

Newmont Mining Corporation: embedding human rights through the Five Star Management Program

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Abstract

This case study investigates how an extractive company develops and implements a human rights policy, particularly in relation to community and indigenous issues, and puts that into everyday business operation. The case illustrates how one of the world's largest mining corporations implements the United Nations Global Compact and potentially provides managers with ideas of how to do likewise. The case study highlights the strengths and weaknesses of Newmont's approach in order to achieve continuous improvement.

This case study captures work in progress. It will be of interest to any company aspiring to better understand the implementation of the Global Compact. It is demonstrated that business approaches to integrating human rights can be based as much on opportunity and vision as on compliance with international standards.

The author has decided to focus primarily on the Community and External Relations Standards (CER Standards) of the "Five Star Integrated Management System" as implementing tool of principles 1 and 2 of the Global Compact. The data presented is mostly from CER Standards, Yanacocha, Peru, 2006 and provides for limited field verification. Whilst Newmont has a strong conceptual commitment, in practice there are limitations that must be acknowledged.

Introduction

Mining is carried out in almost all imaginable locations, ranging from tropical jungles to the high Arctic, from 4,000 meters above sea level to circa 4,000 meters below surface. Industry performance in regards to environmental and social responsibility varies from responsible operations to those that exhibit no concern for environmental and social responsibility (UNEP 2001). Expansion in the mining industry has heightened since 1989 when over seventy five countries liberalised their investment regimes for mining, particularly among the developing countries. Economic and political reforms have unlocked new opportunities for the mining industry in previously blocked areas. As a result, investment in the mining industry constitutes a significant portion of the increase in the total direct foreign investment in developing countries (Warhurts 1998). In 2004, 63% of the total foreign direct investment in the mining industry occurred in South America, Africa and Asia (Euromines 2004). A global analysis clearly indicates that there will be a strong development of mining in the developing countries, which are typically regions with abundant mineral resources.

In some developing countries the natural resource exports represents up to 85% of the GDP (Sachs & Warner 2001), this makes the industry a significant actor in terms of economic growth for these nations. Nevertheless, in a number of these countries environmental and labour regulations as well as social policies are weakly developed or enforced. This constitutes a crucial difference when compared to history of mining in the industrialised world. The lack of effective democratic institutions and relevant regulations in these countries can increase social conflict, expand corruption, and displace investments in human capital (Power 2002). On the other hand, Warhurts & Lunt (1997) note that in these circumstances there is a possibility that companies could develop their own models of environmental and social responsibility, that go beyond acting within their more narrowly defined legal obligations.

Mining is a high risk-reward industry, requiring large capital expenditure and high sunk costs. The numerous risks facing the mining companies and the investors include operational-management to political and legal. For example, extractive companies often have to conduct operations in environments where security is an important concern or in countries where armed attacks are routinely experienced.

Mining companies have been linked publicly to interference in sovereign affairs, redistribution of wealth, poor labour conditions, corruption, transfer pricing, environmental degradation and disregards of human rights.² Regulatory pressures and public interest concerns regarding environmental and social issues have arisen over the last 25 years. Adequate responses to these situations are a real challenge for the mining industry. The industry needs to define robust strategies to achieve the financial goals

² For cases and opprobriums linking global mining companies with human rights abuses see: <http://www.business-humanrights.org/Categories/Sectors/Naturalresources/Mining>

and to adjust to its environmental and social responsibilities. It is a critical time to ensure that mining contributes to long-lasting development.

Corporate social responsibility provides an opportunity for mining companies to respond to public concerns and to leverage technological and organisational innovation for their competitive advantage. Recently, Wayne Murdy, Chairman and CEO of Newmont, has acknowledged that:

“...secure access to natural resources depends on environmentally and socially sustainable business practices...Enhancing the impact of mining on development requires joint action and new forms of partnership between governments, companies, civil society and international development agencies”(Murdy 2006)

Sustainable development as development that "meets the needs of the present without compromising the ability of future generations to meet their own needs" (Brundtland Report 1987) is a common interest of all nations and involves all actors of society. It seems to be evident that mining plays an important role in sustainable development. However, mining itself cannot contribute to the goal of sustainable development without the cooperation of other businesses as well as governmental and civic participation. Here the importance of international initiatives such as the Global Compact becomes clear.

This case study illustrates how one of the world's largest mining corporations implements the United Nations Global Compact and whether the company's operations are performed in a manner that respects, protects and supports human rights. For that purpose the author has decided to concentrate mainly on Principles 1 and 2 of the Global Compact. The Community and External Relations Standards (CER Standards) of the company's "Five Star Integrated Management System" (Five Star Programme) serve as a framework for such an exercise and the data presented is mostly from Yanacocha Operations, Peru, 2006.

The Global Compact

In May 2004 Newmont engaged itself in supporting the ten principles of the Global Compact in respect to human rights, labour rights, the protection of the environment and anti-corruption. The commitment requires not only to support the principles but to advance them within the company's sphere of influence. To this effect, the company upholds that "by maintaining high standards for protecting human health and the environment, and working in cooperation with our host communities, we endeavor to create sustainable, long-term economic and social opportunities." (Website 2006).

