

African Minerals in Sierra Leone

How a controversial iron ore company went bankrupt and what that means for local communities



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Colophon

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The Centre for Research on Multinational Corporations (SOMO) is an independent, not-for-profit research and network organisation working on social, ecological and economic issues related to sustainable development. Since 1973, the organisation has been investigating multinational corporations and the consequences of their activities for people and the environment around the world.

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Executive summary

Introduction

This research report focuses on the mining company African Minerals and its Tonkolili mine in Sierra Leone. African Minerals has recently filed for administration and has faced accusations of grave human rights abuses. This report is part of a series of case studies on iron ore mining companies and the adverse impact their mining activities have on workers, local communities and the environment.

In this series, the adverse impacts are linked to specific corporate strategies and the global iron ore market. As such, this report provides insight into the rationale of iron ore mining companies and their business strategies and the ways in which these affect local communities. It also provides relevant insight for governments, the international community and local stakeholders on the role of multinationals in conflict-affected areas.

Context

History of conflict

Democracy in Sierra Leone is reconstructed after a brutal civil war that lasted from 1991–2002, killing over 70,000 people and displacing about half of the population. The country's mineral resources played a major role in the civil war – in the onset as well as its duration. During the war, both the rebel army – the Revolutionary United Front (RUF) – as well as the government used resource wealth for their own ends. Both parties sold so-called booty futures – “the right to exploit mineral resources that the seller has not yet captured” – to foreign actors, in order to finance their military activities.

Sierra Leone's economy

With a GDP per capita of US\$1,400 (2013) Sierra Leone is one of the poorest countries in the world. In 2013, 52.9% of the population lived below the poverty line. However, until the outbreak of Ebola in August 2014, the country was also experiencing one of the fastest growing GDP rates in the world (13.3% in 2013). The country possesses a substantial amount of mineral, agricultural and other natural resources, but cultivation of these resources has been limited as a result of the civil war.

As China's economic growth drove demand for iron ore, West Africa was seen as the new frontier for iron ore mining. Sierra Leone's recent economic growth has been spurred by mining of iron ore and oil exploration, spiking GDP growth at 15.2% in 2012 (compared to an average growth of 4.6% between 2008–2011). Iron ore production started in 2011 by small, high-risk foreign mining companies with no prior experience in this sector. When global iron ore prices started to drop in 2013, these smaller companies faced serious financial difficulties and two of the three iron ore mining companies in Sierra Leone have since filed for bankruptcy.

Foreign investment

The exploitation of natural resources in Sierra Leone requires foreign investment. However, activities of multinational companies can have negative impacts. The regulatory framework in which the multinationals operate is characterised by weak governmental oversight and dwindling confidence in the government's ability to protect rights. Moreover, the country loses over US\$40 million a year in corporate income tax because of incentives given to companies to attract investment. A country whose tax revenues are estimated to be 10.9% of GDP (a low figure, even

compared to low- and middle-income countries in sub-Saharan Africa, where average tax revenues as percentage of GDP are 14.4%) cannot afford such losses.

African Minerals

African Minerals is an iron ore exploration, development and mining company whose sharelisting in the UK has been suspended and which recently appointed administrators as it was unable to service its debts. Apart from its corporate headquarters in London, the company operates through three distinct subsidiaries in Sierra Leone, while the group's ultimate parent company is registered in Bermuda, a known tax haven and secrecy jurisdiction. Among its shareholders are the executive directors Frank Timis and Gibril Bangura. Other large shareholders include the state-owned China Railway Materials Commercial Corporation and the Shandong Iron and Steel Group (SISG), both also buyers of African Minerals' ore. On 3 March 2015, SISG took full control of the three operating subsidiaries after African Minerals defaulted on its loans to SISG.

Management

Frank Timis, the largest shareholder and executive chairman of African Minerals, is often described as a controversial figure. In 2007, the Toronto stock exchange declared Timis "unsuitable as director" after he had failed to report that he was convicted twice for heroin possession. In previous years, several personnel changes took place at the executive board of African Minerals, with some individuals serving for very limited periods. The large number of management changes in recent years might also have had an impact on the community engagement of the company, notes Human Rights Watch in its report on African Minerals in 2014.

Financial trouble

The company began generating revenues in 2013 when it started exporting iron ore, but the company's profit soon turned into a loss as a result of penalty charges for a breach of warranty claimed by SISG, the company's largest customer and minority shareholder of African Minerals' three operating subsidiaries in Sierra Leone. The penalty charges in 2013 were not a one-time occurrence but rather seemed to be symptomatic of deeper, structural problems. As a result of the drop in iron ore prices, the company ran into cash shortages in 2014. The company was particularly vulnerable for price drops as a result of the penalty charges, the company's risky capital structure and its high fixed production costs.

Competitive environment

One factor contributing to the downfall of African Minerals was its production costs – these were too high to compete in a global market that had seen prices falling significantly since the start of 2014. Falling prices were caused by a decrease in Chinese demand and an increase in iron ore production in Australia and Brazil – the two largest iron ore producing countries in the world. As a company active in Sierra Leone, the outbreak of the Ebola virus naturally affected the company's operations as well.

Human rights impacts

The development and exploitation of the Tonkolili mine by African Minerals required the relocation of three communities – Ferengbeya, Wondugu and Foria – which were home to hundreds of families. Human Rights Watch demonstrated that the relocation of these communities is one of the major adverse impacts of African Minerals' operations in the Tonkolili district. Local livelihoods have been severely impacted through insufficient compensation and the diminishing availability of food and access to water.

In addition to the impact experienced by communities, a number of labour issues also arose in relation to African Minerals and its contractors. In 2012, the Ministry of Labour decided to retract

permission for one of the unions to represent workers. This decision was met by protests which in turn were met with police force and even led to the death of an African Minerals' employee. In addition to the issue of freedom of association, workers' protests were also triggered by a number of other complaints. These included poor working conditions, poor working relations with expatriate staff, poor medical insurance, poor meals, casual labour or short-contract employment, arbitrary termination of contracts and long working days without commensurate compensation.

After the protests in April 2012, African Minerals agreed to increase wages by 16%, increase monthly minimum wages, and committed to building several training centers. However, a subsequent report of the Sierra Leone Human Rights Commission showed that unaddressed workers' issues remained a structural problem. It is also unclear whether African Minerals, or a potential new owner, will uphold the agreements made with workers and communities following the protests, or even provide the basic services on which community members depend. A definite shutdown of the mine would have a big impact on the local economy as jobs might be suspended or lost. Relocated communities, who are for a large part dependent on the company for their water supply as well as for food provision, will also be hit by the company's closure.

Looking at the history of the company and its executives, a pattern emerges of exaggerated claims and empty promises to various stakeholders, including investors, clients and workers – a record that does not bode well for the future.

1. Introduction

Let, for want of due repair,
A real house fall down,
To build a castle in the air?
Charles Denis, Select fables (1754)

On 6 March 2015, mining company African Minerals – the largest iron ore mining company in Sierra Leone – announced its decision to appoint administrators after it was unable to achieve a negotiated solution with its creditors.¹ This was the final episode in the downfall of a company that had not only generated a large share of the country's GDP growth in recent years, but which had also faced accusations of grave human rights abuses.

The main explanation the company gives for its financial trouble is the rapid and steep downturn in global iron ore prices. In 2014, iron ore prices dropped by around 40%, and African Minerals is far from the only mining company suffering the consequences. One factor in the fall in prices has been the Chinese construction sector, which has faced with a drop in demand for new houses. The drop in prices is further exacerbated by the large Australian and Brazilian iron ore mining companies that are ramping up production, thus creating an oversupply of iron ore, in an effort to drive out competitors with higher cost structures.²

The consequences of this development in the global iron ore market – Goldman Sachs has declared it to be the 'end of the iron age' – are felt beyond African Minerals and the other companies active in this market. The economy of Sierra Leone, a country in the middle of a reconstruction process after a gruesome and destructive civil war, is largely dependent on iron ore exports and the demise of this industry can have grave consequences for both its economy and its peace building process. On a more local level, communities, workers and their families are highly dependent on the company for their livelihoods, both in terms of income as well as for basic needs such as drinking water.

1.1. Aim of the report, and its target groups

The characteristics of the global iron ore market influence the business strategies of companies active in it. In turn, strategic corporate decisions affect the social and environmental impacts of iron ore mines. In conflict-affected areas in particular, corporate misconduct can harm fragile peace situations, and economies characterised by fragile growth are often dependent on the financial health of a handful of companies. Through a series of case studies, SOMO aims to identify and

¹ African Minerals website, "Decision to appoint administrators and resignation of Nomad", 6 March 2015, <<http://www.african-minerals.com/media/press-releases/decision-appoint-administrators-and-resignation-nomad>> (16 March 2015).

² A Bloomberg article quotes Richard Knights (analyst at Liberum Capital Ltd., London) in this respect: "This is capitalism. It's the way the mining industry works. High-cost mines get put under pressure in periods of oversupply." Source: Bloomberg, "Iron Price War Deepens Crisis in Ebola-Stricken Sierra Leone", 13 October 2014, available at <<http://www.bloomberg.com/news/articles/2014-10-12/in-ebola-stricken-sierra-leone-mining-price-war-deepens-crisis>> (1 April 2015).

explain adverse impacts at iron ore mines around the world and link them to corporate strategies and the global iron ore market. This report is the second publication in this series.³

The central research question of this report is: *what explains the adverse impacts of African Minerals Limited in Sierra Leone and what are the risks of future adverse impacts?*

To answer this question, our report breaks it down further into the following sub-questions:

- *What is the context in which African Minerals operated in Sierra Leone? (Chapter 2)*
- *What was African Minerals' ownership and financial structure and what were its business strategies? (Chapter 3)*
- *What were the human rights impacts of African Minerals' operation of the Tonkolili mine in Sierra Leone and what are the potential adverse impacts of a mine closure? (Chapter 4)*

By analysing African Minerals and other companies operating in the iron ore industry, SOMO aims to identify and explain a number of factors they have in common that can cause adverse impacts on workers, local communities and the environment. This information can be used during the due diligence processes of potential financiers of new iron ore mining projects, and investors considering investing in the iron ore or steel sectors.

Communities affected by iron ore mining projects and civil society organisations can benefit from in-depth knowledge on the iron ore sector and individual companies in their efforts to hold iron ore companies to account for possible adverse impacts on the ground.

Government's officials, in particular those in conflict-affected areas, as well as policy officers at international organisations can use this research to evaluate investment promotion strategies as well as to develop business and human rights policies.

