1. Summary

- The operations of UK-listed and UK-funded mining companies are causing severe damage and creating a legacy of bitterness.
- Neither engagement with mining companies nor voluntary initiatives such as EITI are in themselves sufficient to hold mining companies accountable: stricter regulation is necessary.
- We therefore recommend that either the Financial Conduct Authority or some other statutory body be given the power, responsibility, funding and institutional capacity to enforce good conduct on all UK-listed extractives companies, including those trading on the London Stock Exchange’s Alternative Investment Market. This must extend beyond matters of financial concern to shareholders and include compliance with human rights and environmental standards.

2. Introduction

London Mining Network (LMN) is an alliance of eighteen member organizations and twelve observer organizations concerned about the negative impacts of UK-listed and UK-funded mining companies.

Our network contains organizations and individuals with many years’ experience working with communities directly and negatively affected by the operations of mining companies listed on the London Stock Exchange or funded by London-based financial institutions.

This submission is limited to matters of which our network has direct experience or other expert knowledge, so does not answer every question. We would be happy to testify further in oral hearings.

3. What are the corporate governance concerns raised by the number of extractive industries companies listed in the UK? Are there reputational risks for the UK and UK financial institutions in being a centre for such businesses?

LMN notes that corporate governance extends to the wider interests of all those affected by a company’s activities and involves adherence to internationally recognised human rights and environmental standards. In this context, LMN has observed and documented the detrimental activities of a disturbing number of UK-listed mining companies, as noted below.

3.1 LMN 2012 report

3.1.1 LMN’s 2012 report, UK-listed mining companies and the case for stricter oversight\(^1\), was a contribution to debate on the Financial Services Bill. It included eight case studies of mining companies which had listed in London over the previous ten years and whose human rights and environmental records leave much to be desired. It also contained specific recommendations to the UK Government.

\(^1\) [http://londonminingnetwork.org/docs/lmn-the-case-for-stricter-oversight.pdf](http://londonminingnetwork.org/docs/lmn-the-case-for-stricter-oversight.pdf)
3.1.2 Of the companies included in the report,

- **Bumi** has since been embroiled in boardroom disputes over governance\(^2\), has seen its share price slump and share trading temporarily suspended\(^3\), and has been investigated for corruption\(^4\);
- **GCM Resources** currently faces a complaint brought under the OECD mechanism\(^5\) and is in financial difficulty\(^6\);
- **Vedanta** faces serious financial consequences\(^7\) as a result of its cavalier attitude to the law and to adivasi (indigenous) communities in India\(^8\), as it looks unlikely now to

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carry out its plan to mine bauxite in the Niyamgiri Hills\textsuperscript{9} to feed its illegally constructed refinery at Lanjigarh\textsuperscript{10};

- African Barrick is being sued in the UK for the killings of villagers near its North Mara mine in Tanzania\textsuperscript{11}.

3.1.3 Bumi, Vedanta and African Barrick are essentially foreign companies which took advantage of the UK’s lax listing regime to gain the financial and reputational advantages of a London listing. Bumi made use of a shell company (Vallar plc) to conduct a ‘reverse take-over’ on to the London Stock Exchange with even less scrutiny than would usually be the case\textsuperscript{12}.

3.1.4 Since we published our report, the largest of the companies included in it, Glencore, has merged with another large London-listed mining company, Xstrata, to form Glencore Xstrata\textsuperscript{13}. Mention is made below of some of Xstrata’s operations.

3.2 Other concerns

3.2.1 We are also concerned about the human rights and environmental impacts of mining companies with a good reputation among investors, generally healthy finances and supposedly excellent governance. Not all are recent arrivals: one company of particular concern, Rio Tinto, has been listed in London for many decades.

3.2.2 This submission builds on our 2012 report by summarising current concerns about some companies not included in that report – especially concerns about social and environmental impacts faced by communities with whom we are working or who have recently approached us for help.

3.3 Anglo American


Concerns about \textbf{Anglo American} currently include:

- The plight of many thousands of former mine workers suffering from silicosis as a result of poor dust suppression in gold mines for which the company retains legal responsibility. \textbf{Legal proceedings} have been taken in both South African and English courts\textsuperscript{14}.
- \textbf{Disputes with mine workers} at subsidiary Anglo American Platinum’s operations in South Africa\textsuperscript{15}.
- Involuntary resettlement of communities and conditions for workers at the \textbf{Cerrejon coal} mine in Colombia\textsuperscript{16}, a mine which the company jointly owns with BHP Billiton and Glencore Xstrata and which continues to cause concerted local protest\textsuperscript{17}.
- Its involvement, through an 11% shareholding in Nautilus Minerals, in plans for \textbf{seabed mining off the coast of Papua New Guinea}, with the prospect of severe damage to marine ecosystems and the livelihoods of coastal communities\textsuperscript{18}.

