A district that lost 40% of its water. 70% of the department of Santa María's farming sector has stopped producing due to a lack of water and part of the Santa María River is drying up."

*Institute for Eegetic Ecology and Evolution*

In a court file the institute warned: "There are probable long term gastrointestinal problems, given the metal's capacity for bioaccumulation, both in fish and the humans who consume the aquatic fauna." "

*Optimizing the resource*

Water extraction for the mining process does not imply any kind of discharge in the fluvial system or aquifers located down river from the operation sites. This is a closed system, where the only water output occurs to transport concentrate by slurry pipeline, an activity that uses 2.5% of the volume of fresh water.

The impacts produced by extraction from the aquifer are restricted to the southwest end of the river basin. It does not influence the Santa María River's water flow, which is 40 km to the northwest of the Alumbreira's well field.

*Water in the communities*

Even though water use in the process does not jeopardize water availability for communities, we collaborate with neighboring residents providing potable water from the subsystem for animal husbandry when they ask for it. In turn, we carry out annual maintenance on the excavations that intercept ground water and are used for livestock. We also occasionally maintain potable water sources for our neighbors.

In Catamarca it is estimated that agriculture uses 0.50 l/ha. The cultivated surface area is approximately 160,000 hectares, which implies an estimated provincial water consumption superior to 80,000 l/s. In comparison with Alumbreira, the company consumes 0.96% of the water used for the area's primary production.



*Rosalinda flores, longtime resident of Vis Vis, displaced by contamination from La Alumbreira*

"We practically lived off the animals, we had our animals to slaughter, we took the meat to Farallón and sold it. We made cheese from the animals, goats, and also brought it to Farallón, and the cows too. We slaughtered animals for Farallón, we sold it or we traded it for something, cambalacheamos (we bartered) as we say, for other products and we had enough for months." "We had 100 meters wide and 80 deep more or less, we grew everything, corn, vegetables, everything, the river went through the back, all this was a farm... they came through with machines, destroyed everything... then the animals that drank the river water died, little by little they died, now there is nothing left... we also began to get sick, stomachaches, diarrhea, vomiting, headaches, everything; and the plants would not grow. We had to go, before there were several farms along here, everyone had to go because the river was polluted."

*Alejandro Páez, inspector of Andalgalá, on the impacts from La Alumbreira*

"They have done us harm, from the point of view of what we were before, before the mine company came we were a farmer-livestock people that lived off of a household economy more than anything, even though a lot of people lived off the state, but people were able to defend themselves here given that, in the countryside, even here in the center, it was productive, people at least had a garden, their hens, they got the eggs, they could get by, there wasn't poverty like you see now." "With the funds from the mining royalties for example we have tried to support productive projects, that is to say, we supported people to have agricultural skills again and the initiative to focus on being self-sustaining, but it is a constant fight, it is a constant and hard fight."



## b. Air emissions, loss of biodiversity, and soil contamination

Minera Alumbrera has seriously impacted the soil in its influence areas, preventing this area from eventually being reused for pastureland or agricultural activities. The soil's susceptibility to erosion is going to continue increasing drastically; the regions' ecological processes will be irreversibly affected while the

operation continues and the loss of habitat for flora and fauna will be permanent. For Glencore its contribution of contaminating material is null and it is more concerned about dust generated by natural soil erosion. Legal cases, technical studies, and the project's environmental impact reports (IIA) show the opposite. There are several legal

proceedings under investigation about the mine's unlawful dumping and the impacts that they cause on the soil and water in the region. Today, there is still a lack of toxicological investigations or studies that establish the true magnitude of the mine's cumulative impacts and damages in Catamarca Province.

### *Loss of biodiversity -IIA 1998*

“Impacts on the flora and fauna: (...) The changes caused by placing and operating a mining site in a desert is prolonged and will result in a permanent loss of habitat (...) It is to be expected that the loss of habitat for flora and fauna in the infrastructure area is practically irreversible (...)” “Impacts on ecological processes (...) will undergo permanent and inherently irreversible changes, in spontaneous ways, for the length of the current production phase.”

### *Dust emissions and soil quality - IIA 1998*

-“The activities in the infrastructure area have increased susceptibility to soil erosion (...) The results indicated that the amount of dust could surpass the permissible standards recognized in the U.S.A.”

- With respect to soil use, given that there is practically no vegetation in the tailings and waste rock areas, it is inferred that for practically all of the impact area's 1,500 hectares, it will not be possible to reuse it for pasturing (...)

The soil quality in the quarry, waste rock, and tailings area is being and will be permanently modified, given they are covered with materials more arid than the current soil.

Through a particle dispersion model it can be concluded that the PM 10 AND TSP production is null in the neighboring districts and relevant dust is generated by natural soil erosion

Excerpt No.2. 2015 Alumbrera Air Quality Report e

### *Nitrous gas emissions*

-25.000 toneladas anuales de explosivos = Principal consumidora de estos insumos en Argentina.  
-Altos niveles de emisión de gases nitrosos a la atmósfera generando lluvias ácidas con alto impacto sobre personas, cuerpos de agua, suelos, flora y fauna. 4,28 toneladas de gases nitrosos por día = 1562,2 toneladas al año (3.000 millones de litros anuales)



### *Pollution from the La Alumbrera Tailings Dam*

The Alumbrera mine's tailings dam was located in a geologic accidents zone, which caused a waste leak from the extraction process. In the operation's early years this information was hidden and denied by Minera Alumbrera. One of the engineers who was part of the inspectors team for Environmental Quality of Catamarca province said that “the company and the provincial government were both responsible because if it had been waterproofed, this problem would have been confined to the concession area, we would have had one sacrificed area, as the people say. But because it wasn't waterproofed we have transferred all those solubles down river. This is very serious and future generations are going to suffer.”

NIEVA explains that “the movement of heavy metals already exceeded the limits for the concession area and what is going to be even more serious is when the company leaves because it will no longer be incorporating 80 million liters of water each day, in addition to more tons of calcium oxide which to a certain extent serve as a control for the pH in the area, maintaining it between 7 and 8 (points). When it stops incorporating these elements, because the company has closed the mine, the pH is going to begin to drop, when it reaches 2 or 3 points there will already be bacterial activity that will accelerate the process even more and this is going to mobilize the heavy metals, iron, copper and all the metals that we have in the tailings dam.” In addition, he assured that “the tailings dam is hydraulically connected to the Vis Vis river basin and will generate damages for hundreds and hundreds of years.” These leaks led to the forced migration of residents from Vis Vis and therefore court cases that are still open and awaiting resolution.

## *3. Legal proceedings against Glencore*

### *a. For concealment of earnings*

Currently, there is a federal case against Glencore in Argentina, for defrauding the national government due to concealment of earnings. By means of a metallogenic study it was possible to show that Minera Alumbrera only declares its taxes for gold, copper, and molybdenum exports, but fails to report on the extraction and foreign sale of significant

amounts of almost 50 other minerals of significant economic value, including: scandium, titanium, chromium, cobalt, cesium, and uranium. Glencore has not declared around USD \$8,266,337 per year, meaning that it is secretly earning an average of USD \$90 per ton exported. The criminal investigation is open but paralyzed due to company

actions, like refusing the inspection of the Ranchillos plant, which had a court order and was indefinitely postponed, in addition to favors from the court system and authorities. The case that began seven years ago continues today.

### *b. For environmental damages*

Regarding the environment, throughout the operation's last 20 years, Minera Alumbrera has been involved in a series of civil and criminal legal proceedings for environmental damages and

pollution in violation of Argentina's general environmental law. These complaints show a different reality regarding La Alumbrera, which the company does not

acknowledge and omits from its reports. We want to highlight the following complaints against the company due to their importance and serious nature.

**SECOND FEDERAL COURT OF TUCUMÁN. File N° 378/99. González, Juan Antonio. Infraction of Law N° 24,051 on Dangerous Waste.** Case due to contamination coming from the Ranchillos filter plant effluents in Channel DP2 and the Termas de Río Hondo Dique Frontal. In July 2016, Federal judge Fernando Poviña, heard the case against Minera Alumbrera's general manager, Raúl Pedro Mentz, as he was believed to be criminally liable for polluting the Salí and Dulce rivers. The courts in this instance found that a crime had been committed with a probable health impact on the population.

**SUPREME COURT OF JUSTICE OF THE NATION C. 168. XLIX. RHE CRUZ, FELIPA Y OTROS c/ Minera Alumbrera Limited.** Objection formulated by Dr. Xavier Areses. Ruling February 23rd, 2016. In 2016, the National Supreme Court of Justice overturned a ruling from the Tucumán Provincial Court of Justice that had favored Minera Alumbrera. The initial lawsuit was filed by neighbors of Andalgalá, headed by Felipa Cruz. The ruling emphasized that sufficient evidence exists to apply the precautionary principle, bringing about an immediate cessation of activities in the case of having indications of environmental damage. Thus, Federal Judge of Tucumán Fernando Luis Rodolfo Poviña issued a summons for the directors and ex- directors of Minera Alumbrera (Julian Rooney, Raúl Mentz, and Michael Holmes). This case has been in the courts for 14 years.

*Second federal court of tucuman - secretary of special laws (civil). File 200024/2007. Aranda carlos alberto and others c/ minera alumbrera ltda and yacimiento minero aguas de dion - accion de amparo* (writ of constitutional protection).

In 2006, brothers Carlos and Antonio Aranda sued Minera Alumbrera for contaminating the pure underground water of Concepción and Alpachiri. They themselves ordered the analysis of water and mud extracted from the ground. The studies demonstrated an alteration of the soil by heavy minerals with a presence of more than 60 metals, including cyanide, uranium, mercury, nickel, tin, lead, sulfur, titanium, zinc, chromium, and molybdenum. In 2016, the courts ruled in favor of the Aranda brothers and the community, ordering the company to carry out "a comprehensive reconstitution of the environmental damages caused by the activity that it carries out until there is a complete disappearance of the polluting agents in the soil and air, surface and underground waters, presenting the necessary tests to that effect." The judge also ordered the replacement of areas deforested to date, the acquirement of certified copies of water studies on rivers crossed by the slurry pipeline in Tucumán, the state of compliance with article 22 of Law 25.675 and reports on the state of the mine's operational withdrawal and closure.

### *The Casas Flores Family vs La Alumbrera*

In 2003 the Casas Flores family of Vis Vis, Andalgalá, Catamarca, initiated a civil suit against Minera La Alumbrera for damages. The installation of the mine's tailings dam only two km from where they lived forced them to abandon all their goods and possessions due to a filtration from the dam that contaminated the river water they used for irrigation and consumption. The ruling in second instance indicated that "regardless of having carried out the tasks that the environmental laws and regulations mandated, the damage invoked by the actors has taken place and has been certified." "The defendant company must maximize, in the operation of the mine's production, in the construction of the tailings dam, a suitable installation, valuing the soil and the purpose that it fulfills within the activity, according to the necessary security guidelines previously established, to avoid filtrations that the location imposes - in this case the soil's porosity." "Preventive actions taken by the company in the time period in which the Flores family resided in this place, were not sufficient to avoid the damages indeed suffered, [the company] must respond to its correctional responsibility, consisting, in this case, of covering the losses indeed suffered by the plaintiffs."

The expert report made by hydro-geologist Pilar Cebollada Verdaguer concluded: 1. The impermeability of the mine's tailings dam is jeopardized. 2. The current system for handling the mine's tailings has affected the amount and quality of superficial and underground water in the zone. 3. Not using a pump-back system has generated an affected area for the contamination of surface water that reaches a considerable distance from the concession. 4. When the mine stops operating it is advisable that the pump-back system not be interrupted in order to stop the advance of the contaminant plume. 5. There has been an increase in heavy metal content as a result of the activity carried out by the defendant. 6. Water resources in the area are altered as a consequence of the chemical attack, produced by the aforementioned activity.



## 4. Open door policy: closure of the mine without dialogue, information, and community participation

Bajo de la Alumbreira initiated the closure of its operations in a context of uncertainties, social complaints, legal cases, and constant denunciations from the public for not having included broad participation from the communities affected by the project. Lack of information and

ample and adequate participation on the mine's closure plan has generated many concerns in Catamarca. In spite of the company's legal obligation to involve and inform the communities, to date only closed meetings with the participation of focused interest groups

selected by the company have been held. The first public hearing as requested by the Andalgalá municipal legislature is still pending Glencore's acceptance.

THE PIT CLOSURE WILL CONSIST OF DELINEATING A PERIFERAL SECURITY AREA, AVOIDING ACCESS FOR PEOPLE OR ANIMALS BY MEANS OF PHYSICAL BARRIERS AND WARNING SIGNS ABOUT THE RISKS OF ENTERING. THERE WILL BE ROCK, AT A HEIGHT GREATER THAN 2 METERS. ALSO THERE WILL BE A WIRE FENCE AT THE MINE'S MAIN ENTRANCES AND ENTRANCE RAMPS.

In 10 years it could reach its maximum level until it balances out over an estimated time of 200 years, with water quality similar to the base line. The hydro-chemical model predicts that the lagoon's water quality will have a pH slightly below neutral (6.5), showing that it will not be acid water.

A participatory process may not reach full consensus on the closure results, but it should be considered successful if it leads to informal decision making.

The information referenced cannot reach total consensus on the closure results, but it should be considered successful if it leads to informed decision making.

The reference information has become complicated over the life of the project, by means of repeated updates on the social base line studies (study of Minera Alumbreira's Socioeconomic Impacts).



Coverage of the waste dump in surface area and slope



Coverage of the dam in surface area and slope

Extracto No.3. Informe Alumbreira 2015. Cierre de Mina.

### Contradicting messages

- Department of Mines = There is not a closure plan.
- Glencore 2015 = Public distribution will begin in July 2016.
- The company has not convened public hearings to present the closure plan, as required by Law No. 25.675.
- Glencore trade union complaints and denunciations.

### Mitigation measures not evaluated

2017: The post closure mitigation measures have not been presented for study by the authorities and local population = No evaluation or agreement on closure measures regarding dumps, tailings dam with inert material for later re-vegetation and the creation of a lagoon in the open pit. These action's effects have not yet been evaluated and could end up being very detrimental for the area's aquifer system, ground water, soil, and biodiversity.

### No mention of environmental liabilities

There is no mention of irreversible and permanent impacts that were established in the project's initial IIA, and the company's commitments are reduced to an eight year period after the operation is closed. The polluting effects of sulfates and toxins in the air, soil, and waters will have long term effects in the Minera Alumbreira influence area.

The absence of plans and programs approved by the environmental authority to close the mine, strongly contrasts Glencore's announcements of success in the Alumbreira sustainability reports. Serious

impacts accumulated over 20 years are not mentioned in any way by the company. There are no clear scientific studies that show the dimension of the irreversible damages caused to aquifers and soil, and the

information presented by the company is contradictory and confusing. The effects caused by the company have not yet been evaluated and could end up being very detrimental to the Catamarca ecosystem.



## 5. Petitions and recommendations

### TO GLENCORE - MINERA ALUMBRERA

- 1.Cease its intentions to explore and extract heavy metals in other areas of Catamarca, Santiago del Estero, and Tucumán provinces. A 20 year history in the region has been sufficient.
- 2.Comply with Article 16, Law No. 25.675 of the General Environmental Law, by providing truthful, complete, and transparent information on the magnitude of environmental impacts generated by the Alumbreira project and activities related to the closure of the mine's operations.
- 3.Comply with Article 28 of the same law reestablishing prior environmental conditions of the area directly affected by the Alumbreira mineral extraction procedures. As has been recognized by the company itself and established by Argentinean courts in different rulings and sentences.

- 4.Make the companies' management and structures internationally and nationally public, as established in the Extractive Industries Transparency Initiative - EITI, which the company has signed.
- 5.Make public its sales and transportation contracts for mineral compounds shipped internationally, as established by the National Customs Code, Law N° 22.415.
- 6.In relation to the Alumbreira Closure Plan, a set of measures and actions focused on the remediation and reparation procedures for environmental damages and liabilities caused by its operation over the years must be established.
- 7.Write a Mine Closure Plan, that clearly establishes a specific timeline to implement measures focused on (1) the progressive and final rehabilitation of waste dumps, tailings dams, underground water extraction reservoirs, and water collections

and dumping sites; and (2) the maintenance, monitoring, and surveillance of areas directly affected by Minera Alumbrera in the post-closure stage. Each of these components in the Closure Plan must be accompanied by its respective budgets, guarantees, and financial schedule.

8.The mine's Closure Plan is to be presented to the affected communities and Argentinean society in general, by means of an environmental public hearing in accordance with Articles 19 and 20 of Law 25.675, General Environmental Law.

#### TO THE STATE OF CATAMARCA PROVINCE

1.Establish adequate control and monitoring mechanisms for the prevention, mitigation, and compensation measures that will be implemented by Minera Alumbrera in the mine's closure and post-closure stages.

2.Provide communities and social organizations opportunities to participate in each process of authorization, contracting, and licensing for mining projects, by means of public hearings in accordance with Articles 19 and 20 of the General Environmental Law.

3.Comply with Articles 8, 9, and 10 of the General Environmental Law, creating a Land Management Plan for Catamarca Province. As established in this law, this should occur in a participatory manner taking into account political, social, cultural, and environmental aspects of the local and regional reality. In addition, this plan must ensure an environmentally suitable use of natural resources allowing communities maximum production and use of these resources, avoiding the directive of mining the ground in the Province under the slogan "Catamarca Minera."

4.Make public the joint venture (UTE) contracts and annexes signed between the company and Catamarca Province to ensure the delivery of their balance sheets and other documents related to operating Minera Alumbrera.

#### TO THE NATIONAL GOVERNMENT

1.Carry out an in-depth environmental assessment of the impacts and damages caused by Minera Alumbrera in Catamarca Province during its 20 years of operation. Active participation from civil society and the affected communities is necessary in this study.

2.By means of the Administración Federal de Ingresos Públicos - AFIP (Federal Administration of Public Revenue), demand Minera Alumbrera's records for minerals sold internationally and implement a study on Glencore's relations with buyer firms to determine elusive tax maneuvers related to transfer prices.

3.Repeal General Resolution No. 281 of 1998 of the Dirección General de Aduanas - DGA (General Customs Office) that allows Minera Alumbrera to declare provisional export values without effective auditing of exported minerals and their respective amounts. Also, carry out a port inspection audit report of the minerals in the concentrate exported by the company and the amounts reported by the company.

4.Carry out an audit of income and expenses of the UTE contract, comparing it to those reported in the YMAD contract.

#### TO THE CHAMBER OF REPRESENTATIVES

1.Create opportunities for participation and information through public hearings to carry out reforms and modifications of the Argentinean Mining Code, Law No.1.919 of 1886, with the aim of establishing stricter mining control mechanisms, making it possible to avoid the damages produced by the extractive model and to respect the rights of affected communities.

2.Develop legislation that responds to the requirements environmental and control authorities should use for mining closure operations, such as those carried out in Catamarca by Minera Alumbrera.

3.Create opportunities for participation and information using public hearings to implement reforms and modifications to Law No. 25.675 of 2002, making this participation mechanism binding in agreement with Article 41 of the National Constitution.

#### TO THE SUPREME COURT OF JUSTICE AND FEDERAL COURTS

1.Apply the precautionary principle established in Law 25.675, and stop the mining operation until a closure plan is presented that is adapted to international standards and has civil society participation, as established in Article 4° of the same law.