This paper is written in the frame of SOMO's programme on Multinational Corporations in Conflict-Affected Areas. This four-year programme, funded by the Dutch Ministry of Foreign Affairs, aims to empower local NGOs and communities to critically analyse the impact of the private sector in conflict-affected areas, and to ensure that companies are held to account for corporate misconduct. The programme is conducted in five conflict-affected states: Democratic Republic of Congo, Liberia, Sierra Leone, South Sudan and Colombia. As such, this paper aims to provide relevant insights for governments and the international community on the role of multinational companies in conflict-affected areas.

1.2. Methodology and limitations

This paper has been drafted on the basis of desk research. Sources used include books, news articles, reports and academic articles. Information on African Minerals in Chapter 3 is largely based on the Bloomberg and Orbis databases as well as annual reports. Chapter 4 on the human rights impacts of African Minerals is in large part based on two reports: *Whose Development?* by Human Rights Watch (2014) and the *Bumbuna Inquiry Report* by the Sierra Leone Human Rights Commission (2012).

³ The first case study on Altain Khuder in Mongolia was published in December 2014. SOMO, Impacts of the global iron ore sector: case study – Altain Khuder in Mongolia, December 2014 <http://www.somo.nl/publications-en/Publication_4158> (1 April 2015).

A draft version of this report was sent to Tavistock Communications, African Minerals' public relations advisor. Tavistock Communications indicated that no response from the company would be forthcoming, given the circumstances surrounding African Minerals' decision to go into administration.⁴

The research project's major limitation is that descriptions of the impacts of African Minerals on local stakeholders are based entirely on secondary literature. This is because planned field research was not possible as a result of the Ebola outbreak.

1.3. Structure of this report

The structure of this report is as follows: Chapter two discusses the context in which African Minerals operated. Chapter three analyses the ownership, structure and corporate governance of African Minerals. This chapter also includes a discussion of the company's business strategy and its competitive environment. Chapter four presents an overview of research findings of other organisations and commissions on the human rights impact of African Minerals in Sierra Leone. Chapter five contains conclusions that, based on the analysis of the company and its impacts, raise concerns about the future of communities near the iron ore mine and question the foreign direct investment (FDI)-based development model pursued by Sierra Leone's government.

⁴ Email from Tavistock Communications to SOMO, 10 March 2015.

2. Sierra Leone: context

2.1. Sierra Leone as a post-conflict country⁵

2.1.1. History of the conflict

The Republic of Sierra Leone is a constitutional democracy led by President Ernest Bai Koroma (president since 2007, re-elected in 2012). President Koroma, a former insurance executive, leads the All People's Congress (APC) which has the majority of the parliament's popularly elected members. The Sierra Leone People's Party (SLPP), currently led by Sumanoh Kapen, is the second largest political party.

Democracy in Sierra Leone is being rebuilt after a brutal civil war that lasted from 1991–2002, killing over 70,000 people and displacing about half of the population (about 2.6 million people). The war started with a violent campaign against the government of Joseph Saidu Momoh (APC) by the Revolutionary United Front (RUF). The RUF, a rebel army, was led by Foday Sankoh, a former army corporal, and was supported by Charles Taylor who at the time was leader of the rebel group National Patriotic Front of Liberia. The RUF became known for its cruelty – chopping off the hands and feet of civilians, forcibly recruiting thousands child soldiers, and forcing thousands of girls into sexual slavery. Lacking a clear ideology, RUF's main aim was to increase and maintain control of (illegal) diamond mining and trading in Sierra Leone. The diamond business was a primary source of income for the RUF, providing more than enough to sustain its military activities.⁶ Most of the diamonds left Sierra Leone through Liberia, which was only possible because of the involvement of Liberian government officials at the highest level.⁷

The country's mineral resources played a major role in the civil war. Quantitative research by Ross (2004), in which the relationship between resource wealth and the onset as well as the duration of civil war is analysed, it appears that resources contributed to the outbreak of civil war in Sierra Leone.⁸ Of the 13 cases in this research, Sierra Leone is the only case where grievances stemming from resource exploitation by companies seem to have played a role in the outbreak of civil war. The article notes that "RUF propaganda complained about resource exploitation, railing against *"the raping of the countryside to feed the greed and caprice of the Freetown elite and their masters abroad"*.⁹ During the war, both the RUF and the government used resource wealth for their own ends in such a way that it may have prolonged the war. Both parties sold so-called booty futures – "the right to exploit mineral resources that the seller has not yet captured" to foreign actors – in order to finance their military activities.¹⁰

⁵ The following sources have been used: BBC News website, "Sierra Leone profile," <<http://www.bbc.com/news/world-africa-14094194>> 1 April 2015 (1 April 2015); The Chronicle Herald, "Sierra Leone's forgotten horrors", 22 April 2012 <<http://thechronicleherald.ca/thenovascotian/89185-sierra-leones-forgotten-horrors>>; (1 April 2015); M. Chege (2002) "Sierra Leone: The State that Came Back from the Dead", *Washington Quarterly*, Vol. 25, No. 3, pp.147-160.

⁶ UN Panel of Experts (2000) Report of the Panel of Experts appointed pursuant to Security Council, Resolution 1306 (2000), paragraph 19, in relation to Sierra Leone <<https://www.globalpolicy.org/component/content/article/203-sierra-leone/39446-report-of-the-panel-of-experts.html>> (April 1, 2015).

⁷ UN Panel of Experts, Report of the Panel of Experts appointed pursuant to Security Council, Resolution 1306 (2000), paragraph 19, in relation to Sierra Leone.

⁸ M.L. Ross, "How Do Natural Resources Influence Civil War? Evidence from Thirteen Cases," in *International Organization*, Vol. 58, No. 1, (Winter, 2004), p. 49.

⁹ M.L. Ross *ibid*, p. 51.

¹⁰ M.L. Ross *ibid*, p 58-59.

The Sierra Leonean government failed to disarm the rebel army and after several changes of government regime, in which there was sometimes even cooperation with the rebels, a Nigerian-led West African intervention drove the rebels from Freetown. The country's previous president, Ahmad Tejan Kabbah, returned from exile and in 1999, the Lomé Peace Accord was signed, granting amnesty for Foday Sankoh and his combatants. However, peace was only restored after the intervention of UN and British forces between 1999–2002. Only in 2002, after more than 17,000 foreign troops disarmed tens of thousands of rebels and militia fighters was the civil war declared over.

A UN-backed war crimes court was set up to try those from both sides who bore the greatest responsibility for the brutalities. Its last case ended in The Hague in April 2012 with judges finding former Liberian President Charles Taylor guilty of aiding and abetting war crimes in Sierra Leone.

2.1.2. Economic development

With a GDP per capita of US\$1,400 (2013), Sierra Leone is one of the poorest countries in the world¹¹ and in 2013, 52.9% of the population lived below the poverty line.¹² Poverty is heavily concentrated in rural areas, and in the urban areas outside Freetown. And while the government relies on foreign assistance to meet its budgetary needs, the country has nevertheless recently seen one of the fastest growing GDP rates in the world (13.3% in 2013).¹³ Much of this economic growth has driven by mining of iron ore and oil exploration.

Sierra Leone has a substantial amount of mineral, agricultural and other natural resources, but cultivation of these resources has been limited as a result of the civil war that devastated the country between 1991–2002. Foreign investment is also limited because of large-scale corruption among high-level officials.

Most of the country's exports are commodities such as rutile (a mineral composed of mainly titanium dioxide), diamonds, cocoa, coffee, fish and bauxite. Among its main export partners are China, Belgium and Japan.¹⁴ The country imports machinery and equipment, fuels, lubricants and chemicals, from China, India and others.

Currently nearly 50% of the working-age population is active in agriculture. Unemployment is a major issue in Sierra Leone, with a youth unemployment rate of 60%, which is among the highest in West Africa.¹⁵

The UN Human Development Index (HDI) ranks Sierra Leone at 177 out of 187 countries and territories. Since 2000 however, Sierra Leone has had one of the fastest improving rankings in the index of all African countries, evidenced by an increase in life expectancy at birth and years of schooling for Sierra Leoneans.¹⁶

¹¹ CIA Factbook, Country profile: Sierra Leone, available at <<https://www.cia.gov/library/publications/the-world-factbook/geos/sl.html>> (20 January 2015).

¹² World Bank Data, Country: Sierra Leone <<http://data.worldbank.org/country/sierra-leone>> (20 January 2015).

¹³ CIA Factbook, op. cit.

¹⁴ CIA Factbook, op. cit.

¹⁵ UNDP Sierra Leone, "Sierra Leone issues the first 'Status of Youth' report," 12 August 2013, <<http://www.sl.undp.org/content/sierraleone/en/home/presscenter/articles/2013/08/12/sierra-leone-issues-first-state-of-the-youth-report/>> (1 April 2015).

¹⁶ UNDP, Human Development Report 2013 – Explanatory note on 2013 HDR composite indices. Sierra Leone: HDI values and rank changes in the 2013 Human Development Report, <<http://hdr.undp.org/sites/default/files/Country-Profiles/SLE.pdf>> (1 April 2015).

This trend is expected to continue according to the country's latest poverty reduction strategy paper, *Agenda for Prosperity* (2013-2018) – a strategy that should contribute to Sierra Leone's long-term vision; being an inclusive, green, middle-income country by 2035.¹⁷ *Agenda for Prosperity* sets out, among other things, how the country will combat poverty, ensure gender equality and a well-educated, healthy population. Natural resources are central to this vision: “*Rapid expected growth in minerals production and export, together with the potential for petroleum exploitation, should provide resources to help transform the country and make the AfP feasible.*”¹⁸ The Agenda expresses a major reliance on ‘private-led growth’ and increasing exports – “mainly of iron ore”.¹⁹ The exploitation of Sierra Leone's natural resources requires foreign investment, so many strategies to improve the country's competitiveness are therefore included: the “Government is giving priority to removing the wide range of identified constraints, and to building the necessary supportive environment and infrastructure”.²⁰

The risk of relying heavily on natural resources is acknowledged in the Agenda. In particular, possible collapses of commodity prices are identified as a risk, which is particularly interesting in the context of this report. In order to reduce this risk, a Transformation Development Fund is planned, into which particular receipts from natural resources would be placed, which should protect the country from being forced into debt if commodity prices fall.²¹ It is not clear whether the Fund has already been set up.

