

Gary Nagle
Chief Executive Officer
Glencore International AG
Baarerstattstrasse 3
CH-6340 Baar
Switzerland

CC: Glencore's Executive Team and Board

11/11/22

RE: Glencore's business operations in Russia

Dear Mr. Nagle,

We write to you as [B4Ukraine](#), a coalition of Ukrainian and international civil society organizations working to curtail the financial resources enabling the Russian invasion of Ukraine. In the spirit of respect for the fundamental rights of all people, the rules-based international order, and a prosperous global economy, we expect companies to demonstrate public support for the people, democracy, and territorial integrity of Ukraine, opposition to Russia's war of aggression, and alignment with the UN Guiding Principles on Business and Human Rights (UNGPs).

We request an urgent dialogue regarding potential inconsistencies between Glencore International AG's (Glencore) stated policies on Russian aggression and human rights more broadly and the company's ongoing business operations and relationships in Russia that may contribute to, or be linked with, human rights harms.

Glencore's Human Rights Policy formalises the company's commitment to "respecting human rights in line with the UNGPs," specifically that the company strives to protect the human rights of Glencore's workforce and business partners, societies in which Glencore operates, and all others who may be affected by the company's activities.¹ These commitments are further articulated in the company's code of conduct and group policies, including the social performance policy, which was developed in accordance with the Universal Declaration of Human Rights, the International Labor Organization (ILO) Declaration on Fundamental Principles and Rights at Work and the UNGPs.² Additionally, Glencore implements a due diligence process to ensure responsible sourcing of commodities within its supply chain, which is designed to be aligned with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.³

It has been eight months since Russia invaded Ukraine and the devastating impacts continue to shock

¹ Glencore, "Human Rights Policy," <https://www.glencore.com/.rest/api/v1/documents/f2d81b57e4d807b70f3f307d7a877d86/Human%20Rights%20Policy.pdf> (accessed November 8, 2022).

² Ibid.

³ Ibid.

the global conscience and shake the global economy. Russia is violating international humanitarian law (IHL), including war crimes and crimes against humanity, through attacks on civilians and civilian infrastructure (e.g., mass executions, sexual violence, torture, forcible transfer of civilians). More than 15,000 Ukrainians have been killed and injured and millions more have been forced to flee their homes, creating one of the largest humanitarian and refugee crises of modern times.

On September 21, President Vladimir Putin escalated the war by announcing a “partial mobilisation” of the Russian population. The accompanying legislation ([Article 9 of Federal Law No. 31-FZ](#)) mandates all organisations, including the more than 1,500 international companies that are currently operating on a full or limited scale in Russia, to conduct military registration of the staff if at least one of the employees is eligible for military service.⁴ They must also assist with delivering the military summons to their employees, ensure the delivery of equipment to assembly points or military units, and provide information, buildings, communications, land plots, transport, and other material means of support to the war effort.

This legislation entails new and significant legal risks for companies remaining in Russia, including potential civil and criminal liability under comprehensive sanctions regimes and recent international jurisprudence holding corporations and their officers responsible for human rights abuses abroad.⁵ Companies may be exposed to financially material risks through operational restrictions, such as limitations of future government contracts.⁶

⁴ Federal Law No. 31-FZ of February 26, 1997 "On mobilization training and mobilization in the Russian Federation" (as amended), <https://base.garant.ru/136945/> (accessed November 8, 2022).

⁵ International companies remaining in Russia are now at a greater risk of violating sanctions regimes as implementation of the legislation will likely involve transacting with sanctioned individuals or entities. Furthermore, new domestic civil and criminal cases against companies involved in violations of international law demonstrate the risk of significant liability for facilitating state-sponsored human rights abuses abroad (e.g., Lafarge case, Lundin case, Castel Group indictment, Nevsun holding, and Dassault Aviation, Thales, and MBDA France criminal complaint.) Victoria Riello and Larissa Furtwengler, “Corporate Criminal Liability for International Crimes: France and Sweden Are Poised To Take Historic Steps Forward,” *Just Security*, September 6, 2021, <https://www.justsecurity.org/78097/corporate-criminal-liability-for-human-rights-violations-france-and-sweden-are-poised-to-take-historic-steps-forward/> (accessed November 8, 2022); The Sentry, “Breaking: France Opens War Crimes Inquiry Focused on Iconic Food and Beverage Conglomerate,” July 1, 2022, <https://thesentry.org/2022/07/01/7216/breaking-france-opens-war-crimes-inquiry-focused-iconic-food-beverage-conglomerate/> (accessed November 8, 2022); Rfi “French technology firm charged over Libya cyber-spying,” July 2, 2022, <https://www.rfi.fr/en/business-and-tech/20210701-french-tech-firm-charged-over-libya-cyber-spying> (accessed November 8, 2022); Preston Lim, “Canadian Supreme Court Allows Corporate Liability for International Law Violations,” *Lawfare*, March 12, 2022, <https://www.lawfareblog.com/canadian-supreme-court-allows-corporate-liability-international-law-violations> (accessed November 8, 2022); Sherpa, “Aiding and abetting war crimes in Yemen: Criminal complaint submitted against French arms companies,” June 2, 2022, <https://www.asso-sherpa.org/aiding-and-abetting-war-crimes-in-yemen-criminal-complaint-submitted-against-french-arms-companies> (accessed November 8, 2022).

⁶ Venable LLP, “Do You Contract with State Governments? If So, Beware of Emerging State Sanctions’ Obligations Related to Russia and Belarus,” *JD Supra*, June 3, 2022, <https://www.jdsupra.com/legalnews/do-you-contract-with-state-governments-6537229/> (accessed November 8, 2022).

