

Glencore Feedback to 2018 Appeals Process

Thank you for taking part in the CHRB Appeals Process and for your patience throughout. Of the 7 appeals submitted to CHRB, 1 was partially accepted and 4 were rejected by CHRB, the research team and also by our panel (led by Margaret Wachenfeld and supported by Lise Smit and Nadia Bernaz¹). Two appeals were accepted by the CHRB in the initial review and did not need to go to the panel:

Indicator code	Indicator title	CHRB Score (pre-appeal)	Final Score (post-appeal)	Full Appeal Committee involved? (Yes or No)	Change in score? (Yes or No)
E(1).3	The Company has taken appropriate action	0	1.5	Y	Y
D.3.2	Transparency and accountability (in own extractive operations, which includes JVs)	1	2	N	Y
E(1).1	The Company has responded publicly to the allegation	1	2	N	Y
A.1.1	Commitment to respect human rights	1	1	Y	N
B.1.1	Responsibility and resources for day-to-day human rights functions	0	0	Y	N
D.3.5	Indigenous peoples' rights and free prior and informed consent (FPIC) (in own extractive operations, which includes JVs)	0.5	0.5	Y	N
E(3).1	The Company has responded publicly to the allegation	0	0	Y	N

A brief summary of the reasoning for rejection is included below:

APPEAL NUMBER: 012	COMPANY: Glencore
Indicator: A.1.1	Indicator Title: Commitment to respect human rights

¹ Margaret Wachenfeld is an independent consultant, a director of CHRB and the co-chair of CHRB's Methodology Committee but was not involved in the actual research process. Lise Smit is a Senior Research Fellow in Business and Human Rights at the British Institute of International and Comparative Law. Nadia Bernaz is a specialist in international human rights law at the Wageningen University Netherlands.

<p>Scorecard Text: The individual elements of the assessment are met or not as follows: Score 1</p> <ul style="list-style-type: none"> • Met: General HRs commitment: The Company states in its Code of Conduct: 'We support and respect human rights in a manner consistent with the Universal Declaration of Human Rights. We uphold the dignity, fundamental freedoms and human rights of our employees, contractors and the communities in which we live and work, and others affected by our activities. [Code of Conduct, 2017] • Not met: International Bill of Rights <p>Score 2</p> <ul style="list-style-type: none"> • Not met: UNGPs: In addition, it indicates in its Human Rights Policy that: 'The policy is developed in accordance with the Universal Declaration of Human Rights, the International Labour Organisation (ILO) Core Conventions on Labour Standards, the Equator Principles, and the United Nations (UN) Guiding Principles on Business and Human Rights'. However, this is not considered as a commitment to abide by the principles contained in these. [Human Rights Policy] • Not met: OECD 		<p>2018 Scorecard Score:</p> <p>1</p>
<p>Requested Score:</p> <p>2</p>	<p>Justification from Company:</p> <p>Glencore has publically stated our commitment to the OECD: - P36. "...we are in the process of strengthening our management of supply chain due diligence to align with the Organization for Economic Cooperation and Development (OECD) guidelines - P42. "The policy also complies with guidelines from the Organization of Economic Cooperation and Development(OECD)"</p>	
<p>Sources from Company: https://www.glencore.com/dam/jcr:5e2559a7-3f43-4d3d-8205-c162c7f33b94/2018%20Our%20approach%20to%20sustainability.pdf</p>		
<p>Methodology Points</p> <p>Score 1 The Company has a publicly available statement of policy committing it to respect human rights OR the ten principles of the UN Global Compact (principles 1 and 2 include a commitment to respect human rights) OR the rights under the Universal Declaration of Human Rights (UDHR) OR the International Bill of Human Rights.</p> <p>Score 2 The Company's also has a publicly available statement of policy also commits it to: the UN Guiding Principles on Business and Human Rights OR the OECD Guidelines for Multinational Enterprises.</p>		
<p>Commentary and Recommendation from CHRB and Researchers to Panel: A.1.1 requires policies committing to respect human rights OR to the 10 UNGC principles OR respecting the rights under the UDHR / Intl Bill of Human Rights for Score 1 - which Glencore meet in terms of general commitments to respect.</p> <p>For Score 2, they (Glencore) need commit to either the UNGP or OECD Guidelines for MNEs. The new evidence suggested discusses a policy that 'complies with the guidelines from the OECD'. However, this policy appears to be for a specific site and relates to conflict free gold - it is not a universal approach for the whole company.</p> <p>They also say they are in the process of aligning with the OECD Guidelines for their supply chain, which is good progress, but is not the policy commitment we are looking for. If they said their</p>		

supply chain was **already** fully aligned with OECD Guidelines, then it might be different and this will be something to consider in 2019.