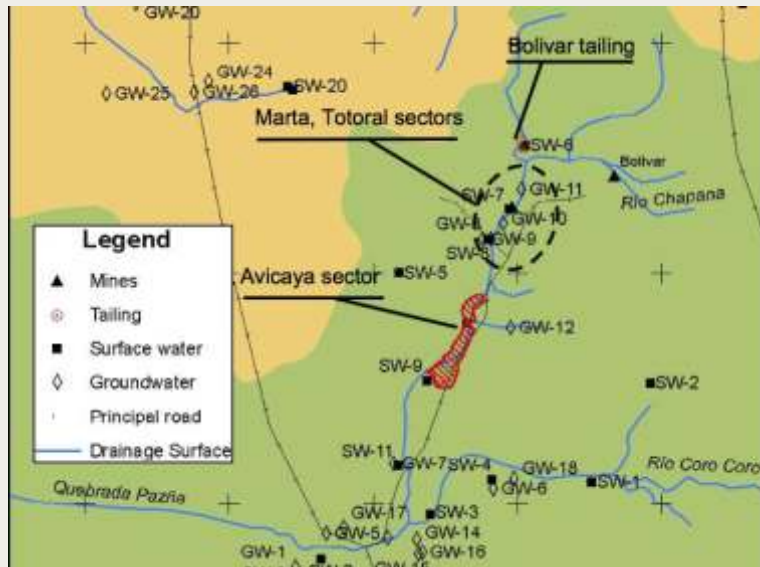
2.Reopen the arraignment stage (previous investigation for the prosecutor's office) with the aim of resuming the Minera Alumbrera fraud case against the national government. In addition, carry out expert studies on the mineral concentrate exported by the company, with the aim of collecting evidence to establish if smuggling and fraud crimes were present in the Alumbrera project.

3.Call for a prosecution and subpoena of Minera Alumbrera and Glencore management for the contamination of DP2 channels, the Alumbrera dique frontal (frontal dam) and other cases resulting from the lawsuit filed by Juan Antonio González. File N° 378/99. Infringement of Law No 24.051 on Dangerous Waste.

---

*c. Chapter 2: Bolivia*





Map No. 3. Detailed map of the Antequera sub-basin and Bolívar Mine influences

**Bolívar, Poopó, and Porco mines**

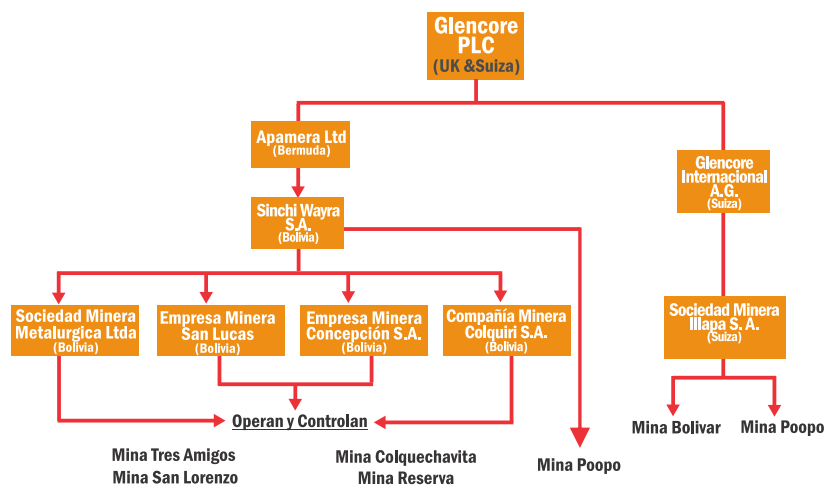
**Mining contracts:** until 2028  
**Extracted minerals:** zinc, silver, and lead  
**Project stage:** production  
**Occupied areas:** Bolívar project 989 hectares.  
 3321 mining properties  
 998,122 square meters.  
**Tons extracted annually**  
**Bolívar project:** 248,200  
 Wet metric tons of extracted minerals (zinc and lead)  
**Affected communities:**  
 Bolívar mine: 15 communities.  
 Poopó mine: 10 communities.  
 Porco mine: 13 communities

Glencore's Bolívar mine generates direct impacts in the upper region of the Antequera micro-basin where important headwaters are located and especially on the Chapana River flowing into the Antequera and Pazña Rivers, impacting Lake Poopó, the most important body of water in this region of Bolivia.

Glencore's operations in Bolivia are carried out through their subsidiaries Illapa S.A. and Sinchi Wayra S.A., which operate four mining units for zinc, silver, and lead in the Oruro and Potosí regions. Beyond weak controls and minimal access to institutional documents in Bolivia, there is no way to show Glencore's environmental sustainability, in relation to the communities, the economy and human rights in Bolivia since the global and regional sustainability reports do not reference their operations, and a Bolivia sustainability report simply does not exist. Glencore operated in Bolivia without an adequate mining contract for seven years and its environmental, social, and economic obligations were reduced and outsourced to mining cooperatives. Several of its contracts were returned to the dominion of the Nation.

## 1. Corporate aspects

Graphic No. 9. Glencore's business structure in Bolivia. 2014 Sustainability Reports, Official Commerce Folio of Canton Zug, Switzerland and Registration of ROC - G Public Companies.



### a. Glencore mining contracts in Bolivia

Glencore uses two contractual concepts in Bolivia: partnership contracts and shared risk contracts. Both give Glencore the

possibility of signing lease and sublease contracts with local mining cooperatives, who in the end, take on the businesses

environmental, economic, labor, and social responsibilities for these mining projects.

**ASSOCIATION CONTRACTS** = Signed July 2nd, 2013. Bolívar Mining Project, located in the district of Antequera, Poopó Province, Oruro department; and the Porco Mining Project, located in Antonio Guíjarro Province in the department of Potosí. Grants significant guarantees and reduces the mining companies' obligations. In relation to mining profits, COMIBOL has 55% participation and Illapa S.A., a Glencore subsidiary, has 45% in terms of the profits' net cash flow. The taxes for the Bolivian State depend on the management of the annual cash flow that is entirely controlled by Glencore since it is based on profits and not earnings. Illapa S.A. is the contract operator, meaning it will administer the mine's technical, financial, labor, legal, and commercial operations and activities. The contract between Glencore and COMIBOL gives the company the power to establish contracts with mining cooperatives.

**SHARED RISK CONTRACTS** = Outsourcing business, environmental, economic, labor, and social responsibilities, transferring them to a third party. The Bolivian state and communities surrounding the projects assume the damages and liabilities produced by Glencore's extractive activity. These contracts themselves are not a new commercial partnership or legal entity and their liability scheme for third parties was agreed upon mutually by the parties. Glencore took on the administration, export, and profit distribution, while the cooperatives provided manual labor. They are not valid as of 2014.

**SUBCONTRACTS WITH MINING COOPERATIVES** = Poopó Project, in Oruro and three other mining projects in San Lorenzo, Colquechaquita, and Reserva Tres Amigos, all in the department of Potosí. They can result in shared risk contracts or partnership contracts. These are not symmetrical because Glencore avoids and outsources many social, environmental, economic, and industrial security responsibilities. This maximizes profits at the cost of mining cooperatives that end up responsible for the communities' labor, social, and environmental rights. These contracts were established before Mining Law N°535 of 2014 was approved, which is why they were signed without state mediation. Many do not include provisions on the environment, industrial safety, or tax payment clauses. For years this meant flexible regulations and minimal contributions in royalties and tax payments to the country. In Bolivia cooperatives only pay 1% of royalties and are exempt from tax payments for the Impuesto de Transacciones (IT- Transaction Tax) Impuesto a las Utilidades de Empresas (IUE- Business Profit Tax) or Impuesto al Valor Agregado (IVA- VAT).

In 2007 and 2012 Bolivia nationalized and placed under its dominion the Metalúrgica de Vinto and Colquiri Mining Projects, both property of Sinchi Wayra. The nationalization was justified under the concepts of public interest and social benefit, in addition to breach of contract, lack of investment, infringement on legal provisions, irreversible economic damages to the Bolivian state, and conflicts between community members (comuneros), miners, and mine cooperatives for more work

areas.<sup>4</sup> In August 2016 Glencore sued the Bolivian government over these nationalizations and claimed a huge (millionaria) indemnification at the International Centre for Settlement of Investment Disputes - ICSID based on the Bilateral Investment Protection Treaties (BIT) between Bolivia and the United Kingdom.

In 2016, the Bolivian government issued four decrees that reverted dominion to the state for the

mining areas' shared risk contracts, lease or sublease contracts signed between mining cooperatives and private companies like Glencore. This was done to establish increased controls of an irresponsible and out of control contracts system, which Glencore had benefited from for years by outsourcing its costs and impacts. Currently, the state is terminating valid shared risk contracts, to renegotiate them and give the cooperatives exclusive control in direct association with COMIBOL.

4. The Empresa Metalúrgica Vinto - EMV was returned to the Bolivian state by means of Supreme Decree N° 29026 of 7 February 2007. The reversion of the Colquiri Mining Center occurred by means of Supreme Decree N° 1264 of 20 June 2012. These were the justifications specified by the Bolivian state in the supreme decrees to carry out the nationalizations.



### *The COMIBOL - Glencore Contract Scandal and Non-payment of Royalties*

Even though Glencore has had an active presence in Bolivia since 2006, it wasn't until 2008 that negotiations began between the company and COMIBOL to allow Glencore to carry out prospecting, exploration, benefit, and sales activities in the Porco (Potosí) and Bolívar (Oruro) mines. On July 2, 2013, after several years of mining activities, a partnership contract was signed. According to COMIBOL, for years Glencore worked using a predatory shared risk regulatory framework. In 2011 contract negotiations were restarted and the Bolivian Ministry of Mines alleged that the company was delaying negotiations. Facing the threat of a breakdown in the negotiations, Glencore subsidiaries agreed to make a USD \$5 million payment to compensate the Bolivian state for damages to the nation due to delays in signing a new contract for years. The complaints that the company was drawing out the process came from several sources.

An investigative commission, designated by COMIBOL, established that 22 contractual clauses had been modified during the approval process, altering the contract's nature and conditions. The main contractual modification was in reference to the "effective date" to begin the agreement, which was initially October 1st, 2011 and ended up registered as October 1st, 2012, one year later. On December 23rd, 2013, COMIBOL filed a criminal complaint with the Public Ministry against three ex-civil employees of that same entity for the crimes of material and ideological falsification and the use of a falsified instrument in relation to the contract signature on April 2013. This action has generated economic damages over USD \$20.9 million due to royalties and compensation payments that were not paid during this period. The Illapa - Sinchi Wayra mining operation benefited from this incident as it avoided payments to the Bolivian state for a year. The investigations continue and it is unclear why the contract was modified and if there was complicity or participation from the company. On September 4th, 2013, COMIBOL asked the company to sign a corrective addendum for what it considered an "involuntary error" that "distorts" the agreement's objectives, but this addendum was never introduced and accepted by Illapa S.A. Currently this case is under investigation by the Bolivian Prosecutor General's Office.

## b. Mining revenue and payments to the Bolivian state

Glencore's contractual regime in Bolivia allows for a direct deduction of taxes from earnings or net income, the reason being that tax payments are dependent on the company's cash flow. If Glencore reports a loss for a year in its Bolivian operation, it does not pay, because there would be

no total to make the deduction from, and in addition, the deficit would be taken from the net cash flow or immediately following period. Its royalties contributions have been decreasing over the last years and have been very low in the municipalities most affected by

its operation. The royalties collected go towards implementing infrastructure projects, health care, education, and other productive projects needed by the communities adjacent to its operations.

### Report on national taxes payment history

2012 = Sinchi Wayra occupied the 19th position among 100 companies that paid the most taxes in Bolivia, with a contribution of USD \$25.3 million.

2013 = It ranked 92 out of a 100, with a contribution of USD \$5.04 million, signifying a tax payment reduction of over 400% in relation to 2012.

2014 and 2015 = Illapa - Sinchi Wayra does not appear on the list of the 100 companies with the largest contributions to the Bolivian economy.

### Very small contributions to the affected municipalities

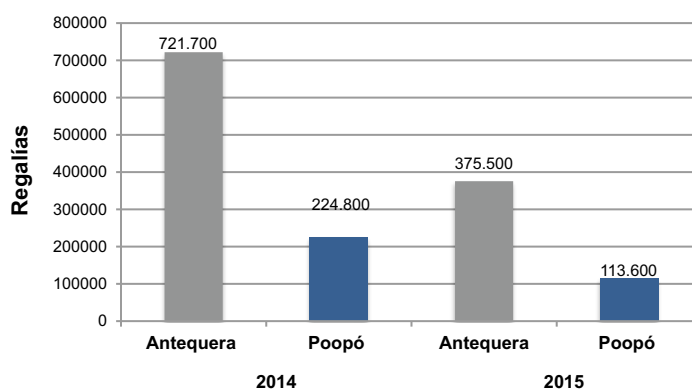
Royalties contributions to the municipalities are insignificant and did not reach USD \$1 million in 2014 and in 2015 they did not even reach a half million. This is a contribution of little or nothing to improve the quality of life for dozens of communities affected by its mining operation.

### Contributions

Antequera Municipality 2014 = Received USD \$721.700 in mining royalties from Illapa - Sinchi Wayra. 2015 = USD \$375.500 from Illapa S.A. mining company, which meant an 85% drop in its contributions.

Poopó Municipality 2014 = Received USD \$224,800 in royalties, corresponding to the Poopó mining project. 2015 = USD \$113,600 which means a reduction by more than 49%.

Graph No. 11 Royalties payments from Glencore in dollars 2014 - 2015



For 2015, Glencore assures it paid USD \$36.7 million to Bolivia in payments, taxes, and compensations. These numbers are not verifiable since official information for this period does not exist. The contributions from the mining sector have not been significant in the Bolivian economy, with a maximum contribution of 7.31% of the 2012 GDP, a number that has dropped

in recent years. This makes it possible to rethink the idea that mining contributes to Bolivia's development, given that it is not as significant compared to other industries like agriculture, which are directly affected by mining. The impacts of companies like Glencore in the municipalities of Oruro and Potosí has a higher cost than contribution. These costs are and

will be assumed by the State, the municipalities, and the populations surrounding these projects. The little money collected through royalties impact the implementation of infrastructure, health care, education, and other productive projects.

## 2. Environmental aspects of Illapa - Sinchi Wayra

*The environmental contamination caused by Illapa - Sinchi Wayra and mining cooperatives' activities has substantially altered the natural surroundings for life systems in several communities from the municipality of Poopó and Antequera. These alterations directly influence local families' quality of life as they have modified the normal agricultural and cattle production cycles, water quality and soil quality for crops. This has led to the emergence of conflicts and contradictions in family and social relationships among communities in the influence area.*



## a. Water use in the bolívar mining project

High water consumption produced by the Glencore mining operation in the Oruro region generates serious environmental impacts, especially water availability for the communities. Ongoing and progressive loss of water sources in the region has caused these

populations to migrate towards the cities, affecting small-scale farmers and economic dynamics in the region. Without fertile land or potable water for consumption and irrigation, it is not viable to live in the area unless people are employed in the zinc mines. Glencore is

proud of its global efficient water use policies, while the communities of Oruro and Potosí have been suffering water shortages for irrigation, human consumption, and livestock for over ten years.

### **WATER USE**

292,680 m<sup>3</sup>/year (more than 800,000 liters per day), 73.4% comes from underground sources and 26.6% from surface water.

The mine's **WASTE WATER DISCHARGE** into the Antequera River is 2,245,000 liters/year. The water leaving the mine and entering the Antequera River has a volume of 80 liters/second.

### **UNFULFILLED COMPANY COMMITMENTS**

Providing water in cisterns is required for these communities since they only have a few hours of water each week. In the case of the Totoral community, less than 2 km from the Bolívar mining operation, it only has one hour of potable water per week.

Water Shortages have generated serious conflicts between communities and regional mine workers. Sinchi Wayra denies responsibility for the disappearance of water sources in the region and the lack of water. The Glencore mines operate at a depth of 380 meters.

### **ABSENCE OF WATER STUDIES AND PLANNING**

In spite of constant complaints from the communities affected by water scarcity and contamination in the Antequera sub-basin, there are no hydro-geological studies of the area or comprehensive management plans for the river basins

*Pascual Choque, Vilaque Comunidad, Municipality of Pazña*

The Illapa - Sinchi Wayra mining company is totally polluting us, I do not know what we will do, the production of our potatoes and other products isn't the same, our lands are useless, almost barren. Our animals are dying or in many cases were born with deformities, and that is why many families have moved.

Now, in my community only a few families are left, we do not have potable water to drink, we have to drink the contaminated water because there isn't any other water. The water is more and more scarce, the wells have dried up, Glencore's Illapa company is finishing off our underground water, what are we going to do, many of us have to bring water in cans from other communities, even from the city of Oruro.

Whenever I drink river or well water, when there is some, I get a headache and stomachache. Some community members have died with a stomachache. We can't live, but what are we going to do, it is my community, it is my land, I cannot go, I am used to it here, my soul is here, that is why I cannot leave.

Several times we have made denunciations with the environmental authorities, they promise to enforce the laws but in the end they don't make them comply. We have presented a lot of complaints, but to date we have not gotten anywhere, it is just words and promises that they do not fulfill or they sign agreements, but in the end they are just words on paper.

*Daniela Quispe, Totoral Community, Pazña*

"Unfortunately Glencore transnational's Bolívar mine company is causing huge impacts for my community. The biggest problem we have is water scarcity, we suffer because of water, the little water we have is already contaminated and the water sources are drying out little by little. That is our reality, we are farmers and we also have livestock, and we need water too, to carry out our activities, since we also produce food. Water is turning into a dispute between us and the miners."

"We mainly produce potatoes but the harvest is getting smaller each time, our land is no longer fertile, we only grow for our own consumption and not to sell, because people are worried that the land won't produce anymore. In the 80s we grew quinoa but it doesn't grow anymore and with the contamination our products aren't like they were before."

"Livestock has totally diminished, we don't have space anymore to raise our ewes, llamas, and cattle, there is more and more environmental waste that hasn't been treated in the air, it also contaminates us, that is why we don't have much livestock now. Our economy is truly being affected and that is why a lot of people are moving inland and outside of the country, because our income has dropped, for all the families in communities affected by mining pollution."

"What we are demanding is that they obey the laws we have in our Political Constitution, we want our rights to be fulfilled as indigenous people, but unfortunately our leaders do not listen and prefer to support the miners and put the communities in the background."

*Constancio Marca, Churcuíta community, Quijarro province, Potosí. Organization CODEMAP*

“Yes, at the moment Sinchi Wayra is operating in my town, it is working in three parts: Porco, Colquechaquita, and San Lorenzo. The mining cooperatives' plants are also there, these plants contaminate the most, they don't take care of the environment, and they are openly contaminating the water and soil in several communities.”

“The biggest problem is water contamination, the entire river is totally polluted. At the same time the scarcity of water is already significant, there is no water for the animals, the only water is from the river that is contaminated and little by little is dying.”

“This problem affects my family a lot, because only senior citizens are left in my community, the young people have left our community, they have gone elsewhere. Our production has dropped a lot, before one plot produced six to seven loads of corn, now we get two, one, or in some cases not even one, because the land is no good for planting anymore. Production has dropped in every way, in its quality, amounts, how much we harvest, and there isn't enough for the entire family.”

“So that our health isn't affected we prefer to move away from the contamination and migrate in our search for water, to provide our animals with a little water. There are a lot of diseases due to pollution, for example if we cross the river we get scabies on our feet and so we prefer not to cross and we move away, that is why those that live along the riverbanks are the most affected.”





