

GLENCORE

17 June 2014

Glencore response to Key Findings and Questions, presented by Bread for All, the Swiss Catholic Lenten Fund and RAID

General statement

Glencore welcomes the opportunity to continue engaging with Bread for All and RAID. This response forms part of an ongoing dialogue that commenced with Bread for All in April 2012 and more recently with RAID in 2013.

In October 2013, Bread for All and RAID were able to tour our operations in the DRC and areas that were of specific interest to the NGOs. Detailed meetings were also held with the senior management teams at both KCC and MUMI. At no point was any information concealed from either NGO.

Throughout the visit, we were frank and open in our description of the current situation and the challenges we face, as well as our plans for the future. We also emphasised our interest in a constructive and informed partnership, and requested specific suggestions for improvement on various aspects of our approach to the management of community and environmental issues.

Glencore's operations in the DRC

Glencore is a substantial investor in the DRC. Katanga Mining and Mutanda between them represent an investment of over \$3.7 billion at the end of 2013. This will reach c.\$4.2 billion at the end of 2014.

This investment does many things which Glencore believes are positive contributions to the DRC. These include creating 17,000 good quality, stable employee and contractor jobs at two operations. 95% of these jobs are held by Congolese nationals. In addition the Katanga Mining and Mutanda operations support local businesses, provide substantial revenues to the DRC's local, provincial and national Governments and contribute to the development of DRC infrastructure, such as roads, bridges and power generation. We also provide microfinance to local entrepreneurs to stimulate the economy, and make voluntary contributions to various projects such as renovating/building schools and hospitals to improve living standards in the local communities. To date, the following projects have been supported by KCC and MUMI:

- Education: fourteen primary schools, four technical institutes and one university;
- Healthcare: fifteen health centres and five hospitals;
- Transport: construction of Kolwezi airport, paving of local roads and construction of the bridge over Lualaba River;

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- Sustainable livelihoods: 30 local agriculture cooperatives and support to small entrepreneurs and local procurement (cleaning campaign, reforestation campaign, wood recycling)

These projects provide services for the whole population of Kolwezi, i.e. approximately one million people.

Glencore Corporate Practice

Glencore Corporate Practice, or GCP, is our corporate governance framework and the programme through which we manage sustainability. The GCP reflects our Values and its practical application across our business and is detailed in our Code of Conduct.

Glencore's Values and Code of Conduct, as well as the underlying policies that support the ongoing integration of sustainability throughout our operational management procedures, represent our commitment to upholding good business practice.

We work proactively to maximize shareholder value while operating in accordance with applicable law. Glencore is committed to full compliance with all our statutory obligations to tax authorities and reporting transparently on the tax payments that we make to the governments of the countries in which we operate.

I) Environment

Water Management

Following a series of transactions, Glencore acquired operational control of KCC at the end of 2009. In 2010, Glencore commissioned detailed engineering studies, and in 2012 began implementing the recommendations, including the construction of the Mupine basin to capture effluent from the operation and prevent it from leaking into the Luilu river.

The Mupine basin required technical upgrades and rehabilitation works to ensure that effluents discharged were in line with national and international requirements for environment and groundwater sustainability.

Water Management Measures:

Part of Phase IV of the refurbishment of Luilu was the development of the neutralisation system. The project started in August 2011 and ended in February 2012, at early stage of Phase IV. Since then, KCC has expanded neutralization capacity even further through the construction of a new lime storage facility and lime plant.

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In line with international mining practice, all waste from the KTC concentrator is settled prior to discharge, while waste from the Luilu plant, which contains traces of heavy metals, is neutralised and settled prior to discharge.

Water monitoring is regulated by mining legislation. We monitor water on a daily, monthly and quarterly basis and we have sampling points within and outside the concession, including several locations for the monitoring of Luilu river. Analyses are reviewed periodically by the DPEM. MUMI also conducts routine sampling within the concession to ensure environmental practices and controls are effective.

In addition to the facilities described above, KCC has implemented several emergency ponds around to concession that we use to prevent discharge in the Luilu river, especially during power cuts from SNEL or plant shutdown. However, it should be noted that KCC is not the only operator in the area, and cannot take responsibility for any discharge that may occur as a result of the operations of other companies.

