

## SEISMIC CHANGE NEEDED AT GLENCORE FOLLOWING A DECADE OF CORRUPTION

### *Civil society groups call for urgent action from the company and its partners*

In May 2022, Glencore, a multinational company at the heart of global commodity markets and the energy transition, admitted to widespread and systematic corruption in countries across the globe. Glencore [pleaded guilty](#) to U.S., U.K. and Brazilian corruption charges and is expected to pay approximately \$1.5 billion in penalties. A U.S. official involved in the investigations [said](#) his team found that “bribery was built into [Glencore’s] corporate culture. The tone from the top was: whatever it takes.”

Glencore claims its harmful corporate culture is now in the past. Six civil society groups today call on Glencore to demonstrate its new [commitment](#) to “be a responsible and ethical operator”, and detail concrete steps the company should take. The groups further press Glencore’s partners—including banks, investors and trading partners—to insist on these changes as a precondition for further engagement with the company.

Glencore paid bribes over a 10-year period in at least 8 countries including some of the world’s poorest: Brazil, Cameroon, Côte d’Ivoire, the Democratic Republic of the Congo, Equatorial Guinea, Nigeria, South Sudan and Venezuela. The bribes helped secure deals for Glencore at the expense of ordinary citizens. The company also deliberately manipulated the market price of fuel oil in the U.S. for its financial benefit.

Further charges could follow as Glencore remains [under investigation](#) by Swiss and Dutch authorities. Several NGOs [and](#) media [have also called attention to](#) the company’s longstanding ties to Dan Gertler, a businessman involved in dozens of mining and oil deals who is subject to U.S. [sanctions](#) for high-level corruption in the DRC. Gertler denies any wrongdoing.

Given the scale and breadth of Glencore’s operations, the stakes are high. Continued corruption and price manipulation by Glencore would exacerbate governance challenges and lower public revenues in the developing countries where it operates extractive projects and sources commodities. Further misdeeds also risk obstructing the vital global shift to low-carbon sources of energy. Glencore is the world’s largest producer of cobalt and holds leading positions in the nickel and copper sectors, minerals essential for low-carbon technologies. The scandals, disputes and disruptions created by corruption represent serious threats to reliable critical mineral supply chains.

The reforms announced by Glencore to date contain some potentially useful advances. Along with expanding its compliance team and improving whistleblower systems, Glencore’s 2021 [ethics and compliance report](#) offers more information about the company’s anticorruption policies, including how it defines and manages high-risk third parties. Glencore has significantly reduced its use of trading sales and purchase agents (intermediaries who in multiple countries acted as conduits for bribes), and adopted stronger controls on the agents that remain, including the [disclosure](#) of the

agents' names and beneficial owners. All traders should adopt this type of reporting as standard practice.

Glencore has committed to [promoting](#) beneficial ownership disclosure among its counterparties, and [publishes](#) ownership information for its joint venture partners. Glencore is also a supporting company of the [Extractive Industries Transparency Initiative](#) (EITI), though some EITI [stakeholders](#) have recently called for the company to leave the initiative, and the chair of the EITI board has [stressed](#) that Glencore's "behaviour is inconsistent with both the spirit and the letter of the [expectations for EITI supporting companies](#), which embody company commitments on corporate transparency and accountability."

Seismic change is needed at Glencore for the company to prove that it has turned a corner and truly ended the corrupt, illegal and harmful practices of the past. Fully implementing the recommendations set out below will show that Glencore is willing to go beyond rhetoric and do the tough work needed to usher in a more responsible era of operations.