The Ebola epidemic in 2014 has had a crippling impact on Sierra Leone's economy. The World Bank estimated that the loss in economic growth as a result of Ebola amounted to US\$920 million.²² Every sector of its economy, including tourism, agriculture, road construction, arts and crafts and diesel sales have been significantly down.²³ Due to quarantines and other restrictions, the harvest of agricultural products suffered. For example, rice production has been almost non-existent.²⁴

While economic growth had been steadily rising in Sierra Leone until the outbreak of Ebola, the activities of multinational companies could be said to have been creating negative impacts for the country. Though creating growth and employment for some, the Human Rights Commission of Sierra Leone identifies several human rights challenges associated with multinationals' operations: forced land acquisition, labour-related rights abuses, environmental degradation and pollution, forced displacement, poor resettlement of locals, unfavourable land lease agreements, and restricted movements of local community members.²⁵ The same Human Rights Commission notes elsewhere that “*With increasing large-scale investment in Sierra Leone, there has been an upsurge in reported incidences of human rights abuses and complaints. Investors are in an environment where many of the regulatory mechanisms that should ensure that businesses operate in a proper*

¹⁷ The Government of Sierra Leone, *The Agenda for Prosperity. Road to Middle Income Status*, <<http://www.sierra-leone.org/Agenda%20%20Prosperity.pdf>> (1 April 2015).

¹⁸ Ibid, p.xiii.

¹⁹ Ibid, p.xiii.

²⁰ Ibid, p.xv.

²¹ Ibid, p.56.

²² World Bank website, “Ebola: Most African Countries Avoid Major Economic Loss but Impact on Guinea, Liberia, Sierra Leone Remains Crippling,” 20 January 2015, <<http://www.worldbank.org/en/news/press-release/2015/01/20/ebola-most-african-countries-avoid-major-economic-loss-but-impact-on-guinea-liberia-sierra-leone-remains-crippling>> (16 March 2015).

²³ New York Times, “Ebola Ravages Economies in West Africa”, 30 December 2014, <<http://www.nytimes.com/2014/12/31/world/africa/ebola-ravages-economies-in-west-africa.html>>(16 March 2015).

²⁴ Washington Times, “As Ebola eases, Sierra Leone still struggles to recover”, 15 March 2015, <<http://www.washingtontimes.com/news/2015/mar/15/as-ebola-eases-sierra-leone-still-struggles-to-rec/>> (16 March 2015).

²⁵ Human Rights Commission of Sierra Leone, *Annual report: the state of human rights in Sierra Leone 2013*.

and accountable manner, conducive to respect for human rights, are weak.²⁶ The regulatory framework in which the multinationals – among them African Minerals – operate, is characterised by weak oversight and dwindling confidence and trust in the police and government’s ability to govern and protect rights.²⁷

2.1.3. Sierra Leone’s tax regime

For resource-rich countries like Sierra Leone, tax revenues can be a major contribution to the domestic resources necessary for financing a country’s development and reducing poverty. For example, a report commissioned by the African Ministers’ Council on Water calculates that “the annual capital investment requirement to meet the national targets for Sierra Leone for both rural and urban water supply is estimated at US\$164 million. Anticipated public funding of US\$28 million per year is currently (...) leaving a gap of over US\$130 million per year to be filled”.²⁸ In relation to issues concerning access to water discussed below, these figures are of great concern.

Tax revenues in Sierra Leone are estimated to be 10.9% of GDP.²⁹ This is a low figure, even compared to low- and middle-income countries in the sub-Saharan region, where average tax revenues as a percentage of GDP are 14.4%. It is also far below the 20% the UN estimates that least developed countries need to raise to meet the Millennium Development Goals.³⁰ In 2014, a group of NGOs analysed the so-called tax expenditure of Sierra Leone’s government, which is the amount of revenues lost by the government’s granting of tax incentives and exemptions. The report that Sierra Leone loses more than US\$40 million a year in corporate income tax due to incentives given to companies. It is noted that “nearly all of these losses are the result of the agreements with African Minerals and London Mining”.³¹ Including calculated losses from customs duty and Goods and Services Tax, the report estimates that if current practices are continued, the country will lose more than US\$240 million annually from tax incentives.³²

The government offers these benefits and exemptions to companies such as African Minerals in the hope of attracting investments. Research has shown, however, that tax incentives have little effect on investment decisions. For example, an IMF study in several Eastern African countries found that “investment incentives – particularly tax incentives – are not an important factor in attracting foreign investment. Countries that were most successful in attracting foreign investors did not have to offer tax or other incentives, and vice versa, offering such incentives has not been sufficient to attract large foreign investment if other conditions were not in place.”³³

2.2. Iron ore mining in Sierra Leone

The production and export of iron ore has traditionally been an important driver for Sierra Leone’s economy. From the 1920s until the 1970s, the Sierra Leone Development Company (DELCO)

²⁶ Presentation of the HRCSL to the OHCHR on Business and Human Rights in Sierra Leone, <<http://www.ohchr.org/documents/issues/business/forumsession2/hrcsierraleone.pdf>>, (5 December 2014).

²⁷ Ibid.

²⁸ African Ministers’ Council on Water (AMCOW) Country Status Overviews: Water Supply and Sanitation in Sierra Leone Turning Finance into Services for 2015 and Beyond, 2001, p.9.

²⁹ World Bank database, Tax revenues (% of GDP), <<http://data.worldbank.org/indicator/GC.TAX.TOTL.GD.ZS>>, (14 November 2014).

³⁰ OECD, Fragile States 2014: Domestic Revenue Mobilisation in Fragile States, p.11, <<http://www.oecd.org/dac/incaf/FSR-2014.pdf>> (April 1 2015).

³¹ Budget Advocacy Network et al, Losing out. Sierra Leone’s massive revenue losses from tax incentive, 2014, p16. It should be noted that the figures presented in this report were challenged in a comment received by the authors after publication of this report.

³² Ibid.

³³ IMF, Kenya, Uganda, and United Republic of Tanzania: Selected Issues, IMF Country Report No. 08/353, <<http://www.imf.org/external/pubs/ft/scr/2008/cr08353.pdf>>, (1 April 2015).

mined iron ore at Marampa – the site of the current London Mining operations. When DELCO closed down because of low global iron ore prices and a lack of access to finance for its operations in the 1970s, it created near ghost-towns that were hard-hit during the civil war of the 1990s.³⁴

After the civil war ended in 2002 – a time when demand for iron ore grew as a result of China's economic growth – West Africa was seen as the new frontier for iron ore mining, and attracted billions of dollars of investments related to the production and shipping of iron ore.³⁵ Countries such as Guinea, Sierra Leone and Liberia sit on some of the largest untapped reserves of iron ore, and the region was expected to account for 10% of global demand once mining was developed. As China's demand drove iron ore prices from approximately US\$50/tonne in 2009 to over US\$200/tonne in 2011, mining companies jumped at the opportunity to develop and exploit this resource.³⁶

Governments of countries such as Sierra Leone count on such projects to create jobs and bring in tax and export revenues.³⁷ As described above, in *Agenda for Prosperity*, the government counts on these revenues in their fight against poverty. In Sierra Leone, the start of operations at the iron ore mines between 2010 and 2012 contributed significantly to the economic growth of the country during those years. The country's GDP growth, which had hovered between 3.2% and 6% per year between 2008 and 2011, spiked at 15.2% in 2012 on the back of iron ore exports. In 2013, GDP growth was reportedly at 20%.³⁸ The importance of iron ore to Sierra Leone's macroeconomic figures can also be illustrated by the fact that GDP growth figures are both presented including iron ore (15.2% in 2012) and excluding iron ore (6%).³⁹

Sierra Leone is home to three large iron ore deposits. African Minerals' Tonkolili mine contains an estimated 11.2 billion tonnes, London Mining's Marampa mine 900 million tonnes and Cape Lambert's Marampa mine 850 million tonnes.⁴⁰ Production of iron ore started in 2011, and the companies that operate these mines are all smaller, independent mining companies that have no prior experience in iron ore mining. These companies chose West African countries such as Sierra Leone to gain a foothold in the global iron ore market, but were faced with higher production costs due to poor infrastructure and other factors.

As described by McLeod,⁴¹ "*Sierra Leone's mining industry attracts high-risk investors and bottom feeders*". He states:

³⁴ R. Pijpers, "Lunsar: expectations in a changing environment", Letter from the field, University of Oslo, Department of Social Anthropology, 15 December 2013, <http://www.sv.uio.no/sai/english/research/projects/overheating/overheating-blog/lunsar-expectations-in-a-changing-environment.html> (09-04-2015).

³⁵ Reuters, "West Africa is iron ore's new frontier", 22 July 2010, <http://uk.reuters.com/article/2010/07/22/uk-africa-iron-idUKLNE66L00Q20100722> (09-04-2015).

³⁶ H.P. McLeod, "Sustainable Development and Iron Ore Production in Sierra Leone", in *Economic Challenges and Policy Issues in Early Twenty-First-Century Sierra Leone*, Ed. O.E.G. Johnson (International Growth Center, 2012).

³⁷ Reuters, "West Africa is iron ore's new frontier", 22 July 2010, <http://uk.reuters.com/article/2010/07/22/uk-africa-iron-idUKLNE66L00Q20100722> (09-04-2015).

³⁸ Reuters, "Mining spurs Sierra Leone to 20 pct GDP growth in 2013 – IMF", 3 April 2014, <http://www.reuters.com/article/2014/04/03/leone-imf-gdp-idUSL5N0MV37J20140403> (09-04-2015).

³⁹ The Government of Sierra Leone, *The Agenda for Prosperity; Road to Middle Income Status*, Sierra Leone's Third Generation Poverty Reduction Strategy Paper (2013-2018), <http://www.sierra-leone.org/Agenda%204%20Prosperity.pdf> (09-04-2015).

⁴⁰ H.P. McLeod, "Sustainable Development and Iron Ore Production in Sierra Leone", in *Economic Challenges and Policy Issues in Early Twenty-First-Century Sierra Leone*, Ed. O.E.G. Johnson (International Growth Center, 2012).

⁴¹ *Ibid*, p.480.

“Governments are therefore faced with a choice between two types of investors; the large investor, or the bottom feeder (Gberie 2010). Under pressure for quick money, weak governments tend to favour the high-risk takers and investors/speculators. They are nimble, spend seed money to establish the reserves, pay whomever and whatever it takes to get the license, etc., but do not go the long haul. It is therefore not surprising that they end up with overgenerous fiscal concessions. In short, their behaviour, conditioned by their shorter-term horizons, lack of concern with reputation and weaker oversight from their home countries produces outcomes that coincide with government officials’ private need for immediate action and money. It is therefore not surprising that government officials find themselves defending these companies, pointing to the commencement of mining operations and the revenues accruing to government as justification. By so doing they inadvertently give up the neutrality and objectivity necessary to promote the public interests.”⁴²

When global iron ore prices started to drop in 2013, smaller companies such as those active in Sierra Leone started to face difficulties. Due to their higher production costs, these companies faced severe difficulties in maintaining their margins.⁴³ At the same time they struggled to gain access to equity and debt financing for their projects – needed to start exploitation or expand existing operations.⁴⁴ Compared to the wave of euphoria in 2010 that drew many investors to West African iron ore mines, the excitement has now dwindled and – with the exception of specialty and long-term investors – many investors have sold their stakes. One analyst is quoted as saying: *“London [’s financial market, red.] is looking for short returns, and complicated mine and infrastructure projects mean long-term. When small or mid-cap London-listed players go to financiers with complicated mine and infrastructure projects that are highly capital intensive, financiers are sceptical.”⁴⁵*

Both London Mining and African Minerals have recently gone into administration. London Mining went into administration in October 2014 and was subsequently bought by Frank Timis, the largest shareholder and executive chairman of African Minerals. In late 2014, trade in African Minerals shares were also suspended after a 97% year-to-year drop and after the company announced that it had temporarily halted operations at its mine because of a shortage of working capital.⁴⁶ In March 2015, African Minerals also decided to appoint administrators.⁴⁷

⁴² Ibid, p.481.