\textsuperscript{14} UK Court decision in gold miner’s silicosis cases, Leigh Day and Co press release, 24 July 2013, \url{http://www.leighday.co.uk/News/2013/July-2013/UK-Court-decision-in-gold-miner%E2%80%99s-silicosis-cases}, accessed 3 December 2013.


The probable impacts on water quality and marine livelihoods of the company’s proposed Pebble Mine near Bristol Bay, Alaska, which have led to concerted opposition and calls for the project to be banned.\(^{19}\)

**Worker deaths** and community discontent around the company’s Anglo Ferrous operations in Brazil.\(^ {20}\)

**Disputes** between Anglo American subsidiary De Beers and Native communities in northern Canada.\(^ {21}\)

### 3.4 BHP Billiton

- **BHP Billiton** is involved with Anglo American and Glencore Xstrata in the Cerrejon coal mine in Colombia (see above).
- Its Cerro Matoso nickel mine in Colombia has caused **national outrage** as a result of the low level of its taxes and social investment.\(^ {22}\)
- It is involved with Glencore Xstrata at the Antamina copper mine in Peru, which was recently fined for a **toxic spill** that left hundreds needing medical treatment.\(^ {23}\)
- It has been accused of **corruption in Cambodia** involving the country’s Prime Minister.\(^ {24}\)
- There is continuing controversy in Papua New Guinea about the impacts of the Ok Tedi mine, formerly run by the company.\(^ {25}\)
- Its plans to open a huge open-cast coal mine in heavily forested Central Kalimantan in Indonesia are the focus of opposition from local, national and international environmental groups.\(^ {26}\)

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• There was opposition by aboriginal elders and environmental activists to its plans, now abandoned, to expand its Olympic Dam uranium mine in Australia\(^28\).

### 3.5 Glencore Xstrata

Before the takeover by Glencore (whose record is covered in our 2012 report, noted above) Xstrata was already involved in a number of conflicts with communities.

• It is accused of contributing to lead poisoning in children living around its Mount Isa mine in Australia\(^29\).

• There is massive opposition to its Tampakan copper gold project in the Philippines, and allegations of numerous human rights abuses committed against the project’s opponents\(^30\).

• There has been unrest around the company’s Tintaya mine in Peru because of alleged pollution and poor community relations; protesters have been killed by security forces\(^31\).

• The company’s Dominican Republic operations were the subject of an investigation by the United Nations Development Program as the result of a request from the country’s Environment Ministry\(^32\).

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Xstrata was a major shareholder in Lonmin (see below) whose reputation was tarnished by a massacre of mine workers at its Marikana operations in South Africa in August 2012.

3.6 Rio Tinto

**Rio Tinto** has a long history of strong opposition to its activities, both in the UK and elsewhere. Issues that continue to generate opposition include:

- Environmental and social impacts of its **Oyu Tolgoi** copper gold mine in the Gobi Desert in Mongolia, a project which has detrimental effects on traditional nomadic herders, plans to use more water than appears to be available, and stands to benefit from tax agreements which are deeply unpopular in Mongolia.

- Its role in the war in Bougainville, triggered by pollution from its **Panguna** copper mine, and its current eagerness to reopen the mine, despite the continuing opposition of many Bougainvillans.

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- Its role in funding the expansion of, and profiting from, the Grasberg mine in West Papua, a mine which has had devastating environmental impacts, destroyed Indigenous sacred places and is associated with grave human rights abuses.  

- Work around its Bunder diamond project in India, which is strengthening its reputation for duplicity and broken promises.  

- Its operations in Michigan and Wisconsin in the USA, which have left a legacy of bitterness among Indigenous communities, environmentalists and other local residents.  

- Air pollution from its Bingham Canyon mine and smelter in Utah, USA, which is alleged to be responsible for elevated levels of deaths in the Salt Lake City area.

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• It is accused of causing disruption to communities’ access to food and water in Mozambique through resettlements to make way for coal mining.

