

GLENCORE REDIRECTED OVER \$75 MILLION IN MINING PAYMENTS TO SCANDAL-HIT FRIEND OF CONGOLESE PRESIDENT, GLOBAL WITNESS REVEALS



Between 2013 and 2016 mining giant Glencore paid over \$75m to Dan Gertler, a controversial businessman accused of bribing senior officials in Democratic Republic of Congo to advance his mining interests, Global Witness revealed today. These payments were due to be paid to Congo's state mining company Gécamines under the terms of the original contract it had with Glencore.

Glencore did not disclose in company filings that it was instead making these payments to Gertler, a known corruption risk. That he was the recipient of the payments comes to light only weeks after Glencore bought Gertler out of mining assets it held jointly with him in Congo in a billion dollar deal.

A Global Witness investigation found that from 2013 to 2016 Toronto-listed Katanga Mining, majority-owned by Glencore, made "signature bonus" and other payments totalling over \$75 million to Dan Gertler's Africa Horizons company, registered in the Cayman Islands. Under the original contract these payments would have gone to Gécamines, but Global Witness wrote to Glencore after reviewing company documents and filings that raised questions over the true recipient of the payments. Glencore admitted that they were made to Gertler's company.

"It's outrageous that Glencore has been making payments to a friend of the Congolese President who has been accused of bribery and corruption, and then not telling its shareholders or the public that it's done so," said Pete Jones from the Congo team at Global Witness. "Glencore has been in business in Congo with Gertler for a decade and has known about the allegations that have been made against him for years."

Gertler is a close friend of Congo's President Joseph Kabila and has been a focus of major foreign bribery investigations in the US and UK. In **a finding by US authorities in September** against the hedge fund Och-Ziff, an "infamous Israeli businessman" was identified as having paid bribes to Congolese officials to win mining licences for Och-Ziff. The businessman is widely understood to be Gertler. He is **reported to be a central focus of a corruption investigation by the UK's Serious Fraud Office** into Kazakh mining company ENRC, based in part on ENRC's deals with Gertler in Congo. Gertler's spokesman told Bloomberg that his company "vigorously contests any and all accusations of wrongdoing in any of its dealings in [Congo]".

Congo has vast natural resource wealth, but corruption, mismanagement and the sale of mines below market value have helped keep it one of the world's poorest countries, consistently languishing near the bottom of the UN Human Development Index.

Glencore's Katanga Mining's company filings to the Toronto Stock Exchange for 2013 indicated that royalty and signature bonus payments were "payable to Gécamines". In subsequent filings, the words "payable to Gécamines" were omitted and no new recipient was named. Glencore declared the 2013 and 2014 payments it had made to Gertler's company as payments to Gécamines, in its submissions to the Extractive Industries Transparency Initiative (EITI). Glencore has now admitted, in a letter to Global Witness, that these payments actually went to Gertler from 2013 to 2016.

"The discrepancy between Katanga Mining's filings and the real recipient of these huge payments runs the risk of misleading investors. Gertler is a well-known corruption risk in Congo's mining sector and Gécamines is famously opaque. Investors need to ask Glencore why it felt comfortable making these payments and why it didn't clearly disclose Gertler as the recipient," said Jones.

Global Witness **previously reported in November 2016** that since 2014 Glencore had made royalty payments, originally due to go to Congo's state mining company, Gécamines, to Gertler's Africa Horizons company instead. Glencore has now confirmed that it has in fact been making those royalties payments since 2013, as well as making signature bonus payments to Gertler instead of Gécamines for the same period. Glencore and Gertler's representatives said in November that Gécamines had sold the rights to these royalties to Africa Horizons but they have not provided any details on the terms of the deal, nor have they said if the signature bonuses were part of this transaction.

In February 2017 Glencore announced that it had bought Gertler out of the two mining assets they joint-owned in Congo, the copper mine owned by Katanga Mining and the Mutanda mine. Despite buying Gertler out of these assets Glencore will continue to make royalty payments to Gertler on both projects, according to Glencore.

The redirection of royalty and signature bonus payments from Gécamines to Gertler was identifiable in large part thanks to the data in the 2014 Congo report by the EITI, which publishes mining, oil and gas company payments to states and state-owned companies. It is vital that such disclosure mechanisms become and remain law. It is

extremely disappointing that the Trump administration has chosen to overturn payment reporting rules for US companies within its first month in the White House.

The broader importance of a system that legally requires company payment disclosures was underlined by an experienced equities analyst speaking to Global Witness: “Companies do not issue press releases when they get involved in underhand activities. Rather, such conduct is often slowly exposed through incremental information contained in public disclosures.”

Glencore has long been aware of the corruption risks related to its partnership with Gertler. Global Witness published a memo to Glencore and its shareholders as early as 2012 – before any of the signature bonus or royalty payments revealed here were made – to outline the “risks of corruption” associated with Gertler, after Glencore had struck opaque mining deals with him.



Glencore said it had “complied with its disclosure obligations” under Canadian securities law and the rules governing the Toronto Stock Exchange. It said it had declared the payments to Gertler’s company as payments to Gecamines in its EITI submission “because the payments discharged KCC’s [Kamoto Copper Company - the mining project in Congo] obligations to make these payments to

Gecamines”. In response to questions from Global Witness in November, Glencore said that it was satisfied that there was an underlying basis for the assignment of royalty rights from Gecamines to Gertler.

Fleurette’s spokesperson at Powerscourt public relations firm did not provide a comment by the deadline, despite being granted an extension of time to respond. In the past Fleurette has denied any wrongdoing in its Congo deals. In November Fleurette said that what it had received was “far less than the amount ... paid for the royalties” and that it “will have suffered a huge loss as a result”.

None of the parties involved has revealed what, if anything, Fleurette paid for the Gecamines royalties stream in KCC. Global Witness calls on Fleurette and Glencore to reveal the underlying basis for the royalties assignment, and for the regulators of the Toronto Stock Exchange to scrutinise the transactions and disclosures in light of securities law and stock exchange rules.