⁴³ The Africa Report, “Mining: End of Iron Age”, 21 October 2014, <http://www.theafricareport.com/East-Horn-Africa/mining-end-of-iron-age.html> (09-04-2015).

⁴⁴ Miningmx, “West Africa’s iron ore tough to crack”, 04 August 2014, http://www.miningmx.com/page/special_reports/mining-yearbook/mining-yearbook-2014/1644791-West-Africa-s-iron-ore-tough-to-crack (09-04-2015).

⁴⁵ Idem.

⁴⁶ African Minerals, “Financing and Operations Update, Press release, 01 December 2014, <http://www.african-minerals.com/media/press-releases/financing-and-operations-update> (09-04-2015).

⁴⁷ African Minerals website, “Decision to appoint administrators and resignation of Nomad”, 6 March 2015, <http://www.african-minerals.com/media/press-releases/decision-appoint-administrators-and-resignation-nomad> (16 March 2015).

3. African Minerals: the story

3.1. History and activities

African Minerals is a UK-listed iron ore exploration, development and mining company which has had its shares suspended and decided to appoint administrators. Headquartered in London, the company owns the Tonkolili mine, the largest iron ore mine in Sierra Leone, and related rail and port infrastructure. The Tonkolili mine produces 'direct shipping ore' (DSO), which is sold on the global market at a discount.⁴⁸

The company has been active in Sierra Leone since 1996, initially under the name Sierra Leone Diamond Company, and was operating in alluvial diamond mining until 2005. After the discovery of the Tonkolili deposit, the company changed its mineral focus to iron ore and its name to African Minerals. That same year, the company was listed at the Alternative Investment Market of the London stock exchange and executive chairman Frank Timis purchased a 30% stake in the company, making him the largest shareholder.

The company had no prior experience in iron ore mining. However, after initially only exploring the Tonkolili deposit, the company acquired a lease in 2008 to develop the mine, rail and port. It commenced on the first phase of the development of the mine in 2010 and 2011, and exported its first shipment of iron ore in November 2011.⁴⁹ In 2013, the company shipped 12.1 million tonnes of iron ore, which it transports using its 200km railway between the Tonkolili mine and its port facilities.

While still operating as Sierra Leone Diamond Company, the company was named in a report by Sierra Leonean civil society organisations which assessed the environmental and social impacts of mining activities in the Kono district. The report states: "*What came out clearly in all of the sessions was that the people were not happy with the operations of [...], Sierra Leone Diamond Company (SLDC) [...] in the district.*"⁵⁰ SLDC had been accused by local communities of land grabbing, not fulfilling its promises of supporting community development projects, and a lack of respect for local customs and traditions. Furthermore SLDC was fined £75,000 in 2006 for issuing misleading statements and unrealistically optimistic information to investors.⁵¹ The fine related to statements that the group had found a significant number of rare, pink diamonds. In December 2006, the company was forced to issue a clarifying statement disclosing that the diamonds had not retained their pink colour after acid cleaning

⁴⁸ Direct Shipping Ore (DSO) is iron ore that is easily mined and processed but which may contain impurities that need to be removed before it is suitable for making steel. The extent of these impurities is dependent on the geological characteristics of the deposit. In 2013, the Tonkolili mine averaged a purity grade of 57.7%. As the benchmark for global iron ore prices is based on a purity grade of 62%, African Minerals' ore is sold at a discount of these prices. Seeking Alpha, "The Important Factors to Consider When Investing in Iron Ore", 10 April 2011, <<http://seekingalpha.com/article/262764-the-important-factors-to-consider-when-investing-in-iron-ore>> (09-04-2015); African Minerals, Annual Report 2013, p.22.

⁴⁹ African Minerals, "Development History", http://www.african-minerals.com/sites/default/files/attachments/AfricanMinerals_Timeline_July2013_Large.jpg (09-04-2015).

⁵⁰ Network Movement for Justice & Development, *To Mine or Not to Mine?*, <http://nmjd.org/publication/To%20mine%20or%20not%20to%20mine.pdf> p.2

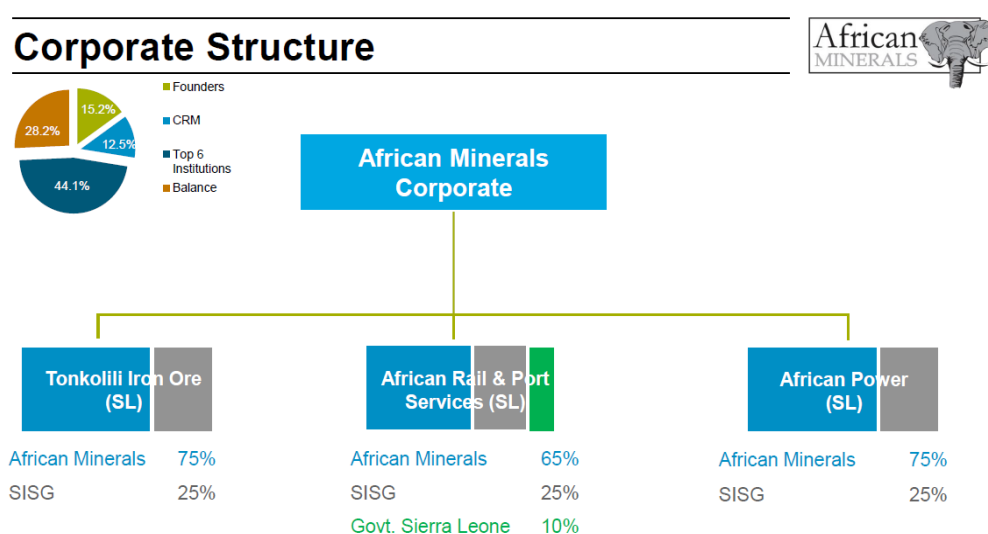
⁵¹ Financial Times, African Minerals Rapped for Misleading Market, 18 July 2010, <http://www.ft.com/intl/cms/s/0/0725a4a4-929e-11df-9142-00144feab49a.html#axzz3lftAwNy4> (09-04-2015).

3.2. Corporate structure and ownership

3.2.1. Corporate structure

African Minerals is only active in Sierra Leone. Apart from the corporate headquarters in London, the company operates through three distinct subsidiaries.⁵²

Figure 1: African Minerals – corporate structure



The group's ultimate parent company, African Minerals Limited, is registered in Bermuda, a known tax haven and secrecy jurisdiction. According to a Danwatch report (2011), the company had a total of eight entities in known tax havens such as Guernsey and Bermuda, which the company indicated served to protect its capital gains in the event of a disposal.⁵³ African Minerals also owns an 18.27% stake in Australian-based mining company Cape Lambert which operates and participates in several iron ore projects in Sierra Leone.⁵⁴

3.2.2. Ownership

Table 1 below shows the company's 10 largest shareholders. Among these shareholders are executive directors Frank Timis (through Safeguard Management) and Gibril Bangura. Other large shareholders include the state-owned China Railway Materials Commercial Corporation – a customer of African Minerals that invested US\$300 million in 2010 for its stake, and a 20-year guaranteed off-take agreement.⁵⁵

⁵² African Minerals London, Corporate Presentation, January 2014, p.36.

⁵³ See DanWatch, *Not Sharing the Loot; An investigation of tax payments and corporate structures in the mining industry of Sierra Leone*, October 2011, http://www.resourcegovernance.org/sites/default/files/Not_Sharing_the_Loot.pdf (09-04-2015). It was beyond the scope of this report to assess the role of these entities in light of the company's appointment of administrators.

⁵⁴ African Minerals, Annual Report 2013, p.71.

⁵⁵ An off-take agreement is An agreement between a producer of a resource and a buyer of a resource to purchase/sell portions of the producer's future production. African Minerals, "Definitive agreements signed with China Railway Materials Commercial Corporation to develop Tonkolili Iron Ore Project", Press release, 01 April 2010,

Table 1: African Minerals' largest shareholders

Shareholder	Stake (%)
SAFEGUARD MANAGEMENT LTD	12.74
FRANKLIN RESOURCES	12.52
CHINA RAILWAYS MATERIALS	12.44
PRUDENTIAL PLC	12.05
CAPITAL GROUP COMPANIES INC	6.93
NORTHCROFT TRADING INC	6.54
BLACKROCK	5.10
BANGURA GIBRIL	2.35
AUDLEY EUROPEAN OPPORTUNITIES	1.87
ING INTERNATIONAL ADVISORY SA	1.15

The Shandong Iron and Steel Group (SISG), another buyer of African Minerals' ore, owns a minority share of the three operating subsidiaries in Sierra Leone (see Figure 1). In 2012, SISG agreed to a US\$1.5 billion investment for a 25% stake in Tonkolili Iron Ore (SL) Limited, African Power (SL) Limited and African Railway and Port Services (SL) Limited.⁵⁶ These three African Minerals subsidiaries hold all the assets of the mining project. On 3 March 2015, SISG took full control of the three operating subsidiaries after African Minerals defaulted on its loans to SISG (see below).⁵⁷

3.2.3. Frank Timis

Frank Timis, the largest shareholder and executive chairman of African Minerals, is often described as a controversial figure. A self-made billionaire featured on the Forbes list of billionaires, Timis made his fortune through a series of mining, oil and gas companies in eastern Europe and Africa. These include Gabriel Resources, which focuses on the development of a controversial gold and silver mine in Romania, Regal Petroleum, an oil company primarily active in the Ukraine, and European Goldfields, a gold company active in Greece and Romania which was taken over by Eldorado Gold in 2012.