## b. Pollutants discharged by Illapa - Sinchi Wayra

Several technical and independent studies and official reports verify and sustain that the quality of underground, river and bodies of water are facing ongoing deterioration due to the presence of heavy metals originating from mining activities in Poopó Province. Among the solid and dissolved solid concentrates found in the water sources are arsenic, lead, cadmium, and zinc, in several samples surpassing the levels allowed by Environment Law 1333. Grave environmental accidents have taken place, such as the September 2015 rupture of the pipeline that transported liquid waste to the Bolívar tailings dam, which caused a spill of pollutants, damaging part of the sector's agricultural land.

Deterioration of water quality significantly impacts the agricultural production for families that have gotten their water directly from the Antequera sub-basin for years. Social and environmental conflicts due to contamination increase and technical studies on the effects of heavy metals for community health have yet to be conducted. Regardless of the existing evidence of water and soil contamination, the effects of these minerals on human health have received little attention in the municipalities of Poopó and Antequera. The contamination of water sources and soil in the area is a threat against communities' traditional ways of life and quality of life.

Glencore's use of Bolivia's mining cooperative model for over a decade has caused irreversible environmental degradation and impacts. Illapa - Sinchi Wayra's impacts in Oruro and Potosí are true environmental liabilities that can cause environmental disasters and crises in the future. Meanwhile Glencore has still not published its first sustainability report for Bolivia, or mentioned Bolivia in its global operational reports. This demonstrates a lack of transparency with the communities and a lack of technical capacity to demonstrate respect for environmental regulations. Glencore benefits from Bolivia's weak environmental system especially in relation to impact monitoring and control.

### *Study Nuria:*

- Elevated concentrations, above those established in environmental regulations, of zinc and sulfates in the Antequera River, are generated by Glencore's Bolívar mine. The water that enters the Bolívar mine influence area faces a quality reduction due to a high zinc, calcium, and sulfate content. There are numerous environmental liabilities from the Bolívar mine, especially contamination of the Antequera River water.

- Complete lack of water treatment in Sinchi Wayra's old tailings dam in the Bolívar project. In six different testing points around the mine's operation there were acid values below pH 4 and a high level of electrical conductivity in the water, reaching 3000 uS/cm. In addition, inappropriate treatment of effluents and other sources that discharge acid waters were observed, which are not controlled by the company.

### *Technical reports and violations of permitted limits*

In 2012 analysis from the Ministry of Environment/Departmental Office on the Environment and Mother Earth indicated that the water around the Bolívar mine presented levels above those allowed by Environmental Law and its regulations. The BO-2 sample, corresponding to the discharge of treated water from the Bolívar mine, verified cyanide and ammonium values above the permitted limits established by the water pollution law.

### *Nonexistent health studies*

Mining contamination will impact the health of the directly exposed populations: mine workers, women and children who work in hazardous conditions. Baseline studies do not exist to establish the impacts of polymetals contamination.

### *Denunciations from the community*

All the results from state and independent monitoring backed community denunciations about contamination caused by the Bolívar mine and its violation of permitted limits. The population's warnings that the Bolívar mine does not carry out control or appropriate treatment of its mine water are correct.

### *Consumption of contaminated water*

In spite of heavy metal contamination, domestic animals and families drink contaminated surface and underground water in certain sectors near the Bolívar mine. The use of these contaminated water sources should be ruled out for agriculture and pasturing.



## Open door policy: community conflicts in Oruro and Potosí

*In the departments of Oruro and Potosí where Illapa - Sinchi Wayra operates, there are very high levels of social-environmental conflicts, resulting from decades of mining without adequate controls. At the center of this conflict are high levels of contamination, Glencore subsidiary companies and mining cooperatives' failure to comply with agreements, and scarce access to transparent and complete information for communities. There is a major weakness in environmental control and the fulfillment of regulations by relevant authorities, without participation from the affected parties.*

There are many doubts about mining companies' contributions and benefits for the communities that it affects in Oruro and Potosí. "Social aid" exists but it does not result in sustainable productive infrastructure. Not one publication, pamphlet, or official report of any kind exists where Glencore or its subsidiaries talk about or report on their projects, works, and indicators for community work. Dialogue without commitments has been a constant. The

communities have always been willing to dialogue and look for solutions to the social-environmental problems, however, the company is almost always evading responsibilities and its signed commitments.

Due to the serious context of environmental contamination, in July 2013, the affected communities from the Antequera sub-basin, by means of the Pazña Autonomous Municipal Government,

presented a Supreme Decree proposal for the area to be declared an environmental emergency by the Ministry of Environment and Water. The relevant authorities made the commitment to conduct an inspection with the participation of several officials to evaluate complaints about high levels of contamination and their effects on health and agricultural production. To date there have not been concrete advances in relation to this complaint.

### *Delays, non-fulfillment, and a lack of commitment from Glencore*

The communities' main demands in the working groups have been about home improvements, job creation, the construction of a micro dam on Jachakawa Vinto, water provision and just treatment for local company workers. The company does not have concrete strategies or plans to respond to these issues. Given the lack of response from both the company and competent authorities, the communities have had to put up blockades on several occasions. The main unfulfilled commitments are:

- Replace water sources, with a prior hydro-geological study of the company's entire influence area.
- Execute a clean-up, redress, and compensation plan for contamination damages caused by the spill of a load of minerals being transported along the Poopó-Antequera road.
- Implement a control and monitoring plan with community participation, to reforest all the Antequera canyon communities affected by mining.
- Provide water to affected communities and refurbish infrastructure affected by cracks.
- Develop a Community Relations Plan.
- Include the municipalities of Antequera and Pazña in Supreme Decree N°0335 that declares an environmental emergency zone due to environmental impacts and water contamination in the area.

*Lack of information for communities.*

*There are many gaps in specialized information on specific environmental impacts on health and economic assessments of the effects of pollution on productive aspects and quality of life. For communities it is almost impossible to access environmental documentation and no studies have been conducted on the effects of heavy metals on health that is the most worrying issue.*

*Minimal participation in monitoring and decision making*

In the most affected areas of the Antequera sub-basin, Pazña and Poopó, community participation should be strengthened to make decisions about water management and to implement community control systems. Empowerment on concrete actions is key to responsibly manage water resources in the area.

## 4. Petitions and recommendations

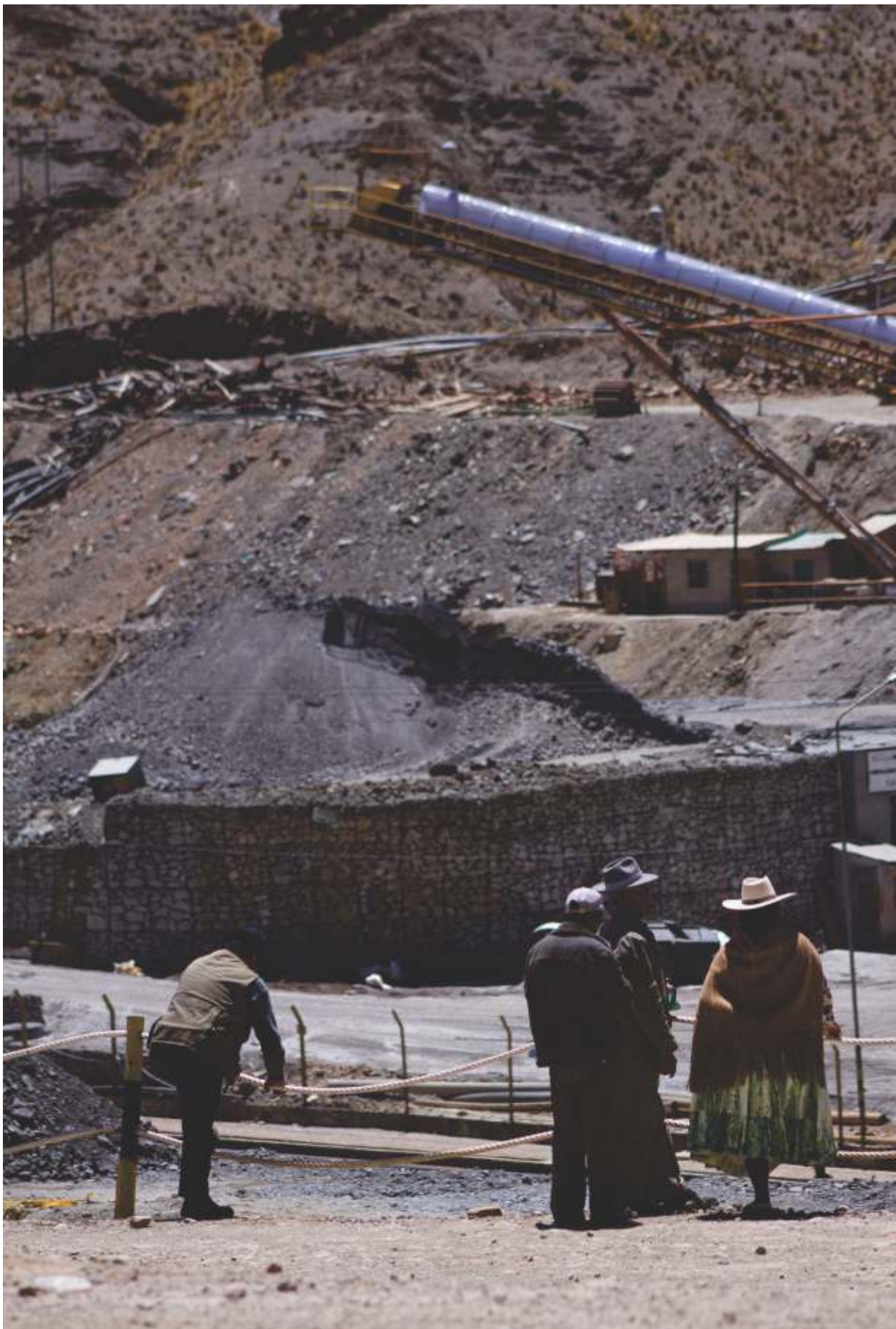
### TO THE PLURINATIONAL STATE OF BOLIVIA

1. Comply with the valid regulatory framework on human rights, the environment, tax code, and royalties payments with the aim to guarantee and preserve the rights of communities affected by Glencore's environmental impacts in Oruro and Potosí.
2. In the framework of the constitutional right to information, democratize access to documents and files on the environment, tax code, royalties payments, and mining contracts so that communities affected by mining have transparent information regarding the impacts and contributions of mining operators.
3. Carry out greater environmental controls and monitoring on water use for mining activities, with participation from the affected communities and social organizations.
4. Create an inventory of aquifer reserves and surface water in the Antequera and Poopó sub-basins, regions that suffer water shortages and contamination. Also, create a census of water resource users to determine the impacts on the populations and their sources of livelihood and subsistence.
5. Due to the magnitude of the mining contamination in these areas, carry out scientific genotoxicology and epidemiology studies on the impact of mining contamination for the local populations' human health. Also, carry out additional technical studies to design sustainable plans, programs, and viable projects to redress and compensate the communities surrounding Glencore's mines.
6. Implement increased controls for mining cooperatives regarding their environmental and industrial performance, the social and economic implications of their contracts, their reports on royalties payments, and remediation policies that are implemented with local populations.
7. Guarantee the full exercise of the right to prior and informed consultation of indigenous peoples (pueblos indígenas originarios y campesinos) from the mining regions to comply with clauses established in international treaties on indigenous peoples and in particular Agreement No. 169 of the International Labour Organization - ILO.

### TO GLENCORE - ILLAPA - SINCHI WAYRA

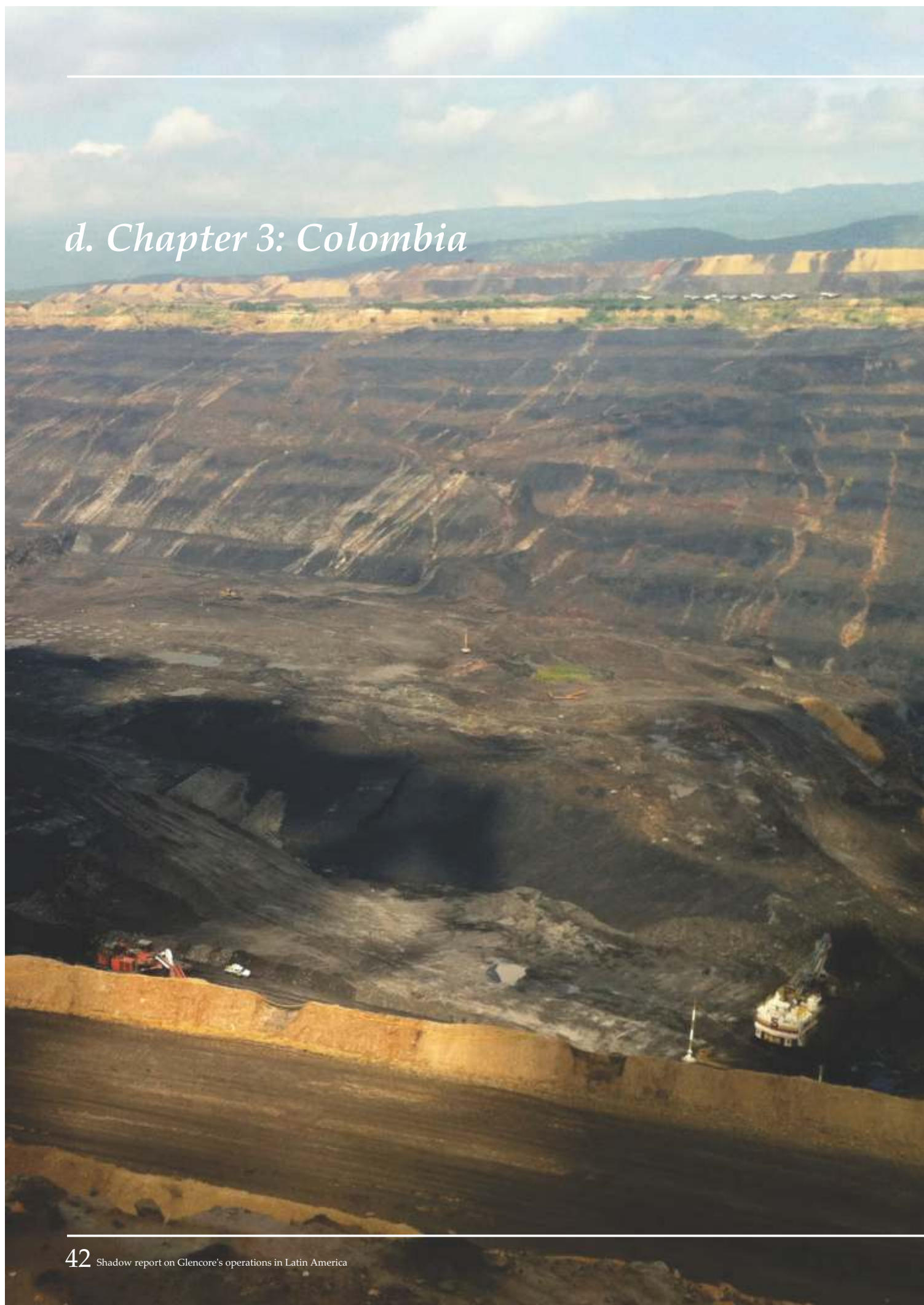
1. Develop annual sustainability reports for the Oruro and Potosí mining projects that allow transparent access to information for the affected communities, civil society and the Bolivian state. In addition, include data, numbers, and general and specific information about the sustainability of its Bolivian mining operations, its environmental performance, commitments with communities, economic contributions, and governance management.
2. In the context of its Open Door Policy, require its Bolivian subsidiaries to take on and fulfill commitments with local communities. It is necessary to implement sustainable community relations plans and publications about the effective application of social responsibility policies, with monitoring and verification of the executed projects.
3. Given the contamination and water shortages in the areas where Glencore operates, require that the company, in coordination with the competent institutions, guarantee a supply of healthy water in the affected communities, allowing it to be used for human consumption and to carry out traditional activities, like agriculture and animal husbandry.
4. Implement clear policies and measures to manage its environmental impacts, which allow for prevention and mitigation projects to be implemented in the affected areas. And, guarantee redress and compensation for damages and environmental liabilities caused by its mining operations.
5. Guarantee and respect the right to social protest in communities affected by mining. Communities that denounce the effects of environmental contamination in their territories cannot be criminalized and prosecuted when they see their rights infringed upon and require the attention of companies and the state.
6. Ensure and guarantee more space for dialogue with the affected communities and an increase in the fulfillment of commitments and agreements that are reached in community participation spaces with companies and the state.

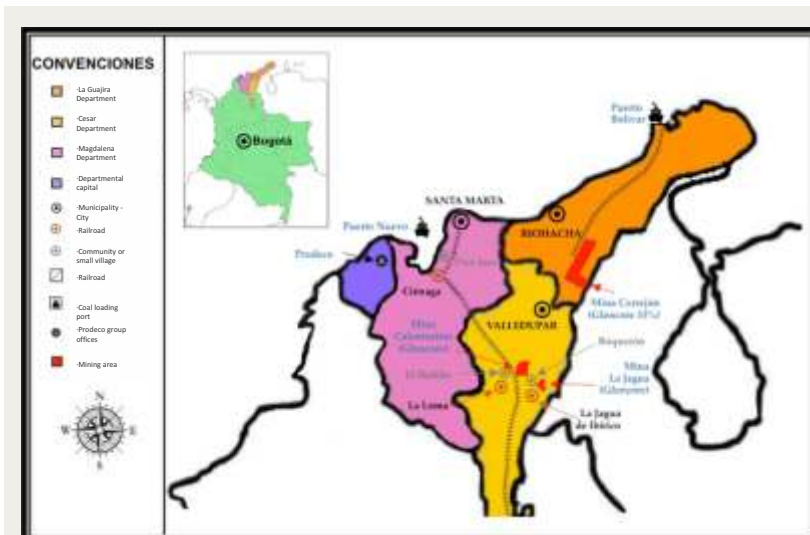




---

*d. Chapter 3: Colombia*





**Calenturitas and La Jagua mines**

**Mining contract:** Calenturitas until 2035, La Jagua until 2027

**Extracted minerals:** thermal and metallurgical coal

**Project stage:** production

**Occupied hectares:** 6,677 calenturitas, 2,847 la jagua

**Tons extracted annually:** 28.7 tm up to 2015

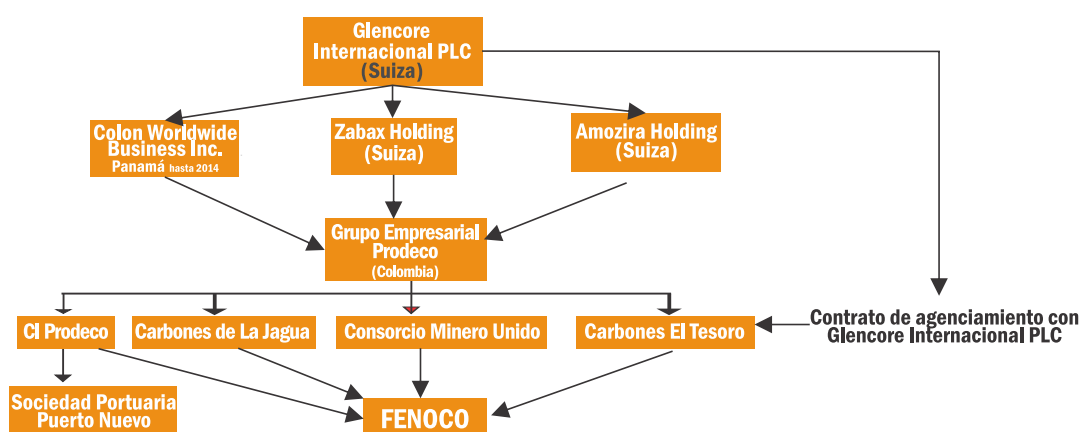
**Obtained income:** usd \$1.4 billion up to 2014

**Affected by resettlement:** 900 families (3,500 people)

3 Coal mines: Calenturitas, La Jagua, El Cerrejón. - Railroad tracks that cross the departments of Cesar and Magdalena: Fenoco S.A. - 3 Coal ports: Puerto Zúñiga, Puerto Nuevo, and Puerto Bolívar.

