



Oidhaco
Oficina Internacional
de Derechos Humanos -
Acción Colombia

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Menschenrechte für Kolumbien e.V.



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Cusco, Lima, La Paz, Buenos Aires, Bogotá, Bruselas, Berna, Berlín, Noviembre 11, 2014

Dear Sir / Madam:
Secretariat
Voluntary Principles on Security and Human Rights

Dear Sir / Madam:
Human Security Division
Human Security of the Federal Department of Foreign Affairs (FDFA)
Swiss Confederation

Dear Sir / Madam:
Business and Conflict Team
Conflict Department, Foreign & Commonwealth Office
United Kingdom

Subject: Request to suspend the admission process of Glencore International PLC's application to the Voluntary Principles on Security and Human Rights Initiative.

The non-governmental organisations (NGO) and individuals that sign this letter, in exercise of the universal principle of direct democracy and in our duty to monitor the multiple impacts generated by multinational corporations, have during the past four years been monitoring and following up on the impacts of the mining activities in Colombia of the Swiss corporation, Glencore International PLC.

These mining operations are being carried out at the same time as peace talks, which aim to bring an end to an armed conflict that has lasted more than 40 years, claimed the lives of 6 million people, during which 5 million hectares of land have been abandoned or illegally appropriated, and where the Colombian State has been



historically weak and with a very limited capacity to exert public control. At the same time, the State has been unable to solve fundamental social problems, such as the high rate of poverty and unsatisfied basic needs of a considerable segment of the population. These things are all taking place in a country with an indisputable natural heritage; it is the second most biodiverse country in the world and has fragile ecosystems that have been preserved for many years by the more than 60 groups of Indigenous Peoples. All this in spite of the armed conflict and the extensive extraction of natural resources.

In the last four years of monitoring, we have found a great deal of evidence concerning the impacts of the mining operations of Glencore in Colombia, many of which have not been mentioned, recognised or monitored by this Company in their sustainability reports, audits, independent reports, ratings in stock markets and public corporate presentations. This is despite numerous commitments made by the company in its code of conduct, other company standards and initiatives where the company participates.

Among the evidence not recognised by Glencore, we have found issues of major concern regarding the lack of a register, monitoring and appropriate corporate actions in relation to important human rights abuses committed by members of the military unit that provides security to the Company's operations in the Cesar department. From 2006 until today, we have monitored four cases of alleged extrajudicial killings, as per International Humanitarian Law, committed by 20 members of the Batallón Especial Energético y Vial Número 2 (BAEV No. 2), which is the military unit that receives support from Glencore in the framework of the company's cooperation agreements with public security. These crimes have been the subject of four judicial actions and have been classified as severe human rights violations by legal authorities in Colombia, resulting in two convictions against members of the Public Forces.

The first extrajudicial killing that we have documented was perpetrated by members of the BAEV No. 2 on 6 November 2006 in the Múcura area in El Molino, La Guajira Department, where the victim was Carlos Manuel Jiménez Pacheco. For this crime, Sergeant Segundo Heraldo Eriben Hernández Pineda has been charged with murder.



The second extrajudicial killing was on 7 October 2007 and allegedly involved an officer and seven soldiers from the BAEV No. 2 (10th Armored Brigade), all of whom were called to trial. According to the judicial prosecution, the seven soldiers killed Jesús Eliécer García Perdomo, who was found dead in a road close to the 'El Joval' sector between the towns of La Loma and El Hatillo, less than 10km from the Calenturitas Mine. According to the judicial file, these soldiers were responsible for killing Garcia Perdomo, who then presented him to authorities as a member of an armed group killed in combat.

The third alleged homicide was investigated but never went to trial due to the statute of limitations. It was alleged to have been committed by Lieutenant Juan David Tinjacá Galeano on 13 March 2008 against James Antonio Ramírez Bula on the road between the towns of La Loma and El Hatillo, less than 10km from the Calenturitas Mine. Juan David Tinjacá and other soldiers presented Ramírez Bula as killed in combat, despite being unarmed and there being no records of armed clashes in the zone that day.

The fourth and last homicide is currently under investigation. Teniente Reinaldo Segundo Manjarrés Echeverría is being put forward as the most likely alleged perpetrator of homicide and conspiracy following an event on 21 September 2007 in the town of Chiriguaná in the Cesar department, where members of BAEV No 2 developed the Operación Soberanía, and where Gabriel Ulises Martínez Gutiérrez died, a farmer who was presented as being killed in combat.

