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The Council on Ethics' first report to the Ministry of Finance on the observation of Randgold Resources Ltd.

The Council on Ethics recommended the observation of Randgold Resources Ltd. on 24 June 2011. The central issue in the recommendation was Randgold's gold mining project in Kibali, Democratic Republic of Congo (DRC), which would require the relocation of about 15,000 people. The Council's main concern was the risk that this group of people would have its situation worsened as a result of Randgold's project. In June 2012, the Ministry of Finance decided to place the company under confidential observation for a period of up to four years. During this period, the Council on Ethics is required to keep Randgold under observation and monitor the company's operation of the gold-mining project. The Council is required to report annually to the Ministry of Finance on the status of the observation process.

This is the Council's first annual report on Randgold, and includes a summary of developments since the recommendation was issued in June 2011.

Background

As stated in the recommendation, the Council's main concern was the risk that the population in the project area, whose conditions are already perilous, may see its situation worsened as a result of Randgold's activities. Particular emphasis was placed on the company's ability to ensure the safety and security of the population both during resettlement and afterwards. The Council pointed out that while the Kibali project might have a stabilising effect in a region in turmoil, resource extraction has also intensified existing conflicts elsewhere in the DRC. The relocation of so many people in an already precarious situation was also considered to constitute a risk.

The recommendation also highlighted that the company and the Council appraise the risk of conflict in the area differently. The Council was unsure whether the company's own measures would be sufficient to ensure that new and old conflicts were not fuelled, and whether the company would be able to adjust its measures in response to changes in the conflict level.

Sources

The Council had a meeting with Randgold in December 2012. The company also issued its first sustainability report in 2012, which covered all its projects and reported on progress made and the company's policies on different topics.¹

During the observation period, the Council has commissioned two reports by an independent consultant to obtain updated information about the situation on the ground. The first report covers the situation during the second half of 2011, while the second describes the situation in 2012.

Key developments since the recommendation was made

The conflict

Randgold's project is situated in the north-eastern part of the DRC, in the Orientale province, north of the Kivu provinces. This region is generally considered the most violent in the DRC. In the recommendation, the Council emphasised that there had been violent incidents just 30 km from the site where the mine was to be constructed. Whereas the Council understood this to be close to the project area, the company considered it to be relatively far away.

The reports commissioned by the Council mention no new incidents of this kind during the observation period. The risk that mineral extraction might fuel the conflict was the main reason behind the Council's decision to start looking into Randgold's project in the DRC.

The resettlement and the grievance mechanism

The company plans to start gold extraction in Kibali in October 2013. Before that, the company has to move 1,450 families from the project area. This phase is well underway, and many families have moved to their new houses. However, some are still waiting for their houses, and uncertainty about the resettlement date seems to be causing some discontent.

During the observation period, the company has strengthened its local office, which now has 20 local employees working solely on the contact with the local population and other stakeholders. These include a group of grievance officers who deal only with complaints. Randgold's headquarters have also been strengthened through the hiring of one person responsible for the relationship between the company and the local population in the project area. Various international guidelines emphasise the importance of well-functioning grievance mechanisms when new extractive projects are established, particularly in conflict areas.²

Randgold has informed the Council that it has received about 900 complaints from people in the area, but claims that 94 percent of these have been solved. The reports from the consultant confirm that the company has taken measures to resolve disputes and deal with discontent among people affected by the project. The two reports from the independent consultant indicate some positive developments. The 2011 report described several factors that appeared to be causing discontent in the population, while the report from 2012 showed that these factors had largely been reduced. It seems probable that the fact that more people have received resettlement compensation, including new houses, has had a positive effect and brought with it an increased level of satisfaction among the local population.

¹ Randgold Resources, Sustainability Report, 2011.

² See for example UNs Global Compact's "Guidance on Responsible Business in Conflict-affected and High-Risk Areas, Guidance point 1" and IFC's "Guidance Note 5, Land Acquisition and Involuntary Resettlement" no 25.

The artisanal miners in the area used to make their living from manual gold digging. The project area contained about 2,000 artisanal miners who had to quit as a consequence of Randgold's project. The company states that almost all of these miners are now employed by the project. Only a few have been given cash compensation and have moved from the area. However, the reports from the consultant state that some artisanal miners consider the compensation issue to remain unsolved, and that it still is very difficult to determine exactly what was promised and what has been paid out. Some of the artisanal miners consider the system to be convoluted, and that the uncertainty may cause some to become restive. For its part, Randgold claims that it has now checked that all artisanal miners have received their compensation, and that the company has reached a separate agreement with each and every individual.

Security risk

The Council stated in the recommendation that it was uncertain whether the company's security system and measures would be sufficient in view of the risk of violence and conflict in the area.

Randgold's mining area will contain an increasing amount of valuable equipment and, eventually, gold. This may attract groups wishing to steal from the project, which in turn will increase the need for more stringent security. In its sustainability report, the company has stated that:

*"It is Randgold's policy not to arm any security forces on our mines. We outsource normal mine security to reputable and unarmed security companies. ... The well trained and disciplined Special Police unit from Bunia is used to assist us with security. Their members have been trained on human rights by both the UN (MONUC) and by Kibali mine. Since their deployment at Kibali, there have been no complaints or grievances received from the local community concerning the police's detachment. However, it should be stated that the main component of security at the Kibali project remains an unarmed DRC private security company which are employed directly by Kibali Goldmines SPRL."*³

Intensification of conflict

The fact that extractive companies with projects in the DRC risk fuelling the ongoing and latent conflicts by trading with local militias has been a theme for discussions and resolutions of the UN Security Council. Randgold has stated that it will not sell any of its gold to individuals or companies inside the DRC, and that the company does not source minerals from external suppliers there.⁴

The Council's assessment

At the meeting between Randgold and the Council in December 2012, the company stated that the largest risks related to this project concern resettlement and the delicate ensuing stages. Notwithstanding individual concerns about the evolution of the project, the overall impression is that the local population is satisfied with Randgold's handling of the project so far.

The Council on Ethics will continue its observation of Randgold's project in the DRC, primarily through maintaining a regular dialogue with the company. The Council on Ethics will also continue to monitor whether information on incidents of increased conflict caused by the company's activities may arise from other sources.

Yours sincerely,

³ Randgold Sustainability Report 2011, page 83.

⁴ Meeting in London, in December 2012, between Randgold and the Council.

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