## 1. Corporate aspects

The Prodeco Business Group has carried out coal mining in Colombia since the 1996 acquisition of C.I. Prodeco S.A., and later the acquisition, between 2005 and 2007, of the coal mine companies Carbones de La Jagua - CDJ, Carbones El Tesoro - CET, Consorcio Minero Unido - CMU. Glencore also has a 39.76% participation in the company Fenoco S.A., which transports coal by railroad to the Santa Marta port, and is operated by another one of its subsidiaries La Sociedad Portuaria Puerto Nuevo S.A. The company still has the title for Puerto Zuñiga, which has been in the closure stage since 2013. Glencore also owns 33% of the stock for the continent's largest coal mine, El Cerrejón, which produces over 30 million tons of coal per year, however, it is not formally part of its business group. Today, Glencore's operations have an impact in the departments of Cesar, Magdalena, and La Guajira in northern Colombia.



Graphic No. 12. Glencore Corporate structure in Colombia in 2013.

Source: Comptroller General's Office. Informe de actuación especial PIN Cesar. November of 2013

Carbones del Cerrejón is a company that belongs in three equal parts to BHP Billiton (Australia), Anglo American (South Africa) and Glencore PLC (Switzerland). Cerrejón coal supplies the electricity generation sector, mainly in the Atlantic Ocean market, in North America, Europe and Latin America, with smaller shares in the Pacific. See: [www.cerrejon.com](http://www.cerrejon.com)

#### **2012 usd \$226,000 sanction from the superintendency of corporations**

It wasn't until 2011 that the company Dalima Holding S.A.S. – at that time the business group's parent company – for the first time declared to the Colombian state that it had direct and complete control of the companies C.I. Prodeco S.A., CDJ, CET, CMU, Fenoco S.A., and the Sociedad Portuaria Puerto Nuevo S.A. This registry is obligatory, the delay was significant and the lack of consolidation, generated an impact on royalties and tax payments during those years. This declaration is based on a need to know which of the group's businesses are responsible for fiscal, customs, and contractual issues.

#### **Joint venture con anglo gold ashanti**

Glencore holds around 60 mining titles to extract gold in the departments of Chocó, Antioquia, and Risaralda: more than 167,000 hectares in concessions, in a zone characterized by high levels of environmental conflict and significant wealth in biodiversity. These titles overlap with environmentally protected areas, indigenous reservations, Afro-Colombian community councils, and sacred sites. Glencore controls these operations through four subsidiaries of its Peruvian company Los Quenuales.

## **a. Glencore's fragmented contracts and payments in Cesar**

*Glencore is the only company in the department of Cesar with more than one concession contract to operate a single reserve. Thus, with five different concession contracts, it operates the La Jagua and Calenturitas coal mines. Each has a specific formula to calculate royalties and economic compensations, which have never been unified. The company has not carried out the integration, and the Colombian state has not expressly required it. Glencore calculates the payment of these amounts individually and does not take into account its global production, which in 2010 surpassed ten million tons and over 19 million in 2014. In addition, Glencore was fined USD \$20 million for irregularities in the signing of addendum No. 8 that recalculated the royalties payments for contract 044-89 of the Calenturitas mine.*

The companies that are part of the La Jagua Joint Operation do not individually produce more than three million tons and for that reason only pay 5% in royalties. Only C.I. Prodeco, with production of over seven million tons has paid the corresponding 10%. The same

shareholders and people hold directive positions in both the La Jagua operation and Glencore's three companies. According to the Contraloría (Comptroller's Office), just in 2010 this fragmented payment method generated over USD\$ 20 million in lost royalties. This is

considered an abuse of the commercial subordination concept at the expense of royalties. Today, almost ten years later, the integration of mining contracts and tons produced by the La Jagua and Calenturitas mines has not occurred and the fragmentation continues.

#### **Addendum No. 8 to contract 044/89= USD \$20 million sanction**

On March 30th, 2012 INGEOMINAS - today Servicio Geológico Minero (Geological Mining Services) presented a contract action against Glencore, that is still open. It looks to invalidate Addendum N° 8 made in Contract No. 044/89 and sentence the CI Prodeco company to reimburse the millions that the Colombian state has lost. By December 2011, USD \$99,041,000 in royalties had not been received by the government.

In October 2015, after several years of investigations on the fiscal nature of Addendum No. 8, the Comptroller General 's Office of the Republic ruled that several ex-government employees and Glencore pay a fine of COP \$62 billion equivalent to USD \$20 million. Citing changes in market coal prices, without justification, the company renegotiated with the Colombian state the amount to be paid for mining royalties, causing asset damages. The sanction looks to indemnify the regions affected by a reduction in royalties payments.

#### **Demand before ICSID**

On March 16th, 2016 Glencore presented an arbitration claim against Colombia using the Investments Reciprocal Protection and Promotion Agreements signed with Switzerland on May 17th, 2006. The company turned to the International Centre for Settlement of Investment Disputes - ICSID so that the nation would repay the USD \$20 million sanction imposed by the Comptroller's Office to the company for the asset damages that it caused.

Glencore does not offer any explanations about its operations' contractual fragmentation and the damages caused to the nation's assets. It does not report on the fiscal

investigations, mining audits, and lawsuits from the Colombian State. The company states that it pays all of its taxes, in spite of evidence and sanctions to the contrary. C.I.

Prodeco argues that the addendum was established to guarantee the economic viability of the Calenturitas mine expansion.

## b. The minimal impact of Glencore's economic contribution in Colombia

The financial statements for Glencore's operations are documents that are difficult to read and understand, not only because they have not been consolidated and unified from the head of the business group, but also because the performance of reported numbers is erratic and contrary. This makes it very difficult to

know what the real numbers are for royalties and tax payments from the Prodeco Group companies. Glencore does not mention details on its fiscal contributions in its sustainability reports; it only presents numbers and says it pays without artificially distorting its payments. The company continues waiting for certain

conversations to take place to finally unify its combined production for the La Jagua and Calenturitas mines. Glencore's contributions in the areas affected by its operations are minimal compared with its income and have had a very small impact on the development and well-being of the communities.

YEAR	INCOME	ROYALTIES AND TAXES	% VS INCOME	COMMUNITY INVESTMENT	% VS INCOME
2010	956.400.000	89.500.000	9%	7.200.000	1%
2011	1.355.000.000	114.800.000	8%	11.900.000	1%
2014	1.400.000.000	314.700.000	22%	995.779	0%
2015	1.100.000.000	259.600.000	24%	1.046.164	0%

Table No. 1 Tax payments and community investment in comparison to operational revenue

YEAR	TOTAL COLLECTED FOR PRODECO GROUP ROYALTIES/YEAR (COP)
2010	\$149.183.421.752,00
2011	\$185.247.261.183,00
2012	\$283.145.721.484,67
2013	\$308.098.685.401,39
2014	\$337.436.090.636,02
2015	\$299.252.529.749,19
2016	\$321.176.175.858,37
2017	\$46.500.355.165,63

Table No. 2. Consolidated royalties payments for C.I. Prodeco, CMU, CET, and CDJ 2010 - 2017

### *Numbers (2002 to 2008) Comptroller's Office*

1. The royalties paid by Glencore were on average 6% of its global operations.
2. An average payment of only 0.9% in income taxes, calculated in relation to operational revenue.
3. Payment of only 6.2% in royalties, calculated in relation to operational revenue.

### *Contradictory numbers*

In its national report the Prodeco Group states that in 2015 it paid USD \$259.6 million whereas Glencore Switzerland reported USD \$136.8 million (only 12% on revenues) in its Payment to Governments Report. It is not credible that these companies have paid 24% of their operational income in royalties and taxes to Colombia. Numbers from the same parent company contradict this, also calling into question the numbers presented in 2014. According to the National Mining Agency, in 2015 Glencore paid USD \$101 million in royalties, which contradicts the numbers presented by the company for that year.

### *Derisory contributions to the Nation*

The royalties and compensation payments made by Glencore to the nation is derisory in comparison with its operational revenue, which signifies a major financial imbalance for the nation. There is an almost indiscernible impact from the amount of Glencore's mining revenue that stays in country in relation to Colombia's human development index. In spite of over two decades of coal operations in the municipalities of central Cesar, the populations' precarious social conditions are common throughout the municipalities where the activity is carried out. The municipalities in Cesar and La Guajira, where opencast coal operations are concentrated, present the highest indicators for unsatisfied basic needs (UBN) and the Multidimensional Poverty Index (MPI) measured by DANE and the Departamento Nacional de Planeación (National Planning Department). The municipalities of La Jagua and El Paso, had a UBN index that moved from 64% in 1993 to 75% in 2005. In recent years, poverty in Cesar and La Guajira has remained much higher than Colombia's national average. Community investments are extremely low and do not even reach 2% in the last six years reported by the company.

### *Inconsistencies and irregularities*

The Comptroller's Office found serious inconsistencies in the accounting and financial information provided by Glencore for the 2010 period. Glencore was involved in 12 irregularities, all of which were related to royalties withholdings and self-assessment, settlements, and compensation discounts, as well as other critical aspects. The Superintendency of Corporations, believes that Glencore presented irregular financial reports from the Dalima Holding S.A. parent office, which, due to the Xstrata purchase, presented a USD \$700 million debt, significantly higher than its sales for that period. In agreement with the DIAN Director, this operation also implied the concealment of a complex maneuver of repurchases, sales, and debts that Glencore incurred with itself and for the nation signified the risk of losing close to USD \$1.5 billion; that is to say, Glencore's tax payments during the next fifteen years.



## *2. Environmental aspects*

*After 20 years of mining operations in the region, the environmental damages left behind by Glencore's coal mines are devastating, cumulative, and represent true environmental liabilities. It will be the national government and communities adjacent to the operation who will have to respond to these liabilities. Meanwhile, Glencore is proud of fulfilling the law and taking measures to mitigate and compensate for environmental impacts. None of the serious impacts or damages caused is seen as an important environmental event by the company.*

The departments of Cesar, La Guajira, and Magdalena have a significant presence of priority areas and ecosystems for the country's natural conservation. Mining activity coexists with forest reserve areas and

ecosystems which are extremely important for the region's biodiversity and balance. According to the National Parks Department, there are priority conservation vegetation covers and forest reserves throughout

central Cesar; while in southern Magdalena, there are priority bodies of water, mangroves, and vegetation covers through which the railroad passes to take the coal to port.

## a. Water consumption, diversion, and contamination from the Prodeco Group and Cerrejón

### *Water use*

-Glencore in Cesar and La Guajira: + 18 million m<sup>3</sup>/year in 2014 = sufficient water for over 130,000 to consume during a year.  
-Cerrejón = + 13 million m<sup>3</sup>/year.  
-Prodeco Group did not mention the total amount of water used, it only reports that it collected 102,459 m<sup>3</sup> of surface and underground water, as well as reusing 4,503,167 m<sup>3</sup>

### *Consequences in Cesar and la Guajira*

In La Guajira and Cesar, given increased water consumption for extraction and the acidity of water used by mining, water availability will be reduced in the future. This will lead to an accelerated desertification rate in the mining areas and its surroundings, critical to climate change in these places. According to the Comptroller's Office "you can't rule out an eventual, medium term, regional collapse" if the projections for increased production and exports continue in these departments from coal companies like Glencore.

Even though they are authorized activities, the diversion, reduction, and contamination of the Calenturitas River and other creeks, streams, and rivers is a serious environmental impact from the Prodeco Group and Cerrejón companies. This is the main physical source of contamination for surface water as it leaves rock uncovered which facilitates erosion and the dispersion of polluting materials. In addition, it alters the composition of hydro-geological resources and contributes to the disappearance of aquatic organisms in the sections where channels are diverted, in turn preventing the mobility of migratory species.

The rehabilitation and decontamination of these water sources will take many years and will be very expensive. In several zones bordering Glencore's operations access to potable water is null.

Glencore's Colombian coal operation in no way reflects the effectiveness of its corporate policies on efficient water use. Several technical reports from ANLA, the Comptroller's Office, Defensoría del Pueblo (Human Rights Ombudsman's Office) and other authorities document the effects of excessive use and contamination of water sources in the areas impacted by coal extraction and

transportation in northern Colombia. Today studies are still required to determine the true magnitude of the hydro-geological degradation caused by large scale coal mining in La Guajira, Magdalena, and Cesar. The overuse of water resources and a dramatic reduction in the reserves of available water, present a very risky scenario of water shortages in the coming years for these departments. The diversion and contamination of rivers and streams destined for human consumption and agricultural and fishing activities cannot be considered minor environmental events.

### *Main impacts and environmental damages*

- A reduction in water table levels and the contamination of surface and underground water with a cumulative regional impact.
- Changes in the composition of hydro-geological resources and a disappearance of aquatic organisms in the sections where channels are diverted. Obstacles for migratory species.
- Health impacts for the communities that consume water.
- Changes in economic dynamics for the communities, with unvalued economic losses for small-scale farmers in the adjacent areas. These rivers were the most important source of potable water, food, watering holes for domestic animals and livestock, irrigation for trees and crops, cultural traditions, and recreation for these populations.



### *The Ranchería River and Bruno Stream's diversion in La Guajira*

As part of the 2010 expansion project, Cerrejón planned to divert the Ranchería River 26.2 km to produce 530 million additional tons of coal. In November 2012, the studies to request the Ranchería River's diversion were postponed due to a fall in coal prices and pressure from communities, nevertheless the company stated that it would continue looking for alternatives to divert the river and expand the concession. The Bruno Stream flows 26 km before ending up in the Ranchería River. In March 2016, ANLA granted an environmental license for the diversion as an alternative for the operational expansion, but in December of that same year the Council of State ratified the Administrative Court of Guajira's ruling that prohibited interventions on the stream until a prior consultation was held with the 27 affected communities. The Bruno Stream is one of the Ranchería River's main tributaries and main source of water for the Albania and Maicao Municipalities.



Currently the Ranchería River's deterioration is evident due to deforestation and mining interventions in the area: more than eight streams have disappeared since the operation started, while others have been diverted. The diversion affects the provision of surface water to the communities and the river's role in supplying and recharging aquifers. In a department with an arid ecosystem like La Guajira, rivers and streams are fundamental to supply underground water. The communities in the Cerrejón's influence area face water supply and quality problems. Both the Ranchería River Waterbasin Use and Management Plan and the Albania Land Use Management Scheme establish that Bruno Stream must be protected as it is one of the Ranchería River's tributaries, located in a restoration and conservation area for the preservation and management of water resources and an important source for the municipality, explicitly prohibiting any productive or extractive activity in the zone.

On December 11th, 2015 the IACHR requested that the Colombian government adopt precautionary measures in favor of the children and adolescents of several indigenous Wayúu communities in La Guajira. The Wayúu people are settled on 15,000 km<sup>2</sup> of the department. La Guajira has registered the highest levels of global undernourishment, occupying first place in Colombia. The petitioners argued that the lives and personal integrity of this People are at risk due to a lack of access to potable water and the state of undernourishment that affects community members, in particular, children. The Ranchería River watershed is a region undergoing desertification and is where the Cerrejón opencast coal mine operation is being implemented.

### *Collective Story to rebuild the memories of the Don Jaca community, Colombia*

"The installation of Puerto Prodeco (Glencore), is unforgettable, because that is when all of our communities' dreams and hopes started to fall apart, farmers and those dedicated to fishing began to move to other ports, the harvests were not the same, fish became scarce, people lost interest in going out to throw their nets, because they came back empty handed, or with destroyed fishing equipment. They started creating enemies in the area where we used to fish, because if we got too close to the ships and large fishing boats, they wouldn't let us by, we didn't have other options besides going back home."

"Since that moment, our way of life began to change, the companies that came offered employment indirectly to the fishermen, the idea was supposedly to soften the damages, but it just made our situation worse, there are indemnifications still pending." "The massive worker layoffs since the Prodeco port closed, destroyed everything good that we had, fishing and agriculture, and in its stead, left behind a population that is unemployed, destroyed, and without access to fishing. The bad part about the arrival of Prodeco and the coal port is the dust it generates, if you run your hand over any plant, and since the breeze is almost always north to south, although when there is a gale it also blows south to north, but most of the time the breeze carries the dust to our crops and houses..."

The populations adjacent to Puerto Nuevo, in the department of Magdalena, have been seriously affected by a reduction in fishing, agriculture, and the unbearable presence of coal dust. The noise produced by the port's industrial activities reduce the availability of fish for the communities and the constant movement of ships limits access to fishing areas that were traditionally used for their daily sustenance..



## b. Airborne pollutants from coal dust

Glencore's coal mining operations dramatically affect the air quality in their influence area. Coal extraction can produce air contamination agents equal to or more dangerous than coal dust, such as "heavy metals, carbon monoxide, sulfur dioxide, and nitrogen oxides." The areas

where Glencore has its coal mines are considered and classified as "pollution areas" (áreas fuente de contaminación) by environmental authorities due to the large number of fixed and movable pollutants in these mining areas. Today, Glencore continues its extractive activities and claims to be within the

allowed limits while the communities become ill. C.I. Prodeco repeats that the pollution is not its responsibility but that of the state as the entity that has the constitutional responsibility to care for the population's health, as it is responsible for granting environmental licenses.

### Resettlements due to pollution

In 2010, due to high levels of air pollution in central Cesar the Ministry of Environment and Territorial Development demanded that C.I. Prodeco and two other coal companies carry out an involuntary resettlement of three communities (3,500 people). Today, six and a half years after ordering the resettlements, and after four and a half years not fulfilling the administrative order, the communities are still exposed to pollution from Glencore and the two other mining companies.

### An error granting the environmental license

The 2013 resettlement audit report from the Comptroller General's Office, established that the Ministry of Environment operated erroneously by granting environmental licenses and management plans to Glencore without previously requiring resettlement procedures for these communities. This must be a prior condition for mining activities to begin or to continue in this part of Cesar, due to the danger and impacts that mining represents for community health.

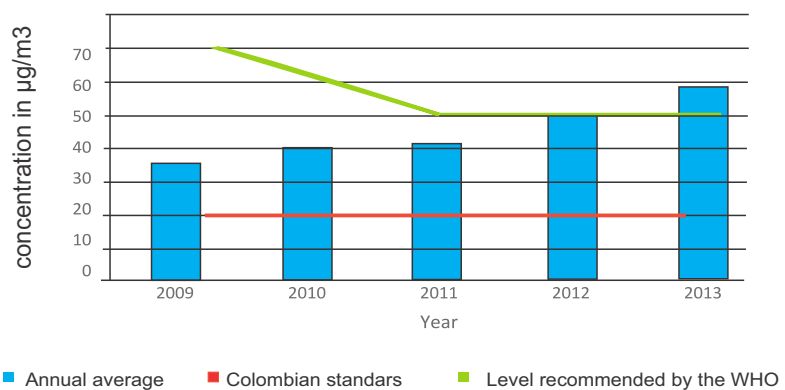
### Polluting particles

All types of coal particles (TSP, PM10, PM2.5, and PM.01) have potentially adverse health effects if inhaled, which explains why environmental laws include limits that are not to be exceeded thereby assuring quality air to breathe.