In 2007, the Toronto stock exchange declared Timis "unsuitable as director" after he had failed to report that he was convicted twice for heroin possession.⁵⁸ In 2009, Timis' company Regal Petroleum was fined nearly US\$1 million for issuing misleading statements about its oil reserves.⁵⁹

<http://www.african-minerals.com/media/press-releases/definitive-agreements-signed-china-railway-materials-commercial-corporation> (09-04-2015); Investopedia, "Offtake Agreement", <http://www.investopedia.com/terms/o/offtake-agreement.asp> (09-04-2015).

⁵⁶ African Minerals, "AML and SISG complete \$1.5Bn investment", 30 March 2012, <http://www.african-minerals.com/media/press-releases/aml-and-sisg-complete-15bn-investment> (09-04-2015).

⁵⁷ African Minerals website, "Enforcement of security by PXF Facility Lenders", 3 March 2015, <<http://www.african-minerals.com/media/press-releases/enforcement-security-pxf-facility-lenders>>, (17 March 2015).

⁵⁸ The Telegraph, "Australian Stock Exchange blocks Frank Timis deals", 15 April 2010, <http://www.telegraph.co.uk/finance/newsbysector/industry/mining/7591059/Australian-Stock-Exchange-blocks-Frank-Timis-deals.html> (09-04-2015).

⁵⁹ Forbes, "Frank Timis", The World's Billionaires, <http://www.forbes.com/profile/frank-vasile-timis/> (09-04-2015).

This company had raised millions from investors on the basis of inaccurate test results and not describing the risks of the investment.

As chairman of African Minerals, Timis has also been at the centre of several controversies. In 2009, he made a statement indicating that the company was in “advanced talks” with Eurasian Natural Resources (ENRC) over a potential takeover of the company. However, ENRC issued a statement only hours later denying that this was the case. More recently, in August 2014, Timis was the subject of an internal investigation into a US\$50 million payment made by African Minerals to Global Iron Ore (GIO) Cyprus, a company in Cyprus of which Timis and other directors were suspected to be beneficial owners.⁶⁰ Timis stayed on as Executive Chairman, but Non-Executive Director Dermot Coughlan resigned following a *Financial Times* article which showed that he and his son Craig Coughlan held a financial interest in GIO Cyprus.⁶¹

In October 2014, Timis bought the Marampa iron ore mine from London Mining, which had gone into administration the week before. This means he had direct or indirect interests in each of the three iron ore mining companies active in Sierra Leone.

3.2.4. Corporate governance

African Minerals London was led by a board of executive and non-executive directors “which exercises effective control of the company”.⁶² Before the appointment of administrators, the company’s executive board consisted of Frank Timis (Executive Chairman), Gibril Bangura (Executive Chairman of AML’s operations in Sierra Leone) and Alan Watling (Chief Executive Officer). Bernard Pryor resigned as Chief Executive Officer (CEO) in August 2014 after being in post for only one year. According to the *Financial Times*, the change in management was part of the financing deal with SISG.⁶³ In previous years, several other personnel changes took place at the executive board of African Minerals, with some individuals serving for very limited periods. Most recently, Ian Cockerill resigned from the company’s board after serving as Non-Executive Director for 18 months at the end of 2014, while Alan Watling resigned as CEO in February 2015.⁶⁴

The large number of management changes in recent years might also have had an impact on the community engagement of the company, notes Human Rights Watch,⁶⁵ which states that it is unclear whether commitments regarding “more positive and productive engagement with the surrounding community” will be fulfilled under new management. The recent change in control over the operating subsidiaries adds to this uncertainty. More detailed information about the company’s engagement with local communities around its Tonkolili mine are discussed in Chapter 4.

⁶⁰ Bloomberg, “African Minerals Probed Chairman Over \$50 Million Payment”, 06 August 2014, <http://www.bloomberg.com/news/2014-08-06/african-minerals-probed-chairman-over-50-million-payment.html> (09-04-2015).

⁶¹ FT Alphaville, “African Minerals’ Demot Coughlan Resigns”, <http://ftalphaville.ft.com/2014/07/16/1899692/african-minerals-dermot-coughlan-resigns/> (09-04-2015).

⁶² African Minerals Limited, corporate website, ‘Governance’, <<http://www.african-minerals.com/governance/governance>>, (25 November 2014).

⁶³ Financial Times, “African Minerals parts company with chief,” 15 August 2014, <<http://www.ft.com/intl/cms/s/0/a9184a0e-249a-11e4-9224-00144feabdc0.html#axzz3KBVgbDRP>> (1 April 2015).

⁶⁴ African Minerals Limited, corporate website, “Resignation of a director,” 29 December 2014, <<http://www.african-minerals.com/media/press-releases/resignation-director-0>>, (accessed 16 January 2015); African Minerals Limited, corporate website, “Directorate Change,” 16 February 2015, <<http://www.african-minerals.com/media/press-releases/directorate-change-1>> (17 March 2015).

⁶⁵ Human Rights Watch (2014) op. cit. p.5.

3.3. Finances

Table 2 shows the core financial figures for African Minerals over the last two-and-a-half years. The company only started generating revenues in 2013, after it began exporting iron ore, and it generated US\$869 million that year while making an US\$82.6 million operating profit. However, as described below, a number of 'special items' turned this operating profit into a net loss of US\$89.6 million.

Table 2: Core financial figures

	Half year 2014 (in US\$ million)	2013 (in US\$ million)	2012 (in US\$ million)
Revenues	399.2	869.1	-
Operating profit	-58.2	82.6	-225
Net profit	8.7	-89.6	32
Production cost per tonne	39	44.5	-
Debt/capital ratio	48.2%	49.7%	38.8%
Debt/asset ratio	25.1%	25.8%	17.7%
Equity/asset ratio	26.7%	26.1%	27.9%

The remainder of this section discusses three remarkable elements of the finances of African Minerals. The company's capital structure, production costs and imposed penalty charges all contributed to African Minerals being unable to meet its financial obligations.

3.3.1. Capital structure

One of the key factors for African Minerals' survival was its ability to attract adequate finance for its operations and its expansion plans. Given the company's mounting off-take commitments and need to increase production volumes in order to reduce costs (see below), external finance was a key factor for the health of the company. In December 2014, the company closed the Tonkolili mine as a direct result of insufficient working capital. The company's eventual decision to appoint administrators in March 2015 was triggered by it defaulting on one of its loans.

In 2013, the company's debt consisted of convertible bonds (US\$369.5 million), a number of pre-export and equipment financing facilities (totalling US\$375.1 million), a shareholder loan (US\$53.2 million) and a number of smaller facilities. The pre-export credit facility was issued by a syndicate of banks, mandated by Standard Bank and in which Standard Chartered Bank, Citi, British Arab Commercial Bank, Ecovas Bank for Investment and Development and BMCE Bank International also participated.⁶⁶ The shareholder loan was issued by SISG, the Chinese firm that is both the largest customer of African Minerals and that holds a 25% equity stake in the Tonkolili subsidiaries.⁶⁷ At the end of 2013, African Minerals estimated cost of capital stood at 8.3%.⁶⁸

⁶⁶ African Minerals, Annual Report 2013, p.23.

⁶⁷ Ibid., p.77.

⁶⁸ The cost of capital represents a hurdle rate that a company must overcome before it can generate value and is extensively used to decide whether to proceed with a project or not. The figure of 8.3% is calculated using the Weighted Average Cost of Capital (WACC) formula, with the following underlying data; Yield to maturity of African Minerals' convertible bonds at 11 December 2013 (9.097%); Effective interest rates of other loans as reported in the 2013 annual report, p.77; Tax adjustment of 23.3% as reported in the 2013 Annual Report; Risk free rate based on 10 year UK bonds as of January 2014 (3.02%); market risk premium were estimated based on historical figures (5%); beta as of 2 January 2014 as reported in Bloomberg (1.373).

As a result of the drop in iron ore prices, the company ran into cash shortages in 2014. In June, analysts were already warning that AML would need to gain concessions from lenders in order to pay back loans of US\$164 million that were due in 2014 (US\$86m on PXF facility; US\$56m on SISG loan and US\$25m on equipment financing).⁶⁹ Various options for additional funds were tabled, including the sale of another stake of the mine, signing more off-take agreements, or the use of cash from the SISG deal that was earmarked for the expansion of Phase 2, none of which materialised. The company defaulted on its PXF facility in November 2014 and on its convertible bonds in February 2015.⁷⁰ At that time, African Minerals' estimated cost of capital had gone up to 39.6%.⁷¹

As a result of the company's difficulties in meeting its financial obligations, its share prices dropped some 97% between January and November 2014 and trade in its shares was eventually suspended. An effort to have US\$102 million of restricted funds from the SISG deal released as working capital were unsuccessful, forcing the company to shut down its mine. Eventually, SISG took over the PXF facility from the syndicate of banks and demanded immediate repayment from African Minerals. As the company was unable to repay this loan and SISG seized control over its subsidiaries, leading African Minerals into administration.

3.3.2. Production cost structure

An underlying factor contributing to the downfall of African Minerals was the fact that its costs of producing iron ore were too high to compete in a global iron ore market where prices had dropped significantly. In its 2013 annual report, African Minerals reported average production costs of US\$44.5 per tonne of iron ore produced. These costs were reduced from US\$44.5 to US\$39 in the first half of 2014, but were still significantly higher than the large global iron ore companies, who have production costs of around US\$20 per tonne.⁷² The breakdown of the US\$44.5 figure is provided in Table 3.

⁶⁹ Bloomberg, "African Minerals at Six-Year Low as Iron Ore Slump Drains Cash", 30 September 2014, (09-04-2015) <http://www.bloomberg.com/news/2014-09-30/african-minerals-may-breach-debt-covenants-after-profit-slumps.html>

⁷⁰ Reuters, "UPDATE 1-China's Shandong calls in African Minerals debt", 27 February 2015, <http://www.reuters.com/article/2015/02/27/sierra-leone-mining-african-minerals-idUSL5N0W15P420150227> (17-03-2015). African Minerals website, "Financing Update", 10 February 2015, <http://www.african-minerals.com/media/press-releases/financing-update-3> (17-03-2015).

⁷¹ WACC formula with the following underlying data; Yield to maturity of African Minerals' convertible bonds at 14 November 2014(112.4%); Effective interest rates of other loans as reported in the 2014 half year report; Tax adjustment of 21.5% as reported in the 2013 Annual Report; Risk free rate based on 10 year UK bonds as of November 2014 (2.75%); market risk premium were estimated based on historical figures (5%); beta as of 14 November 2014 as reported in Bloomberg (2.619).

