Sustainable Mining: Oxymoron or New Reality?

***reo*® Research** **June 2009**

In this report...

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- As mining companies are forced to look further afield – both geographically and technologically – for the next 'big find', maintaining global standards of environmental and social best practice becomes ever more difficult, even as scrutiny of company behaviour becomes more acute.
- Companies need to address such issues as community relations, mine security, and environmental pollution from the earliest stages of mine development, because the cost of early neglect is far greater later on.
- Some progress has been made, but new issues continue to emerge, and mining companies needs to remain vigilant in their monitoring of new challenges.

1. Background

Over the past few years, mining – an industry that has arguably met with the most intense global criticism – appears to have made appreciable headway in its quest to become a responsible global citizen. Once synonymous with exploitation of indigenous peoples, environmental pollution and corruption, the mining industry responded in 2000 by organising itself, through a handful of leading companies, to confront its controversial legacy, by striving to minimise its harmful environmental, social and governance (ESG) impacts and make a meaningful contribution to sustainable global development. Today, many of the better-known companies have rolled out new, more sophisticated policies and operational systems and are working to resolve costly legacy problems; yet the industry remains under pressure, as miners seek new resources in far-away, high-risk places, and face severe spending cuts to combat collapsing commodity prices. In light of these challenges, and the steps taken by companies to resolve them, **has the industry come far enough to declare sustainable mining a reality?**

2. The Challenges

Mine safety

Throughout its history, mining has been associated with high fatalities, severe accidents and occupational diseases. However, host governments are increasingly rejecting the long-held assumption that these are an inevitable side effect of mining development, and demanding lengthy investigations into any significant accidents – even going so far as to factor companies' safety records into decisions to award exploration and production licenses.

Environmental management

Extraction of metals and minerals from the ground has inherently high environmental impacts. The pollution caused to ground, water and air, as well as the visual blight, have contributed to the negative public image of the industry, and is a growing concern in any new or existing mining projects. This issue escalates in importance in projects located in ecologically-sensitive areas, as in the case of **Rio Tinto's** ilmenite project in Madagascar, where the company has had to spend more than ten years developing systems to protect and enhance the biodiversity of the sensitive littoral forests located at the site. In addition, the industry's intensive energy and water consumption is exacerbating concerns about energy security, water stress and climate change. Here again, the assumed inevitability of environmental damage is being questioned, with investors increasingly challenging companies to improve behaviour, and some even going so far as to 'vote with their feet', as evidenced by the Norwegian Government Pension Fund's recent decisions to divest from **Freeport-McMoRan**, **Rio Tinto** and **Barrick Gold** because of concerns over poor environmental practices.

Relations with local communities

Failure by mining companies to manage local community relations effectively can cause serious disruption, ranging from temporary shutdowns to project delays, loss of licenses, outright violence and sabotage – in some cases turning entire regions into 'no-go' areas for commercial developers, such as happened in Peru between 1985 and 1990. Recent international campaigns and local community complaints against **Anglo American's** platinum mine in Limpopo province, South Africa, and **Vedanta's** planned aluminium mine in Lanjigarh, Orissa, India illustrate the damage these issues can cause.

Mine security

Management of local community relations can often become enmeshed in long-standing domestic political feuds, drawing mining companies into conflicts not of their own making. They therefore face the challenge of ensuring site and worker security while minimising any potential tensions with local communities caused by ill-trained security forces. Examples of failed strategies on security abound, with perhaps the best-known recent instance being that of **Freeport-McMoRan** employing Indonesian military to guard its copper mine in Papua New Guinea. Soldiers were accused of attacking local people opposing the Indonesian government, resulting in the killing of four people with alleged links to the local resistance movement.

Managing joint ventures

As the quest for new metals and minerals enters territories of higher political and technological risk, major companies rely more heavily on smaller 'junior' operators to undertake the exploration and early development of sites. This raises concerns that environmental, social and governance ("ESG") risk management systems may be poorly implemented by the 'juniors' in the early stages of project development, leading to costly surprises later in the life of the mine. The potential significance of these was demonstrated most recently at **Xstrata's** copper and gold project in Tampakan, Philippines, where 'junior' **Indophil Resources** had failed to build robust relations with local stakeholders and secure acceptance for the site, prior to Xstrata taking over management of the site in 2007. As mining in the Philippines grew into a hotly-contested political issue, the Tampakan project fell prey to exploitation by rival local political forces, escalating in a series of attacks by rebel armed forces in 2008.