Other companies in Colombia facing similar situations have responded and taken appropriate measures, evidencing human rights due diligence and commitment to the respect of human rights. However, Glencore has not taken any actions to reject or condemn such events, nor has it requested the authorities investigate (and follow up on) violations taking place in their operating environment. This contravenes important postulates of the Voluntary Principles on Security and Human Rights, most importantly that "Companies should record and report any credible allegations of human rights abuses by public security in their areas of operation to appropriate host government



authorities. Where appropriate Companies should urge investigation and that action be taken to prevent any recurrence”. The UN Guiding Principles also emphasise the responsibility that corporations have for implementing due diligence, stating that due diligence is essential if companies wish to ensure that they ‘respect human rights and avoid complicity in violating human rights and rights of communities’. Carrying out due diligence is the responsibility of the company; which is even greater when military personnel charged with crimes come from units which provide the company with security and when they are understood to be giving financial support to these units.

In light of these facts, claiming a lack of knowledge about severe human rights violations taking place in their areas of operation cannot be accepted as an excuse for Glencore, and least of all, the refusal to even consider these events in their reports, audits or their ‘human rights programs’ in Colombia.

Such behavior only highlights a lack of interest in managing, following up and monitoring human rights abuses in their operating environment. This also evidences poor risk assessment processes, given that the company does not appear to have implemented essential mechanisms like i) a human rights register and ii) conflict analysis, as outlined in the Voluntary Principles. This suggests a lack of awareness of the regional human rights context where the Company operates.

Beyond inadequate corporate governance on security and human rights, there has also been a lack of willingness on behalf of the company to create any space for engaging in dialogue with civil society and the victims of the impacts generated by their corporate operations. On various occasions these groups have tried to initiate discussions, either bilaterally or in other public spaces such as forums and events, and the company's response has been to categorically refuse to engage in such discussions.

It is worth mentioning that there are other findings which may suggest problems with compliance with environmental, labour, tax obligations and other corporate aspects of Glencore’s operations in Colombia. These findings are expected to be made publicly available during the coming weeks. It is expected they will call for i) a thorough review



of the company's corporate policies and ii) stricter regulation by States, especially by the Colombian Government and the Swiss Confederation.

In conclusion, the due diligence in human rights and security issues, which should be a priority for companies today, is lacking from Glencore's governance in Colombia. This is an issue of profound concern for us as civil society organisations, and is why we have decided to present this evidence to you. In light of the commitments included in the Voluntary Principles on Security and Human Rights, we hope that they act as a filter so that business practices are better screened, managed and corrected accordingly, not rewarded.

In this regard, we ask that you fully evaluate the arguments demanding that companies have a more real and consistent commitment to policies on security management and that these are in accordance to the contexts in which they operate, consistent with their real impact. Furthermore, that their admission to the Voluntary Principles Initiative, demands that as a minimum, they understand the environment in which they operate, and requires evidence of the commitment to respect human rights of communities.

Thus, based on these arguments, we formally request that the Voluntary Principles on Security and Human Rights Initiative suspend the admission process of Glencore International PLC to the Voluntary Principles on Security and Human Rights Initiative, until the company:

- a) Is able to demonstrate a serious commitment to: respect human rights, and undertake due diligence.
- b) Ensures that any agreements it makes with the Colombian State relating to the security forces are public and transparent and in line with the spirit of the Voluntary Principles;



- c) Creates a formal space for dialogue on the impacts that the company is generating with the local community and civil society organisations in order to monitor and mitigate the human rights impacts, and where initiatives on human rights can be discussed and corporate policies improved upon by taking into account input from civil society;

- d) We request the governments of Switzerland and Colombia provide and facilitate spaces for dialogue regarding the impact the company is having on the local community, to ensure adequate monitoring of this situation both nationally and internationally, and to ensure the effective functioning of the existing governance mechanisms and controls;

- e) To the Colombian Government in particular we request that it advances on the investigations and judicial processes against members of the BAEV No. 2 who have committed gross human rights violations. At the same time, we request a review of the collaboration agreements between the Army and Glencore, especially in issues related to the recording of human rights violations, monitoring mechanisms and risk assessments, as well as the secrecy and confidentiality of these agreements.

Thank you for your attention. We look forward to receiving a prompt response and reiterate our willingness for dialogue,

Sincerely,



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BROEDERLIJK DELEN

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PENSAMIENTO Y ACCION SOCIAL

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PACHAKUTI

La Paz