• It has a history of appalling labour relations and has in recent years been in dispute with workers in Australia, Canada, the USA and West Papua. Global mining union IndustriALL has targeted the company.

• Its bauxite project in Cape York in Queensland, Australia, has been dubbed ‘environmental vandalism on a grand scale’ by environmental groups.

• It has been accused of trying to scupper European Union law on transparency.

• It is in dispute with communities displaced by its QMM mining project in Madagascar.

• It has been sued by Canadian Indigenous communities for disruption to their way of life through more than half a century of iron ore mining.

• It has been in dispute with communities affected by its operations at Palabora in South Africa.

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• It is in dispute with Native Americans and others over its subsidiary Resolution Copper’s plans to mine in Arizona.  

3.7 Coal mining and climate change

Anglo American, BHP Billiton, Glencore Xstrata and Rio Tinto are all big producers of coal. Numerous other London-listed mining companies also produce coal. Studies in Australia and South Africa in the past year have suggested that much of the coal which mining companies plan to extract is unburnable if agreed climate targets are to be met. Accounting company PWC has drawn attention to the pressing need to limit carbon emissions. The World Resources Institute has published a Coal Risk Assessment which points to the dangers of continuing to burn coal. The World Bank has called for a move away from coal. London-listed companies which persist in mining coal run the risk of undermining global targets to cut carbon emissions, with consequent damage to corporate reputations, the reputation of the UK, and the ecological health of the planet. If governments are able to display the political will to pursue effective low carbon policies, many of the assets of coal mining companies will become useless, with consequent damage to shareholders’ financial interests.

3.8 Other companies of particular current concern to London Mining Network

3.8.1 AngloGold Ashanti

AngloGold Ashanti is based in South Africa but also listed on the London Stock Exchange. At present it

• is accused of shameful treatment of communities displaced by its operations in Tanzania;
• faces lawsuits on behalf of former mine workers suffering from silicosis in South Africa;
• is accused of causing serious environmental damage in Ghana;

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• faces major opposition to its proposed La Colosa gold mine in Tolima, Colombia, where it is accused of buying influence in local government and the media and benefiting from intimidation of mining opponents.

LMN member group Colombia Solidarity Campaign is working with community activists opposed to the mine. It published a report on the project in 2011 and a further report in December 2013.

3.8.2 Antofagasta

LMN was contacted in 2012 by community representatives from Caimanes in Chile, seeking help in their conflict with London-listed, Chilean controlled Antofagasta. Their concerns included water availability, water pollution, the dangers posed by a huge tailings dam constructed above the town, the loss of archaeological heritage and the intimidation of mining opponents. These issues were raised at Antofagasta’s AGM in London in June.

The company has been challenged in numerous lawsuits. Chilean court decisions in July recognized that the tailings dam presents a grave danger, instructed the company to implement a security plan, and found that the company has broken the law with regard to archaeological remains.
LMN member group War on Want is working with Chilean activists to support opponents of the mine.

3.8.3 Beowulf

**Beowulf** is seeking to mine iron ore, and possibly uranium, in Indigenous Saami territory in Sweden, without the free, prior, informed consent of the Saami people. Mining threatens to disrupt traditional reindeer herding activities. The Saami Council of Sweden, which opposes the company’s activities, has sought LMN’s help in making representations to the company’s board and shareholders at its London AGMs. Saami activists have recently been blockading the company’s operations.

3.8.4 ENRC

**ENRC** has a reputation for poor corporate governance and has been under investigation by the Serious Fraud Office over its operations in Kazakhstan and the Democratic Republic of Congo.

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LMN was contacted earlier this year by community activists in Ilheus, Brazil, worried about the potential impacts of a port which the company plans to build in an important ecological reserve\textsuperscript{72}.

3.8.5 Lonmin

Lonmin has a record of appalling labour relations in South Africa\textsuperscript{73}. In August, 2012, a massacre of mine workers took place at its Marikana operations\textsuperscript{74}. An inquiry into the massacre is in process. Many fear that it will be a ‘whitewash’\textsuperscript{75}.

LMN member groups ACTSA and Colombia Solidarity Campaign have links with mine workers in South Africa and have taken an active interest in justice for mine workers and their families.