Helping tackle the 'resource curse'

Extractive companies are often blamed for the 'resource curse' – the paradox of resource-rich countries suffering lower economic growth and more conflict than countries with fewer natural resources. Rampant corruption in many of these countries means that resource wealth rarely benefits the local people, as taxes, royalties and social payments are misused or misappropriated by government officials, fuelling community resentment against companies.

Preparing for the Afterlife

While the leading mining companies have made significant headway in addressing the immediate impacts of their operations on society and the environment, their approach to risk management beyond their immediate operational footprint often remains incomplete. This is a particular concern in the way companies approach disposal or closure of their mines and make adequate financial or social provisions for the long-term risks their assets may still face. Addressing these concerns can place companies in the difficult position of accepting responsibility for assets over which they no longer have any control, especially in cases where the asset remains in operation but has been taken over by another entity. However, the growing scrutiny to which mines are exposed today means that even long after a company may have disposed of an asset, these risks will not go away. Whether selling or closing assets, companies need to take transparent action to provide for any social or environmental concerns that may arise later in the life of the mine. This may take the form of independently-administered funds allocated exclusively to post-closure rehabilitation; or, in the case of an asset sale, a public commitment to consider the buyer's ESG credentials in the final sale decision[1].

[1] An example of this last practice is the approach taken by BHP-Billiton to the sale of its Peruvian copper mine Tintaya, where significant problems with host communities had been encountered. The company stated that potential buyers' ability to handle these problems sensitively and constructively would be a key consideration in the selection process. The buyer selected through this process was Xstrata, recognised for its robust approach to community relations, which has since taken decisive steps to resolve the legacy challenges facing the site.

3. The solutions: F&C acts .... and companies respond

F&C has engaged mining companies in its portfolios, as well as mining industry associations, to drive improvements in ESG risk management systems that would help to meet these increasingly complex challenges. We are convinced that sound management of these risks is essential to the long-term success of their operations and to protecting the industry's 'license to operate' around the world.

Making safety count

While safety has risen up the industry's agenda, ***F&C has long encouraged an explicit link between safety and pay for top executives, and recommended that safety be routinely included in all performance indicators.*** In 2008, we welcomed Anglo American's public commitment to both these practices, and continue to focus on a number of companies where progress has been slower, such as **Arcelor Mittal**. Since the start of F&C's engagement, the company has made a public commitment to improving its safety performance, and begun reporting on its performance, and more recently, the company also decided to introduce transparent links between safety and pay.

Cleaning up

Although the leaders within the mining industry have developed some extremely robust practices in minimising environmental impacts, F&C continues to have concerns about the wide range of companies that still lag in this area, as well as the risk that leading companies will rest on their laurels, rather than planning ahead for new and emerging risks. In particular, we have highlighted the following issues that are of growing global importance:

- **Setting and meeting energy and water use targets:** Given severe droughts in Australia and Chile, and crippling electricity shortages in South Africa, we have urged companies operating in these regions to develop effective strategies to minimise water and energy consumption. In addition, we have urged companies considering operations in regions where resource availability is unstable to factor this concern into their risk assessment and planning processes to ensure that preventive action has been taken. We have been encouraged to see some of these companies, such as **Rio Tinto**, take our recommendations to heart, and commit to invest in new technologies that would enable large-scale energy and water saving.
- **Planning for a changing climate:** While most major mining companies are tracking and reducing their greenhouse gas emissions in anticipation of potential regulatory constraints, many on the next tiers down have yet to do so, and few have considered the many other risks that climate change may pose to their operations. In planning long-term capital expenditure programmes, companies need to map the impacts on both their cost structure and demand patterns arising from changes in climate-related regulation or taxes, customer demand and the physical impacts of the changing climate. For example, rising energy and water prices will drive up costs, while customer demand for certain key commodities, such as platinum or coal, will be affected, positively or negatively, by the acceleration of carbon costing. While the leading companies have begun to take pre-emptive action in this area, many continue to ignore these risks. Of further concern are the likely impacts of climate change on the structural integrity of the mines, which few companies in the industry appear to recognise: in this area, F&C is concerned by the industry's growing focus on reserves located above the Arctic Circle, where, as rising temperatures threaten to melt the permafrost, companies need to consider making alterations to their mines today to compensate for structural instability or other potential problems in ten and 20 years.
- **Ecosystems – thinking beyond the mine:** Biodiversity management, often referred to as 'land stewardship', is becoming an increasingly recognised requirement for effective mine operation. In addition to working with companies to develop mechanisms for tracking the impacts on biodiversity in the immediate vicinity of their mines, F&C also urges companies to consider the broader impacts of their activities. This includes the effects of pollution on communities downriver, how altered animal patterns may impact indigenous peoples or the wider ecosystem, or how road-building for mining operations may trigger human activities that damage the surrounding environment. Of the miners we engaged on biodiversity, **Anglo American** has developed particularly leading practices, moving beyond site-specific audits and activities to forge partnerships to preserve biodiversity in the regions where it operates.