This case study concentrates on Principles 1 and 2 of the Global Compact ³. These two principles are the most general and broad of the ten, they embody almost all other rights and their wide-ranging nature makes them accessible to all types of businesses, regardless of size, industry, location or level of experience with corporate citizenship.

The Global Mining Initiative

In 1999, nine of the world's largest mining companies launched the Global Mining Initiative that led to the commissioning of the Mining, Metals and Sustainable Development project which culminated in 2002's Breaking New Ground report. The International Council on Mining & Metals (ICMM) was formed to take forward the agenda identified in the report. ICMM is made up of 14 of the largest mining and metal companies, and 24 national mining and global commodities associations. The aspiration of the ICCM is to create a *“viable mining, minerals and metals industry that is widely recognized as essential for modern living and a key contributor to sustainable development”* (ICMM 2006).⁴

Company Profile

Newmont Mining Corporation, headquartered in Denver, was founded in 1921, New York as a holding company to invest in worldwide mineral and oil. Newmont is registered in the US as a public limited liability company with a board of directors and executive management. The company has been trading on the New York Stock Exchange since 1925 and also trades on the Australian and Toronto Stock Exchanges.

Newmont operates in copper, oil and gas and gold mining. It is the world's third largest copper producer, measured by pounds of copper produced, with interests in eight copper global operations. Newmont's oil interests include more than 70 blocks in the Louisiana Gulf area and oil and gas production in the North Sea. In February 2002, Newmont completed the acquisition of Normandy Mining Limited and Franco-Nevada Mining Corporation Limited, making it the world's second largest gold producer, measured by ounces produced. This three-way combination allowed Newmont to assemble an in-house merchant bank to manage a larger diversified set of portfolio assets and to provide in-house investment banking, advisory and transaction, corporate development and merger & acquisition services.

³ The Selected Global Compact Principles:

Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; and

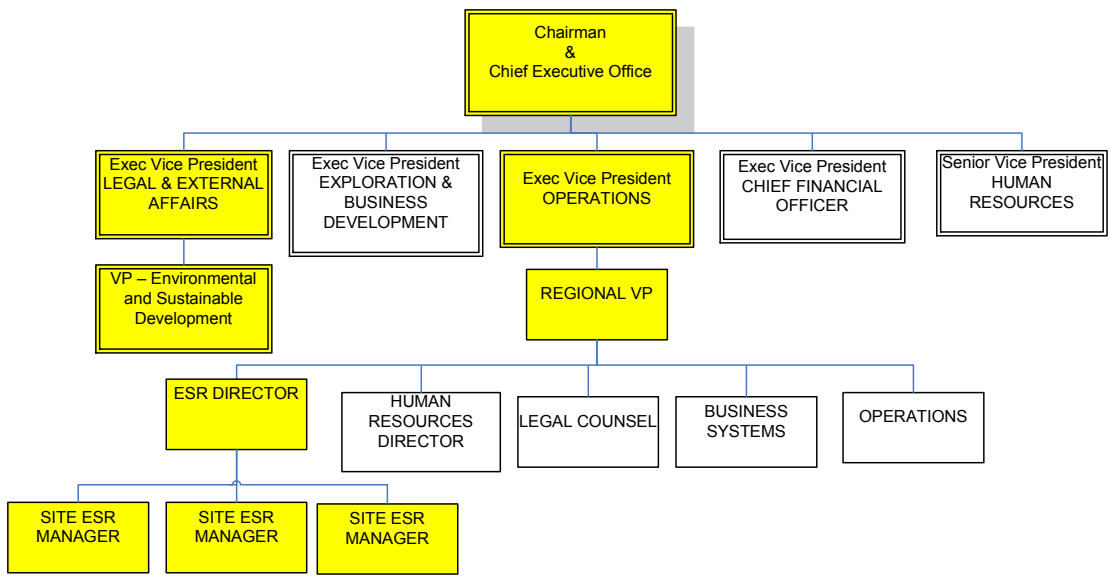
Principle 2: make sure that they are not complicit in human rights abuses.

⁴ For more about the ICMM, see <http://www.icmm.com/>

For the 2005 financial year, the company had revenues of approximately US\$ 4,406 million and capital expenditures of approximately US\$ 1,226 million. The 2005 equity gold sales were 6.5 million ounces and the equity copper sales were 302.8 million pounds.⁵ Newmont also possesses over 32 million acres of land in the world gold districts and reported record industry gold reserves of 93.2 million equity ounces in 2005 (Newmont 2005). As of December, 2005, Newmont employed 33,794 people, distributed in 14,857 employees and 18,937 contractors, the majority of whom work at mine sites in the US, Australia, Peru, Indonesia, Canada, Uzbekistan, Bolivia, New Zealand and Mexico.