⁷² See for example, Australian Mining, "'We'll be OK': Rio Tinto CEO says \$20 a tonne iron ore production cost to shield against price volatility", 4 June 2014, [http://www.miningaustralia.com.au/news/we-ll-be-ok-rio-tinto-ceo-says-\\$20-a-tonne-iron-ore](http://www.miningaustralia.com.au/news/we-ll-be-ok-rio-tinto-ceo-says-$20-a-tonne-iron-ore) (09-04-2015); New York Times, "BHP Billiton Outlines Plan to Cut Costs on Iron Ore", 6 October 2014, <http://www.nytimes.com/2014/10/07/business/energy-environment/bhp-billiton-outlines-plan-to-cut-costs-on-iron-ore.html> (09-04-2015).

Table 3: Breakdown of production costs for African Minerals

Post	Overall costs of sales (2013, in US\$ million)	Costs per tonne of iron ore produced (in US\$)	Share of production cost (in %)
Contractors	297.8	24.56	55.2
Consumables	118.0	9.73	21.9
Personnel costs	82.5	6.80	15.3
Travel and entertainment	10.3	0.85	1.9
Freight costs	9.6	0.79	1.8
Maintenance and repairs	6.3	0.52	1.2
IT and communications	6.0	0.49	1.1
Consultants	4.8	0.40	0.9
Changes in inventories	-7.7	-0.64	-1.4
Other	11.9	0.98	2.2
Total	539.5	44.5	100.2

Source: African Minerals annual report 2013⁷³

As shown in Table 3, more than half of the average production costs for African Minerals was related to contractor expenses, while direct labour costs only constituted 15%. Analysts indicated that these costs are mostly fixed, and that production costs could only be reduced by increasing production volumes. Analysts also indicated that “*due to AML’s largely fixed cost base and very high leverage to iron ore prices, small changes to iron ore prices have significant impact on EBITDA levels.*”⁷⁴

3.3.3. Penalty charges

As reported in the company’s 2013 financial statements, the company’s operating result was strongly affected by an expense post labelled ‘special items’.⁷⁵ These special items totalling US\$152.1 million turn a US\$82.6 million operating profit into a US\$69.5 million operating loss. These special items relate, among other things, to US\$46.3 million in penalty charges for a breach of warranty claimed by SISG, the company’s largest customer and minority shareholder of the Tonkolili subsidiaries. African Minerals stated the following in its annual report: “*The purchase and sale agreements with SISG guarantee that the Group’s Tonkolili operation would reach a production rate of 12 [tonnes per year] by the start of 2013. This production rate was not achieved until 1 May 2013, for which SISG claimed compensation. The agreements also contain warranties by the Group about the business and finances of the project companies as at the closing of the transaction, and certain breaches have been identified and claimed by SISG.*” Furthermore, the company paid US\$19.7 million in compensation charges in 2013 for “*an inability to fulfil several off-take contracts*”.⁷⁶ The penalty charges in 2013 were not a one-time occurrence but rather seemed

⁷³ These figures are calculated on the basis of the cost of sales (excluding depreciation of mine, railway and port assets) as reported in the financial figures.

⁷⁴ ISM Capital LLP, “African Minerals Ltd”, analyst report, 27 June 2014, accessed through the Bloomberg database, p.2.

⁷⁵ African Minerals, Annual Report 2013, p.49.

⁷⁶ Ibid., p.66.

to reflect a structural problem – for example, in 2012, African Minerals paid out US\$50 million for similar charges.

3.4. Customers and suppliers

Over 80% of the company's revenues in 2013 came from two Chinese customers – Shandong Iron and Steel Group (US\$460.6 million, or 53% of revenue) and the China Railway Materials Commercial Corporation (US\$248.8 million, or 28.6% of revenue). Both these customers have made investments in African Minerals and are entitled to discounted off-take contracts. The agreement with SISG entitled the Chinese company to 2 million tonnes of iron ore from Phase 1 of the project each year, 8 million tonnes from Phase 2 and 5 million tonnes from Phase 3 once completed and production started. The company could purchase these volumes at a discounted rate of between 0% and 15% dependent on iron ore prices.⁷⁷ As part of the deal, African Minerals guaranteed to sell 10 million tonnes of iron ore in 2012, which it failed to achieve. As already mentioned, SISG claimed a penalty charge for the breach of this guarantee. In 2010, African Minerals made a similar deal with China Railway Materials, a large Chinese iron ore trader, whereby the latter bought a 12.5% share in the company.⁷⁸ This deal included a 20-year guaranteed off-take agreement for 10 million tonnes from Phase 2 of the project.

African Minerals also reported its high dependency on a limited number of contractors.⁷⁹ As discussed in the section above, contractor expenses account for more than half of the company's iron ore production costs. These contractors were active in the mining operations, the processing plants, the trans-shipment vessels and tugs, as well as in the maintenance of the railways. In terms of expenditure, the company reported that contractor cost primarily related to the mining contractor and two contractors at the processing plants. The mining contractor was assumed to be BCM Group, one of the contractors named in the Human Rights Watch report on human rights abuses in Sierra Leone's mining boom (see below) and which describes itself as a contract miner specialising in opencast mining, civil earthworks and crushing.

3.5. Business strategy

According to its website, African Minerals' objective was to "be a leading independent mining company, providing superior returns to shareholders".⁸⁰ This section covers the competitive environment in which African Minerals was operating, as well as the way the company aimed to position itself in this market.

3.5.1. Competitive environment

African Minerals was the largest of three iron ore mining companies active in Sierra Leone – the others being London Mining and Cape Lambert. While these companies made a significant contribution to Sierra Leone's economy, they were relatively small companies on a global level. Internationally, the largest iron ore producers are Vale, based in Brazil, and Rio Tinto in Australia.

⁷⁷ The discount percentage is calculated as follows : <US\$60/t – 0% discount; US\$60-80/t – 7.5% discount ; US\$80-100/t – 10% discount; US\$100-120/t – 12.5% discount; >US\$120/t – 15% discount.

⁷⁸ African Minerals, "Definitive agreements signed with China Railway Materials Commercial Corporation to develop Tonkolili Iron Ore Project", 01 April 2010, <http://www.african-minerals.com/media/press-releases/definitive-agreements-signed-china-railway-materials-commercial-corporation> (09-04-2015).

⁷⁹ African Minerals, Annual Report 2013, p.11.

⁸⁰ African Minerals, "Strategy", <http://www.african-minerals.com/our-company/strategy> (02-02-2015).

Steep drop in global iron ore prices

Since the beginning of 2014, market prices for iron ore have dropped significantly. Market prices in China have dropped some 50% since August 2013, mostly due to a slowdown in the real estate sector.⁸¹ According to Bloomberg, completions and sales of new buildings in China have dropped 18%, leaving a lower demand for steel and the raw materials for steel production. The drop in Chinese iron ore demand is linked to the dire financial situation of many Chinese steel firms, who are reported to have alarming debt-to-asset ratios.⁸²

In addition to the decrease in Chinese demand, iron ore prices are also affected by the increase in iron ore production in Australia and Brazil, the two largest producing countries in the world. BHP Billiton recently announced an increase in its iron ore production in an effort to gain more market share as higher-cost counterparts in China shut down their mines due to the low iron ore prices.⁸³ Estimation models show that iron ore supply may increase 45% by 2018 compared to 2013.⁸⁴

Ebola outbreak

As a company active in Sierra Leone, the outbreak of the Ebola virus naturally affected the company's operations. As of 1 April 2015, 8,545 cases of Ebola have been confirmed in Sierra Leone, resulting in the death of 3,433 individuals.⁸⁵ Like other districts in Sierra Leone, the Tonkolili district has been affected significantly by the Ebola outbreak. In December 2014, Tonkolili joined a growing list of Sierra Leonean districts placed in quarantine, with nobody allowed to leave or enter without permission.⁸⁶

Initially, African Minerals indicated that the Ebola outbreak had no impact on its business operations.⁸⁷ Even when Sierra Leone announced a three-day countrywide lockdown, African Minerals said its project remained unaffected.⁸⁸ However, when the company announced the temporary shutdown of the Tonkolili mine in December 2014, it stated: "The fall in iron ore prices and the operational challenges caused by the Ebola disease outbreak has meant the project has continued to operate at a loss."⁸⁹

3.5.2. Competitive positioning

Within the global iron ore market, African Minerals has focused primarily on supplying the Chinese market by securing future off-take of its products through pre-financed contracts. The company also tried to lower its production costs. A number of the company's competitive strategies have

⁸¹ Bloomberg Intelligence, Iron Ore's Paper Market, accessed through the Bloomberg database.

⁸² People Daily website, "Debts pile up, weighing on steelmakers," 7 September 2014, <<http://english.peopledaily.com.cn/business/n/2014/0907/c90778-8779605.html>> (21 October 2014).

⁸³ ABC website, "BHP posts increase in iron ore output," 22 October 2014, <<http://www.abc.net.au/news/2014-10-22/bhp-posts-increase-in-iron-ore-output/5832198>> (25 October 2014).

⁸⁴ Bloomberg Intelligence, "Steel Raw Material Suppliers, Global (BI RMSUG)," BI Briefing – Midyear Outlook, accessed through the Bloomberg database.

⁸⁵ World Health Organisation, "Ebola Situation Report - 1 April 2015", 1 April 2015, <<http://apps.who.int/ebola/current-situation/ebola-situation-report-1-april-2015-0>> (5 April 2015).

⁸⁶ Daily Mail, "Sierra Leone widens Ebola quarantine", 2 December 2014, <<http://www.dailymail.co.uk/wires/afp/article-2858279/Sierra-Leone-widens-Ebola-quarantine.html>> (09-04-2015).

⁸⁷ Newstime Africa, "FRANK TIMIS – EMPEROR OF WEST AFRICAN MINING AND OIL VISITS SIERRA LEONE AND SAYS IT'S BUSINESS AS USUAL DESPITE EBOLA THREAT", <<http://www.african-minerals.com/sites/default/files/attachments/pdf/FRANK-TIMIS.pdf>> (09-04-2015).

⁸⁸ Reuters, "African Minerals sees no material impact from Ebola lockdown", 19 September 2014, <<http://www.reuters.com/article/2014/09/19/african-minerals-ebola-idUSL3N0RK2LB20140919>> (09-04-2015).

⁸⁹ African Minerals, "Financing and Operations Update", <<http://www.african-minerals.com/media/press-releases/financing-and-operations-update>> (09-03-2015).

made it more vulnerable to the effects of the drop in global iron ore prices and the Ebola virus outbreak.

Pre-financing in exchange for discounted off-take agreements

As discussed, African Minerals signed a number of off-take agreements with its customers in exchange for pre-financing. The proceeds of these deals were mostly earmarked for the financing of the expansion of the Tonkolili mine. Both the China Railway Materials Commercial Corporation, through its US\$300 million investment and SISG, through its US\$1.5 billion investment, were entitled to guaranteed and discounted off-take of iron ore produced by the mine. When unable to supply the agreed volumes of iron ore, African Minerals was required to pay penalty charges, which it has been forced to do on several occasions in recent years (see also section 3.3.3).