Contrary to what is stated in the report, we did not have the opportunity to review the results of the water sampling described in the report, nor understand the methodology used to take these. Analysis undertaken by our laboratory does not indicate a breach of regulatory or international limits with regard to arsenic. It should be noted that arsenic is not used in any process at KCC.

Basse-Kando Reserve

We refute that there was any exploitation of ambiguities in the mining law. The mining law is very clear in that the *Cadastre Minier* grants all mining licenses in accordance with the laws of the country including the Mining Code. In addition, our operations fall under the Ministerial direction of the Minister of Mines.

The Mutanda license was subject to the Mining license review of 2007 which was concluded in 2008 and our license was subsequently upheld. We have complied with all requirements of the Ministry, including stakeholder consultation. We have made an offer to ICCN to meet with us; to date, we have not received a response from ICCN.

II) Human Rights

Glencore is committed to upholding human rights, and to aligning its practices with the Voluntary Principles on Security and Human Rights. Throughout our engagement with Bread for All and RAID, we have responded to all queries as fully and transparently.

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Case of Mr Mutombo Kasuyi

Mr. Mutombo was apprehended by a team composed solely of officers of the Mine Police. Mr. Mutombo was then driven to the KCC hospital by the team composed by KCC and G4S officers. It should be noted that the deployment of Mine Police officers on site is done so by the State to protect their interests. The Mine Police are not contracted out or subordinated to the mines and hence remain outside of the control of the mining companies.

We refute any allegation of having obstructed the investigations. From the start, KCC provided active support and collaborated with investigating authorities to understand the dynamic of the incident and assess whether a violation of human rights occurred. As part of the investigation, KCC provided the death certificate to the investigating authorities at their request. Investigating authorities also requested and obtained KCC support to conduct cross-interviews with KCC and contractors' staff and site visits. While under investigation, the contractors and employees were suspended; this is a standard administrative procedure and does not imply any responsibility or guilt. Following the conclusion of the investigation, no charges were advanced against KCC and contractors' staff by investigating authorities. The investigation by the military authorities is ongoing and KCC cannot comment on this process, nor interfere with it in any way; this has also been communicated to the relevant authorities in the DRC.

Following the Prosecutor's investigation, an internal Human Rights committee was set up to assess whether KCC and contractors' staff operated in line with company policies and procedures on human rights and security operations. The committee was composed by representatives of the legal department and company Human Rights Advisor: we interviewed all the staff that took part to the operation directly (KCC and contractors' security staff) and indirectly (dispatch and hospital staff). Interviews were conducted in the local language.

The final assessment of the committee concluded that KCC and G4S staff operated in line with company policies and did not infringe human rights. Releasing the results of the investigation would infringe on privacy laws, and potentially endanger the individuals involved.

KCC has not been contacted by the legal representatives of the family of Mr. Mutombo. KCC categorically rejects any allegation or rumour of having directly or indirectly encouraged a monetary compensation to the family of Mr. Mutombo.

Regarding the interaction of our operations with the Mine Police, KCC and MUMI are currently drafting a Memorandum of Understanding with the Mine Police, which will address material and financial assistance, as well as stipulate expected standards of conduct.

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Artisanal miners in Mashamba East

On 27 December 2013, KCC requested an evacuation of artisanal miners from Mashamba East, part of the KCC concession, due to concern about the miners' safety. The evacuation was conducted in compliance with DRC law, including a formal communication to the local authorities and the SAESSCAM, the artisanal miners' representative body. SAESSCAM also engaged with the miners to alert them to the operation. The evacuation was conducted peacefully. Mine police was deployed only for access control in that specific occasion and KCC did not receive any complaint regarding any excessive use of force.

KCC was neither informed nor involved in any incidents that may have occurred in Kapata, which is located outside of the KCC concession. We cannot comment on any other incidents that may have taken place outside of our concession (e.g. at Mashamba West), or as a result of activities of other mining companies operating in the area.

Tilwezembe

As stated previously, the Tilwezembe concession was illegally seized by artisanal miners. The situation at the concession is extremely volatile, and KCC restricts its employees from travelling to the site out of concern for their safety. KCC continues to engage with the DRC government for a peaceful resolution to this issue.