Newmont was the only Standard & Poors 500 listed gold stock for year 2005 and was also listed in the Dow Jones Sustainability United States Index (DJSI US) as of 7 of September 2006. Newmont’s Annual Reports on Form 10-K as filed with the Securities and Exchange Commission as well as its Corporate Sustainability Reports are available on the company’s Website.

Newmont’s Sustainability Organisational Chart



Source: Newmont 2006

Values

Newmont’s corporate values are to reward entrepreneurial spirit, but an essential part of them are also dedicated to leadership in safety, stewardship of the environment and social responsibility; as the company puts it “to act with integrity, trust and respect” in

⁵ Equity sales is Newmont’s share of total sales. Newmont operations may involve partnerships with other company(s).

every day operations (Newmont 2006). In this respect, the company has adopted a social and environmental policy and has enacted a Code of Business Ethics and Conduct (Code). The responsibility policy is expressed through a series of environmental and social commitments such as sustainable development, protection of human life, health and the environment, as well as adding value to the communities in which they operate. The company intends to use the Code as an effective program to prevent and detect violations of law as well as an educational tool for staff members.

The Code applies to all of Newmont Mining Corporation’s subsidiaries. All Newmont’s employees must sign an annual declaration that they have read and understood the Code. It is worth observing that the final part of the Code contains a waiver procedure (Code of Business Ethics and Conduct 2006:14). Contractors are not covered by the code, although they are committed to certain ethical standards through the terms of their contracts.

For the most part, Newmont’s adherence to sustainable business practices is transformed to operational reality via the commitment to different national and international initiatives.

The Social and Environmental Commitment

Newmont intends to be one of the world’s most trusted, respected and valued natural resource companies, and the leader in the gold industry (Murdy, Chairman and CEO in Newmont 2005). To achieve the former goal, the company publicly devoted itself to a number of initiatives regarding Corporate Social Responsibility (CSR) and sustainability as shown below in the timeline of Newmont’s Environmental and Social Evolution.

Newmont’s Environmental and Social Evolution

Newmont has developed an integrated system to identify and manage risks, and provide accurate information to support effective decision making, participation and training. It demonstrates an understanding of the requisitions and opportunities in human rights compliance, and most importantly, the company increased its commitment and implementation to responsible and sustainable business practices since 2002, as demonstrated below on the timeline.





Source: taken from Newmont 2005a: 4,5

A fundamental step in the long walk towards the institutionalisation of human rights is the formal and wide-ranging commitment of this company to respect the 1948 Universal Declaration of Human Rights (UDHR). Newmont made a public pledge to operate its business in ways that are consistent with and promote the principles articulated in the UDHR, as evidenced by its 2006 pronouncement in *The Standards We Adhere To*. The company's Director of Community Relations and Social Development affirms that "Newmont's commitment to the Voluntary Principles for Security and Human Rights and Newmont's merger with Normandy Mining in 2002, which gave [rise to] the Five Star Programme and assessment process that had their genesis in a conscious commitment to understanding and desire to develop a set of standards that addressed a company's global human rights risks" (Personal Correspondence 2006).

Further, Newmont voluntarily chose to adopt and participate in a number of international sustainable development schemes such as The Extractive Industries Transparency Initiative (EITI), The "Publish What You Pay" campaign, The World Economic Forum's Partnering against Corruption Initiative (PACI), The Global Sullivan Principles, The Council for Responsible Jewellery Practices (CRJP) and The Fund for Peace Human Rights & Business Roundtable. However, it is the Five Star Programme (discussed below) that helps to ensure Newmont's compliance with these schemes and particularly with the Global Compact principles.

Three key challenges emerged recently for Newmont: resettlement in Ghana, allegations of pollution from tailings in Indonesia, and community protest over Cerro Quilish in Peru. These issues have been addressed in the 2005 Corporate Sustainability Report, which provides a break down of the information of Newmont's mining operations in these three geographic areas, as a response to stakeholders' concerns around these issues. Furthermore, the Report incorporated an independent assurance and included visits to operating locations in Ghana, Indonesia, Nevada, Peru, and to the corporate Headquarters in Denver.

According to Newmont's Social Responsibility Policy and Guidelines, the company is committed to fulfilling the following social responsibility standards:

- *Develop and use systems to identify and manage risks, and provide accurate information to support effective decision making;*

- *Train our people and provide the resources to meet our social responsibility objectives and targets;*
- *Respect the Universal Declaration of Human Rights in its business operations;*
- *Respect the social, economic and cultural rights of indigenous people;*
- *Adopt policies and standards and operating practices that ensure ongoing improvement;*
- *Wherever appropriate and feasible, set operating standards that exceed the requirements of the local law;*
- *Assess our performance against our policies and standards.*
- *Demand leadership in social responsibility from all our people;*
- *Seek to share our success by partnering with stakeholders in appropriate community development programs;*
- *Consult stakeholders in matters that affect them;*
- *Strive to communicate our performance in an accurate, transparent and timely manner*

Source: Newmont's Social Responsibility Policy and Guidelines

The social policy relates to a variety of standards ranging from human rights commitments to environmental management principles. These standards of social responsibility guarantee consistency with the principles underlying various international instruments (e.g. UDHR), including the Global Compact, and also assure that the company is not otherwise complicit in human rights abuses.

