



## **The harms of Glencore's corruption in the Democratic Republic of Congo and Nigeria**

*Joint briefing on behalf of Resource Matters, ANEEJ and Spotlight on Corruption*

Glencore is the [world's largest commodity trader](#). The company is headquartered in Switzerland and listed at the London Stock Exchange. Its UK branch oversees most of its oil and gas operations. Glencore and its subsidiaries are active in many resource-rich countries around the world, including the Democratic Republic of the Congo, Nigeria, Brazil, Côte d'Ivoire, Cameroon, Equatorial Guinea, and Venezuela. Many of these countries present high levels of corruption and low economic development.

In May 2022, Glencore pleaded guilty to foreign bribery and price manipulation, in the context of a [settlement](#) that the company reached with authorities in the US, the UK and Brazil. Glencore admitted to paying over \$100 million in bribes to government officials in the aforementioned countries through a series of subsidiaries, middlemen, and intermediary corporations in violation of the Foreign Corrupt Practices Act (FCPA). Glencore's principal objectives were obtaining unfair business advantages, acquiring state-owned operations, and mitigating or outright dismissing legal liabilities.

As a result of the joint operation between the US DOJ, the UK Serious Fraud Office (SFO) and the Brazilian Office of the Public Prosecutor, [Glencore has agreed to pay](#) more than \$1.1 billion in fines to their jurisdictions for charges of profit-driven bribery of officials in the DRC and other African and South American countries and commodity price manipulation.

### **Democratic Republic of Congo (DRC)**

In the DRC, Glencore currently owns two copper and cobalt mines: Kamoto Copper Company (KCC) and Mutanda. Glencore's acquisition of key Congolese mining operations give it enormous influence over the market for copper and cobalt, which are crucial to the green energy transition. Documented corruption by Glencore has worsened governance difficulties and reduced public revenues in the country, which should now be entitled to receive some of the illicitly-acquired money back.

In December 2022, following an investigation started in 2018 by the US Department of Justice and culminated in the above-mentioned settlement, [Glencore settled](#) for \$180 million with the DRC for all future and past “alleged acts of corruption [...] between 2007 and 2018”.

The amount that Glencore agreed to pay to the DRC is not at all proportionate to the estimated losses that the country suffered over the years as a result of the company’s activities. To take just one documented example, when Glencore [acquired](#) a majority stake in Kamoto Copper Company (KCC), one of the biggest copper and cobalt mines in the world, it managed to opaquely negotiate a \$440 million discount on its signing bonus to the State-owned mining company Gécamines. As a result, Glencore [ended up paying](#) just \$140 million, instead of \$585 million. All the money that Glencore did not pay can and should be calculated as a loss for Congo, and just this one example amounts to more than twice the money that Glencore is giving to the DRC as a result of the December 2022 settlement. To this number, it should at least be added the \$250,000 per day that, according to [civil society calculations](#), three of the major DRC mining projects (two of which owned by Glencore) pay in royalties to an individual sanctioned for corruption instead of paying it to Gécamines.

The ongoing initiatives by Civil Society Organizations (CSOs) in combating corruption in the DRC depend on the continuous development and dissemination of information to complement their advocacy efforts, as well as on public participation and international cooperation. Civil society in the DRC has been most active in investigating, exposing and finding robust evidence against Glencore’s activities in the DRC. In particular, the *Congo N’est Pas à Vendre* (Congo Is Not for Sale) coalition has spearheaded the exposure of Glencore, particularly through advocacy efforts. Moreover, the coalition [has advocated](#) for maintaining in place US sanctions against an individual who does business with Glencore in the DRC.

More recently, they [have questioned](#) the opacity surrounding the \$180 million 2022 settlement with the DRC, which has not been made public, denounced the suspicious involvement of the Anti-Corruption Prevention and Fight Agency and urged the DRC government to reveal the destination of the agreed sum.

Similarly, Swiss-based NGO Public Eye has also supported the efforts of civil society in the DRC by [filing a criminal complaint](#) with the Office of the Attorney General of Switzerland against Glencore’s activities in the DRC.

## **Nigeria**

Between 2007 and 2018, Glencore and Glencore Energy UK Ltd entered into multiple agreements to purchase crude oil and refined products from Nigerian National Petroleum

Corporation (NNPC) and its subsidiaries. Glencore and its subsidiaries engaged two intermediaries to pursue business opportunities and other improper business advantages, including the award of crude oil contracts, while knowing that the intermediaries would make bribe payments to Nigerian government officials to obtain such business. In Nigeria alone, Glencore and its subsidiaries paid more than \$52 million to the intermediaries, intending that those funds be used, at least in part, to pay bribes to Nigerian officials.

In November 2022, Glencore was [sentenced](#) to pay £280 million in financial penalties in the UK, which included a £183 million fine, £93 million confiscation and £4 million in legal costs. A week before Glencore was sentenced, Nigeria applied to the court for a compensation order, claiming status as a victim of the corporate offending. However, the London court [found](#) that third parties like Nigeria do not have standing to seek a compensation order directly from the court and warned that allowing “representations from the wide range of victims” would pose “a risk of deluging the criminal justice system”.

As a result, the London court [declined](#) to order compensation and so did not explore the concrete impact of Glencore’s corporate offending on victims. This means that complete justice has not been served in this case as the States and the immediate communities where this corruption was perpetrated have not been duly compensated for the injustice carried out in their vicinity. Glencore and the UK/US government still have a chance to correct this by voluntarily paying compensation to the affected communities out of the fine or confiscated amount. Nigerians and the citizens of other countries mentioned are the victims of corruption. Such victims should be compensated.

ANEEJ and its partner CSOs around the world, have been working on the issue to get the Federal Government of Nigeria to identify and prosecute officials of the Nigeria Petroleum Oil Company Limited, NNPC that collected bribes from Glencore officials. Eighteen leading CSOs from the global North and South petitioned the UK Director of the Serious Fraud Office (SFO) and UK Justice Secretary to provide support to authorities in the African countries affected by Glencore’s offending, to bring the corrupt officials to justice even as they demanded urgent reform of UK’s current compensation regime.

In a [letter](#) signed, among others, by Rev David Ugolor (ANEEJ Executive Director), Dr Susan Hawley (Executive Director, Spotlight on Corruption), Duncan Hames (Director of Policy and Programmes, Transparency International UK) and Gillian Dell (Head of Conventions Unit at Transparency International Secretariat, and Co-Chair of the UNCAC Coalition), to the Director of the SFO, civil society urged the agency to commit to sending intelligence packages as provided for in Article 46(4) of the UNCAC, and provide support to authorities in the five countries where it is clear those authorities are likely to undertake credible criminal investigations into those who engaged in bribery. A [press statement](#) was issued by the group and widely circulated to bring pressure to bear on the UK and Nigerian governments to act.