Trespass and 'Zero Tolerance'

As previously stated on several occasions, KCC does not restrict access to pedestrian roads near its concession. These roads are not the property of KCC but of the State. The only roads with no access are mine specific roads that have been developed by KCC since ownership by Glencore. We refute any allegations of abuse of pedestrians by KCC security personnel.

As regards the group of minors, who were found collecting material on our concession on 15th March 2014, our security team did not proceed with an arrest: instead, and in line with our procedures, we interviewed them to be able to identify the families. For those unable to provide any information on the identity of the family, KCC informed the Prosecutor, who requested their transfer under his jurisdiction. Following this transfer, KCC had no authority over the treatment of this group, as it is in the jurisdiction of the legal authorities.

Security and Human Rights at MUMI

The tasks and responsibilities of public security officers operating within mining concessions are clearly stipulated by DRC regulation; both companies are in full compliance with this. In accordance with regulation, all public security officers respond and report to their own hierarchy and chain of command, and do not report to KCC or MUMI personnel.

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Under relevant DRC legislation, private operators do not have the mandate and are not entitled to provide training to public security. In recognition of this constraint, we are establishing contacts with MONUSCO, a specialist UN agency based in the DRC who has been granted a mandate by the Government to train public security agencies in the country, to develop and implement a reliable, transparent and internationally reputable training programme for public security personnel. In addition to this, both KCC and MUMI Security Departments communicate to public security agencies and officers our policies and expectations of conduct while on site, including with regard to the use of force and respect for human rights.

Both companies are in compliance with DRC regulation with regard to conduct of arrests, and handling of grievances related to ill treatment or excessive use of force. Interviews with the OPJs were conducted during the NGOs' visit to KC and MUMI.

The Security Manual is an internal document that guides the conduct of the Security Departments at KCC and MUMI. It contains sensitive information and cannot be made public.

All internal security personnel go through an induction programme at the beginning of their employment that includes training on company policies, procedures and expectations, including protocols addressing human rights, such as the Voluntary Principles and the International Code of Conduct for Security Providers. Personnel also attend annual mandatory 'refreshment sessions', conducted either by OPJs or supervisors. Requirement to respect and comply with the Voluntary Principles and the UN Declaration on Human Rights is stated in engagement contracts, and a monitoring system is in place. During the next contract review, both companies will address alignment with the International Code of Conduct for Private Security Providers. Finally, a grievance mechanism is in place to report and respond to possible infringements of human rights.

All training and contractual requirements are developed in alignment with Glencore's approach to human rights, as stated in its Code of Conduct, and its commitment to implement the Voluntary Principles on Security and Human Rights.

MUMI operates in line with DRC requirements for holding suspects. All suspects are transferred to Kolwezi, where their cases are investigated by the Prosecutor in accordance with DRC regulation. All hearings and transfers are supervised by the OPJs, who report in this capacity to the Prosecutor, in accordance with DRC regulation. MUMI does not employ any members of Agence Nationale de Renseignement (ANR).

According to DRC mining legislation, site facilities for the storage of explosive and blasting material must be supervised by the military.

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III) Communities

Approach

Glencore's approach to stakeholder engagement is in line with international standards. The following mechanisms are in place at KCC and MUMI:

- Dedicated community liaison officers engage with all communities impacted by our activities on a daily basis to address concerns and provide updates on relevant operational developments. Minutes are kept of all the meetings;
- Grievance mechanisms are in place to enable community members to register complaints. These are reported and reviewed by senior management. Complainants are provided with information on any follow-up actions taken
- Regular meetings with elected representatives of the communities, including tribal chiefs, to identify the needs of the communities and determine optimal solutions.

All exchanges with the community are documented and classified as follows:

- Complaints: concerns raised with regard to the negative impacts directly linked to our operations and exploitation, such as dust, noise, odour, traffic, incidents involving company vehicles and communities, etc.
- Requests: issues and concerns not directly linked to our operations, such as requests for social assistance, water supply, rehabilitation and construction of education and health facilities, etc.

All exchanges are documented, reported to senior management and addressed.

Community Liaison Officers

KCC and MUMI reject any allegations regarding the role and involvement of authorities in suppressing complaints and requests from communities; however, as most of community concerns regard access to basic services and infrastructure, such as water, education and health, the involvement of authorities is fundamental to ensure the accountability and the sustainability of our responses.