In order to implement this policy a set of Social Responsibility Guidelines have been put in place with regard to operating goals, compliance standards and engaging stakeholders. These three areas will be identified in the next section of this case study.

Newmont's Five Star Integrated Management System

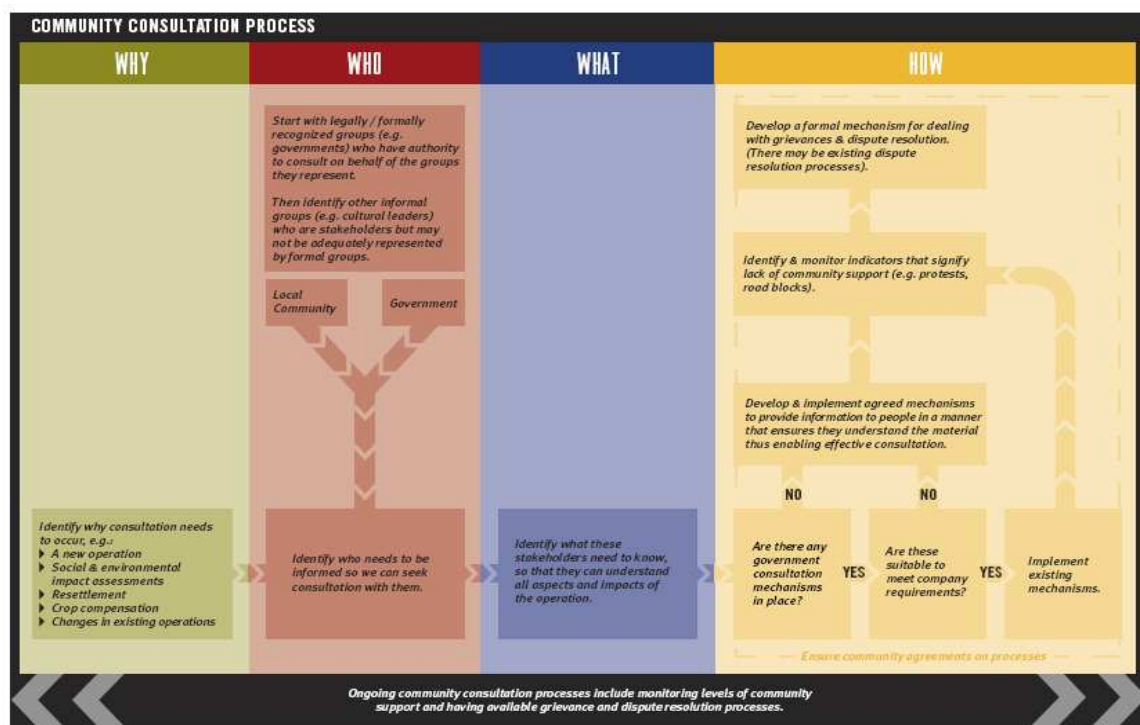
This case study attempts to demonstrate how this theoretical aspect, namely, company policy, relates to the practical operations of the company. The Five Star Programme is put in place by Newmont to ensure effective management processes and to address health and safety, community and environmental responsibilities. The Five Star Programme was previously reviewed and improved in 2004 and is under current revision. It is aligned with the requirements of the International Organization for Standardization (particularly ISO14001), the Institute of Social and Ethical Account Ability's AA1000 Framework regarding stakeholder engagement, and occupational health and safety management systems (OHSAS 18001).

Newmont recognises that the company's responsibility extends beyond the workforce and financial parameters and is concerned with the broader impact that the company has in the host community and the environment. The Five Star Programme's responsibility scope covers mainly core operations, business partners, host communities and certain types of advocacy.

Engaging with communities

Mutually beneficial, trusting and long-lasting relationships can only be built upon ethical commitments, principles and law. Fundamental to the human rights question regarding protection and respect (Principles 1&2 GC) is the way by which relations develop with the host community (stakeholders).

Burke & Logsdon argue (1999:499) that “by becoming more aware of the benefits to both the firm and its stakeholders, managers can make better decisions about CSR activities”. In the same line, Freeman (2005:61) calls for a “names-and-face approach” to stakeholder management. Such an approach enables managers to make better informed and more accurate decisions with regards to the *true* interests of stakeholders. The chart below illustrates the community consultation process completed by Newmont.



Source: Newmont 2005a: 29

Composition

The Five Star Programme consists of the (1) CER Standards, (2) Environmental standards and (3) Health and safety & loss prevention standards. The standards are a set of generic management systems standards, very similar to ISO 14001. These management standards must be met at all levels on an annual review basis and are assessed by external auditors.