Building strong community relations

Building robust, open relations with local communities remains a difficult quest for most mining companies, with an ever-changing landscape of key players and expectations. F&C has held detailed discussions with major global companies **Anglo American**, **Arcelor Mittal**, **Barrick**, **Freeport-McMoRan**, **Rio Tinto**, **Vale**, **Vedanta** and **Xstrata**, as well as smaller operators such as **Buenaventura** and **Southern Peru Copper**, to explore their varied approaches, and urge them to identify all potential pitfalls and to report on these in an open and balanced manner. In the process, F&C has identified the following recommendations for companies seeking to build long-lasting and constructive relations with host communities:

1. **Inclusiveness:** Ensure that consultations are comprehensive and include not only the legal landowners, but also tenant-farmers, women, minorities or other people who may lack a legal claim. Where relevant, consultations may also need to be carried out with groups or individuals who do not form part of the tribe or community immediately surrounding the mine, but who are nevertheless affected by its existence;
2. **Accessibility:** Carry out consultations using the local language and in places that are genuinely accessible to all community members;
3. **Continuity:** Maintain an ongoing dialogue with the local community to address concerns that emerge as the project develops. This may involve navigating tensions between conflicting factions, and ensuring that the mine does not become a "political football" in internal or inter-tribal conflicts;
4. **Long-term self-sufficiency:** Develop transparent compensation mechanisms for displaced persons or use of community land that have long-lasting benefits to the community and help it build its capacity for self-sufficiency, in particular beyond the life of the mine;
5. **Early warning systems:** Build open and fair grievance mechanisms prior to the emergence of specific disputes related to the mine;
6. **"Beyond the mine":** Ensure that consultations are comprehensive and address not only the immediate impacts of the mine, such as pollution or relocation, but also wider-ranging issues such as the changes to the socio-economic profile of the community due to the influx of workers, and 'life after the mine';
7. **Good governance:** Where the law makes it difficult for companies to interact directly with the host community because of conflicting political loyalties or power struggles, engage with local leaders to ensure that any community representatives involved in the consultation process are elected fairly, and are rotated sufficiently frequently so as to maintain a live link to the needs of the community while minimising the risk of corruption;
8. **Transparency:** Establish routine disclosure mechanisms to ensure that local communities are fully aware of the scale and nature of the payments the company makes to local, regional and national governments, including taxes, royalties, bonuses and social investment programmes. Where these are constrained by contractual confidentiality clauses, explore ways in which to negotiate greater transparency with government authorities, wherever commercially feasible. Involve local community representatives in decision-making concerning social investment programmes. Proactive, transparent engagement with the community is an essential component to any initiative the company undertakes, whether it relates to social development, environmental management, or safety programmes.

Focus On: – F&C talks to people on the ground

To better understand the many challenges of building a successful relationship between a mine and the local community, F&C travelled to one country where both the successes and the failures are in abundance: Peru. Blessed with significant natural reserves of most major metals, Peru has in the past twenty years played host to almost all global mining companies, as well as their local peers. In the short, but turbulent, history of these companies in the country, some such as **Newmont's** Yanacocha gold mine, have been the subject of bitter accusations of abuse and mistreatment, and likewise paid the price through community unrest, including violence and sabotage; by contrast, others, such as Xstrata's Las Bambas copper development, have been held up as showcases of responsible management.