Community Liaison Officers form a core component of our community engagement strategy. Each officer plans weekly meetings and consultations with the reference community (i.e. committees, associations and cooperatives, vulnerable groups, etc..) with the aim to report and address community concerns and requests to senior management. In 2013, 900 meetings were held with the local community representatives to address complaints and requests. These included meetings with community committees, associations, population living in specific sections of the community, customary and local authorities, as well as open information sessions.

Glencore has had no opportunity to review the details of the community feedback to the NGOs as referred to in this report, and so can make no further comments.

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Community Investment

Throughout its operations, Glencore invests in infrastructure projects that support socio-economic growth of the local communities in which we operated, as well as identify projects that have a direct impact on immediate communities. Projects are targeted to improve both the living conditions and livelihoods of the local communities by providing infrastructure which will provide sustainable support to these communities. These include public roads, airports and other large-scale projects that benefit the local population and promote trade and other development. To date, the following projects have been supported by KCC and MUMI:

- Education: fourteen primary schools, four technical institutes and one university
- Healthcare: fifteen health centres and five hospitals
- Infrastructure: construction of Kolwezi airport, paving of local roads and construction of the bridge over Lualaba River.
- Agriculture & Water: 30 local agriculture cooperatives and support to small entrepreneurs and local procurement (cleaning campaign, reforestation campaign, wood recycling)

These projects provide services for the whole population of Kolwezi, i.e. approximately one million people.

Rights to water and other livelihood issues

Glencore refutes all allegations that it manipulates DRC regulation to suit its interests. The joint venture agreement with Gecamines stipulated the rights and obligations of each company, as well as documenting Gecamines' environmental liabilities as a result of it operating KCC prior to KML / Nikanor's obtaining ownership of the sites. This joint venture agreement was subject to the Mining licence review and was ultimately approved by the President of the DRC. KCC has taken full responsibility for any impacts its operations have had on the environment and the local communities since 2009. Its management of these impacts is regularly reviewed by the relevant authorities.

Water supply investments

In accordance with DRC regulation, water supply and delivery is the responsibility of the State, and managed by state entities REGIDESO and SNEL. Glencore recognises the constraints faced by these organisations, and seeks to assist in water delivery, as well as supplementing existing programmes with its own projects.

State-managed water supply: investments in water supply infrastructure are decided and managed through the Kolwezi committee for water supply. This committee is chaired by the mayor and involves several partners, including GCM, REGIDESO, SNEL and KCC. The goal of this committee is to progressively extend the access to

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potable water to the population of Kolwezi and support the improvement of REGIDESO management and ownership of the infrastructure.

In the past 3 years the committee focused its financial and technical resources on the Mutoshi project, under which four industrial wells are developed to supply water to the entire upper section of Kolwezi. In 2013, the committee has started assessing the feasibility of a water supply project for the community of Luilu.

KCC water projects: KCC has constructed 14 manual bore wells in various surrounding communities and supports the community in managing the facility in an efficient and transparent way. Until these were completed, and subsequently during any interruptions of water supply, KCC provided water to local communities using water trucks.

Water management at Musonoi: water supply at Musonoi is ensured by a pump managed by Gecamines in accordance with REGIDESO. While KCC has no control over the use of this pump, we have, on request, provided technical and financial assistance for its maintenance.

Water management at Luilu: KCC drilled hand pumps in Luilu to facilitate access to water in 2011-2012, and will also be providing tanks for water purification in the area. Following the completion of the Mutoshi project, REGIDESO will focus on water needs of Luilu. KCC will provide support to this project.

Rural Communities

Some of the roads used by communities are within MUMI concession. As our operations expanded further onto the MUMI concessions, we needed to ensure the safety of pedestrians and avoid any possible incident due to the circulation of trucks and other vehicles. This was conducted in consultation with community members. We have already built alternative roads and we are currently in the process of assessing the feasibility of additional measures (i.e. shorter routes, transport, etc.).