Community and External Relations Standards

This case study explores whether Newmont's operations are being performed in manners which respect, protect and support human rights (Principles 1&2 GC). In order to facilitate a response, the case study focuses on the CER Standards. This set of standards is intended to assist the company's operations within a framework that ensures respect for human rights, including land access, indigenous issues, security forces management and resettlement.

In designing the CER Standards, the company relied on internationally-recognised guidelines, including the Global Reporting Initiative and the Institute of Social and Ethical Accountability standard on stakeholder engagement (AA 1000). The CER Standards are accompanied by a regular monitoring of the site performance. It is worth noting that the CER Standards are designed to reduce actual or potential harm of operation, in accordance with relevant norms and principles of prior informed consultation, mutual respect, integrity, and transparency.

Internationally recognised principles are made part of the strategy, culture and day-to-day operations of the company via these standards. Auditors assess each item based on its intent. A review of the CER Standards, in practice, is examined in the following section in relation to the Yanacocha operations in Peru and based on an external audit report of the site from June 2006.

The Community & External Relations Standards as outlined on the company website are as follows:

1. Management of Sites with Cultural and/or Religious Significance

Standard's Intent: To assist each Newmont managed facility with properly respecting and adequately protecting all sites with cultural or religious significance for Indigenous peoples in the facility's sphere of influence.

The performance assessment is based on the significant number of incidents during a period of time (a year) and the proactive steps that are taken to preserve and provide appropriate access to significant sites.

2. Management of Heritage Sites

Standard's Intent: To assist each Newmont managed facility to take the necessary steps to properly respect and adequately protect all sites with heritage significance or potential heritage significance in the facility's sphere of influence.

The performance assessment is dependent on the significant number of incidents during a period of time which is a year and the proactive steps that are taken to preserve and provide appropriate access to significant sites.

3. Land Access and Acquisition

Standard's Intent: To assist with the acquisition of the necessary permits, permissions and land titles before any exploration, mining and other related activity commences.

The performance assessment is conditional to the number of complaints and incidents related to land acquisition and access issues and the effective resolution of complaints during the assessment period.

4. Local Community Investment

Standard's Intent: To assist each Newmont facility to have a strategic program based on a needs analysis, for financial and in-kind assistance that delivers sustainable benefits to the local communities.

The performance assessment contemplates local community investments made by the operation based on a needs-analysis developed through consultation and once the investment is made, the sustainable contribution of it to the community's development after the life of the mine.

5. Indigenous Employment & Business Support

Standard's Intent: To provide proactive steps towards employment and business opportunities to local Indigenous stakeholders thereby ensuring inclusion, wherever possible, in opportunities provided by the facility's presence.

The performance assessment considers the effort made by the facility to maximize opportunities for indigenous employment and business support. The performance will be excellent when the targets met are industry norms and exceeded.

6. Media Relations

Standard's Intent: Proactive relations with local media are expected to be well established in order to obtain a balanced coverage of issues.

The performance assessment is depending on effort to engage in proactive media relations which is used to achieve positive news coverage and the sustained media coverage of local initiatives.

7. Staff and Contractor Behavior

Standard's Intent: To provide steps to assist with addressing the impact that employee and contractor behavior can have on the relationships that exist between the facility and the local community.

The performance assessment scrutinises the number of incidents during the assessment period. Newmont requires contractors to meet similar standards to those the company is committed.

8. Government Relations

Standard's Intent: To assist Newmont managed facilities with a proactive approach to government relations.

The performance assessment rests on the degree of communication that the facility has with most levels of government. For a very good performance the facility has to demonstrate its involvement with some levels of government raising community relevant issues and the benefits for the community and the facility emerged from that relationship.

9. Social Impact Assessments

Standard's Intent: To promote the practice of social impact assessments and their maintenance and use to inform the operation's risk assessment and external relations strategic planning.

The performance assessment looks at any specialist study or social impact assessment developed by the facility, the study should cover not only the impact during the time of life of the mine but also after the closure

10. Human Rights Awareness

Standard's Intent: To assist Newmont managed facilities to have internal processes for raising human rights awareness, including identification of human rights issues and impacts.

The performance assessment is based on the identification of human rights responsibilities, based on UN instruments, and issues which can arise from the operation of the facility. An excellent performance is obtained when by contributing along to the governmental authorities and the industry to the promotion of human rights.

11. Local Employment and Business Support

Standard's Intent: To provide proactive steps for providing employment and business opportunities to local stakeholders thereby ensuring their inclusion, wherever possible.

The performance assessment focuses on the effort made by the facility to maximize opportunities for local employment and business support.

12. Security Forces Management

Standard's Intent: To assist Newmont managed facilities to provide safety and security within a framework that conforms to the Voluntary Principles on Security and Human Rights (The Principles).

The performance assessment is dependant on the number of cases of human rights abuses and awareness of their human rights responsibilities under The Principles. The final aim of performance is to promote respect of human rights by security forces.