## Recommendations

The company's anticorruption reforms must include further concrete actions that attest to genuine shifts in corporate culture and practice. Glencore should:

- 1. Consistently make transparent its transactions with state-owned enterprises (SOEs) in all countries.** In seven countries, Glencore bribed officials to manipulate oil trading deals with SOEs. In doing so, the company cheated citizens out of a fair deal for their nation's natural resources. Currently, Glencore only [discloses](#) information about its trades with SOEs in EITI participating countries, and provides only aggregated financial data in these disclosures. Citizens in other countries such as Brazil, Equatorial Guinea and Venezuela—all places where Glencore recently bribed officials—also deserve transparency. The EITI [publishes](#) guidance for how traders should report on transactions with SOEs; it's now time for Glencore to implement this good practice across its business with SOEs. Thoroughly implementing established good practices—rather than adopting them in uneven, minimal ways—would indicate genuine culture change.
- 2. Urgently review any remaining business with Russian state-owned companies, and disclose information on any ongoing business.** In March, Glencore [stated](#) that it would avoid new trading business in Russia but uphold its pre-existing contractual commitments and maintain its equity stakes in Russian companies. Since then, Glencore has not reported on this issue of widespread public concern, leaving the [media](#) and [NGOs](#) to piece together the extent to which it has helped the Kremlin collect oil revenues. If Glencore now cares about responsible behavior, the company must visibly implement this commitment with respect to its activities in Russia. Timely, public reporting about its Russia business would allow concerned stakeholders to know whether Glencore is taking adequate steps to avoid causing harm.
- 3. Adopt and publish steps to reduce corruption risk in business with SOEs.** SOEs played a role in nearly all the cases referenced in the guilty pleas. Glencore should publish its anticorruption practices for SOEs, especially for those SOEs implicated in the charges and others at high risk for corruption. The mitigation measures should include stronger [due diligence](#) standards; full, timely transparency about negotiations with SOEs and their outcomes, including around the acquisition of oil trading contracts or the renewal of mining

permits; tough “revolving door” restrictions; and, real-time payment disclosure and other measures to [protect against](#) misappropriation.

4. **As part of its due diligence systems, prohibit working with entities that pose clear corruption risks.** Glencore’s third-party due diligence system still allows the company to make case-by-case discretionary decisions about whether to work with entities exhibiting clear corruption risks– an approach that has not adequately protected the public interest. Glencore should adopt and disclose rules that prohibit the company from working with third parties that fail to meet certain basic [standards](#), including entities that refuse to report their beneficial owners, and entities whose key personnel or beneficial owners include: a public official with a conflict of interest or who holds commercial interests against the producing country’s laws; a former official who recently left such a position of influence; or individuals or entities convicted or otherwise credibly shown to have engaged in corruption-related offenses, and where evidence of adequate remediation is not found.
  
5. **Cease business and financial relations with Dan Gertler and his companies.** In 2017, the U.S. Treasury [sanctioned](#) Gertler and his companies under the Global Magnitsky Act. It found that Gertler had “amassed his fortune through hundreds of millions of dollars’ worth of opaque and corrupt mining and oil deals in the DRC [and...] used his close friendship with former DRC President Joseph Kabila to act as a middleman for mining asset sales in the DRC.” Gertler denies wrongdoing, but the sanctions remain in place. Media reports indicate that Glencore [continues](#) to pay Gertler [large sums](#) in royalties from its mining assets in Congo. Glencore [stated that](#) the payments are necessary to prevent the seizure of its mining assets, but it has provided minimal public information about the amount of the payments, how they align with the sanctions, and any conditions on them. In February 2022, Gertler agreed with the Congolese government to return some of his assets to the DRC. The full text of the agreement remains unpublished, but briefings on its contents by state officials [indicate](#) that Gertler will receive 240 million Euro in reparations and that Gertler will retain interests in several lucrative holdings in the DRC. These include two of Glencore’s copper-cobalt mines (KCC and Mutanda) from which he is expected to continue to reap royalty payments, despite a senior DRC official [stating](#) publicly that Gertler was “one of the architects of a predatory system in [our] country.” Civil society groups and others [roundly criticized](#) the opaque deal, including its requirement that the DRC government [lobby](#) the U.S. government to remove Gertler from the U.S. sanctions list.