### Non-fulfillment of studies to be carried out

C.I. Prodeco and the Operación Conjunta de la Jagua CDJ, CET, and CMU must conduct epidemiological studies according to ANLA Resolution No. 2375 of 2008 and Resolution No. 464 of 2009, respectively, requiring both companies to develop management plans. Companies must pay for these studies and provide treatment to the affected communities. This obligation has not been fulfilled by either mining company as was shown in Technical Concept No. 642 of December 2015, from the Autoridad Nacional de Licencias Ambientales - ANLA.

Average annual concentration Pm10 ih El Hatillo between 2009 and 2013



Graphic No. 13. Average Annual Concentration in El Hatillo of PM10 2009 - 2013

### Insufficient and dangerous permitted limits

According to the Comptroller's Office and the Constitutional Court, the allowed environmental contamination limits consecrated in laws and administrative acts are insufficient to guarantee the right to life, health, and a healthy environment for communities near the mining operations. These limits are far below those allowed by the WHO and PM 2.5 measurements are not carried out by the authorities. Consequently, the present conditions under which the environmental authorities allow opencast coal operations to take place, are very dangerous and violate communities' fundamental rights in the Glencore coal mines' influence area.

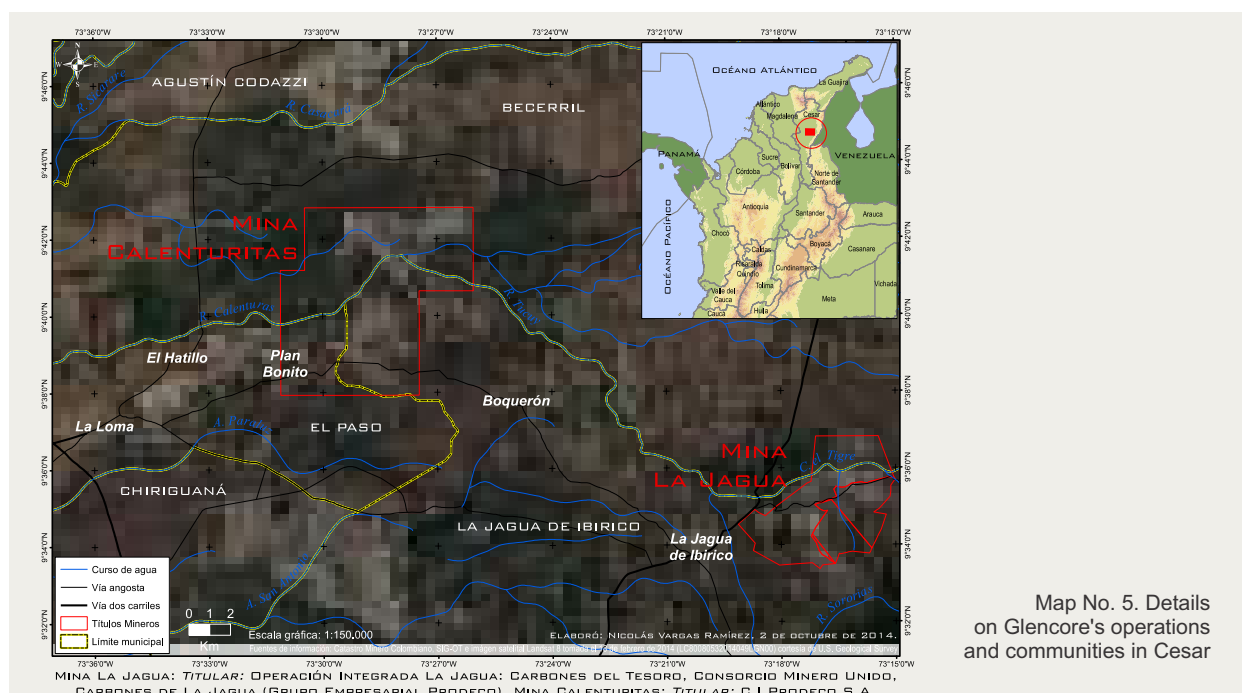
In January 2017, IDEAM revealed that central Cesar, was one of the three most polluted areas in Colombia during the 2011-2015 period, and that pollutant emissions became substantially worse compared to 2007-2010.

## c. Resettlements due to pollution: displacements due to development

In 2010 the Ministerio de Ambiente y Desarrollo Territorial (Ministry of Environment and Territorial Development), ordered C.I. Prodeco, Drummond, and Colombian Natural Resources, by means of Resolutions No. 0970 and 1525, to resettle the Plan Bonito, Boquerón, and El Hatillo communities due to high levels of air pollution from the

mines' coal dust. The delays, non-fulfillment, and slowdowns from the group of companies responsible for the resettlements have been denounced for years by communities and social organizations present in the region. Today, more than ever, urgent resettlement measures are needed, in particular for the most vulnerable groups and to avoid serious damages to the

health and life of the communities. Even though the conditions of environmental deterioration that led to implementing resettlement measures continues and is gradually getting worse, the projection for coal mining in this area of the country is guaranteed to continue for at least 20 more years.



### *Sanctions procedures due to delays in the processes*

The delay in fulfilling the obligations of Resolutions No. 0970 and 1525 have worsened communities' economic and psycho-social conditions and today they also represent a security risk for the inhabitants. ANLA has open environmental sanctions against C.I. Prodeco and the other companies due to the delays and noncompliance in the resettlement processes for the three communities. A prompt transfer is not foreseen.

### *Glencore sued the resolutions*

In 2011, C.I. Prodeco filed a lawsuit with the Colombian administrative jurisdiction, based on the resolutions that order resettlements. Glencore looks to have the resolutions declared null, for the Colombian state to reimburse the costs to date for the resettlements, and for the state to be responsible for community resettlements, in addition to paying a huge indemnification for damages, which at the time of filing was estimated, by the company, at USD \$3.6 million.

## *i. The El Hatillo community*

After a slow six year resettlement process, full of non-fulfillment and delays, as of October 2016, only a legal framework and population diagnosis was endorsed by the parties. After filing a tutela (writ

of protection of constitutional rights) against the mining companies and Ministry of Environment, on November 30th, 2016, the PAR was finally given to the community at a time when the senior citizens

and the general population of El Hatillo was desperate given difficult health conditions, the poor state of their houses, and in general the precarious nature, impoverishment, and insecurity in the community.

### *Security risk for El Hatillo leaders*

The delay in fulfilling the obligations of Resolutions No. 0970 and 1525, the presence of illegal armed actors in the region, and generalized misinformation about the process, all represent serious security risks for the residents of El Hatillo. The risk and insecurity is particularly high for community leaders who are participating in negotiations with the mining companies. They have been victims of accusations, surveillance, and threats, pressuring them to conclude the process and sign the PAR.

There are several Human Rights Ombudsman risk reports that establish a high risk level for the El Hatillo community. On January 7th, 2017, on the road that goes from El Hatillo to the township of La Loma, Aldemar Parra García was assassinated. He was a farmer and social leader of the El Hatillo community and president of the Asociación Apícola del Hatillo - ASOGRACE (Hatillo Beekeepers Association). These security incidents have increased exponentially since the second half of 2016 and coincide with key moments in the negotiation, and the presence of illegal armed actors in the area.

Glencore and the other companies have indicated on several occasions that resettlement delays occur because they are consulted with the communities and that these communities have internal divisions that create delays in the negotiation process. These statements, as well as rumors about large sums of money in compensation, contribute to misinformation in a context of high social conflicts and the presence of illegal armed actors, increasing the risk for leaders who are being blamed for delays in the resettlement process.

## ii. The Boquerón community

The community's resettlement process due to pollution should have finished in 2012 but it has not advanced adequately due to the companies' efforts to slow it down, demonstrating a lack of real will. This has been denounced since 2014 with the Human Rights Ombudsman's

Office, ANLA, Office of the United Nations High Commissioner, and other entities with a role as guarantor for the process. In Glencore's updates to Swiss citizens, talking about delays in the resettlement process for the Boquerón community, the company

attributes the processes delays to the arrival of new people in the community and to community divisions because the communities' method of designating representatives is not clear.

### *Glencore delegitimizes the community*

Glencore justifies the delays by delegitimizing the community affected by involuntary resettlement, caused by the company's mining operations and contamination. It should be clarified that in regards to the irregular population movements, the Boquerón community previously called attention to the situation and denunciations were made, in a timely manner, with the authorities. This has generated adverse consequences like an increase in the population's vulnerability, conflicts, insecurity, desperation, and uncertainty. Neither Glencore nor the Colombian state adopted or demanded measures be implemented to prevent the situation from becoming a conflict.

### *Community representation*

The Boquerón community has always chosen its representatives according to legitimate and inclusive mechanisms in accordance with its right to autonomy, both in 2012 when the Conciliation Committee was created (an election that was characterized as democratic, participatory and inclusive, ratified July 19th, 2014, with participation from the Regional Human Rights Ombudsman), and the most recent election on July 31st, 2016 which gave representation to all community residents and sectors that had arrived in the last months.

### *Resettlement*

Glencore has not been honest or transparent with the Boquerón community. Through its subsidiary C.I. Prodeco and together with the other companies, it carried out air quality monitoring in parallel to the official monitoring, which has not been shared and which the community does not consider legitimate. Independent monitoring seeks to demonstrate that the Boquerón resettlement is not required since the air quality, according to Glencore, is within allowed national standards. As we saw, these levels are insufficient to protect the communities from contamination and have been declared problematic by the





### 3. Open door policy: a year of updates without dialogue about the impacts and complaints

Since the Shadow Report on the Sustainability of Glencore's Operations in Colombia was launched, Glencore has visited Colombia, participated in the launch of the report in Europe, and held a meeting in Zug where its CEO showed a willingness to continue the dialogue. Without a doubt, these preliminary contacts and updates, like the company's sustainability reports give an image of openness to dialogue, nevertheless, a real will is yet to be seen to hold documented discussions with civil society about the health impacts facing the communities affected by its operations, as to date they have been excluded.

After these tours and preliminary contacts, for over a year Glencore convened a series of meetings using the updates

format, which are presentations lasting approximately two hours, in which the company spends most of its time

presenting the panorama of its operations from a corporate perspective. Four main aspects should be highlighted:

#### Zero space for dialogue in Colombia

Between 2016 and 2017 it was not possible to meet, dialogue, or have a discussion in Colombia with the company's national directors, after launching the Shadow Report on the Sustainability of Glencore's Operations in Colombia in spite of the insistence from civil society organizations.

#### Few real advances

To date the company has not shown real advances on the most critical points denounced in the Shadow Report. The execution and conclusion of resettlements in Cesar have been delayed for five and seven years in the resettlement process. A definitive resettlement plan for the El Hatillo and Boquerón communities has not been agreed upon and the land to be used for the resettlement has yet to be established.

#### Slow dialogue

In May 2016 civil society organizations proposed to Glencore the initiation of a structured multi-actor dialogue with the aim of discussing and having a dialogue about the impacts documented to that point. Five months after proposing a structured multi-actor dialogue, Glencore responded showing interest in engaging in a dialogue, nevertheless it does not dialogue on all of the proposed subjects.

#### Exclusion of impacts

Glencore has said that it will not dialogue about issues that are outside the control of the Prodeco Group's management: legal subjects prior to the operation's acquisition by Glencore, issues that are under legal or administrative investigations, or issues where the courts have ruled. In this way, the company is closing a space for real dialogue about its operation's economic and environmental impacts in Cesar.

### 4. Legal and administrative actions

In addition to the cases mentioned on the lack of a unified business group and the signature of Addendum No. 8 there are other specific cases that we want to highlight, legal actions against Glencore from

the magnitude of the social, the Colombian state and communities. These proceedings show that their operations are far from being sustainable and that their reports do not show economic, environmental, and

labor conflicts that their operations cause. None of these cases are mentioned by the company in its sustainability reports.

*Nineteen open environmental sanctions cases*

There are currently 19 sanctions cases against Glencore subsidiaries before the Autoridad Nacional de Licencias Ambientales - ANLA (National Environmental Licensing Authority) for environmental incidents which took place at the operations of the Calenturitas and La Jagua mines, Fenoco S.A. in the municipalities through which the train carrying its coal passes, and the Nuevo S.A. Port Corporation in Ciénaga, Magdalena. The two most recent investigations (2016) were opened against Glencore for non-compliance with the Calenturitas mine's PMA due to a lack of control for air emissions during the unloading of waste, irregular use of water resources and the alleged dumping of waste water in unauthorized areas. According to the company these incidents are not important in relation to the different interpretations of the PMA and many of the alleged infractions that are under official investigation, have a "defense and valid foundations upon which to appeal the imposed sanctions or punishments".

2007 to 2010 =  
10  
environmental sanctions  
represented  
in USD \$1.5  
million

- Unauthorized deforestation
- Illicit interventions on water resources
- Dumping of toxic waste in the Calenturitas River
- Unlawful diversion of rivers
- Unauthorized drilling in the ground and subsoil
- Use of additional mine dumps that are not permitted
- Delays in the resettlement processes
- Coal spill due to train derailments
- Water collection in unauthorized areas

*Prior consultation in the "Media Luna" community and Cerrejón's pollution*

The Constitutional Court ordered:

1. To protect the Media Luna Dos community's fundamental right to prior consultation, which is affected by Cerrejón's extractive operations and the mine port.
2. To implement an immediate mitigation plan for environmental, social, and cultural damages in the area, to do so must compensate for damages caused to the environment and the rights of communities affected by the coal operation.
3. To review the mine's entire Environmental Management Plan (PMA) and "accordingly, the validity or not of the environmental license for Cerrejón's coal operation" due to high pollution levels.



### *Tutela for a resettlement that is quick and free of pollution*

In October 2016, the El Hatillo community in Cesar presented a tutela against the mining companies C.I. Prodeco, Drummond LTD, and Natural Colombian Resources - CNR to defend its fundamental rights to life, health, and a healthy environment. The community requested that the coal extraction activities of Glencore and the other companies stop until the PAR construction process for resettlement is finished and the community transfer takes place. In addition, it demanded that there are immediate improvements to the houses of senior citizens, infrastructure, and productive projects in alignment with the community's vocation, and to finance a genotoxicity study, especially for the most vulnerable populations. The case is currently in the second instance of appeals before the Council of State and a ruling is expected soon.

### *Infractions to the colombian labor code*

By 2014 the Prodeco Group's companies had 67 labor grievances registered against them by their workers, 46 of which are still under investigation. Among the most serious accusations against Glencore's companies, we found:

- Six investigations for illegal retention of wages
- Fourteen violations of collective bargaining agreements
- Nine threats to freedom of association
- Nine cases of workplace harassment, and
- Fourteen breaches and violations related to the payment of social security, disability, and occupational health benefits.

The Prodeco Group's companies have had to pay around COP \$1.4 billion (USD \$490,000), in fines for violating labor laws, without including their contractor companies' fines.

### *The Reficar case and impairment of free competition at Puerto Nuevo*

REFICAR: Glencore is connected to serious investigations by the Comptroller's Office for the millions lost in the Cartagena Refinery's modernization, which caused overrun costs of USD \$4 billion for the nation. Glencore has been accused of participating at the beginning of a long chain of contracts, sales, and operations that generated this gigantic overrun cost, much of which, according to the Comptroller's Office, constituted silent fraud and private corruption.

PUERTO NUEVO: In February 2016 the Superintendency of Industry and Commerce formulated charges against Puerto Nuevo and C.I. Prodeco for practicing an open monopoly of the Santa Marta coal port, preventing other companies from exporting coal there.

### *Land restitution in the Alto Andageda indigenous reservation*

September 23rd, 2014, the company Exploraciones Chocó S.A., a Glencore subsidiary in Colombia, was sentenced by the Superior Court of Antioquia to suspend the GQE - 09C, GQE - 09D, and GEQ - 09K mining titles, as they violated the right to prior consultation for Alto Andágueda Embera Katío Indigenous Reservation, in Chocó department. Today, these titles are suspended as prior consultation has not been conducted in the reservation. Meanwhile Glencore continues under investigation from Colombian authorities in charge of land restitution for having obtained multiple mining contracts in indigenous and Afro-Colombian communities' territories without observing prior consultation procedures and in a context of generalized violence. This occurred in a context of armed conflict, forced displacement, murders, and the confinement of indigenous communities between 1999 and 2008.



## 5. Petitions and recommendations

### TO GLENCCORE - PRODECO GROUP

1. Jointly and publicly present consolidated balance sheets and financial statements for the Prodeco Business Group, specifying the calculations made to pay royalties and compensations, and the numbers for tax discounts. In turn, make integrated royalties payments for the La Jagua mine, so as to fulfill the 10% royalties payment based on the coal production value.
2. Immediately fulfill Resolution No. 0970 and 1525 of 2010, resettling the populations of El Hatillo and Boquerón and prevent and avoid new involuntary resettlements due to environmental contamination or an expansion of mining operations in Colombia.
3. Acknowledge the impacts and affects on human health caused by environmental pollution coming from opencast coal mining in central Cesar, as well as recognizing the psychosocial impacts created for communities affected during 20 years of mining operations. This must also guarantee effective compensation and reparation measures that guarantee the rights of these populations.
4. Contract an epidemiological and toxicology study that can be used to establish the health of the communities surrounding the operations and thus be able to determine suitable and specialized attention measures within its mines Planes de Manejo Ambiental- PMA (Environmental Management Plans).
5. Carry out a hydro-geological study that is audited and participatory to determine the cumulative impacts and environmental damages produced by the contamination and diversion of water sources in the La Jagua and Calenturitas mines.
6. Acknowledge social, economic, and cultural impacts for communities affected by Puerto Zúñiga's closure and dismantling, and establish effective compensation and reparation measures for the Don Jaca community and unionized workers affected by mass layoffs.
7. Promote and encourage professional training in communities affected by the operations with scholarships in areas such as engineering, administration, medicine, biology, geology, economics, and mathematics; as well as other professions related to social sciences and communications.
8. Publish indicators on improvements in quality of life, productive capacity, and income generation for the populations involved in involuntary resettlements.

### TO ENVIRONMENTAL AUTHORITIES (MINISTRIES, ANLA, AND AUTONOMOUS ENVIRONMENTAL CORPORATIONS)

1. Improve and increase institutional capacities (national and regional) to carry out control and follow-up functions, comprehensively evaluate Glencore's fulfillment of environmental obligations for the titles, environmental management plans, and environmental licenses in the Magdalena, Cesar, and La Guajira departments.
2. Demand Glencore's fulfillment of two delayed obligations: 1) Carry out an epidemiological study in the Cesar mining zone and 2) design a hydro-geological study in the Cesar mining zone. In turn, supervise and audit these studies, together with other state entities and international guarantors, ensuring that they include guarantees to respect the fundamental rights of

affected communities.