We have ensured that surrounding communities continue to have access to timely medical care. Medical facilities have been installed by MUMI on both sides of the National road and we developed a partnership with Lualaba Health zone to assist in particular cases and emergencies. It should be noted that all healthcare available in the area has been funded and supported by MUMI, as pre-existing infrastructure was inadequate. Since beginning operations, MUMI has established the following initiatives:

- Health clinic in Kando, servicing 45 people per day
- Pediatric programme for children under five years old, (vaccination, periodic controls, targeting malaria)
- New project with Lualaba Health Zone to establish a fully-equipped hospital in the area
- Medication donations to Lualaba Health Zone (in progress)

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Musonoi Resettlement

The Framework Resettlement Action Plan prepared in 2009 was based on the original mine plan, which assumed a large open-pit operation that would impact on Musonoi. Since 2009, the mine plan has been fully revised, and now consists of an underground mine expansion moving in the opposite direction from Musonoi. Given the fundamental change in the mine plan, the original RAP was not disclosed to avoid confusion. Likely impacts of the new mine plan are currently under review as part of the ongoing ESIA process.

In line with DRC mining legislation, following the completion of the ESIA review, we will conduct a second round of consultations to inform affected communities of operational impacts and prevention and mitigation measures.

DRC mining legislation stipulates precise standards for vibrations and sound during blasting. In line with international standards, such as the US Bureau of Mines and US Office of Surface Mining, the thresholds fixed by DRC are 12.5 mm/sec for vibration and 120 dB for sound. KCC operates in line with the DRC and international standards: we monitor our performance through seismographs, set up in different locations within and nearby our concession. Blasting sessions and vibrations reports are periodically reviewed by competent local bodies from the Ministry of Mines.

IV) Fiscal Issues

We refute any allegation that there has been a transfer of profits to avoid paying taxes in the DRC.

All taxes are paid to the DRC State and State companies in accordance with the laws of the country, the Mining Code and the Joint Venture Agreement signed between KML and Gecamines.

In addition to the minimum cash taxes payable by MUMI and KCC, the operations pay taxes relating to imports, exports, royalties, IPR, IERE, INSS, INPP, IM, IBO, *droits superficiaires et autres* (DGRAD) the total of which amounted to US\$ 212 million and US\$ 282 million for 2012 and 2013 respectively

We are aware of a report by the public prosecutor regarding outstanding taxes and penalties that MUMI has not paid. Contrary to what is stated in the report, no contact was made with MUMI to discuss these findings and no claim has ever been lodged.

KCC's accounts are subject to the accounting principles in force in the DRC; KCC is audited annually by Deloitte (in the past KPMG) and the Gecamines internal statutory auditor. The accounts of KCC are signed off annually by the Board of Directors which includes Gecamines representatives in accordance with the JVA.

The going concern of the company is assessed each year in accordance with accounting standards and KCC continues to show that shows sufficient liquidity to pay all creditors with the support by Glencore.

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KCC is currently undergoing a significant capital expansion program which has led Glencore to invest a further \$2 billion in loans to KCC to increase its production up to 300ktpa of copper cathode.

All transactions completed between KML and Glencore are related party transactions and are approved by KML's independent board directors. Glencore is required under TSX and standard operating procedures to excuse itself from any vote relating to related party transactions. In addition, KML's independent directors appointed an independent financial advisor to comment on the commercial terms of the Glencore loan facility, which found the terms to be fair and reasonable. The original loans from KML to KCC (prior to Glencore's involvement) reflect market terms at the time of the transaction. This was evident by the KML debenture facility which was issued with a yield of 14%.

It should be noted that Glencore entered into the offtake agreements with Nikanor and KML separately when KCC was still made up of two companies. At the time of entering the contracts, Glencore was a minority shareholder in Nikanor and its only investment in KML was through the issuance of a convertible loan (no ownership at the time). These off-take facilities were signed by each company's respective boards. At the time of the merger of the companies, as the off-takes were with the respective DRC entities and as such Gecamines was required to approve the agreements.

The Glencore offtake facilities are disclosed publically on SEDAR in accordance with TSX requirements.

KCC has appointed external experts to perform transfer pricing studies regarding services offered to KCC, the conclusion of such reports is that the interest rates and margins for these services are reasonable and aligned with OECD guidelines on transfer pricing.

Glencore continues to support KML and KCC as we believe in the operations and believe that liquidating the company would have dire impacts on the DRC including the loss of some 10'000 jobs in Kolwezi.