In reviewing their HR policy, relevant section of the report and their Code of Conduct, they suffer from the 'consistent with' terminology in terms of respecting human rights. As such, they don't meet the threshold for a 'commitment' to comply with or implement OECD / UNGPs. Taken together, we recommend rejecting this appeal.

Panel Decision?	Accepted	<input type="checkbox"/>	Partially Accepted	<input type="checkbox"/>	Rejected	<input checked="" type="checkbox"/>
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Final Commentary

It is important to maintain consistency in terms of the interpretation of terms – In this case, CHRB does not accept terms such as 'consistent with' in relation to a policy as an equivalent commitment to implementing the UNGPs or OECD Guidelines.

Indicator: A.1.1	Final Score: 1	Date: 11 Mar 2019
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APPEAL NUMBER: 013	COMPANY: Glencore
Indicator: B.1.1	Indicator Title: Responsibility and resources for day-to-day human rights functions
Scorecard Text: The individual elements of the assessment are met or not as follows: Score 1 • Not met: Senior responsibility for HR (inc ILO) Score 2 • Not met: Day-to-day responsibility: In its Sustainability Report, the Company indicates: 'Our departmental and operational managers have day-to-day responsibility for ensuring that our people work in line with the [Group human rights] policy.' However, there is no further information about these responsibilities. [Sustainability Report, 2017] • Not met: Day-to-day responsibility for EX BRs	2018 Scorecard Score: 0
Requested Score: 1	Justification from Company: P5. "Our Board HSEC committee sets the strategic direction for Glencore sustainability activities and oversees the development and implementation of strategic sustainability programmes." o P5. "The committee is chaired by Peter Coates (a non-executive director); the other members are Ivan Glasenberg (our CEO), Tony Hayward (our Chairman) and Patrice Merrin (an independent non executive director). o P4. Our Group sustainability strategy has four pillars: Health, Safety, Environment and Community and Human Rights' All concerns and grievances are regularly reported to senior operational and departmental management and the Board HSEC Committee on a Quarterly basis. During our engagement call on August 2 we directed the CHRB team to the updated 'Our approach to sustainability' document.

Sources from Company: https://www.glencore.com/dam/jcr:5e2559a7-3f43-4d3d-8205-c162c7f33b94/2018%20Our%20approach%20to%20sustainability.pdf						
Methodology Points						
NOTE: Board level responsibility is assessed under indicator A.2.1 and therefore not considered in this indicator						
Score 1 The Company indicates the senior manager(s) roles responsible for relevant human rights issues within the Company (i.e. responsibility for human rights is assigned to a senior manager(s)) and this includes the ILO core labour standards at a minimum).						
Score 2 The Company also describes how day-to-day responsibility is allocated across the range of relevant functions and geographies of the Company.						
Lock Score 2 - EX - The Company describes how day-to-day responsibility for managing human rights issues with its extractive business partners is allocated.						
Commentary and Recommendation from CHRB and Researchers to Panel: B.1.1 is looking for 'senior level responsibility for human rights within the Company, as well as the organisation of the day to day responsibility for human rights across relevant internal functions' and score 1 requires companies to indicate the senior management roles responsible for relevant human rights issues within the company (at least a step down from Board level which is assessed under A.2.1). Glencore got a 2 for A2.1, using the HSEC Committee as its justification for board oversight. By using the same Committee and naming non-executive directors etc, it doesn't appear that Glencore have fully understood the 'day-to-day' elements of B.1.1 and we should ensure that the 2020 methodology makes this clearer. CHRB has not allowed the day to day elements to be scored by companies saying 'these responsibilities are sitting with CEO' etc. We are looking more for which staff positions and business functions have day to day responsibilities, although the confusion on this indicator indicates areas for us to improve as well. Recommend rejection on this basis and to be consistent with other companies.						
Panel Decision?	Accepted	<input type="checkbox"/>	Partially Accepted	<input type="checkbox"/>	Rejected	<input checked="" type="checkbox"/>
Final Commentary Rejection of the appeal may appear strict, but it is consistent with the general interpretation that the catch all responsibility of CEOs is not what is intended when assessing the embeddedness of human rights commitments within the company.						
Indicator: B.1.1		Final Score: 0		Date: 11 Mar 2019		