3. Evaluate the Environmental Management Plans for the Calenturitas and La Jagua mines, analyzing the social, economic, and environmental viability of the plans, and responding to the consequences generated in the affected communities.
4. Get to the bottom of the environmental sanctions cases against Glencore subsidiaries, including non-fulfillment in the resettlement processes ordered by Resolutions No. 0970 and 1525 of 2010.
5. Suspend the closure and dismantling phase for Puerto Zúñiga, until the communities affected by the operations and closure of the port are listened to and allowed participation, especially the Don Jaca community. Make sure their demands and needs are taken into account in the Closure Plan, in the interest of achieving adequate and comprehensive redress that includes non-repetition measures.
6. Demand management reports from Glencore that reflect the benefits generated by its environmental management plan for the El Hatillo, Plan Bonito, and Boquerón communities in relation to improving their quality of life, skills in sustainable agriculture, and income for the population.
7. Carry out a social-environmental impact study, paid for by Glencore and the other companies, that determines the material and non-material damages and impacts generated for each member of the El Hatillo, Plan Bonito, and Boquerón communities due to involuntary resettlement.
8. Suspend Glencore's environmental licenses until the PAR is signed and implemented for the El Hatillo and Boquerón communities, ensuring that it guarantees these communities' rights and effective participation. This measure must remain until environmental management measures are implemented which are stricter than the current plans to control air pollution in the La Loma and La Jagua de Ibirico townships, the most numerous populations affected by mining in Cesar.
9. Modify the air quality standards required of companies in the mining industry, including Glencore, adopting the air quality values established by the WHO, in compliance with Constitutional Court Ruling T-154 of 2013. In turn, undertake actions to improve the current air quality monitoring system, including all polluting agents and sizes of particulate matter (+PM 2.5), in the El Paso and La Jagua de Ibirico municipalities.
10. Carry out a Strategic Environmental Assessment in the Cesar and La Guajira mining corridor that includes an integrated analysis of the synergic and cumulative impacts of all mining projects in the central Cesar and Cerrejón areas, including the Glencore titles. This must include a perspective that incorporates environmental criteria in the policies, plans, and programs of the different sectors for the conservation of biodiversity and strategic ecosystems in both departments.

### TO THE MINING, ECONOMIC, FISCAL, AND CUSTOMS AUTHORITIES (MINISTRY OF MINES, ANM, COMPTROLLER'S OFFICE, DIAN)

1. Begin an audit process for Glencore for elusive behavior in the payment of royalties due to the concept of fragmented payments to determine the cost of these maneuvers for the

nation's assets. Accordingly, order the Prodeco Group to integrate its mining contract for the La Jagua Operation related to the payment of royalties and compensations.

2. Order Glencore to jointly present consolidated balance sheets and financial statements for all of its group's businesses with consolidated financial reports that are made public in Colombia, specifying how calculations were made for the liquidation of royalties and details on its compensations payments, and the numbers for tax discounts.

3. Suspend current coal operation titles, granted to Glencore in

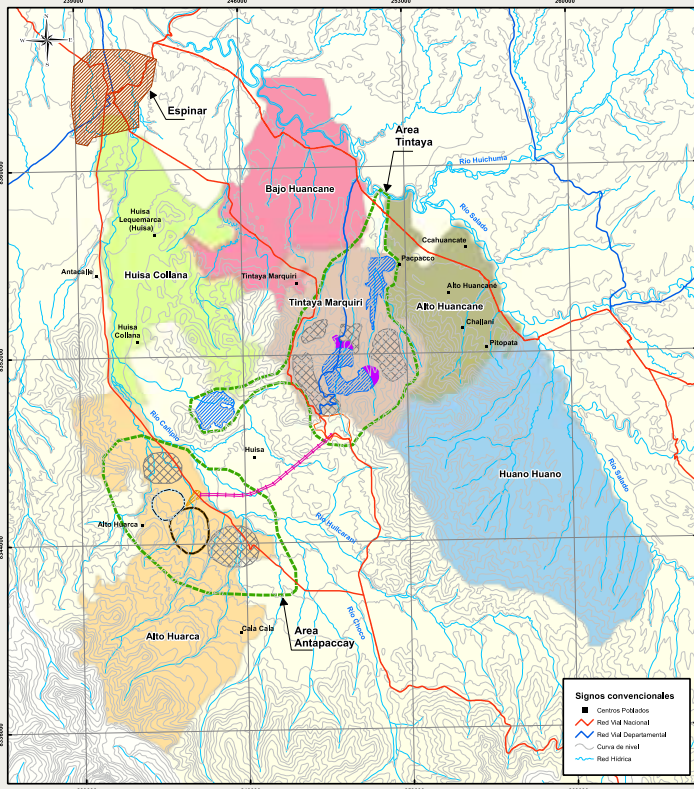
the El Paso and La Jagua de Ibirico municipalities, until there is fulfillment of Resolutions No. 0970 and 1525 of 2010.

4. Facilitate a dialogue with the Colombian Agencia de Defensa Jurídica (Legal Defense Agency) and Ministry of Foreign Affairs to create a joint commission on the international defense of Colombia against Glencore before the International Centre for Settlement of Investment Disputes - ICSID. This space must be carried out with participation from civil society, academics, and research centers that can provide input and strategies for national defense.



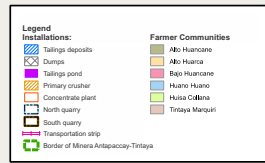


*e. Chapter 4: Peru*



**Antapaccay mine - Tintaya expansion**

**Mining contract:** xstrata since 2006 and glencore since 2013  
**Extracted minerals:** copper, molybdenum, and others  
**Project stage:** production  
**Occupied hectares:** 97,374 hectares (114 mining concessions)  
**Tons extracted annually:** 180,000 of copper and 600,000 troy ounces of gold  
**Obtained earnings- ebit 2015:** us\$287,638,668  
**People direct influenced:** 38,000 peoples  
**Initial development:** State company Tintaya S.A. since 1984.  
**Altitude:** 3.800 and 4,000 m.a.s.l.



**Superimposed map of Miner Tintaya - Antapaccay and Espinar farmer communities**  
 Scale: 1:145,000  
 Projection UTM Z19  
 Source: EIA Antapaccay Mining Project.  
 May 2016



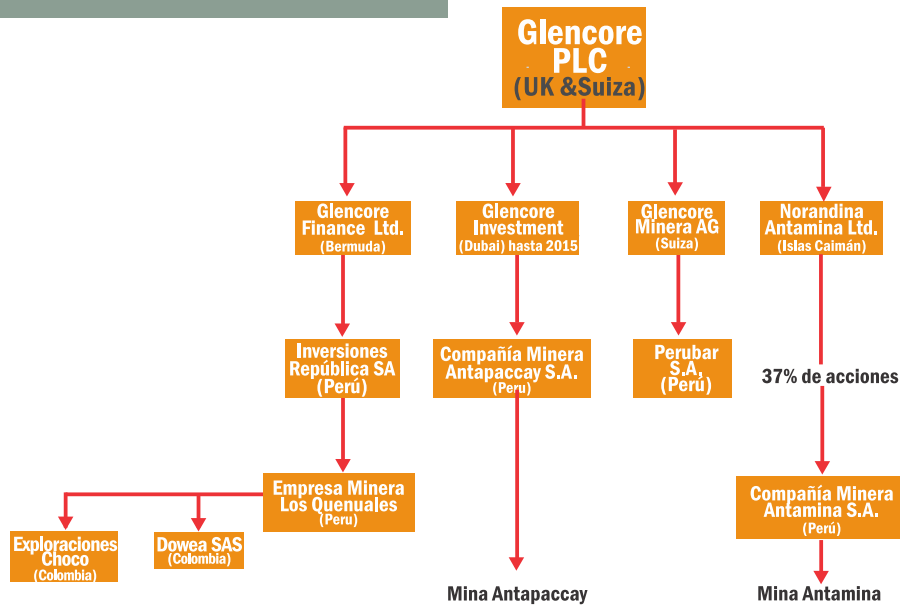
Maps No.6 and 7. Antapaccay Mining Operation

# 1. Corporate aspects

After several commercial sessions Xstrata Cooper acquired control of Tintaya - Antapaccay in 2006, the year when Glencore already had more than 30% of the company's shares. The mine was integrated into Glencore's operations in Peru after the merger of the two multinational giants in 2013. In 2012, after more than three decades of the production of copper and other metals, the Tintaya mine entered an operational closure phase due to the depletion of its reserves in the initial section. Immediately, Glencore started up a new deposit found near Tintaya, giving rise to an even larger mining operation called "Antapaccay - Expansión Tintaya."

5 STUDY OF ENVIRONMENTAL IMPACT, ANTAPACCAY PROJECT -TINTAYA EXPANSION. Executive summary GOLDER ASSOCIATES. January, 2010. p. 13.

- 1.6 million tons of copper and 500,000 ounces of gold by 2015.
- In 2014 Minera Antapaccay contributed 12.19% of the Peruvian national aggregated copper production.
- Glencore's initial investment for the mine expansion was USD \$850 million.



Graphic No. 15. Glencore's business structure in Peru.

2014 Sustainability Report, Official Commerce Folio of Canton Zug, Switzerland; Registry ROC - G Public Companies, Bermuda and Public Registration of the Dubai International Financial Centre, and business structure published on the Glencore Peru website





## *a. Glencore mining contracts in Antapaccay and Antamina*

Glencore has Contratos de Estabilidad Jurídica y Fiscal - CEJ (Legal Stability and Tax Agreements), which were granted by Alberto Fujimori's de facto regime in the 90s and prevents modifications over time in the economic compensations required from the companies.

Because Glencore is within the CEJ's special code it did not pay mining royalties or IEM during the 2005-2011 period, but instead remained in the Voluntary Agreement code meaning it had to pay 3.75% of its net profits (after taxes) for five years. These contributions look to

compensate for royalties not paid because of the CEJ and are a private fund administered by the companies themselves to finance social projects, but based on their private interests and without state mediation.

PROJECT	CONTRACT TERM
Tintaya project (Empresa Minera Especial Tintaya)	1. Since 1994 (addendum 1995) for a 10 year term. 2. Since 2004 for a 15 year term starting from the moment when the investment in the project is accredited.
Tintaya project Antapaccay Expansión	Since 2011 for a 15 year term starting from the moment when the investment is accredited. Contract valid to date.

Tabla No.3. Contratos de Estabilidad Jurídica Tintaya

A study carried out by Grupo Propuesta Ciudadana (GPC-Citizen Proposal Group) estimated that the amount of mining royalties not paid by the companies protected with legal stability contracts in Peru was around USD \$ 140 million for 2006, S/. 460 million, which is why the amount of the voluntary contribution was less than the estimated amount to be paid in mining royalties in most cases.

These contracts include guarantees and measures to promote investment, allowing for the free flow and availability of currencies, and transfer prices with holdings in other countries. The Peruvian state cannot control the real amounts of assets and earnings that are transferred from subsidiaries and affiliates to parent companies like Glencore.

## b. Mining revenue and payments to the Republic of Peru

Glencore did not publish consolidated data and statistical figures, thus an analysis of Glencore's payments to Peru cannot be studied in greater detail. The lack of governmental control is a serious indicator of the obstacles to access

information on mining payments and royalties in Peru. If the company indicates in its sustainability reports that it is transparent, then it should publish its income payments in Peru. There are serious questions about the scope of transparency

obtained from the EITI reports and several mechanisms and processes still need to begin for a more just and transparent taxation in Peru for the mining industry.

*·Antamina and Antapaccay do not make their financial statements public.*

·High levels of regulatory flexibility in Peru do not require consolidated numbers or financial statements to be published. Financial and tax information is protected by banking and tax secrecy.

·The company excludes payments made for joint venture operations, such as the Antamina operation and excludes reporting on operations related to refinement, processing, marketing, setting transfer pricing, and sales, which are conducted through foreign holdings.

·The information from Payments to Governments 2015 is not verifiable with official Peruvian sources.

Informe de Sostenibilidad Antapaccay 2015	Informe De Pagos A Gobiernos 2015
USD \$28.5 en Impuestos USD \$16.9 en Regalías, IEM, GEM	USD \$54 en Renta USD \$26.7 en Regalías
USD \$45.4 TOTAL	USD \$85.6 TOTAL

Table No. 4. Antapaccay Comparative Report/Payment to Governments Report for payments in USD million from Glencore to Peru 2015

Glencore only reports payments for taxes and royalties for the Antapaccay project, which total around USD \$85.6 million for 2015 in royalties and income taxes. As can be seen in Table No. 4 the numbers do not coincide between the company's

public reports. Not even Minera Antapaccay has come to an agreement with the Glencore parent company in Zug, to report unified tax payment and compensation numbers in Peru for the Antapaccay operation. The differences in numbers

presented by the company are USD \$40 million and continue to be numbers that are difficult to verify. Production reports presented by the companies are not controlled due to the lack of an adequate control system in Peru.

### *Tax discounts for "voluntary" social investment*

In its 2015 Sustainability Report Glencore refers to a series of development projects successfully implemented in Espinar under the line items of education CREEs, livestock PLACME and FILASAC, water, sanitation, and others. These projects are implemented with public resources by means of the Obras for Impuestos (Projects for Taxes) modality in which the Peruvian state allows companies to implement development projects whose cost will later be deducted from its taxes. The mentioned

projects are financed through part of the contributions agreed upon through the 2003 Agreement Framework which is a contractual obligation for the company. Its application has been questioned in relation to its effectiveness and a lack of transparency. By means of Obras por Impuestos the companies directly hire other companies that are in charge of implementing public projects, even if they belong to the same business group. The selection of investment projects are not subject to community consultation and prioritization mechanisms. There is a lack measurement, monitoring, and evaluation strategies beyond budgetary execution.

Most of the projects promoted by Glencore, technically are not part of their Corporate Social Responsibility (CSR) investments, nevertheless, Glencore presents them as voluntary contributions within their corporate social responsibility mechanism in sustainability reports. The publicity and accountability mechanisms for the Agreement Framework Agreement are practically nonexistent and Espinar Provincial Municipality does not have documentation related to the agreement's execution. Today, it is not clear how the money contributed by Glencore's 3% is used, who makes decisions on its use and beneficiaries. This has led to complaints of corruption, despotism and a feeling of rejection towards the company's administration. There are no official or independent studies that analyze the program's impact or conditions under which it is executed in relation to participation mechanisms, project selection by the community, and implementation of expenditures. In practice, Glencore is the judge and judged for the social projects that it implements.



## 2. Environmental aspects

*During the 30 years of Tintaya - Antapaccay's mining operation a series of impacts and environmental damages have been generated, which seriously affect the sources of livelihood and health of the surrounding populations. The major imbalance of the ecosystem in the region is due to a water shortage and high contamination levels in the water, air, and soil that have worsened over time with increased copper extraction. Glencore indicates that its mining operations fulfill the environmental standards in accordance with Peruvian environmental laws. Antapaccay denies its operations impacts, but the project's EIA perfectly reflects the seriousness of the environmental damages that have been generated for years by the mining operation.*

### *Affected priority ecosystems*

In the Tintaya - Antapaccay mining project's EIA, the company recognizes the presence of Fragile Ecosystems that will be altered during the mine's operation: establishing that in the area where the project will be based 105 hectares of bogs will be lost. These provide several environmental services, like regulating the water cycle and soil protection. They have large carbon reserves and high productivity, providing large amounts and good quality fresh grass for raising cattle. This means they are an essential ecosystem in the climate change adaptation and mitigation strategies for the Andean regions. Glencore does not specify any compensation plans for the loss of environmental services from these ecosystems during its project's 20 years of operational life. Glencore's actions to mitigate the mining activity's impacts in relation to climate change are still not sufficient.



## a. Water use by the Tintaya- Antapaccay mine

High levels of water use have significantly reduced the availability of this resource for the communities in the influence area, both for human consumption, watering holes for animals, and irrigation of crops. Water is a fundamental resource for Espinar's economy and Glencore's use ends up affecting

availability for the local population. The drastic reduction of surface water in rivers and springs (manantes) has also been worsened by the disappearance, diversion, and reduction of underground springs that have been impacted as a result of the Antapaccay quarry, an increase in demand

for mining, and the pumping of underground water.

Antapaccay's EIA recognizes that these communities use this water to irrigate pasture land, crops, and for domestic use and that it will be affected by the operation.

### Water use

- Collection of 15 million cubic meters of fresh water annually, from points on the Salado River and Antapaccay Quarry.
- Regardless of a stable water collection level, it is surprising to see a shift in recycled water from 2.4 million cubic meters in 2013 to 55 million in 2015.
- Glencore says it will implement a water management system that will have the capacity to recycle 78.2% of the water used by the mine and does not dump into bodies of water near its operations.
- There is no way to verify the numbers presented by the company and there are no official numbers or periodic monitoring of the OEFA in this regard.

### EIA Antapaccay - Glencore

"The Project's operations will potentially impact the availability of water for human and animal consumption and irrigation in the Cañipia River's high valley." "The river and other aquifer sources will be affected by a reduction in water table levels due to draining of the quarry. In addition, the Cañipia River would receive any superficial or underground water discharges from the project."

Minera Antapaccay recognizes that drilling in the quarries will have a negative effect on water provision that will last for years, and will be replaced by pumped water from the quarry. Today there are serious doubts about how the pumping will be done, if the effects in the water flow will be reverted and if this implies water dependency on the mining company once the operation closes. Even if the company foresees dramatic water reduction while operating and says it will implement all the indicated mitigation mechanisms, denunciations from the Espinar community continue today.

A population that previously had natural water sources such as springs and rivers for its subsistence, today uses water pumped and controlled by Glencore. The context of shortages and a disappearance of bodies of water caused by mining will become more serious over time due to the effects of climate change. The

impacts and damages were never consulted with the communities in the area of influence, threatening their right to water and local autonomy. As in the Tintaya project, Antapaccay has reached diverse agreements with the communities and organizations about the replacement of water for populations in the mines

direct influence area. These have not been fulfilled and even more, they have been denied by Minera Antapaccay, as was documented by the municipal government of Espinar Province. Glencore must fulfill the commitments made with the local residents and carry out studies to guarantee quality water for human consumption.

*Agreement 01: the irrigation of cañipia river microbasin*

Xstrata Tintaya S.A. promises to guarantee the amount and quality of water in five irrigation intakes: Quetara I and II, Urbaya, Miracles, Patito Ciego, Cañón de Pururo, and not in only three as was initially contemplated in the Tintaya Expansion Environmental Impact Study.

*Agreement 02: amount of water*

In relation to the amount of water in each of the five irrigation channels, the parties decide to counter the capacities established in the EIA and volumes provided to users by the ALA (previously ATDR), in agreement with the current resolutions, in order to determine the amount of water (lt/sec) to replace, under the assumption that IMPACT exists for water volume as a result of the Antapaccay Expansión Tintaya project operations

*Agreement 03: alternative for water provision to the five channels*

Regarding the most suitable alternative for the supply of five irrigation channels, based on water pumped from underground sources as contemplated in the EIA, the parties agreed that Xstrata Tintaya should begin looking for other alternatives (social, environmental, and economically viable), in order to replace the pumping wells if these do not fulfill the quality and amount of water to be replaced.

*Agreement 07: sustainable development in the cañipia river basin.*

Reaffirm levels of trust to fulfill the commitments through direct dialogue that contribute to the sustainability principal within the protection of fundamental rights, in accordance with Xstrata Tintaya's Sustainable Development policy; as soon as Antapaccay's construction and operations begin, due to the impacts potentially caused by noise, dust, water alterations, or other negative environmental changes, the parties are committed to developing a Contingency and COMPENSATION AND/OR INDEMNIFICATION Plan for the Cañipia River basin, in such a way that a healthy and viable ecosystem is guaranteed in the short and long term.