F&C travelled to Peru, and met with over seventy representatives of local NGOs, government and companies, including face-to-face meetings with senior government ministers in Lima and roundtable discussions with civil society and municipal leaders in the remote town of Anta, located near a new exploration project. In doing so, F&C was able to gain an on-the-ground perspective on activities investors normally see only from their remote headquarters in Europe or the United States. The discussions centred on the practical challenges facing existing programmes for community development and funding schemes, and pointed to deep pitfalls in the arrangements for the redistribution of taxes between the central government and the regions. This is of deep concern to companies, who must coexist with increasingly restive local populations who, despite severe disruption to their natural environment, have realised only modest benefits in terms of their standard of living. F&C followed up by actively engaging mining companies and local leaders in efforts to institute sustainable, transparent management of financial flows so as to avoid the typical 'boom and bust' that has destabilised and impoverished mining communities over the last decades.

Building safety into security

Maintaining the security of the mines in a way that is also 'safe' for the surrounding communities has proven a challenge for many mining companies. In 2008, F&C focused on addressing this issue with **Freeport-McMoRan**, a company whose mine in Grasberg, Indonesia has been the subject of fierce NGO allegations of abuses by security forces and corrupt payments to military officials[2].

In Grasberg, the company has taken steps to address these concerns, including recruiting new security forces and training them on human rights. However, Freeport is now developing one of the largest new copper mines in the world in Tenke, Democratic Republic of Congo (DRC); the question of how it will apply the lessons learned in Indonesia in an operating environment that is even more challenging is fundamental for assessing the company's prospects. F&C urged Freeport to develop:

- **A group-wide policy** addressing the selection, training and monitoring of mine security forces that reflects the company's experience in Indonesia, as well as international standards such as the Voluntary Principles on Security and Human Rights; and
- **Protocols** for implementing this in practice. A security protocol should include clear complaints mechanism for employees and local communities, and address such risks as intimidation and extortion (both by the security forces and by any armed forces in the region).

Freeport responded constructively to these recommendations and began work on a comprehensive group-wide policy, on which F&C then provided extensive feedback. We look forward to seeing the steps the company takes to ensure routine operational practice is adapted to incorporate these changes.

Keeping an eye on the 'juniors'

In 2007, F&C published a report, *Do You Know What Junior is Doing?*[3], that analysed the growing trend for larger mining companies to 'outsource' their exploration and early-stage mine development activities to smaller operators, known as 'juniors'. This growing reliance on 'Independently-Managed Operations' (IMOs) reflects the desire of the larger miners to minimise the risks associated with early greenfield exploration, and usually comes with an option to assume full ownership of the asset further down the line if it proves to be of sufficient interest. In these partnerships, 'juniors' frequently lack the resources and expertise to develop the robust environmental and social practices that would help pre-empt potential problems later in the life of the mine. The report detailed the risks arising from these gaps, and made eight recommendations for the mining majors to consider when partnering with 'juniors':

1. Disclose information regarding the nature and extent of involvement in all relevant IMOs in which the company is involved, and the basis on which environmental, social and governance due diligence was carried out.
2. Develop policies and management systems addressing oversight of environmental, social and governance risks in IMOs.
3. Monitor and report on progress, as well as the challenges emerging at the projects
4. Conduct ESG risk assessment of all existing joint-venture or exploration projects, and disclose the particular ESG challenges faced by these project that may be different from those faced by the company's directly-managed operations
5. Carry out detailed due diligence of all potential joint-venture or exploration partners prior to concluding any new agreements in order to assess their track record in such areas as community relations, dealings with host governments, and environmental management.
6. Integrate ESG standards and expectations into project management agreements and establish clear performance indicators and reporting arrangements
7. In addition to addressing the risks in its own IMOs, help promote good practice across the sector by contributing to sector guidelines for smaller mining companies generally on ESG risk management.
8. Engage with 'juniors' to help them recognise that a strong track record in ESG risk management will make them preferred joint-venture partners, and enable them to achieve better financial terms than their counterparts, both as partners and on exit.