APPEAL NUMBER: 014	COMPANY: Glencore
Indicator: D.3.5	Indicator Title: Indigenous peoples' rights and free prior and informed consent (FPIC) (in own extractive operations, which includes JVs)

<p>Scorecard Text: The individual elements of the assessment are met or not as follows: Score 1</p> <ul style="list-style-type: none"> • Not met: Process to identify indigenous rights holders: In its Sustainability Report 2015, the Company indicates: 'Some of our assets are located on or near the traditional lands of indigenous people. We have formal agreements at a number of these, including indigenous land use agreements (ILUAs) in Australia and impact benefit agreements (IBAs) in Canada. Wherever we work, we engage in open and continuous dialogue with indigenous communities to understand their culture, views and aspirations. This helps us work with them to minimise our impact and maximise the benefit we bring to them.' However, it is not clear how they identify the stakeholders who have traditional rights or interests in the land in question. [Sustainability Report, 2015] • Met: How engages with communities in assessment: In its Sustainability Report 2017, the Company describes some examples of how it engaged with communities in carrying out the assessment of potentially affected indigenous people in the last year: 'In early 2017, in northern Canada, our Raglan Mine and its Inuit community partners agreed on additional measures to the Raglan Agreement that will support the extension of the life of Raglan Mine for an additional 20 years. Based on the environmental and social impact assessment's results and conclusions for Raglan Mine's future, the Sivumut committee (meaning 'moving forward' in Inuktitut) reviewed the impacts of the project and its recommendations, which formed the basis of the additional measures to the Raglan Agreement.[...] In 2017, our coal business conducted work on four resettlements, two in Colombia and two in South Africa. These resettlements are conducted in accordance with national and international standards, including the IFC Performance Standard 5: Land acquisition and involuntary resettlement.' [Sustainability Report, 2017] <p>Score 2</p> <ul style="list-style-type: none"> • Not met: Commits to FPIC (or ICMM): Although the Company states in its Sustainability Report 2017 that 'We also seek to apply the Voluntary Principles on Security and Human Rights, IFC's Standard 5 and ICMM's position statement on Free and Prior Informed Consent.', 'seek to apply' is not consider a clear commitment. [Sustainability Report, 2017] • Not met: Gives recent example FPIC or dropping deal 		<p>2018 Scorecard Score:</p> <p>0.5</p>
<p>Requested Score:</p> <p>1</p>	<p>Justification from Company:</p> <p>The CHRB Methodology indicates that the CHRB will accept the ICMM statement on indigenous people as a commitment for ICMM members for Score 2. Glencore believes we have met the first half of the requirement for Score 2.</p>	
<p>Sources from Company: No link provided but they are a member of ICMM http://www.icmm.com/en-gb/members/member-companies</p>		
<p>Methodology Points</p> <p>Score 1 Where operations or proposed operations may impact on indigenous peoples, the Company describes its process to identify and recognise affected or potentially affected indigenous peoples AND it describes how it engages directly with indigenous community(ies) in carrying out the assessment.</p>		