13. Closure

Standard's Intent: To promote the effective identification and management of potential closure and post-closure risks and opportunities throughout the mining life-cycle.

The performance assessment ensures that the facility has conducted a post closure plan in conjunction with stakeholders and takes into account the possible contributions to enhance the community needs. "Sites must assess the potential social and environmental impacts of closure and begin planning for closure right from the start of a project" (Newmont 2005a: 34).

14. Resettlement

Standard's Intent: To assist Newmont operations to develop and implement resettlement plans that offset the short and long term adverse cultural and socio-economic impacts.

The performance assessment peruses the number of complaints submitted by displaced persons, the resolution of these cases and the short and long term adverse impacts of the resettlement.

Five Star Rating System – Assessment regarding the CER Standards

In relation to the CER Standards, the Five-Star Assessment Criteria supplies a yardstick against which each Newmont operation's Community and External Relations can be measured. The measurement looks at both the management systems and the performance. The scale is developed as shown below with the respective systems appraisal:

1 Star (*) = Significant Improvement required.
Comment: No system procedures developed.

2 Stars (**) =Improvement required
Comment: Informal or incomplete system procedures.

3 Stars (***) =Target Requirement
Comment: Formal system procedures implemented

4 Stars (****) =Very Good Performance
Comment: Formal system procedures implemented with effective internal auditing, internal reviews, and continual improvement.

5 Stars (*****) = Excellent Performance.
Comment: Formal system procedures implemented with sustained continual improvement and being integral to site culture

Five Star Community & External Relations Assessment: Yanacocha Operations

I will now turn to consider one case revision showing how the Newmont's Five Star Programme is implemented at the Yanacocha site. By considering the assessment of the Five Star Programme at the Yanacocha gold mine in Cajamarca, Peru, some valuable insights can be gained regarding the realities of the managerial system. The key findings discussed in this section emerged from Minera Yanacocha Five Star Assessment 2006, a non-public internal document that refers exclusively to conformance with Newmont's CER Standards.⁶ A number of key findings and opportunities for improvement are summarised below.

Peru

Peru is the third largest country in South America, with a population of approximately 28 million. As is the case with most Latin American countries, it has abundant natural resources such as copper, silver, lead, zinc, natural gas and gold, but its progress has been held back by the failure of governments to deal with social and economic inequality. Extractive industries have played a major role in Peru's history since the Spanish conquest in 1533; however, they have not generated a broad base for development. Wealth is distributed regionally with poverty being concentrated in the highlands and forests.

During the 1980s, Peru experienced one of its most horrid economic crises, worsened by political violence and the denial of rights. During the 1990's an authoritarian centralised system, backed by military might and firm control of the media, managed to pull the country out of its economic chaos and led a period of sustained growth with an average annual growth rate of 7% from 1993 to 1997. Despite such economic achievements, problems such as corruption and the weakness of democratic institutions increased and inequality persisted. The growth of the Peruvian economy has slowed down considerably since 1997 and much of the social progress achieved during the early part of the decade has been eroded. By 2000, poverty indicators climbed back to their 1994 rates (UNDP 2004).

Newmont is confronted with long-rooted problems such as inefficiency of the judiciary, working conditions, deprivation of rights and discrimination against women and indigenous peoples. This presents an intricate human rights challenge for the company. Thus, a company must not only reconcile environmental and social responsibility concerns that may be created by their business operation, but also be able to understand

⁶ The data presented in this part of the case study is based on Yanacocha Five Star Community & External Relations Assessment – Report Version Final, June 2006

the social challenges which have been generated by history and respond adequately through their business activities.



Background

Minera Yanacocha is the biggest mine in Latin America and the second largest in the World,⁷ covering around 22,000 acres. The operation consists of five open pit mines and processing facilities, two of which are active.⁸ Newmont holds a 51.35% ownership and Compania de Minas Buenaventura S.A., owns 43.65%. The International Finance Corporation (IFC), an arm of the World Bank, holds the remaining 5%. The mine has an estimated life until 2018 (Newmont 2005(b)). The mine operates in an environmentally sensitive area made up of farms that rely on water coming from the mountains in the mine area. About 32,000 people live in communities near Yanacocha

and around 120,000 people live in Cajamarca. Allegations of mercury spills, disregard for the local communities, legal action and environmental deterioration have always accompanied the site (Newmont 2005(a), ALDHU 2003; Earth Rights International 2003). In 2004, in the face of community contest, the company withdrew the exploration permit for Cerro Quilish. Newmont maintains that it will not mine Quilish without community support.

As a result of Newmont's social responsibility policy formalised after 2002, the situation has recently improved. In 2004 Newmont prepared a human rights assessment of the Yanacocha operation against the U.N. Norms on the Responsibilities of Transnational Corporations. The result of the assessment suggested the necessity of raising awareness of human rights and increase accountability. In response to this assessment, an action plan was developed in 2005 to identify potential human rights issues and verify compliance, performance and reporting against Newmont standards.