In 2012, the DRC Finance Minister commissioned Ernst & Young to perform a full verification audit on the fixed assets of KCC dating back to 2008 over and above and without any reference at all to the annual audits performed by KCC and KML's external independent financial auditors. KCC received the auditors on site initially to discuss the plan and documentation requested. Due to the volume of information requested, KCC formally requested additional time for compilation. The auditors subsequently returned and were welcomed by KCC in July 2013 to perform their audit. An interim audit report was released in November 2013 which was discussed and reviewed in conjunction with the KCC audit team. Since then no further responses have been received from these auditors. KCC has requested the final audit report but has not yet received a copy.

All related party transactions are disclosed in the KML reports, including those involving contractors, In addition to the related party contracts, significant contractors

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include Forrest Group, AAC Mining and Reliant Congo, all of which are local companies.

All payments to the State and to Gecamines are made as and when they come due. To date, neither KML nor Glencore has received any money from KCC either through dividends or loan repayments but rather continue to put cash in to fund the expansion programme.

Gecamines continues to receive Pas de porte and annual royalties in accordance with the Joint Venture Agreement. Under this agreement, Gecamines has the right to audit the royalty payments, and has found no discrepancies. In addition, and outside of the joint venture agreement in respect of KCC, KCC pays 'redevance minière' (state royalty) to the State, which is calculated at 2% of net income in accordance with the Mining Code.

Glencore has endorsed the Extractive Industries Transparency Initiative as part of its support for increased transparency of the redistribution and reinvestment of taxes and royalty payments into the communities in which we operate.

Both KCC and MUMI have completed all submissions for the EITI process in the DRC and submitted them in accordance with the process. In recent years, this has been via submissions to KPMG who were mandated by the DRC State to act as an independent auditor charged with reconciling the payments made by the companies and the receipts from the State. KPMG issued signed certificates based on all submissions.

We are aware that discrepancies were identified between the reports submitted by our operations and the receipts of the government. We fully cooperated to resolve these issues before the release of the final report. We are still open to any discussions regarding these discrepancies and would be happy to show proof of all payments to KPMG to resolve any outstanding issues.

MUMI and KANSUKI Merger and Glencore Xstrata's share acquisition

At the time when Gecamines sold its stakes in Mutanda and Kansuki, Glencore held 40% of Mutanda through Samref Congo and 37.5% of Kansuki through Kansuki Investments Sprl respectively.

It is important to note that Glencore did not have the pre-emptive option but rather Samref Congo and Kansuki Investments Sprl. The management of these companies were subject to joint venture agreements which included clauses requiring both shareholders to approve certain transactions. The pre-emptive option was one such transaction.

In addition, Glencore had decided in general not to increase its shareholding in DRC projects. This was for two reasons; firstly Glencore already had substantial capital commitments to develop Katanga and Mutanda and preferred to invest its funds in developing its DRC projects – i.e. in expanding mine infrastructure – rather than paying out shareholders. Secondly Glencore perceived that there was potentially

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some uncertainty ahead of the DRC presidential election. The outcome was uncertain and it was possible that there could be very unfavourable implications for the mining industry.

Samref and Kansuki therefore decided they were not willing to match the other bids on the table. The recommendation back to Gecamines was to follow the highest bid.

Any details regarding the transaction between the Fleurette Group and Gecamines should be discussed with these two companies as none of our operations were party to the transaction.

Regarding further increases in our stake in Mutanda, the situation today for Glencore is different, with the Mutanda and Katanga operations at a more advanced state of development and with the presidential elections now complete. In addition, the subsequent merger of Glencore and Xstrata has given the company greater scale, which will enable more investment in the DRC whilst maintaining a balanced portfolio worldwide.

Taxes and penalties paid in 2013

All taxes and penalties have been disclosed in KML's annual financial statements. The first related to the interpretation of an export tariff code. Where KCC discussed with the export authorities which code the copper nodules need to be exported under. All discussions were minuted with the tax authorities and it was agreed that pending a technical review by a competent authority, KCC would continue to export nodules under one of the codes and that in the event that an alternative code was required; KCC would make the necessary declaration adjustment. Subsequent to the technical review, the adjustment was required and the tax authorities levied penalties on the transactions.

All expatriates working formally for KCC are employed by KCC. Prior to Glencore's ownership, certain expatriates were appointed by KCC under the Foreign Technical Assistance laws of the DRC. In 2012/2013 KCC's management decided to bring all expatriates onto the payroll and the Technical Service Agreement was terminated. KCC made this change of its own accord.

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