Score 2	The Company also indicates it is committed to free prior and informed consent (FPIC) AND provides the most recent example where it has obtained free prior and informed consent (FPIC) or where it decided not to pursue the land or resources impacting on indigenous peoples.		
Commentary and Recommendation from CHRB and Researchers to Panel:			
D.3.5 score 1 requires companies to describe the process to identify and recognise affected or potentially affected Indigenous People (IP) and how it engages directly with them during assessment. Glencore did not argue that they did not meet the 'first half' of Score 1 requirements, which means their score is limited to half a point and even if they met all of Score 2 requirements, they would not be able to get any more points without addressing the gap in score 1.			
As an aside, Score 2 requires a commitment to FPIC AND examples of achieving FPIC/where it decided not to pursue resources impacting on IPs.			
CHRB allows members of ICMM to use the ICMM statement on indigenous peoples and FPIC. Glencore is a member of ICMM. However, Glencore states that they ' seek to apply the ICMM's position statement on FPIC', which we haven't considered to be equal to a firm commitment. So it is unlikely that the researchers would have accepted this as meeting the Score 2 element anyway.			
Together, Glencore's appeals is recommended for rejection.			
Panel Decision?	Accepted	<input type="checkbox"/>	Partially Accepted
		<input type="checkbox"/>	Rejected
			<input checked="" type="checkbox"/>
Final Commentary from Panel			
As Glencore have not contested the 'not met' elements of Score 1, then the appeal for Score 2 elements (and increased scores) are not valid. We also agree that they do not meet Score 2 as the ICMM commitment are indeed commitments, developed by the mining industry that ICMM members are expected to commit to and are also expected to be able to meet (as opposed to 'seeking to apply').			
Indicator:	Final Score:	Date:	
D.3.5	0.5	11 Mar 2019	

APPEAL NUMBER:	COMPANY:		
015	Glencore		
Indicator:	Indicator Title:		
E(1).3	The Company has taken appropriate action		
Scorecard Text:	The individual elements of the assessment are met or not as follows:		2018 Scorecard Score:
Score 1	<ul style="list-style-type: none"> • Not met: Engages with affected stakeholders • Not met: Encourages linked business to engage affected stakeholders • Not met: Provides remedies to affected stakeholders • Not met: Has improved systems and engaged affected stakeholders 		0
Score 2	<ul style="list-style-type: none"> • Not met: Remedies are satisfactory to the victims • Not met: Has improved systems and engaged affected stakeholders 		
Requested Score:	Justification from Company:		

2	<p>On page 27 Glencore provides a detailed response on how we engaged with and provided remedy for affected stakeholders.</p> <p>On the same page, we described the investigation of the incident which we conducted in cooperation with Congolese authorities. We describe how we implemented short and long-term corrective actions plans that were verified and subsequently monitored by the Group HSEC Committee and senior management teams.</p>												
<p>Sources from Company: https://www.glencore.com/dam:jcr/61aaaf30-3d39-4c2d-a642-0ed8f908b58b/2016-Glencore-Sustainability-Report.pdf</p>													
<p>Methodology</p> <p>Score 1</p> <p>The company engages in a dialogue with the stakeholders reportedly affected in the allegation(s) (or if the Company is alleged to be directly linked, it encourages its business relationship to do so) AND the Company takes appropriate action depending on its 'level of involvement' (whether causing, contributing or directly linked - see 'key concepts' below) to address the identified impacts, including through providing remedy(ies) to the affected people OR through demonstrating an improvement in related management systems to prevent such impacts in the future.</p> <p>If the company denies the allegation(s), it still engages in a dialogue with the stakeholders reportedly affected in the allegation(s) (or if the Company is alleged to be directly linked, it encourages its business relationship to do so) AND it provides evidence of having reviewed its management systems to prevent such impacts from occurring in the future.</p> <p>Score 2</p> <p>The Company meets all of the requirements of score 1 AND provides evidence that the remedy(ies) provided are satisfactory to the victims.</p> <p>If the company denies the allegation(s), it provides evidence of having reviewed its management systems to prevent such impacts from occurring in the future and has implemented any recommended improvements, or describes how it ensures the implementation of the relevant management systems.</p>													
<p>Commentary and Recommendation from CHRB and Researchers to Panel: We have agreed that Glencore meets the requirement for 1.5 points, but we haven't seen evidence of the acceptance of remediation by stakeholders, so we don't recommend granting the full 2 points.</p>													
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">Panel Decision?</td> <td style="width: 15%;">Accepted</td> <td style="width: 10%; text-align: center;"><input type="checkbox"/></td> <td style="width: 15%;">Partially Accepted</td> <td style="width: 10%; text-align: center;"><input checked="" type="checkbox"/></td> <td style="width: 15%;">Rejected</td> <td style="width: 10%; text-align: center;"><input type="checkbox"/></td> </tr> </table>							Panel Decision?	Accepted	<input type="checkbox"/>	Partially Accepted	<input checked="" type="checkbox"/>	Rejected	<input type="checkbox"/>
Panel Decision?	Accepted	<input type="checkbox"/>	Partially Accepted	<input checked="" type="checkbox"/>	Rejected	<input type="checkbox"/>							
<p>Final Comment from Panel:</p> <p>Agree with the change to 1.5 as they have provided some remedy (funeral expenses, compensation, replacement job for a family member and support for school fees), however there is no indication that this was acceptable or even discussed with the families.</p>													
<p>Indicator: E(1).3</p>		<p>Final Score: 1.5</p>		<p>Date: 11 Mar 2019</p>									

