

GLENCORE

22 May 2019

Hannah Matthews
Latin America Research Assistant
Business & Human Rights Resource Centre
Via email: matthews@business-humanrights.org,
Mauricio Lazala and Amanda Romero on copy

Dear Hannah,

Thank you for alerting Glencore of the publication of the report, *Extraction Casino: Mining companies gambling Latin American lives and sovereignty supranational arbitration*, on the Business & Human Rights Resource Centre's website. We welcome the opportunity to provide a response to the allegations made in the report.

Colombia

The dispute between Glencore's Prodeco coal asset and the Colombian Government stems from a 2010 amendment to the Mining Contract for the Calenturitas mine.

In 2008, we proposed to expand the Calenturitas mine to increase coal production and extend the life of the mine. The expansion plan involved Glencore making substantial investments. The original royalty regime applicable to the Calenturitas mine would have become punitive in respect of the expansion to increase production. After 20 months of discussion, and in order to enable a significant expansion of the Calenturitas mine, the government and Prodeco/Glencore agreed an amendment to the royalty regime through an amendment to the Calenturitas Mining Contract, executed in January 2010.

Regrettably, after the amendment was signed by both parties, and significant investments had been made to expand the mine on the basis of the amendment, the government sought to revoke and nullify the amendment that Colombia had signed.

The Swiss-Colombia Treaty requires that Colombia abide by the commitments it makes to investors like Glencore and Prodeco, and it requires that Colombia treat Glencore and Prodeco's investments fairly and equitably. Glencore initiated a consultation process with the Colombian government in order to settle the dispute amicably. Unfortunately, the amicable negotiations under the treaty were not successful and we filed an arbitration claim before ICSID in March 2016.

The arbitration proceedings have now concluded and we anticipate receiving the judgement shortly.

Bolivia

In July 2016, Glencore began arbitration proceedings against Bolivia over the nationalisation of these three assets by the Evo Morales government. While Glencore does not dispute Bolivia's sovereign right to nationalise its investments, under international law and the applicable bilateral investment treaty for the Promotion and Protection of Investments, Bolivia must pay fair and effective compensation.

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Glencore's objective has always been to settle the dispute with the government of Bolivia amicably. However, after almost nine years of negotiations without receiving any compensation for the nationalisation of three of its assets, Glencore had no other option but to initiate arbitration proceedings to enforce its rights under international law.

Glencore is committed to Bolivia and wants to continue to develop our working relationship within the country despite having three assets nationalised in 2007, 2010 and 2012. We work with the government as our 55% partner in our Bolivian operations.

Glencore has and continues to make substantial contributions to Bolivia and its people. We have contributed to the Bolivian mining industry and wider economy, providing the community with jobs, education, access to healthcare and improved infrastructure. Glencore is committed to continue contributing to the Bolivian economy and to resolve its dispute with the Government.

As always, we appreciate the opportunity to contribute to the discussion on these matters.

Kind regards,

Anna Krutikov
Group Head of Sustainability