[2] For full report, please see: http://www.globalwitness.org/media_library_detail.php/139/en/paying_for_protection
[3] The full report can be found here: http://www.fandc.com/FN_FileLibrary/file/co_gsi_ESG_risks_in_mining.pdf

In 2008, we welcomed improved reporting on IMOs by **Rio Tinto** and **Xstrata**, and called on other major companies to follow suit. We also raised the matter with companies that traditionally take only a passive equity stake in mining projects, including Japanese trading giants **Mitsubishi** and **Mitsui**, and urged them to question closely their partners' approach to addressing issues such as environment and community relations.

Lifting the revenue curse

While no one agency or initiative has been able to solve the problem of poor countries failing to benefit from their mineral wealth, the Extractive Industries Transparency Initiative (EITI) provides one very promising element of the solution. Mandating disclosure both of tax and royalty payments made by companies and of the corresponding revenues received by the host governments, the Initiative seeks to deter corruption and improve the overall operating climate in resource-rich countries. To date, 26 countries have endorsed the EITI, including several of significance to the mining industry, such as Democratic Republic of Congo, Kazakhstan, Liberia, Madagascar, Mongolia, Peru and Tanzania[4].

As one of the founding members of the EITI and a member of its board, F&C has helped shape the Initiative and its implementation. From 2003 to 2008, we worked with mining companies to encourage them to become more active participants, and to work with governments, communities and NGOs to enable its success. To this end, we met with all major, and several of the smaller, mining companies, and questioned them closely on the steps they were taking to promote revenue transparency in the countries where they operate. Our recommendations for action included that they:

1. Work with key stakeholders in countries that have endorsed the EITI to develop robust payment disclosure frameworks that reflect local requirements;
2. Report payments in all countries that have endorsed the EITI, even where such disclosure remains voluntary;
3. Participate in local working groups dedicated to the implementation of the EITI.
4. Raise awareness of the initiative with smaller sector peers and within local communities;
5. Use their influence wherever possible with host governments that have not endorsed the EITI to encourage adoption of the Initiative.

Fighting corruption is a long-term challenge for the mining sector. Although some companies, such as **Anglo American**, **Newmont** and **Rio Tinto**, have played an active role in promoting the Initiative, and driving its success on the ground, to date, the rest of the mining industry has largely allowed trade association ICMM to represent its interests in the EITI. While F&C welcomes the commitment demonstrated by the ICMM, we have encouraged member companies to take individual action to promote the Initiative on the ground in their countries of operation. As this report goes to press, we welcome the recent decisions by **ArcelorMittal** and **Mitsubishi Corporation** to take the first steps in this direction by formally endorsing the EITI.

They said...

"We know that our position as the leader in the steel industry brings unique responsibilities. In no places is this duty more pertinent than relating to our operations in the two EITI-candidate countries of Liberia and Kazakhstan. ... The EITI's principles regarding the prudent use of natural resources, transparency, accountability, and stakeholder dialogue complement ArcelorMittal's own corporate values and corporate responsibility policies."

Letter from Lakshmi Mittal to EITI Board, 20 January 2009

[4] See www.eitransparency.org for latest tally of EITI Candidate countries.

4. Mining sector and F&C: a record of engagement in 2008

Company name and country(ies) of listing	Issues raised by F&C in 2008					
	Safety	Environment	Community	Security	Joint ventures	Corruption[5]
Anglo American, UK	✔	✔	✔	✔	✔	✔[6]
Antofagasta, UK/Chile		✔				✔[6]
Anvil Mining, CA/AUS/UK					✔	✔
Arcelor Mittal, NL	✔	✔	✔	✔		✔
Barrick Gold, CA		✔	✔			✔
BHP-Billiton, UK/AUS					✔	✔
Buenaventura, PE	✔	✔	✔		✔	✔
China Shenhua, CN	✔	✔				✔[6]
Evraz, LU/RU	✔	✔				✔[6]
First Quantum, UK/CA						✔
Freeport-McMoRan, US	✔		✔	✔		✔
Lonmin, UK/SA	✔	✔		✔		✔
Mitsubishi Corporation, JP		✔			✔	✔
Mitsui Corporation, JP		✔			✔	✔
Newmont Mining, US		✔	✔	✔		✔
Norilsk Nickel, RU	✔	✔				✔[6]
Rio Tinto, UK/AUS		✔	✔		✔	✔
Southern Copper, PE/US	✔	✔	✔			✔
Vale, BR	✔	✔	✔	✔	✔	✔
Vedanta, UK	✔		✔			
Xstrata, UK	✔	✔	✔	✔	✔	✔