Making payments to sanctioned entities/persons raises important ethical questions, if not legal ones, and undercuts Glencore’s [commitment](#) to “responsibly source the commodities that advance everyday life.” In light of the U.S. plea agreement and U.S. sanctions, Glencore should: (i) halt all payments to U.S. sanctioned entities, (ii) comprehensively [disclose](#) all payments made to Gertler-affiliated entities to date and any it makes going forward until such payments are halted, including in quarterly reports to the London Stock Exchange, (iii) ensure it plays no role in lobbying against U.S. sanctions and disclose publicly if it is asked to do so, and (iv) cooperate fully and provide all information about alleged corruption by its agents and other entities to U.S. and foreign law enforcement and regulatory authorities as required under paragraph 12 of the U.S. [plea agreement](#).

6. **Enact reforms to prevent market abuse and price manipulation across the markets where Glencore trades.** The U.S. Commodities Future Traders Commission (CFTC) charged that Glencore’s “manipulative, fraudulent, and corrupt conduct involved traders and other personnel throughout its oil trading group, including senior traders, desk heads, and supervisors up to and including the global head of the oil group, and resulted in hundreds of

millions of dollars in improper gains. Glencore’s manipulative and deceptive conduct undermined the legitimate forces of supply and demand and the integrity of the global physical and derivatives oil markets.” While these charges involve transactions in a specific market with specific characteristics, fair and competitive pricing is essential for protecting the interests of producer countries and ensuring functional commodity markets around the world. Glencore (and the compliance monitor assigned to it) should adopt measures to prevent various forms of abusive behavior across its diverse trading markets.

7. **Acknowledge the harm caused by its corruption and market abuse, and engage seriously with efforts to compensate victims.** Along with stoking corruption and eroding governance in at least eight countries, Glencore’s conduct also caused financial harm. For instance, because Glencore manipulated prices and “improperly obtained non-public information,” a Mexican state-owned enterprise earned a lower return on numerous oil cargo trades, according to the CFTC’s statement of facts. Glencore should acknowledge the harm caused by its conduct, including where states, communities, entities and individuals lost out as a result of its actions. Glencore’s public statements do not acknowledge these harms or apologize to those harmed; these are essential steps towards restorative justice. The company should also work with prosecuting authorities and other entities to assist in identifying the victims of its corrupt acts and market abuse, and provide restitution, redress and/or compensation.

In the face of such widespread and systematic corruption, Glencore is not the only player that should take action. Glencore’s investors, its commodity trading buyers and sellers, the banks that finance its activities, and other partners should:

1. **Assess the corruption risks associated with Glencore, adopt robust mitigation measures and, should Glencore fail to address the risks, disengage. Publicly report on this process and its outcome.** Any partner of Glencore that professes a commitment to integrity, responsible sourcing or sustainability should urgently reassess its relationship with the company and offer a full public account of how it plans to proceed. Disengagement may be appropriate. For instance, Pemex [discontinued](#) business with Vitol, one of Glencore’s oil trading competitors, after that company was implicated in bribing Mexican officials. Battery and electric vehicle manufacturers that source cobalt from Glencore, such as Tesla, GM, Samsung, LG Chem and Britishvolt, should consider disengaging if the company continues to do business with actors benefiting from or linked to corruption, or who are the subject of sanctions.
2. **Insist Glencore adopt the measures listed above, and report on their uptake.** Glencore’s partners should not allow the company to unilaterally set out the terms of its own remediation, as it will likely skip over reforms it finds inconvenient or costly. Partners must play their part and insist on the measures listed above as conditions of ongoing or future business.
3. **Exercise caution when engaging with executives tied to the corruption at Glencore.** The U.S. plea agreement’s [statement of facts](#), which were accepted by Glencore, indicate that two former senior executives oversaw and participated in the corruption. No charges have been brought against these individuals. Any company with a credible due diligence system should, however, carefully evaluate engaging with high-risk and reputationally compromised individuals, even if they move into “green” business endeavors.