3.9 Reputational risks

Given the increasing national and international emphasis on good corporate citizenship, global standards and the interests of communities and other stakeholders, the activities of UK-listed extractive companies noted above will have implications:

- the reputation which UK trading and financial markets seek for sound companies and sound investments will be undermined
- resource-rich countries may be reluctant to offer future concessions to UK companies


investors will be increasingly reluctant to fund companies who fail to observe social and environmental standards; or whose activities are disrupted by their failure to engage local communities.

when UK-listed and UK-financed companies act in defiance of local and international law and norms, it is harder for the UK to urge human rights and environmental standards.

4. Is there sufficient engagement between UK extractive industries and the NGO sector? Are there examples of best practice in engagement between the extractive industries and NGOs?

4.1 Organizations within LMN take different approaches to engagement with mining companies. Some have no direct contact with companies except in public fora such as AGMs. Others meet privately with companies to discuss aspects of company behaviour. Others meet with companies only in the presence of representatives of affected communities or mine workers, or with the explicit permission of communities or unions with which they are working; this is in order to avoid seeming to speak for communities or workers if those affected by the company’s operations do not wish them to do so.

4.2 At best, any form of engagement with companies leads to improvements in corporate behaviour. At worst, it leads to a breach between NGOs and the communities on whose behalf they are working, or claim to be working, or ought to be working; and to companies being able to use this engagement to present themselves as more socially and environmentally responsible than they are.

5. What is the impact of the industry of the UK signing up to the EITI?

Transparency with regard to payments by extractives companies to public bodies is welcome, and to the extent that EITI is helping to achieve this, it is useful. But transparency is very far from being the only important issue. If a company is open about payments to governments while at the same time violating Indigenous Peoples’ rights to Free Prior Informed Consent, or destroying Indigenous sacred sites, or relocating farming communities to inadequate land with inadequate compensation, or benefiting from human rights violations, or poisoning ground water, or leaving a legacy of acid mine drainage, then its behaviour is unacceptable, however ‘transparent’ it is.

6. Would increased regulation for London listed extractives companies result in competition from elsewhere or can it be used to make the UK a centre of excellence for best practice and corporate governance?

6.1 UK-listed extractive companies are breaching human rights and environmental norms. Monetary or competitive advantage can never be a justification for this and increased regulation is the only response.

6.2 Well thought out regulation could have advantages for UK, including avoidance of problems now faced by investors in Bumi, ENRC, GCM Resources and Vedanta. Since companies with low standards of operational behaviour may be most likely to be involved in financial scams, their departure from UK investment exchanges can only be of benefit.

6.3 Extractives companies should be compelled by law to publish much fuller information about the social and environmental impacts of their operations. A 2010 complaint to the Financial Reporting Review Panel (FRRP) by law firm Client Earth, assisted by LMN,
EIS 43

7. What is the competitive landscape for the extractive industries in the 21st Century and is it in the UK’s interest to remain a global centre for them?

A choice is to be made between, on the one hand, a transition to low-carbon, low-consumption economies which can lift people out of poverty while enabling all people to live a dignified life within the ecological limits of the planet; and, on the other hand, maintenance of the current high-energy, high consumption, extractives-based model, which will inevitably lead to ecological catastrophe on a scale not yet seen in recorded history. It is in the UK’s interest to contribute to the reform of the dominant economic model and to ensure that extractive industries are also reformed, aiming at reduced demand (which can be achieved partly through improvements in design), improved reuse and recycling, and swift abandonment of the extraction of minerals the use of which has particularly grave consequences, notably coal and uranium.

8. Recommendations

8.1 The Financial Conduct Authority, or another statutory body, must be given the power, responsibility, funding and institutional capacity to enforce good conduct on all UK-listed extractives companies, including those trading on the London Stock Exchange’s Alternative Investment Market. This must extend beyond matters of financial concern to shareholders and include compliance with human rights and environmental standards.

8.2 The powers and responsibilities of the statutory body must include, at a minimum, the following:

- sanctioning companies that have violated the law in any overseas countries in which they are operating. UK-listed companies must comply with national regulations concerning biodiversity, ecological and environmental protection;
- enforcement of corporate reporting requirements relating to environmental and social impacts contained in section 172 of the Companies Act 2006;
- and ensuring that UK-listed companies recognize and respect all the international human rights, labour rights and environmental standards to which the UK is a signatory.

8.3 Further suggestions were included in the recommendations that we made on pages 5 and 6 of the report which we published last year, UK-listed mining companies and the case for stricter oversight, available on our website76.

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