[5] F&C has encouraged mining companies to combat corruption through endorsement and implementation of Extractive Industries Transparency Initiative (EITI)
[6] Antofagasta, China Shenhua, Evraz and Norilsk Nickel do not currently operate in any countries that have endorsed the EITI (i.e. have become 'Candidates' for EITI-Compliant status). However, F&C has had detailed discussions with the companies about resource revenue transparency and the steps they could take to enhance its acceptance with local communities through better payments disclosure and active engagement with the national governments.

5. Looking ahead – what's the next big challenge facing mining?

F&C will continue to engage mining companies on issues that threaten the long-term stability of their operations. In addition to the many challenges currently facing the sector, we believe the following two issues are gaining significance and will require more concerted corporate attention:

1. **Artisanal mining:** Small-scale "subsistence miners" are a regular presence at most large gold (and, to a lesser extent, diamond and copper) mines in developing countries; in fact, in some cases their arrival at the site may even pre-date the mine itself. Operating essentially as squatters with no legal title to the land, these miners who dig for minerals on the periphery of professionally-operated mining sites are at particular risk of accidents, as well as of abuse by local semi-criminal organisations. In addition, artisanal miners often cause environmental damage by using primitive, highly toxic extraction methods. While these individuals and groups operate illegally, and are variously ignored or actively opposed by host governments, they nevertheless pose an operational and reputational risk to mining companies to the extent that they operate on land owned by, or even merely adjacent to, them and can be perceived as existing as a direct – if unintended – consequence of the mining companies' presence. Many companies are becoming increasingly alive to the risks these operators may pose to their reputation and the safety of surrounding communities, and some have cobbled together informal – though potentially problematic – arrangements to ease relations with these neighbours, such as offering them small tracts of land. Some companies have also responded by providing safety and environmental training to artisanal miners, but this can risk souring relations with host governments, which regard any action that legitimises subsistence mining as undermining the rule of law. However, it remains unclear as yet how best to respond to this challenge, not least because physically preventing access to the mine may not be possible given the large territories in question. Nevertheless, the industry is taking steps to resolve this problem, particularly through the trade body ICMM.

2. **Capacity building – life beyond the mine:** As mining companies expand into poor and underdeveloped countries, they are looked to by the local communities to provide basic services, such as healthcare and clean water. Ignoring these expectations may jeopardise the company's reputation in the region; however, stepping in and providing services on which the community comes to depend also has its risks, as the company may find itself taking on the role of a quasi-government from which it is difficult to extricate itself. Companies have recognised this challenge by moving away from a philanthropic approach, which had historically seen them funding infrastructure projects such as roads and school and hospital buildings, in favour of a more strategic response, which entails collaboration with local development groups to invest in education, vocational training and microbusiness development. By enabling the community to prosper independently of the mine, companies are able to focus on operating the mines without fear of creating unrealistic expectations.

Credit crunch – a note of caution?

In addition to some of the longer-term challenges outlined above, today's mining industry faces pressures that will test all its resources. Faced with falling commodity prices – the aftermath of the credit crunch and resulting global recession – many leading companies have announced dramatic spending cuts[7]. While the industry's leaders remain unequivocal in their commitment to responsible management of ESG risks, dramatic retrenchment may very well result in a 'bread and butter' approach to social and environmental issues and less innovation, while smaller operators or those less in the public eye may be tempted to cut corners. But such penny-wise savings store up costly problems for the future, saddling shareholders with burdens that they are increasingly loath to shoulder. With that in mind, F&C will continue to engage the mining companies in its client portfolios to ensure prudence prevails in developing and operating sustainable mines.

[7] See, for instance, 'Anglo and Rio forced to make cutbacks', Financial Times, 7 December 2008

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