*Agreement 08: revision of the agreements*

As corresponds, steps towards the implementation of the previously indicated agreements will be jointly reviewed with the participating parties during the last two months of each year.

Excerpt No.7. Unfulfilled water replacement agreements by Minera Antapaccay

## *b. Water, air, and soil contamination with heavy metals*

According to the Informe de Monitoreo Ambiental Sanitario Sobre Agua, Suelo, Aire y Sedimentos - MSAP (Environmental Health Monitoring Report on Water, Soil, Air, and Sediments) from the Peruvian Ministry of Environment, in 2013 more than 50% of the water, soil, and air in

Espinar Province that was analyzed, reported contamination levels above environmental quality standards. The situation in identified critical points indicates a serious sanitation and health risk for the population located in the mine's influence area and should be

recognized as serious environmental damage by the company. The company must recognize that it is one of the groups generating contamination in the area and implement appropriate remediation measures in the contaminated zones.



### *MSAP conclusions - Peruvian Ministry of Environment*

Surface and underground water, and water for human consumption, soil, air, and sediments in some places near the Xstrata Tintaya S.A. mining activities show:

- 313 monitoring points = 165 (52.71%) showed at least a parameter that does not fulfill the standards, which is why they are considered critical points. Of the 64 critical points with at least heavy metals above the standards, 46.87% (30) corresponded to water samples for human consumption. This means that conditions for sanitation risks exist.
- Concentration of metals and other physical and chemical elements above the standards for environmental quality in the waters for small-scale farmer communities in the area.
- In the analyzed sediments metals like cadmium, copper, and arsenic were detected above the established limits in the points where samples were taken. In the Antapaccay project influence area the concentrations of zinc, thallium, and arsenic exceeded these values.

The association between these values and the mining areas must be more thoroughly examined, in the short term, within the actions of the monitoring action plan. This relationship must be determined by means of conclusive complementary studies

### *Air pollution and a loss of animals*

In relation to air quality, the area of the Antapaccay mining operation presents high levels of contaminating emissions. The dust particles produced in the tailings, waste dumps, and storage sites for copper and other metal gravel can travel large distances and generate health damages from inhalation. They also lead to the contamination of water, soil, and vegetation in areas where cattle, goats, and camelids graze. The affected communities have questioned the monitoring points for being insufficient and they have documented with photos and videos the peak moments when dust from the mining operations is blown by the wind, covering houses, grass, and cattle.

These communities have requested as an urgent measure the implementation of a periodic, permanent, and impartial monitoring system in the area that makes it possible to see the real scale of the contamination. On the other hand, in an agricultural province where communities live off of livestock and depend on pastureland and animals to survive, the loss of animals is fatal. It is indispensable that specialized studies are conducted to determine if the deaths of animals, that the men and women of the region constantly report and document, are or are not related to mining activities.



### *Glencore – Antapaccay 2015*

In its Sustainability Report 2015, Glencore indicates that the environmental studies conducted in Espinar do not find water, air, and soil contamination in the province's territories. The company also reported that “in Antapaccay, we did not present environmental spills and/or discharges. The residual water is treated and then reused in the production process.” For Glencore the contamination levels at these monitoring points fulfill environmental standards.





## c. Concentration of heavy metals in the espinar local population

Studies carried out by the Instituto Nacional de Salud, Centro de Salud Ocupacional y Protección del Medio Ambiente para la Salud - CENSOPAS (National Health Institute, Center for Occupational Health and Protection of the

Environment for Health), between 2010 and 2013 in Espinar, have demonstrated that hundreds of men, women and children of small-scale farmer communities live with excess metals in their bodies. Many of them live in the Tintaya-

Antapaccay mine influence area. Their houses, grass, and water sources are at the foot of mine waste deposits from the old Tintaya, today under the operation and responsibility of Glencore.

Of the 506 people tested in Espinar,

**100%**  
were exposed to  
**heavy metals**

**Arsenic (332 samples), mercury (231), cadmium (254), and lead (492)**

**29 of these samples surpassed the parameters established by the WHO for arsenic, 24 for mercury, 11 for cadmium, and 9 for lead**

### CONCEALMENT OF THE RESULTS

The results from the first health study carried out in Espinar were hidden from the affected local population for up to three years after the samples were taken. The CENSOPAS studies were not published and were only informally given to the population in a fragmented manner.

### SERIOUS SANITATION SITUATION IN ESPINAR

Cusco's Defensoría del Pueblo (DP- Human Rights Ombudsman's Office) has called attention to the alarming situation of environmental sanitation and risk for the population affected in Espinar province. The DP Cusco document reports that the permissible limits of heavy metals in the human organism were surpassed in 11 of the 17 evaluated heavy metals. In some cases it is surpassed by 33 times the allowed limit. In the case of Tungsten it surpassed the limits by more than 171.64 times.

Environmental and social studies carried out by Glencore in Espinar have never revealed information about the health situation that affects these populations. The quality of environmental monitoring carried out by the company is in doubt and the information provided is slanted, out of context, and incomplete. In spite of abundant scientific evidence about the very serious levels of contamination in the area, Glencore does not acknowledge its responsibility and has not

promoted any initiative or study to evaluate and remedy this situation. This has allowed Glencore to maintain that it is not responsible for the contamination in Espinar and to continue operating the Antapaccay mine.

The MSAP expressly indicates that complementary studies are necessary to determine the causality of the contamination produced by Glencore and its affect on human health. Today, almost four years after the last

study was ordered, the population of Espinar is still waiting for results. The OEFA has communicated that due to technical limitations of the first study ordered, it is still not possible to present conclusive results. There are serious questions about the hiring process for the studies, and what is still more serious, are the serious doubts about the Peruvian institutions' technical abilities to conduct these kinds of studies.

### Study 2013 - CENSOPAS

In 2013, CENSOPAS conducted a new study, ordered by the Espinar Dialogue Working Group. This time 180 urine samples were collected, in which excesses of several analyzed metals were detected, and in 52 cases levels above the WHO parameters were found. The most recurrent minerals were arsenic and lead, which were registered in 32 cases. Analysis of the samples confirmed what was already known for lead, arsenic, mercury, and cadmium in 2010. But, in addition, it produced concerning results regarding the Espinar communities' exposure to uranium and molybdenum.



## 3. Open door policy: dialogues without commitments regarding contamination and police violence

*Minera Antapaccay operates in an area of high social conflict after 30 years of mining operations without Glencore and the Peruvian state establishing the necessary measures to prevent and mitigate it. In no report does the company reference the dialogues about environmental impacts or community demands regarding water availability and heavy metals contamination. During the conflict in Espinar, prior, free, and informed consent has not been respected in the communities, and their human rights are in danger as well as their cultural heritage and customs. Dialogue has not been open, transparent, nor has it promoted a climate of social harmony.*

The communities most affected for decades by the Tintaya - Antapaccay mining operation have been excluded from the mining development in Espinar. The impacts and environmental damages are numerous and today local communities face environmental liabilities that will worsen as mining production continues. In mining

districts like Espinar, no evidence is found of improvements in access to markets and services, or evidence of improvements in education and human capital. According to Peru's Ministerio de Desarrollo e Inclusión Social (MIDIS -Ministry of Development and Social Inclusion), several districts of

Espinar Province, in Cusco, are ranked in the five most impoverished areas in the nation. That is to say, small-scale farmer and indigenous communities live in precarious conditions with an important gap in access to basic public services and have fewer opportunities to take advantage of economic growth.

## Protests in may 2012

In May 2012 the local population took to the streets of Espinar, denouncing the lack of transparency and corruption in the way Tintaya handled its economic contributions to the province after more than 30 years of operations. At the center of the communities' complaints was the depletion and contamination of local water sources, and the serious

impacts generated in the health of men, women, and children in the influence area. The community's peaceful protest on May 28th, 2012 ended in violent police repression that left two people dead, in addition to arbitrary detentions within the mining camp. The Police's use of excessive force in the context of social protests about

mining in Espinar led to eight victims in the first few months of 2012 and generated alerts from the Peruvian Human Rights Ombudsman's Office, which issued Report 156 on the high number of deaths during protests and highlighted that many victims of police actions were not related.



Photos Protesters in Espinar

## *The alleged responsibility of Tintaya Antapaccay for human rights violations”*

In May 2013, 22 people, relatives of the deceased, and people who were hurt and tortured in the May 2012 conflict, decided to file a civil lawsuit against Xstrata Tintaya, today Glencore, in London due to their alleged responsibility in human rights violations during the Espinar conflict (arbitrary detentions, abuse, torture, and police actions inside the mining camp). The trial might prove that the Peruvian National Police (PNP)

was following orders from the mine and that Xstrata encouraged the repression that ended with the deaths of two people from Espinar, several wounded, and 33 tortured demonstrators.

The plaintiffs allege that the PNP, whose presence was requested by the mine, used excessive force. “In addition the mine may have provided assistance in logistics - including equipment and vehicles, encouraged the PNP to mistreat the

demonstrators, and did not take sufficient measures to prevent human rights violations. Later the existence of a secret agreement signed between Xstrata Tintaya and the PNP was verified, as well as the presence of a police station inside the mine camp, indicating the alleged link between and human rights violations that took place in May 2012.

## *Espinar dialogue Working Group*

In an attempt to resolve the May 2012 crisis, a space for dialogue was established in Espinar between the local population, the state, and the mining company, Mesa de Diálogo de Espinar (Espinar Dialogue Working Group). The final result of the MDE was an Action Plan with a list of social and environmental investment projects for the development of Espinar Province. Although Glencore responded to

lesser emergencies reported by the population, donating forage and providing water for the cattle, its commitments were superficial and it refuses to discuss the population's environmental, social, and human rights demands. There are no indications of specific accountability documents or reports about the specific actions mentioned by Glencore in their 2015 Report. At the end of the dialogue process,

Glencore only committed to measures that do not go beyond the obligations foreseen in the environmental licenses. The commitments in total only represent 0.2% of the total budget to fulfill the Action Plan. Also, this amount constitutes 0.12% of the investment foreseen by the company in the area, which reaches 1.473 billion.

*We have social responsibility practices that promote a climate of social harmony and a constant, open, and transparent dialogue*

*Our relationship with local communities is based on premises that govern our daily actions and our approach to the interest groups:*

- Respect and promotion of human rights in our influence area.
- Respect for cultural heritage, customs, and rights of the local population.
- Support of the declaration of the International Council of Mining and Metals (ICMM) about mining and communities.
- Application of the principle of free, prior, and informed consent, looking to strengthen dialogue with the population.

Excerpt No.5. Antapaccay Sustainability Report 2015

#### **DEMAND FOR PRIOR CONSULTATION IN ESPINAR**

*In 2015, the Huisa community that is part of the Kana indigenous peoples, presented a demanda de amparo (writ of constitutional protection) against entities of the Peruvian government (Instituto Geológico Minero Metalúrgico-Geological Institute for Mining and Metallurgy, Ministerio de Energía y Minas - Ministry of Energy and Mines, and the Dirección General de Asuntos Ambientales Mineros Metalúrgicos - General Office on Environmental, Mining and Metallurgical Affairs) for the systematic omission of consultations when issuing mining concessions, approval of exploration, approval of Environmental Impact Studies, and the approval of the Antapaccay mining project operations, responsibility of the Glencore mining company, in geographic areas that are part of the Huisa community's ancestral territory. In addition, it also sued Glencore, for occupation of the community's territory by means of purchase and barter contracts signed with individual community members, in violation of the right to territory and the right to property in detriment to this population.*

## **4. Environmental sanctions for dumping and discharging contaminants**

In sanctions resolutions ratified by the Organismo de Evaluación y Fiscalización Ambiental (OEFA-Environmental Assessment and Enforcement Agency), between 2010 and 2014, there are at least three infractions related to Xstrata-Tintaya S.A.'s poor handling of mine waste deposits. In seven sanctions procedures, the most recurrent offenses detected inside and outside of the mine are: non-compliance with environmental protection regulations, discharges in effluents, tailings dumping, and impacts on the soil.

It is extremely concerning that with the present water, air, and soil contamination levels in Espinar, in addition to shortages of surface and underground water resources due to the Antapaccay mining operation, the Peruvian authorities have not offered a coherent institutional response. In spite of high levels of heavy metals concentrated in community members blood, to date there is not a single sanction for water contamination, nor are there conclusive studies that relate mining with health impacts, and those that existed at one time, were hidden from the community



*Sanction for exceeding production limits*

In 2015 Minera Antapaccay was sanctioned by OSINERGMIN for having operated its processing plants over the authorized capacity imposing a fine of 1,881.11 UIT (Peruvian tax unit) equivalent to PEN \$7.3 million (USD \$2.3 million). Glencore operated above the permitted limits obtaining higher production and benefits during several months in 2012-2013, on which the fine was calculated.

*Serious weakening of the OEFA*

During the 2015/2016 period, Glencore did not face environmental sanctions as it benefited from the approval of Law N° 30230 of 2014, which restricted the OEFA's capacities to sanction private companies for environmental infractions during a period of three years, having to orient its work solely on prevention and correction actions for offending behaviors. This law looks to promote massive foreign investments and restricts the OEFA's powers to sanction administrators who incur environmental infractions.

## 5. Petitions and recommendations

### TO THE PERUVIAN STATE

1. Implement effective mechanisms for transparency, access to information, and accountability making all Glencore's payments to the nation, public. This must be interrelated with the respective production, sales, and fiscal exemptions with the aim of making it possible for the local population and civil society to monitor them, especially in relation to income calculations and expenditures coming from mining production in their territories.
2. Reframe the Contratos de Estabilidad Jurídica policy for mining companies like Glencore and others, which is effective since the 1990s in spite of changes in the national and international economic context.
3. Urgently resolve the problem of a loss of water sources for communities in the Tintaya-Antapaccay mining project's influence area and that the company is receiving water from other sources in proportions that are different from those indicated in their water rights. Also, recover the distribution and administration of this resource in these areas, as well as the monitoring, pumping, and distribution conducted by the company.
4. Urgently implement, initiate, and strengthen urban and rural safe water provision programs for human consumption, as well as appropriate water management, prioritizing Glencore's mining areas. These programs must be supervised by a competent authority that coordinates between the different levels of government.
5. Regarding the serious health situation in the Tintaya - Antapaccay influence area, develop, strengthen, and execute epidemiological oversight associated with environmental diseases due to chronic exposure to heavy metals.
6. Give urgent attention to the people who have been affected by heavy metals in their bodies and conduct expanded samples to include those people who were not participants in the initial studies. Espinar is a sanitation and environmental emergency in which no strategy has been implemented nor have specific budgets been allocated for a state response to this serious situation.

7. Comply in an impartial, objective, and urgent way to carry out causality studies that establish the relationship between the sources of contamination in the area affected by Antapaccay and its impacts on human health. Given the demonstrated technical incapacity of Peruvian authorities during more than five years to achieve this aim, accredited international entities must be convened, under effective and participatory observation and monitoring mechanisms. This must include environmental risk maps that establish potential sources of contamination and critical points where populations can prevent contact with heavy metals.
8. Terminate specific agreements signed between the police force and companies like Minera Antapaccay, giving rise to other private security mechanisms for companies that do not clash with the population's fundamental guarantees or allow human rights violations by means of arbitrary detentions, torture, and abuse of Espinar residents.
9. Protect and guarantee the respect of Espinar resident's fundamental rights. Police forces and national Armed Forces' responses to social conflicts and denunciations must occur in a framework of guaranteeing rights and not private agreements to protect mining infrastructure. These agreements distort the police's function and constitute a risk for the local population's personal security.

### TO GLENCORE - MINERA ANTAPACCAY

1. Periodically publish the concepts and amounts of all payments made to the Peruvian state and the distinct local stakeholders, whether they be tax payments or destined to corporate social responsibility works, projects, and initiatives. These numbers must be detailed and not reflect general amounts (like those published until now in the Sustainability Reports), so that the local population and civil society can access and monitor them for decision making.
2. Implement real transparency mechanisms and publish the methodology and results from the periodic monitoring of water, air, and soil quality conducted by the company, so they are accessible to the affected population and local

organizations.

3. Establish and activate mechanisms to identify responsibilities and remedy environmental and health damages produced by the Tintaya - Antapaccay mining activity. There is sufficient evidence to justify and require an urgent and effective reparation and compensation for all damages, in addition to executing prevention actions for future impacts on the territories, residents, their property, and sources of livelihood.

4. Implement corporate social responsibility initiatives and projects that are transparent, including a dialogue and agreements with the affected local population, based on respect for local institutions, cultures, and customs; especially related to access to healthcare services and potable water that is not

contaminated by heavy metals.

5. Terminate private agreements with the Peruvian National Police, designing and looking for other mechanisms for corporate security in accordance with current international human rights treaties. This must guarantee respect for the local population and social harmony, with strict guarantees for freedom and personal security, avoiding a repetition of incidents like those that took place in Espinar in May 2012, where given the rejection of and protests against company activities, there were human rights violations such as arbitrary detentions, abuse, torture, and police actions inside the mining facilities.

---

*f. General Conclusions:  
Parameters for Glencore's behavior*



**1) Latin America: a Lucrative Business for Glencore.**

For over two decades Glencore has conducted mining operations in Argentina, Bolivia, Chile, Colombia, and Peru, occupying the top positions in the continental production of silver, copper, tin, zinc, gold, and coal. Glencore controls the largest mineral reserves and carries out large scale investments like few other companies in the region. Control of the Antamina, Antapaccay, La Alumbrera, and Bolívar mines, for example, represents 51% of global earnings for the production and sale of copper internationally. In spite of the fact that for Glencore Latin America is ranked second among the continents with the highest earnings, it is third, after Africa and Australia, in payments and compensations to the government: higher earnings compared to smaller payments for Latin American governments. In spite of the recent raw materials crisis, Glencore's mining production has continued expanding due to low operational costs and high inflation rates in Latin American countries. Operating in the region continues to be a very lucrative business for Glencore.

**2) A hidden business network in tax havens.** Far from having an integrated and transparent business structure, Glencore has controlled its holdings and associated companies over the last 20 years within a structure of corporate and banking tax havens that have been seriously questioned in several countries around the world. This complex business network controls Latin America's main copper, zinc, and coal reserves and is under control of holdings protected by financial and accounting confidentiality, located in Central America, the Caribbean, and Europe. By means of this network, Glencore buys and sells to its subsidiaries and third parties, it incurs debt, fixes transfer prices and saves on tax payments using elusive maneuvers. These operations are hidden, outside of state regulations, voluntary principles, and the company's sustainability reports. This complex architecture, in addition to hiding the financial flow of capital and commodities, prevents fiscal control from governments, damaging national assets where it operates. Glencore's global structure is gigantic and the number of real and front companies that it has in tax havens is unknown.

**3) Permissive contractual, mining, and financial codes.**

Glencore's mining contracts in the region enjoy strict financial confidentiality and the states impose minimal controls. Glencore does not declare its business groups in the countries nor its control of subsidiaries, releasing parent companies of all responsibility. This is why states must investigate and require the declaration of subordinate companies. This occurs by means of legal stability contracts (CEJ) in the case of Peru, shared risk contracts and partnerships with mining cooperatives in Bolivia, fragmented contracts for lower royalties payments in Colombia, and joint venture (UTE)

contracts with the Argentinean state making it impossible to compare financial statements. Access to mining contracts and especially transparent information related to compensations and tax payments, continues to be very limited. Glencore does not publish, in any of the countries, financial reports and statements, or consolidated economic reports from affiliates or subsidiaries. It wasn't until 2015 that Glencore published for the first time a Payment to Governments Report in fulfillment of the EU Directive on transparency and reporting, and as it is incomplete financial information, the numbers are selective, confusing, and hard to verify.