This strategy of financing future expansion of the mine by pre-payments for iron ore supply lead to a situation whereby the company was forced to expand its production every year. The penalties it faced if it did not ramp up production turned operating profits into net losses, as was the case in 2013. Being forced to expand year after year can have had an effect on a company's stakeholder engagement approach. Furthermore, the discounts that the company's customers receive made African Minerals more vulnerable to changes in the global iron ore prices.

Unrealistically optimistic: Claims and promises African Minerals does not always live up to

Looking at the history of the company and its executives, a pattern emerges of exaggerated claims and empty promises to various stakeholders, including investors, clients and workers. As described above, African Minerals' predecessor SLDC made misleading statements to investors concerning the discovery of rare pink diamonds, while Frank Timis' Regal Petroleum had raised large sums of investor funds on the basis of inaccurate test results.

The systematic payment of penalty charges to clients for breaches of off-take agreements can also be interpreted as an indication that the company has been unable to meet the expectations it raised concerning production volumes. Finally, as described in the following chapter, the company has also made a number of empty promises and exaggerated claims to its workers, which was a factor leading up to the violent protests in 2012.

3.6. Administration

As already described, African Minerals applied to appoint administrators on 6 March 2015, after SISG had taken over the PXF loan and demanded direct repayment of the outstanding amount of US\$166.7 million. As described in its press release, African Minerals no longer had any ability to make decisions for its operating subsidiaries and the future of these companies was entirely in the hands of SISG.⁹⁰ Any further interaction between African Minerals and its subsidiaries would have to be negotiated between SISG and the administrators. The company furthermore indicated that the February 2015 salaries for national and expatriate staff were covered and being processed.

⁹⁰ African Minerals website, "Decision to appoint administrators and resignation of Nomad," 6 March 2015, <<http://www.african-minerals.com/media/press-releases/decision-appoint-administrators-and-resignation-nomad>> (17 March 2015).

4. Human rights impacts

The human rights impact of African Minerals' operations, as discussed in this chapter, are primarily based on findings from Human Rights Watch and the Sierra Leone Human Rights Commission. These findings relate to the period up to 2014 – a time when the company's financial condition was stable, and the Tonkolili mine was still operational. This chapter also examines the potential impacts of the administration process and the suspension of mining operations on affected communities.

4.1. Relocation and access to water

"The relationship between the community and African Minerals is ambivalent and a cause for concern."

Sierra Leone Human Rights Commission⁹¹

4.1.1. Relocation

The development and exploitation of the Tonkolili mine by African Minerals required the relocation of three communities (Ferengbeya, Wondugu and Foria) which comprise hundreds of families. In their report, *Whose Development?*, Human Rights Watch demonstrates that the relocation of these communities represents one of the worst aspects of African Minerals' operations in the Tonkolili district.⁹² Numerous community members complained about the consultation process, expressing that they had no say in the matter and no ability to "*contest their removal from their homes*".⁹³ According to the report, the paramount chief, the main person with whom the company engaged during these consultations, did not necessarily represent the position of the villagers.⁹⁴

Partially as a result of these flaws in the consultation process, local livelihoods have been severely impacted in a number of ways. Firstly, community members reported receiving less compensation than was initially promised. For example, community members from the relocated village of Ferengbeya received "*one-time payments of between 25,000 and 200,000 leones (US\$5–US\$40) for their crops and 600,000 (US\$120) per family for the disturbance of moving. The smaller payments lasted one week. The larger payments were made over three months. "We were underpaid and we weren't able to negotiate," the Ferengbeya village chief said.*"⁹⁵ People from the other villages/communities also reported insufficient compensation and forced relocations.

Secondly, the availability of food has diminished. Whereas villagers were previously able to cultivate their own land, they are now dependent on the company for their food supply.⁹⁶ Promises that they would be given equivalent land for cultivation elsewhere appear to have been empty as

⁹¹ Sierra Leone Human Rights Commission, Bumbuna Inquiry Report 2012, p.6, <<http://www.hrsl.org/sites/default/files/HRCSL%20Bubuna%20Public%20Inquiry%20Report.pdf>> (2 April 2015).

⁹² Human Rights Watch, *Whose development?* Op.cit., p.12.

⁹³ Ibid, p.26.

⁹⁴ Ibid, p.98. It should be noted that "African Minerals officials told Human Rights Watch that the company negotiated directly with the host communities, with the active involvement of the paramount chief." (p.26).

⁹⁵ Ibid p.29.

⁹⁶ Ibid p.32.

well: “Farming is not possible at Ferengbeya II, New Wondugu, and [New] Furia, because the land is dry and the plots are too small to allow cultivation.”⁹⁷

4.1.2. Access to water

A third large impact on the livelihoods of relocated communities has been the reduced access to water. Houses in the villages to which communities were relocated have no piped water, although this was promised by the company. In contrast to their previous situation, where they were accustomed to have water flow through their community, they now depend on water from trucks provided by the company, which they report as inadequate for their consumption and sanitation needs.⁹⁸ The toilets provided by the company also do not function because of the lack of water.

The Human Rights Commission notes that the workers’ strike (see below) was joined by people who had non-labour grievances against the company. Among them were women that were “angry about the water source and want it addressed”. African Minerals was accused of interfering with the water source for the people in Bumbuna without providing an alternative.⁹⁹

Impact on water sources is therefore not limited to the relocated communities. The waste water created by iron ore mining has an “*environmental impact which is exacerbated in Sierra Leone by the heavy rainfall during the wet season*”.¹⁰⁰ A report by the Vale Columbia Center on mining-related infrastructure notes that “*while the EPA and Ministry of Mines and Mineral Resources lack the capacity to monitor the environmental impact of the mining operations, local communities have reported contamination of surrounding water sources, soil erosion and flooding over and above heavy seasonal rainfall. For example, communities downstream of African Minerals’ mining operations have complained of deteriorating water quality, reflected in the orange color of the Rokel River water following the commencement of its mining operations.*”¹⁰¹

4.2. Labour issues

“*A history of broken promises on the part of the management of African Minerals and long-standing unaddressed grievances led the workers to protest out of frustration.*” Sierra Leone Human Rights Commission¹⁰²

In addition to the impacts experienced by community members, a number of labour violations have also taken place at African Minerals and its contractors. According to the 2012 Human Rights Watch report, one of the main concerns of employees of African Minerals and their contractors was the fact that they were not allowed to be represented by a union of their choosing. Workers went on strike in April 2012 when, after a period of tension between unions, workers and government officials, the Ministry of Labour retracted permission for one of the unions to represent the workers. The protests that took place in the town of Bumbuna (a nearby town that was not relocated) were initially non-violent. However, local police – strengthened by police reinforcements from nearby towns – opened fire and used tear gas against striking workers and community members alike. And in a nearby market place filled with market women and children, police also used tear gas and fired

⁹⁷ Ibid p.93.

⁹⁸ Ibid p.33

⁹⁹ Sierra Leone Human Rights Commission, op. cit., p.56.

¹⁰⁰ Vale Columbia Center, A Framework to Approach Shared Use of Mining-related Infrastructure. Case Study: Sierra Leone, 2014, p.61, <http://ccsi.columbia.edu/files/2013/11/Case-Study_Sierra-Leone_March-2014-2.pdf> (2 April 2015).

¹⁰¹ Ibid, p.62.

¹⁰² Sierra Leone Human Rights Commission, op.cit, p.6.

in the air.¹⁰³ The events in Bumbuna led the Sierra Leone Human Rights Commission to undertake a public inquiry. According to the Commission, the police exaggerated the threat of workers and youths, overreacted to the protests and used “*disproportionate force, including live ammunition, resulting in the death of one Musu Conteh, a young lady who worked for African Minerals*”.¹⁰⁴

In addition to the issue of freedom of association, workers’ protests were also triggered by a number of other complaints. These included poor working conditions, poor working relations with expatriate staff, lack of medical insurance, casual labour or short-contract employment, arbitrary termination of contracts, poor meals and long working days without commensurate compensation.¹⁰⁵

After the protests in April 2012, African Minerals agreed to wage increases of 16%, increased monthly minimum wages, and committed to building several training centres.¹⁰⁶ However, the subsequent report of the Sierra Leone Human Rights Commission showed that unaddressed workers’ issues represented a structural problem, leading to troubled relations between workers and management. The 2012 inquiry report notes that: “*It appears that the management of African Minerals is alienated from the low-ranking staff of the company, leading them to believe that management can only address their grievances if they protest.*”¹⁰⁷

New strikes by workers of one of African Minerals’ contractors, BCM, occurred in 2013 over “poor conditions of service”.¹⁰⁸ African Minerals recognised in its communication with Human Rights Watch that weak management controls over contractors was an issue, and that they would address this, stating that: “Clearly, our heavy dependence [on contractors] in the past, and the lack of proper contractor management controls, resulted in less than desirable results in some of these areas. You have our assurance that we are working on correcting the past and fostering a positive and mutually respectful and rewarding future in Sierra Leone.”¹⁰⁹ Human Rights Watch states in its report however, that after changes in the company’s management team, it remained unclear whether reforms took place.¹¹⁰ The most recent financial statements still show a heavy dependence on contractors. As was highlighted in the previous chapter, more than half of the average production costs for African Minerals related to contractor expenses in 2013.

4.3. Tax

As described in Chapter 2, Sierra Leone loses out on significant tax revenues because of its tax agreements with African Minerals and other large mining companies. Such revenue losses are caused mainly by the exemptions included in their mining lease agreements with the government of Sierra Leone. African Minerals’ agreement lowers its corporate income tax rate to 25%.¹¹¹ Withholding taxes on dividends is lowered to 5% instead of the national set rate of 10%.¹¹² In addition, the company is allowed to deduct several

¹⁰³ Human Rights Watch, *Whose Development?* Op.cit., p.52.

¹⁰⁴ Sierra Leone Human Rights Commission, op.cit, p.2.

¹⁰⁵ *Ibid*, p.24.

¹⁰⁶ Human Rights Watch, *Whose Development?* Op.cit., p.55.

¹⁰⁷ Sierra Leone Human Rights Commission, op. cit. p.55.

¹⁰⁸ Human Rights Watch , *Whose Development?* Op. cit.

¹⁰⁹ Letter form African Minerals Limited to Human Rights Watch, March 11, 2013, included in the 2014 Human Rights Watch report.

¹¹⁰ Human Rights Watch. *Whose Development?* Op.cit., p.43.

¹¹¹ Mining Lease Agreement between Government of the Republic of Sierra Leone and African Minerals Limited Group of Companies, Signed 6 August 2010, p.12.

