SARW
Southern Africa Resource Watch

Glencore and the Shutting Down of MUMI: blackmail or a real reaction to the challenges of the market?

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The Swiss company Glencore has announced the imminent closure of Mutanda Mining (MUMI) in Lualaba Province of the Democratic Republic of Congo (DRC). The reason given by Glencore is that the Mutanda mine "is no longer economically viable in the long term" because of the decrease in the price of cobalt, the increase in the cost of certain inputs, and the "additional taxes now imposed by the mining code" as revised in 2018.

Glencore, the largest producer of copper and cobalt in the country, produces one-third of the world's cobalt from its mines in the DRC. Shutting down the mine will have a negative impact on the national economy, on local communities, and on the mines' employees (estimated to be more than 3 000 people).

Glencore's alleged downward trend comes after a long period of improved cobalt prices on the international market. During this period, mining companies made excessive profits, often through illegal practices. They overvalued their operational costs and concealed their results behind fictitious debts in order to deprive the Congolese state of its right to levy taxes on these profits. On 12 June 2018, for instance, it took the threat of legal action before Glencore agreed to clear more than $5 billion of fictitious debt from another of its mines, the Kamoto Copper Company (KCC).

Having taken advantage of the market upturn to obtain undue and excessive benefits, Glencore's decision to close the Mutanda mine has very little credibility, especially since the decline in the cobalt price was partly caused by the overproduction that resulted in companies (including Glencore) deliberately accumulating cobalt stocks. This deliberate stockpiling explains why prices remained low at a time when cobalt maintained its increasing strategic importance due to the demand of the electric vehicles industry. The operator who is responsible for the fluctuation in the price of cobalt is now complaining the most and threatening to shut down operations.

This is not Glencore's first attempt to manipulate the market. In 2015, Glencore suspended the operations of its Kamoto Copper Company (KCC) mine for 18 months. The same duration is envisaged for the cessation of production at MUMI, and one can only wonder if this is mere coincidence. At the time, Glencore was accused of taking this step to avoid paying tax on profits to the Congolese state and profit shares to Gécamines. This decision was also made during the overproduction of copper on the international market. It therefore seems that we are facing a recurring behaviour that is part of Glencore's well thought out strategy.

SARW believes that Glencore is using the decline in the price of colbalt to achieve two major goals: firstly, to force the new government (which is expected to be made public soon) to review the new mining code, which is something the company has sworn to achieve. The revision of the mining code was a tripartite negotiation, and the way parliament finally proceeded to adopt the final version of the law was not satisfactory to all the stakeholders. Despite the companies' claims, the state has not yet taken any steps to reassure its private partners. However, the question is whether Glencore should be allowed to use this situation, which applies to all mining companies, to jeopardise the social conditions of its employees.

Secondly, just as in 2015, by closing the mine Glencore wants to avoid paying the high tax on cobalt, which is classified as a strategic mineral in the revised mining code, while anticipating that the price of cobalt will increase and that the new Congolese government can be pressurised to reduce the tax.

If the real objective of Glencore is to push the Congolese government to revise the mining code, their best attitude would be to wait for the new government to be established and then to start discussions that could lead to adjustments of the mining legislation. Such discussions should not be bilateral; they should include all the parties which were involved in the process of revision of the mining code that lasted from 2012 to 2018. Glencore's tendency to exert pressure on the Congolese government looks like blackmail, and jeopardises the well-being of thousands of workers and their families. This should no longer be tolerated.

Glencore's behaviour can only be tolerated in a country that has lost control over its mineral resources. It is time for the Congolese government to resume its role as actor and regulator of the extractive sector. For that, and considering that the tax regime of the mining legislation is declarative, the state must have a more efficient system for audit and control, a system that enables confirmation of the veracity of the basis of its private partners' decisions. No company should be allowed to shut down if the analysis shows that it can easily recover losses. This is especially the case for Glencore, which not only produces cobalt, but also copper whose price is stable on the international market. Fluctuations in the prices of metals and their negative impact on companies have led some governments in Africa to introduce flexible and progressive tax regimes that allow companies to cover losses during price declines. In many cases governments have decided to lose on revenues in order to secure jobs.

Glencore's growing monopoly on Congolese cobalt also poses another type of problem. During the third DRC Alternative Mining Indaba (AMI) organised by SARW in Kinshasa in July 2019, participants noted that some ores were declared "strategic" in order to benefit from improved prices of metals, while these minerals are not strategic *per se*. Glencore's decision confirms AMI 2019 participants' fears that the DRC, which does not control the fluctuation of metal prices on the international market and does not control production, cannot preserve the strategic nature of its cobalt. How can a mineral be "strategic" when one does not control its production, its flow, or its price on the market? The improvement in the price of minerals on the international market should not in future be used as the sole criterion for declaring a mineral as strategic. There is a need to think differently.

SARW recommends that the DRC government:

- engages in direct discussions with Glencore with the aim fo conducting a rigorous audit of the motivations of Glencore's decision – and if the reasons for that decision are unfounded, government should refute Glencore's initiative and compel the company to develop a clear programme of reorganisation.
- reforms state mining companies so that they become mining actors and operators capable of countering the manoeuvres of the multinationals that control the minerals.
- protects the thousands of workers who are at risk of losing their jobs because of poor business planning by their employer who, after having benefited enormously from the rise in cobalt prices, now tries to blackmail the Congolese government.

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