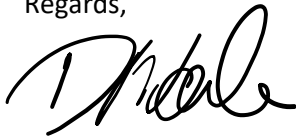
APPEAL NUMBER: 016		COMPANY: Glencore				
Indicator: E(3).1		Indicator Title: The Company has responded publicly to the allegation				
Scorecard Text: The individual elements of the assessment are met or not as follows: Score 1 • Not met: Public response available: As far as CHRB was able to ascertain, the Company has not responded publicly to the allegation. Score 2 • Not met: Response goes into detail					2018 Scorecard Score: 0	
Requested Score: 1	Justification from Company: Glencore Xstrata provided a public response detailing how human rights are managed at Tampakan in April 2014. Glencore sold their stake in Tampakan in August 2015.					
Sources from Company: https://www.business-humanrights.org/sites/default/files/media/documents/company_responses/glencore-re-global-witness-report-philippines.pdf						
Methodology Points Score 1 The Company has responded publicly to the allegation. <i>Note: This may be a response the Company has made public through a statement in a publicly accessible document on its website, in the press, through BHRRC, or through the CHRB Disclosure Platform.</i> Score 2 The Company has responded publicly and in detail to each aspect of the allegation. <i>Note: In case of on-going judicial process or if disclosing full details could have adverse impact on affected people, such details are not required to be disclosed publicly and will not affect obtaining a Score 2.</i>						
Commentary and Recommendation from CHRB and Researchers to Panel: E1 requires a public response to the allegation in question. The 'public response' that Glencore references is from April 2014, whereas the allegation concerns the deaths of human rights defenders through 2014 ('As of the end of 2014, a total of 10 indigenous peoples had been murdered, according to NGOs and media reports' as per the allegation.) The company response that they want to use to get the 1 point only mentions one incident and really only explains the JV's commitment (i.e. it arguably doesn't address the allegation directly). As such we recommend this is rejected.						
Panel Decision?	Accepted	<input type="checkbox"/>	Partially Accepted	<input type="checkbox"/>	Rejected	<input checked="" type="checkbox"/>
Commentary from Panel: Agree that the statement does not address the allegation directly, so should not be accepted.						
Indicator: E(3).1		Final Score: 0		Date: 11 Mar 2019		

As a result of the accepted appeals, the overall score has increased from 39.1 to 43.5 and resulted in a jump up to the next banding, with Theme Scores adjusted as follows:

Glencore	Theme A	Theme B	Theme C	Theme D	Theme E	Theme F	Total	Change Band?
2018 Score	7	9.3	3.3	8.8	5	5.8	39.1	Yes
After Appeal	7	9.3	3.3	10	8.1	5.8	43.5	
Change	-	-	-	1.2	3.1	-	4.40%	

Once CHRB has completed a review of all appeals and replied in detail to all companies, we will update the table online, as well as the downloadable data sheets, plus publish a short report on the Appeals Process, including a revised ranking for all companies. Please note that this is the final position on 2018 scores and any further engagements regarding evidence and indicators should be directed to the research team for inclusion in the 2019 assessment. Thank you for contributing to this process and for enabling CHRB to learn from the appeals and pass information back to our researchers.

Regards,



Dan Neale, CHRB Programme Director