¹¹² See the mining lease agreement (p.12) and PWC, *Keeping abreast of tax trends in Sierra Leone*, 2012, p.34,

expenses from its taxable income, such as costs related to the acquisition of new mining and exploration licenses, air tickets for its employees, and capital expenditure (partly). Contractors may also be entitled to the same deductions. The agreement also includes that the company and its contractors will be exempt from the road users' fuel levy, goods and services tax, all port and harbor dues or fees, and stevedoring charges.

Table 4 sets out the tax payments of African Minerals. The company does not break down its tax payments by country, which makes it impossible to analyse how much tax was paid or received in the several jurisdictions in which it is located (Sierra Leone, the UK and Bermuda). What the table does show is that the company paid no taxes in recent years because it made no profits, but instead received a deferred tax credit and is allowed to deduct a large part of its expenses. In all annual reports the company notes that "the Directors have increased confidence in [the company's] ability to generate taxable profits against which brought forward tax losses may be utilised".¹¹³ The latter part of that statement refers to the fact that the company is allowed, under the mining lease agreement, to carry forward losses for at least 10 years from the start of its operations, meaning that when the company starts making profit, it is allowed to deduct previous losses from its taxable profits for 10 years.

Table 4: African Minerals tax payments in US\$ millions

Year	Profit/(loss) before tax	Income tax
2010	Loss: (46.5)	Received tax credit: 10.3
2011	Loss: (40.4)	Received tax credit: 27.1
2012	Profit: 4.3	Received tax credit: 27.8
2013	Loss: (94)	Received tax credit: 4.4

The tax implications of African Minerals' decision to appoint administrators and handing over control of its subsidiaries to SISG remains unclear.

4.4. Potential impacts of mine closure

The impact of African Minerals presence on communities surrounding Sierra Leone's Tonkolili mine in recent years has been severe. It is marked by broken promises to local communities and a lack of genuine engagement with the workers and communities affected by the mining operations.

The situation of African Minerals has severely changed since the publication of research reports on which this chapter is largely based. The Ebola outbreak in West Africa and the plunge of iron ore prices globally led to African Minerals firstly suspending its activities in the Tonkolili district and eventually losing control over its operating subsidiaries. Given the change in managerial control it is uncertain if and when the mine will restart operations. It is also unclear whether the company will uphold the agreements made with workers and communities following the protests, or provide the basic services on which community members are dependent.

A temporary or permanent shutdown of the mine would have a big impact on the local economy as jobs might be suspended or lost. In a press release following the suspension of operations in December 2014, the company addressed the employment concern. It stated: "*Notwithstanding the*

http://www.pwc.com/en_GH/gh/assets/pdf/keeping-abreast-of-tax-trends-in-sierra-leone-2013.pdf (2 April 2015).

¹¹³ African Minerals, Annual Report 2013, p.68.

*temporary cessation of operations, the Company has been in discussions with the Government of Sierra Leone with regards to safeguarding employment. The Government considers this essential, given the current challenges facing Sierra Leone from Ebola, and wishes to ensure continuation of as many businesses as possible, which supports local employment and tax revenues in these difficult times.*¹¹⁴

Relocated communities, who are in large part dependent on the company for their water supply as well as for food, will also experience the effects of the company's closure. Access to water is a country-wide concern, especially since the civil war's destructive impact on the country's water and sanitation infrastructure. The regulatory and monitoring framework created after the end of the war is still in development and lacks financial resources.¹¹⁵

If the history of closure among iron ore mining companies in Sierra Leone reveals anything about the future, then the future for Tonkolili district is bleak. In the 1970s the Marampa mine, later operated by London Mining, was shut down by the Sierra Leone Development Company (known as Delco). After the closure of the mine, the nearby town of Lunsar "was damaged, broken down, almost a ghost town".¹¹⁶

¹¹⁴ African Minerals, Corporate website, press release 12 December 2014, <<http://www.african-minerals.com/media/press-releases/temporary-marampa-access-agreement-and-loan>> (19 December 2014).

¹¹⁵ African Ministers' Council on Water (AMCOW) Country Status Overviews: Water Supply and Sanitation in Sierra Leone Turning Finance into Services for 2015 and Beyond, 2011 p.2, <<http://www.wsp.org/sites/wsp.org/files/publications/CSO-sierra-leone.pdf>> (2 April 2015).

¹¹⁶ Robert Pijpers, "Lunsar: expectations in a changing environment," online article, 2013, <<http://www.sv.uio.no/sai/english/research/projects/overheating/overheating-blog/lunsar-expectations-in-a-changing-environment.html>> (2 April 2015).

5. Conclusions and recommendations

5.1. Conclusions

The central research question for this paper is:

What explains the adverse impacts of African Minerals Limited in Sierra Leone and how are such impacts linked to the company's business strategies?

Context

There are two major contextual factors to consider when discussing the adverse impacts of African Minerals.

The first is the model for post-conflict economic reconstruction used in Sierra Leone. This paper raises questions about the viability of an economic model based on foreign direct investment and the export of unprocessed raw materials. As discussed in Chapter 2, countries such as Sierra Leone tend to attract so-called 'bottom feeder' companies, as these companies are more nimble and faster at producing short-term results than some of the established companies. However, as the case of African Minerals shows, these companies are also the most vulnerable to commodity price drops, and are among the first to go under when a global industry struggles. The strategy of maintaining peace and prosperity through the economic dependence on such companies can be questioned on the basis of the findings of this report.

The second contextual factor is the development in the global iron ore market. Iron ore prices have been very volatile in recent years, with a sustained drop in prices since mid-2013. A number of large mining companies put enough weight on the scale to influence these global prices. The expansion of large iron ore mines in Australia and Brazil by companies such as Vale and Rio Tinto is increasing supply at the same time that demand for iron ore, in particular in China, is slowing. These companies aim to drive higher-cost iron ore producers out of business in order to protect their share of the market. The effects of these strategies on stakeholders in Sierra Leone are seen as inevitable side effects of the international competitive market. For example, the head of iron ore at Melbourne-based BHP Billiton was quoted saying: "*Any person that actually ends up losing their job because their company closes through no fault of their own, we don't take any joy from that... At the end of the day, it's a reality of the world we live in.*"¹¹⁷ However, the case of Sierra Leone raises serious questions about the value of the sustainable development commitments of these companies if any adverse effects from strategic business choices are considered to be inevitable.

Structure and business strategies

As a company, African Minerals chose a strategy that made it particularly vulnerable to sustained low iron ore prices. Not only was its production cost structure largely fixed, making the company particularly sensitive to price fluctuations, but its strategy of pre-financing its operations and expansion plans while committing to ever increasing off-take agreements meant that the company was forced to continue to produce even while doing so at a loss. Penalty charges that the company was forced to pay when it could not meet these off-take obligations consumed the company's

¹¹⁷ Bloomberg, "Iron Price War Deepens Crisis in Ebola-Stricken Sierra Leone," 13 October 2014, <<http://www.bloomberg.com/news/articles/2014-10-12/in-ebola-stricken-sierra-leone-mining-price-war-deepens-crisis>>, (2 April 2015).

operating profits. At the same time, the capital needed to expand operations and thereby meet off-take obligations was no longer available the moment iron ore prices slumped. Whether the company could have avoided going into administration is a subject for debate, but it can be argued that the strategic choices it made had a negative effect on the company's resilience.

Furthermore, African Minerals has seen its share of controversies in recent years. Not only has the company been accused of creating adverse human rights impacts on local communities and playing a questionable role in the violent episode between workers and local police, but the company and its owners have also been charged with misinforming investors on several occasions. A common factor in all these controversies appears to be the company making exaggerated claims and false promises. Investors have falsely been told about rare pink diamonds and future take-overs, communities have been promised improved livelihoods after resettlement, and workers and human rights groups have been informed about upcoming improvements in the company's working conditions that never seemed to have materialised.

Human rights impacts

Partly as a result of these claims and promises, several groups have found themselves greatly dependent on the company for food and water after their agricultural land and access to water disappeared. Likewise, workers at the company and its contractors are clearly dependent on the success of the company for their job security. And the economy of Sierra Leone as a whole was dependent on iron ore exports, royalties and related tax revenues in order to rebuild a shattered post-conflict economy. Ironically, "*making the economy dependent on natural resources exploitation*" was identified as one of the highest risks for Sierra Leone's development in its Agenda for Prosperity.¹¹⁸ Arguably, it is these vulnerable stakeholders – local communities, workers and Sierra Leone as a whole – that suffer the greatest consequences of the downfall of African Minerals.

5.2. Recommendations

In line with these conclusions, this paper comes to the following recommendations.

To (the administrators of) the company

- ❑ Take active measures to ensure that workers and communities whose livelihoods are dependent on the company are not adversely impacted by a change in ownership or status of operations.
- ❑ Develop and implement such measures in close cooperation and dialogue with affected stakeholders.
- ❑ Seek assurances that commitments made by African Minerals in response to reports by Human Rights Watch and the Sierra Leone Human Rights Commission are respected by the company's current and future management.

To the broader iron ore sector

- ❑ Recognise responsibility for adverse impacts linked to strategic business decisions, even if these impacts are felt beyond the company's direct area of operations.
- ❑ Engage in multi-stakeholder discussions on the impacts of the global iron ore sector.

¹¹⁸ The Government of Sierra Leone, The Agenda for Prosperity. Road to Middle Income Status, p.151, <<http://www.sierra-leone.org/Agenda%204%20Prosperity.pdf>> (2 April 2015).

To the Sierra Leonean government

- ❑ Actively implement its duty to protect and monitor that workers and communities are not adversely impacted by African Minerals' operations, changes in ownership or suspension of operations.
- ❑ Create broader human rights contingency plans to avoid impacts caused by any company's suspension of operations.
- ❑ Ensure that human rights victims have access to remedy even if human rights violations were committed by past owners or management of companies.
- ❑ Re-evaluate economic models that are overly dependent on foreign direct investment and export of unprocessed raw materials in light of the current financial difficulties faced by African Minerals and London Mining and the adverse impacts related to unsuccessful business models.

African Minerals in Sierra Leone

How a controversial iron ore company went bankrupt and what that means for local communities

This research report focuses on the mining company African Minerals and its Tonkolili mine in Sierra Leone. African Minerals has recently filed for administration and has faced accusations of grave human rights abuses. This report is part of a series of case studies on iron ore mining companies and the adverse impact their mining activities have on workers, local communities and the environment.

In this series, the adverse impacts are linked to specific corporate strategies and the global iron ore market. As such, this report provides insight into the rationale of iron ore mining companies and their business strategies and the ways in which these affect local communities. It also provides relevant insight for governments, the international community and local stakeholders on the role of multinationals in conflict-affected areas.