4. **Apply more rigorous anticorruption due diligence to commodity traders.** Companies active in commodity supply chains should not consider Glencore's corruption as an isolated case, especially given recent legal actions involving other commodity traders. In 2020, Vitol agreed to [pay](#) \$135 million to U.S. and Brazilian authorities to resolve a case involving [bribery](#) in Brazil, Ecuador and Mexico. The company paid bribes through 2020, making clear this challenge is very much a current one. Like Glencore, Vitol also faced [charges](#) of market manipulation from the CFTC. In 2021, a former trader for Gunvor pleaded guilty to [bribing](#) Ecuadorian officials, again through 2020. The U.S. case filings allege wider corporate complicity, and Gunvor remains under investigation in the U.S. A few years earlier, Swiss authorities held Gunvor [criminally liable](#) for acts of corruption in the Republic of Congo and Côte d'Ivoire. Trafigura is under [investigation](#) by Brazilian authorities, and it denies wrongdoing. In light of this record, investors and trading partners should require that commodity traders provide rigorous evidence of transparency and anticorruption reforms as a condition of engagement.

Others should also respond:

- **The governments of the eight countries where officials accepted bribes from Glencore should launch investigations and issue appropriate sanctions.** Relevant public authorities including sector- or finance-specific inspectors general, anticorruption institutions, parliamentary commissions and supreme audit institutions have a role to play and should insist on full cooperation from Glencore and its associates.
- **Authorities in major trading markets, particularly the Swiss and U.K., should regulate commodity traders more effectively.** Despite their track record of corruption and enormous impact on the global economy and countries around the world, traders like Glencore are "[scarcely regulated](#)." Authorities in commodity trading hubs such as Switzerland and the U.K. should push for a global and binding standard to ensure that commodity trading payments to governments and SOEs are subject to disclosure.
- **The independent compliance monitors to be appointed by the U.S. Department of Justice should engage with a broad group of stakeholders, including civil society actors.** U.S. authorities will track Glencore's implementation of its remedial commitments through the appointment of two monitors. Given the many countries, communities and citizens harmed by Glencore's activities, the monitors should seek input from and share information with the public during their three-year appointment.
- **The U.S. and other governments should consider whether to apply Global Magnitsky sanctions, travel bans or other measures to individuals implicated in corruption.** The case filings make clear that the U.S. Department of Justice has evidence regarding the complicity of certain Glencore executives, government officials and intermediaries. Where the evidence is sufficient, U.S. and other authorities should hold individuals to account.
- **The EITI should learn from the Glencore experience and devote more attention and resources to ensuring its supporting companies meet the EITI's [company expectations](#).** For the EITI supporting company label to have meaning, companies must be held accountable, particularly when they egregiously violate the initiative's own standards of practice. Where Glencore paid bribes in EITI implementing countries (Cameroon, Côte d'Ivoire, DRC and Nigeria), country-specific EITI multi-stakeholder groups should address the case and the national response.

- **Industry associations, including the International Council of Mining and Metals (ICMM), should hold members like Glencore to a high anticorruption standard.** ICMM members, including Glencore, commit to the ICMM Mining Principles and related Performance Expectations, including [“Principle 1: Ethical Business”](#) that includes an expectation that the member will “implement policies and practices to prevent bribery, corruption and to publicly disclose facilitation payments.” Glencore’s admitted bribery reflects a failure to meet this expectation, and ICMM should respond accordingly.

The response to Glencore’s decade of corruption represents a test for the company and for the many entities connected to it that espouse commitments to integrity and sustainability. Its record of corruption is indisputable, disturbing, and damaging to citizens in many developing countries. The responses should be equally clear and decisive: Glencore must adopt stronger integrity practices, and governments and its private sector partners must hold Glencore to account.

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*18 July 2022*