Key Findings & Opportunities for Improvement

⁷ As measured by physical size and workforce size

⁸ In 2005, Minera Yanacocha sold 3.3 million consolidated ounces of gold. Proven and probable reserves contained approximately 32.6 million ounces of gold and 3.2 billion pounds of copper. For the same year, Minera Yanacocha workforce included 2,987 employees and 7,126 contractors. (Newmont 2005(b)).

According to a non-public internal document of the company which evaluates Minera Yanacocha in 2006,⁹ the site's operations demonstrate an increased commitment to satisfying the requirements of the Five Star Programme and establishing a functional system that improves the site's external relations risk management.

The assessor observed that Yanacocha's employees exhibit a greater sense of ownership and understanding of the elements and benefits of the systems. This new sentiment is attributable to corporate efforts oriented towards finding ways to illustrate in simple and quantitative terms the site's social performance. Improvements are particularly associated with CER Standards 4, 6, 8, 10 and 11. A great deal of consideration has been placed on stakeholder engagement and increased support for local employment. The site has devoted a lot of effort towards developing formal objectives and indicators for individual areas. It has also developed community projects with local authorities and organisations. The management has emphasized human rights training. The current complaint system provides mechanisms to raise human rights issues.

The main concerns persisting in the community focus on water supply, land degradation and particular apprehensions relating to the complaint system and closure plan. Complaints regarding contractor behaviour are the most common complaints received by Yanacocha. Stakeholders considered the company's performance to be poor when measured by corrective actions taken by the organisation in relation to contractor behaviour. An examination of the complaint system reveals that there are few corrective actions concurrent to the registered complaints of stakeholder. In the assessors view, this was due to the lack of analysis of the underlying cause of complaints and formal entry of corrective actions.

This situation is delineated by the fact that internal audits and the management review, which were conducted, are not traceable, nor were they carried out in great depth. It is imperative to address the root causes of the complaints and ensure proper corrective actions. Further evaluation of this process will also permit clarification as to whether the complaint system is accessible and trusted by external stakeholders.

CER Standard 13 has only been in place for one year and is yet to be developed at the site. However, the company has committed itself to conducting comprehensive post-closure plans, taking into consideration the needs of stakeholders as a general policy. Furthermore, an evaluation of the operation in relation to CER Standard 14 gives evidence that the site has yet to create a formal resettlement plan for projects which require the purchase of land.

The assessor has detected that the regional top management remain distant from the Five Star Programme, which suggests that senior manager's understandings of the process need to be improved; in particular they lack explicit goals in their Performance

⁹ Yanacocha Five Star Community & External Relations Assessment – Report Version Final, June 2006

Management Tracker (PMT), for example, relating to external affairs. Consequently, some key areas such as standard operational procedures, management review and auditing are operational but not fully functional

Conclusion

The public responsibilities of the extractive industries mean that it is essential for the mining industry to develop a system that assists in incorporating social and environmental aspects into the decision-making process of the organisation, including the regular monitoring of their performance. To this effect, Newmont, conscious of the global risks of its operations, has committed itself to minimising the negative impacts of mining via leadership in safety, stewardship of the environment and social responsibility.

Newmont's strengths

Newmont's commitment to environmental and social responsibility has a number of strengths, most significantly, the following three:

a) CEO engagement

Engagement and leadership are fundamental for social responsibility development and policy. In the last quinquennium, Newmont expressed its commitment to a variety of international instruments which can guarantee, if followed, an adequate level of human rights compliance. Newmont understands that a corporate responsibility approach based solely on compliance with national laws does not fit its needs. Mining operations cross the boundaries of national laws and business, involving multifarious activities and disciplines such as concession, exploration, operation, international trade, closure, labour rights, human rights and the environment. CEO initiatives are aimed at gaining an understanding of how the mining sector can better contribute to sustainable development. Accordingly, Newmont has developed into a mature organisation, which incorporates environmental and social dimensions within its decision making process. The CSR structure is aligned and is consistent with its policy, making possible the implementation of Newmont's social commitments.

b) Awareness

The company demonstrates a deep awareness regarding the human rights implications of its activities. Newmont has developed a system that integrates social estimations into business strategy. Such awareness is not restricted to the recognition of such responsibilities, but is accompanied by a desire to improve the Five Star Programme and an acknowledgment of its weaknesses.

Training for employees, a fundamental tool for dissemination and implementation of policies, is carried out on a regular basis. In 2005, 14 of the 18 Newmont sites undertook human rights training with employees and contractors working in security and other areas of operations. This is a significant point to note given the current environment in which companies have to balance their need for safety while ensuring that their actions are consistent with the protection of human rights. As for the Five Star Programme, the Star Rating system was restructured to better measure conformance to the *intent of the standard* in 2004. In addition, in 2006, steps were taken to redefine the performance criteria.