In response to this unprovoked and unjustified war⁷ many companies have left Russia. According to the Kyiv School of Economics Institute's #LeaveRussia [company tracker](#), Glencore announced in early March that it had no operational footprint in Russia and an immaterial trading exposure. The company also promised to review its equity stakes in En+ Group (En+) and Rosneft to determine how the company would proceed.⁸ A few weeks later, Glencore announced that it would “not enter into any new trading business in respect to Russian origin commodities.”⁹ However, the company stated it could not feasibly divest its holdings in En+ and Rosneft and it would “continue to honour its legal obligations under pre-existing contracts, subject to meeting all applicable sanctions.”¹⁰ While we commend Glencore for taking some steps to limit its exposure to Russia, our research indicates the company still maintains significant exposure to Russia’s war of aggression against Ukraine.

Glencore owns a 10.55 percent interest in Russian metals and energy supplier En+ and a 57 percent interest in Russian state-owned oil company, Rosneft. En+ holds the controlling stake in Rusal,¹¹ a leading aluminium mining company that sells 90 percent of its mined quartzite and silicon to the Russian Federation and has several contracts with various Russian state-owned military, defence, and weapons companies, including Rostec and SC Novosibirsk Mechanical Plant Iskra.¹² Rosneft is a Russian sanctioned and state-owned oil company that significantly contributes to the Russian Federation’s budget.¹³

Glencore has historically been one of the largest commodity traders in the Russian market, reportedly winning “Rosneft’s regular crude and products tenders.”¹⁴ After the invasion began, Glencore continued to trade Russian commodities. According to customs documents reviewed by Global Witness, Glencore was identified in a group of traders responsible for lifting 33 tankers carrying roughly 20mn barrels of crude and oil products from Russian ports. Similarly, Glencore has continued to deliver significant amounts of Russian-origin aluminium to the London Metal Exchange,

⁷ The UN General Assembly condemned Russia’s “aggression against Ukraine” and demanded that Moscow “unconditionally withdraw all of its military forces from the territory of Ukraine within its internationally recognized borders.”

⁸ Glencore, “Glencore’s statement regarding the war in Ukraine,” March 1, 2022, <https://www.glencore.com/media-and-insights/news/statement-regarding-the-war-in-ukraine> (accessed November 8, 2022).

⁹ Glencore, “Completion of review of Russian business activities,” March 30, 2022, <https://www.glencore.com/media-and-insights/news/completion-of-review-of-russian-business-activities> (accessed November 8, 2022).

¹⁰ Ibid.

¹¹ Reuters, “En+ says Rusal remains in full compliance with U.S. regulations,” October 14, 2022, <https://www.reuters.com/markets/commodities/en-says-rusal-remains-full-compliance-with-us-regulations-2022-10-14/> (accessed November 8, 2022).

¹² Alla Hurska and Eurasia Daily Monitor, “Deripaska and his business empire: security risks for Ukraine,” *Ukraine Weekly*, November 1, 2019, <https://www.ukrweekly.com/uwwp/deripaska-and-his-business-empire-security-risks-for-ukraine/> (accessed November 8, 2022).

¹³ Statista, “Oil and gas industry contribution to the federal budget of Russia in 2018, by major company,” February 27, 2020, <https://www.statista.com/statistics/1096073/russia-energy-companies-contribution-to-the-federal-budget/> (accessed November 8, 2022).

¹⁴ Olga Yagova and Dmitry Zhdannikov, “Glencore sells stake in Russia’s Rosneft to cap 20-year partnership,” *Reuters*, February 15, 2022, <https://www.reuters.com/business/exclusive-glencore-sells-stake-russias-rosneft-cap-20-year-partnership-2022-02-15/> (accessed November 8, 2022).

specifically including metal produced by Rusal.¹⁵ According to Glencore's website, its Russian operations also include marketing offices in St. Petersburg and Moscow.¹⁶ The number of employees or the extent of these officer's operations are unclear.

These activities risk enabling and financing Russia's violations of IHL and human rights law during the ongoing invasion and occupation of Ukraine and violating Glencore's Human Rights Policy. It remains to be seen how directly Glencore will be impacted by the partial mobilisation and the heightened legal, regulatory, operational, and financial risks associated with companies being required to provide direct support to the internationally sanctioned Russian military.

We seek to understand how Glencore has conducted and continues to conduct heightened human rights due diligence, per its stated policy and the UNGPs concerning due diligence in conflict-affected areas, and how the findings of such a process has resulted in these continued business activities and relationships. As noted by the UNGPs:

...the more severe the abuse, the more quickly the enterprise will need to see change before it takes a decision on whether it should end the relationship. In any case, for as long as the abuse continues and the enterprise remains in the relationship, it should be able to demonstrate its own ongoing efforts to mitigate the impact and be prepared to accept any consequences – reputational, financial or legal – of the continuing connection.

In consideration of the above points and B4Ukraine's [Declaration](#), we request an urgent dialogue with Glencore's relevant senior management and staff to discuss the company's ongoing activities and relationships in Russia, associated risks to the people of Ukraine and the company, and potential steps to prevent/mitigate these risks. Please contact Eleanor Nichol at enichol@businessforukraine.info to schedule a call at your earliest convenience before 25th November.

Sincerely,

Eleanor Nichol
Executive Director
The B4Ukraine Coalition

¹⁵ Pratima Desai and Mai Nguyen, "EXCLUSIVE Glencore delivers Russian-origin aluminium into LME system -sources," *Reuters*, October 18, 2022 <https://www.reuters.com/markets/commodities/exclusive-glencore-delivers-russian-origin-aluminium-into-lme-system-sources-2022-10-18/> (accessed November 8, 2022).

¹⁶ Glencore, "World-Map," <https://www.glencore.com/world-map> (accessed November 8, 2022).