**4) A small contribution in mining revenue.** Glencore's royalties and compensation payments are derisory in comparison with its operational revenues and the environmental impacts caused by its operations. The company's scarce mining revenue in Latin America is due to legal and fiscal frameworks with minimal requirements, through which it obtains very favorable treatment. In addition, Glencore receives several income tax deductions, even for carrying out corporate social responsibility initiatives that are later presented as operational costs. Depending on the country there are different tax deductions, discounts, and benefits for the company, but in the end they all lead to lower payments, which create a financial imbalance for the nations. Meanwhile, the local populations are left in poverty and abandoned: the majority do not have potable water for human consumption and their unsatisfied basic needs are above national averages. The countries' royalties systems do not make it possible to materialize contributions from Glencore, making it very difficult for them to invest it in sustainable productive projects and improvements in quality of life for residents to resist the effects of mining. For the four countries studied, not one saw a significant contribution from the mining industry to the Gross Domestic Product - GDP in recent years (14% in Peru, 6% in Bolivia, 2% in Colombia, and less than 1% in Argentina), which shows that large-scale operations like Glencore's, generate large environmental and social costs in exchange for very few compensations, royalties, and taxes.

**5) Damages to national assets, under investigation.**

Glencore faces several judicial and administrative actions due to illegal earnings and damages from avoiding fiscal payments. In Argentina, for years Glencore has made illegal deductions in royalties payments and concealed earnings, reaching nearly USD \$60 million. There are also scandals due to irregularities in mining contracts signed in Bolivia and Colombia with a corresponding reduction in royalties equal to USD \$41 million between both countries. The Colombian control authorities stopped Glencore's holdings maneuvers in time, intended to avoid tax payments that would equal

at least USD \$1.5 billion forgone in the sale, repurchase, and valuation of the Grupo Prodeco companies in the Glencore - Xstrata merger. In Colombia the company has been sanctioned for USD \$20 million and its role in the detriment to assets damages for the modernization of the REFCAR refinery in Cartagena, is still under investigation. Glencore was also fined in Colombia for COP \$500 million for not registering its companies as a business group in 2010.

**6) Commercial Treaties for investment protections.**

Glencore has benefited from the current Free Trade Agreements between these four countries and those that serve as the headquarters of its parent companies like Switzerland and the United Kingdom. These international instruments provide clauses to protect foreign investment, offering mechanisms to transnational companies like Glencore to sue the host countries in foreign arbitration courts. This has been the response from Glencore and other mining companies in the face of strengthened local environmental systems and measures implemented that protect human health or the countries' natural and economic assets. Today, Glencore has cases for millions of dollars in the International Centre for Settlement of Investment Disputes - ICSID against Bolivia for the nationalization of the Vinto and Colquiri mines; and against Colombia for the fine imposed by the Comptroller's Office for the illicit negotiation of an addendum to its mining contract that generated USD \$20 million in asset damages for the nation. Glencore intends to take economic advantage of the states through supranational judicial bodies managed by private entities that do not require an exhaustion of national institutions to file a claim. Whenever legislative measures or judicial or administrative decisions are made for the progressive protection of rights and redress of the most vulnerable communities (in exercise of Principles No. 13 and 15 of the Rio Declaration on Environment and Development), Glencore would be qualified to sue states for generating economic damages against the company.

**7) Affects to priority conservation ecosystems.** For decades Glencore's contaminating activities have taken place in the Andean regions with ecosystems that are extremely important for biodiversity and water balance. Depending on the specific project, its companies operate in forest reserves, dry forests, deserts, mangroves, lagoons, and bogs in extremely dry areas, with little rain, low atmospheric humidity, or high evaporation. The effects on these ecosystems have been a depression of aquifers, a reduction in the volume of rivers, alterations in water and air quality, destruction of habitats, and direct impacts on flora and fauna. The effects on water aquifers and underground reservoirs are of particular concern, as they are decisive for the conservation of biodiversity and human life in all four

countries. Glencore does not specify compensation plans for the loss of environmental services in these ecosystems during the operational life of its projects nor their closure. In all the cases studied, the company's environmental impact studies acknowledge the presence of fragile ecosystems that will be altered and the high water stress in these regions. On several occasions, affected communities have requested environmental or sanitation emergency declarations in the areas where Glencore operates, either due to air and water pollution, prolonged droughts, or a lack of water for human consumption.

**8) Excessive use and contamination of water.** South America is the continent where the company carried out the largest water extraction in the world, with more than 266 million m<sup>3</sup> of water in 2015. This represents 28% of its global use annually. This water use is equal to the estimated consumption of 1.5 million people per year. This colossal consumption is linked to over 30 investigations, legal actions, and sanctions proceedings for serious environmental impacts such as illegal diversions, obstruction and drying of rivers and wetlands. The regions where Glencore operates have high indexes of water scarcity for human consumption. There, the water resources are fundamental for local economies and dramatically affect availability for the use of local communities and nearby small cities. There are several technical reports from authorities in the four countries that document the effects of Glencore's excessive use and also contamination of water sources. The overexploitation and reduction of underground water is dramatic and has a cumulative regional impact. The rehabilitation and decontamination will be very expensive. This situation will cause very risky shortages in the following years in all four countries. Entire populations that previously had natural water sources, such as springs, wells, and rivers for their subsistence, today use water pumped or brought in by Glencore. Some of these regions suffer prolonged and frequent potable water cut offs by authorities and many of them do not even have purification or treatment systems for human consumption. Glencore's corporate policies on efficient water use are included in their reports but numbers presented on water recycling are not verifiable. Today, studies are still required to determine the true magnitude of the hydro-geological and ecosystem degradation caused by Glencore's operations in all four countries.

**9) Polluting waste, dumping, and emissions.** This investigation could establish over 30 environmental impacts, damages, and accidents in Glencore's operations that have not yet been quantified nor recognized by the company. The high levels of contamination denounced are due to authorized and unauthorized activities in their environmental and

mining plans. Among these we found heavy metal dumping, diversions of rivers, obstructing bodies of water, chemical air emissions, blasts with explosives, deforestation, and other activities related to opencast mineral extraction. As we were able to document, in the processing, transportation, and port loading of concentrate, serious impacts are generated.

Environmental authorities and control bodies have determined that Glencore has violated, on several occasions, permitted contamination limits and that an excessive exploitation of natural resources has taken place. Technical reports denounce disproportionate levels of acidification and electrical conductivity, as well as arsenic and other contaminants in water sources adjacent to the mines. They have also warned of alterations and restrictions in the mobility of migratory species, a disappearance of aquatic organisms in the diverted rivers, major dust clouds affecting houses and crops, and soil degradation due to a lack of treatment in tailings dams with toxic leaks. Irreversible alterations and a loss of biodiversity and soil quality will prevent areas where Glencore operates from eventually reusing the land for pasturing or agricultural activities after the mine's closure. The environmental degradation left by the mines is devastating, cumulative, and represents environmental liabilities that will have to be responded to by the nations and communities surrounding the mines for years to come.

**10) Impacts on human health.** The list of people directly affected by Glencore's operations in all four cases reaches 60,000 and those indirectly affected are at least 150,000. Chronic exposure to heavy metals and other toxic substances produced by Glencore's mines puts the local population's health at serious risk. Among the most common affects, we found skin and eye diseases, and respiratory impacts. Gastrointestinal problems are also probable in the long term, given the bioaccumulation capacity of metals in humans who consume contaminated animal and agricultural products. The houses, grasslands, and water sources of several populations in all four countries are considerably close to Glencore's mining waste deposits or slurry pipelines, leaving them to face high environmental risks. On several occasions the affected populations have demanded through legal actions, blockades, and protests, that sanitation and environmental emergency areas be declared, due to chronic exposure to heavy metals with effects on human health that is potentially fatal. This is particularly dramatic in Espinar, since the populations affected by Glencore have cadmium, arsenic, lead, and mercury in their bodies. The permitted levels of air pollution in all four countries are permissive when compared to WHO standards. These are not a reference for Glencore and for that reason they are regularly surpassed by the company. In not one of the four cases has Glencore

recognized the impacts of its activities on human health or taken measures to prevent and mitigate those impacts.

**11) A lack of conclusive health studies.** The consequences of these health impacts due to heavy metals in the blood and particulate air pollutants produced by Glencore have not yet been determined. Conclusive studies are still needed to determine the causal relationship between mining and the poor health of communities. In none of the four countries can the affected population access this kind of scientific study due to a lack of resources and little political will from the states and local authorities to carry them out. Glencore has not financed any toxicology or epidemiology studies that look to establish its operations' impacts on health, not even when this is part of its environmental obligations. In Espinar (Peru) the studies on contamination of heavy metals in the blood were decisive and they were hidden from the affected population for three years after the samples were taken. In Colombia there have been air emissions over the limits established by environmental law and the WHO, requiring the resettlement of 900 families from three towns due to environmental risks. In Bolivia poor quality water due to contamination of the Antequera sub-basin is concerning as it supplies several populations with water for consumption and farming activities. Wherever Glencore is, contamination levels are high, extremely dangerous, and must be a priority in state and mining actions. States never require baselines to be created to identify a population's health status before granting environmental licenses to Glencore. This means that today it is very difficult to establish the consequences of mining for the affected communities.

**12) A debt in comprehensive reparation for communities.** In Argentina, Colombia, Peru, and Bolivia there is a huge debt for the comprehensive reparation of peoples' affected by the operations of multinational companies like Glencore that obtain economic benefits in a context of systematically violating rights. The majority of impacts and damages generated by this activity have not been documented, recognized, or redressed by companies or states. There is still no legal framework in any of the four countries that regulates full corporate responsibility; the few effective legal mechanisms to redress and compensate for damages caused to victims are slow. They must recur directly to the entity that has violated their rights and there is a large margin for impunity. There has been little political will from governments, corporations, and funding bodies to establish responsibilities related to the impacts generated by multinational investments. Although the countries' judicial systems have responded favorably in relation to environmental precautionary principles and the right to prior consultation, as in the case of Colombia and Argentina, there are still too many demands placed

on the communities in all four countries for causal evidence and conclusive studies to access compensations and redress. The few and slow advances in jurisprudence have not always led to indemnification for those affected by contamination. The measures taken by Glencore are focused on prevention and mitigation of impacts and not true reparations of damages. Fines imposed on Glencore by environmental authorities are not destined, by law, to directly redress the communities.

**13) Environmental investigations and sanctions.** Today Glencore has at least 25 files for current administrative investigations and legal cases due to environmental damages and contamination in Argentina, Peru, and Colombia. These investigations are conducted due to violations of environmental laws, permitted limits, and community impacts. The sanctions proceeding before ANLA and OEFA in Colombia and Peru have occurred due to environmental incidents and accidents in the operation of their mines, trains, and ports. Glencore is under investigation for discharges in effluents, tailings dam spills, unauthorized deforestation, unlawful diversions and intervention on rivers, unauthorized ground perforations, use of additional mine dumps, a lack of control of air emissions, and delays in the resettlement processes, among others. In Argentina, Glencore has at least seven civil, judicial, and criminal cases for contaminating underground water, displacement, affecting crops and properties, toxic spills, and land conflicts. In Colombia, the Prodeco Group has 19 open environmental sanctions procedures, USD \$1.5 million in sanctions between 2007 and 2010, and one tutela for contamination in Cesar. In Peru, they have had 13 environmental fines between 2010 and 2014 for the Antamina and Antapaccay projects for USD \$172,800 and two open cases against Antamina for USD \$104,700; all for non-compliance of environmental laws and licenses in events related to dumping heavy metals and toxins into the environment.

**14) Denial of serious environmental impacts.** Even though the company had over 12 serious incidents related to water, soil, and air contamination in the areas surrounding its operations in recent years, no incident was characterized as serious or moderate in its sustainability reports. In 2015 Glencore reported that their global operations did not have any serious or catastrophic environmental incidents. As has been shown, 30 years of mining operations in the continent have brought with it a series of impacts and environmental damages that have seriously affected the sources of livelihood and health of the surrounding populations. When reading in detail the environmental impact studies and licenses, it can be seen how, over the years, they modified the reports, slanting and hiding information from authorities and affected communities

regarding the magnitude of its impacts on the environment. Technical criteria used by the company to present its environmental management systems and environmental monitoring data in sustainability reports, is doubtful. These never speak of long term damages or liabilities and only refer to environmental mitigation programs or response plans to minimize damages in the case of accidents, which never happen according to the company. In the cases of Peru and Argentina, the estimated impacts of the old Tintaya mine and Alumbreira could last for 40 years after the operations' closure, and it would be the same in Colombia and Bolivia but the closure stage for its mines in Oruro, Potosí, Cesar, and La Guajira are still far away.

**15) A climate change policy without real effects.**

Glencore's actions to mitigate their activities' effects on climate change have been insufficient and on the contrary have worsened the local environmental crises over the years. The overuse of water resources and a dramatic reduction in the reserves of available water present a very risky scenario of water shortages in the coming years in the provinces of Catamarca (Argentina), Espinar (Peru), Oruro (Bolivia), Cesar and La Guajira (Colombia). The panorama is not encouraging in the Andean regions due to its current conditions of dryness, desertification, and water stress that are tending to worsen, directly affecting the existing climate change adaptation and mitigation strategies. Glencore's assets consume high levels of energy and are major contributors of greenhouse gas emissions- GGES. Meanwhile, Glencore continues attempting to increase its thermal coal operations in the world, which not only represent 35% of their global GGES, but also stimulate the global market for a polluting power source that should progressively disappear (if they want to fulfill the international commitments for emissions reductions from COP21). Glencore references the 2015 Paris agreement in its reports but does not establish concrete commitments to reduce emissions. Only 18% of Glencore's total consumption of global energy comes from renewable energies and their GGES have stayed near an average of 36 million tons of CO<sub>2</sub> between 2013 and 2016.

**16) High levels of social-environmental conflicts and open door policies.** Glencore locates its operations in regions that over time have presented high levels of social conflicts due to divisions between communities and mine workers, resettlement due to contamination, a lack of water for human consumption, state abandonment, police violence, social protests, and secret agreements with police forces that have generated numerous denunciations of human rights violations, among other factors. The company does not implement measures to prevent or mitigate these social conflicts and the dialogues that do take place never address the

health and environmental impacts of its mining operations. The company's response to communities is that they should turn to judicial or state mechanisms or the state itself for an indemnification of the damages. The cases highlighted show serious differences, delays, and a lack of results in the attempts to dialogue with Glencore in the framework of its open door policy. Minimal commitments, unfulfilled agreements, little participation, a lack of transparent information, and a generalized nonconformity of the communities are the common denominators. Glencore's participation in several tripartite dialogue spaces has been superficial and the company is always insistent on indicating that it is the state's responsibility, so as to not incur important commitments with the people. In the cases studied it was not possible to establish transparent, constructive, and unifying relationships with its project's host communities. According to its Global Sustainability Report 2015, Glencore had, for that year, around 1,700 community complaints, a number that increased by 43% compared to 2014. Today security risks can be observed in the local populations affected by Glencore, especially community leaders and representatives accused of divisions and for delaying participatory processes that take place in the context of these dialogues, as has happened in the Colombian case.

**17) Little is left in territories and communities.** After three decades of mining operations, local small-scale farmer and indigenous communities have been excluded from development promised by Glencore. Several affected populations are found in the groups with the highest levels of poverty in their countries. The communities that surround the company always live in precarious conditions with a significant gap in access to basic public services, unsatisfied basic needs, and fewer opportunities to take advantage of and participate in economic growth. No evidence was found for improvements in access to markets and services, or education and human capital in the accompanied communities. On the contrary, precarious conditions have become generalized and the contamination levels mean the land is discarded while traditional uses of natural resources, like hunting, fishing, agriculture, and pasturing, are lost. This has generated an economic displacement of populations to other more prosperous areas, debilitating productive dynamics in these regions and deepening the economic crisis. Without fertile land or potable water for consumption and irrigation, it is not viable to live in the areas impacted by Glencore. In 2015 Glencore reduced its regional community investments to USD \$14 million, a 75% decrease compared to 2013. These investments are extremely low and do not even reach 2% of Glencore's operational costs in the last six reported years.

**18) Glencore's reports and transparency.** After years

comparing the company's sustainability reports with investigations, sanctions, reports, contracts, files and documents (penal, fiscal, environmental, social, and technical) in all four countries, it can be stated that the information reported by Glencore is superficial, selective, incomplete and sometimes contradictory. More and more, the information presented by the company is lacking in structured texts and shows that they are more concerned with presenting numbers, while their corporate initiatives are insufficient, out of context and do not show the real consequences of their mining operations. The company looks to promote a prosperous vision of the extractive business, hiding the true reach of its business structure and serious negative impacts for host communities and governments. The company does not report on legal actions, environmental damages and sanctions, financial information about its transactions, health impacts, or community conflicts. The Sustainability Reports are more business portfolios for hiring and sales of services than truly transparent initiatives with their target groups that guarantee access to information. Glencore legitimizes its business conduct, claiming it is sustainable, but this is not reflected in the local communities and territories where it operates. This is the dark side of Glencore in the world and it becomes relevant internationally in the framework of transparency and access to information, especially for funders, buyers, states, and affected local communities.

**19) The states and their degree of responsibility in these findings.** The governments of Argentina, Bolivia, Colombia, and Peru have contributed to the destruction left behind by Glencore in national territories. An example of this is the insufficient and permissive environmental and mining regulatory frameworks, minimal controls on mining, the lack of environmental technical capacities, foreign economic policies that protect foreign investment, and the lack of capacities to redress the affected communities, among many others. It is worrisome that in the face of concerning levels of contamination produced by Glencore, there is not a coherent institutional response from authorities at different levels. They haven't conducted studies or investigations that lead to community reparations in any of the four cases. The allowed environmental limits consecrated in laws and administrative acts end up being insufficient to guarantee local populations' right to life, health, and a healthy environment. Inventories of natural resources do not exist that could establish the real degree of affects on these ecosystems. Environmental land use regulations are delayed and there are not clear boundaries for protected areas that must be excluded from all economic activities. Mining titles and environmental licenses are granted for protected areas and the territories of indigenous communities without prior consultation. In relation to



financial and fiscal issues, the lack of governmental controls and the consent of national laws are serious obstacles to access information on mining payments and royalties from multinational companies like Glencore. The companies' production reports are not reviewed in a timely manner due to a lack of control systems, generating major asset losses for the nations. The long list of problems and structural weaknesses in the

countries studied does not end here and it reflects states' fault and complicity in the setbacks and destruction that opencast mining has left in several of the most vulnerable territories and communities.

---

IMPORTANT. For security reasons and to protect the privacy rights and habeas data of the people who provided their testimonies for this investigation, some identities or names may have been changed for this report.

The statements made about Glencore International PLC's operations in the Presentation and Executive Summary documents are based entirely on the investigations, findings, studies, statistics, judicial and administrative decisions and resolutions contained in the document called Shadow Report on Glencore's Operations in Latin America. Therefore, those documents are only explanatory versions and should be considered as an integral part of the main publication Shadow Report on Glencore's Operations in Latin America forming a single report.





# RED SOMBRA

Observadores de GLENCORE