Most companies would agree that they share the common goal of promoting respect for fundamental freedoms, including the ILO rights at work and international humanitarian law. To this end, it may be interesting to see companies supporting human rights training for public security providers, which often share security arrangements with private companies. Whilst it is important to stress that the prime responsibility and obligation to promote and protect human rights lies with the State, the responsibility of other organs of society to promote respect for and foster knowledge of human rights cannot be ignored. It would also be positive to support such training for host communities, which would empower them to identify, understand and recognise their fundamental rights and liberties with special weight being placed on the rights of women, children and other vulnerable groups. The result of this corporate effort may secure human rights, mitigate the propensity of conflict in sensitive zones and improve dialogue between the company and the community.

c) Transparency

Transparency, requiring the full and timely disclosure of information, is a basic element of social responsibility and one which was reflected when discussing the key issues of this case study with the company. Transparency enables shareholders and other stakeholders to have a better understanding of a company's operations, including non-financial issues. As part of the improved transparency, the company has fashioned a comprehensive scheme of reporting, which is clear and detailed. In addition to the corporate sustainability report, which is assembled in accordance with the Global Reporting Initiative (GRI) and measured against the Institute of Social and Ethical Accountability's AA1000 standards, individual reports for each of the mine sites are being made available on the company's website. The Corporate Sustainability Report focus on the areas the company and the stakeholders consider material to the business. The reports are directly linked to the policies and standards held by the company and management systems created. The company also reports annually to the Global Compact Office on the progress made regarding the implementation of their Principles. In terms of communication with stakeholders, this has increased considerably and consequently the perception of stakeholders in relation to the company's image, has improved (2006 Yanacocha Five Star CER Assessment).

In general, Newmont has demonstrated an increased social commitment over the last five years. Nonetheless, the progress in some key areas seems to be overdue considering that the Five Star Programme has existed for four years. Comparing historical performance from the Community Relations & Development Discipline-Specific Standard from the years 2004 and 2005 shows that in several areas (for example; indigenous employment & business support and local community investment) there were no substantial improvements in 2005 (Newmont 2005a: 37). This might also be used as an example of how difficult it is to bring about change.

Cross-referencing data and analysing historical performance of Newmont's sites may provide an opportunity to identify practical changes which would improve management systems. It is important to acknowledge that the Five Star Programme is continually evolving and the current shortcomings might be resolved through developments in the areas highlighted above. There is a risk for all companies that social responsibility management systems become merely guidelines on community relations if tools are not fully developed to measure performance, employees are not trained, stakeholders are not given the opportunity of participation, management review and auditing is not conducted and the social responsibility programmes are not prescriptive.

In improving the business climate, anti-corruption initiatives play an important role in the development of ethical standards. Furthermore, corruption is one of the main hurdles for economic and social development, it is then significant that Newmont has sponsored and joined a mixture of international initiatives to combat global corruption such as PACI, EITI and the Global Compact. At the internal level, the company has arranged a Compliance Line (phone line), which allows employees to report suspected violations of the Code of Business Ethics and Conduct, non-conformance with company policies, and any other concerns. The line is run by a third party and operates 24 hours a day, seven days a week, 365 days a year. During 2005, the Compliance Line received 24 calls. The focus on fighting corruption and its integration in the corporate agenda are important developments in this company.

Conceptually, the Five Star Programme is comprehensive and ambitious, integrating social and environmental considerations into corporate decisions. The company demonstrates a clear understanding of human rights, however, as can be seen from the Yanacocha operations assessment, practical problems arise in the field: conceptualisation, implementation and functionality are different matters. When considering areas of improvement the complexity of the social dimension of business must be borne in mind.

At the empirical level, implementation of social policies requires ongoing monitoring, in particular with respect to human rights and labour issues. Monitoring, should involve stakeholders such as public authorities, trade unions and NGOs as they are in the best

position to secure the credibility of the implemented system. To develop assessment, internal auditing is an important tool given that it rapidly improves processes and is cost-effective.

It is argued, particularly in developing countries that while mining investment provides social and economic benefits for the host country, it also creates negative impacts on environmental and social-economic areas (Hair 2002, Hilson 2002 and Ahmad et al 2003). One of the main concerns of host communities is closure; mining projects are long term but finally do come to a conclusion. A key question is how mining companies can help develop sustainable communities around the sites before their departure. However, in the case of Yanacocha this concern has not met the company social responsibility policy and required Standards [CER standard No. 13], considering that the estimated gold reserves mean that the mine life is predicted to last until 2018, leaving less than 12 years to assist the build up of a sustainable community.¹⁰ Such a challenge requires the implementation and operation of policies and CER practices right from the earliest stages (exploration), including Social Impact Assessment (CER Standard 9) with stakeholder engagement and government participation (CER Standards 8).

Overall, Newmont's Five Star Programme has set the foundations for the development of a corporate culture that takes into account international human rights (Principle 1 Global Compact). The complicity notion is, however, somewhat more complex and depends largely on operational factors, accountability and continuous auditing (Principle 2 Global Compact).

¹⁰ In relation to this goal, see Thomas Enos, Senior vice-president, Operations in Newmont 2005a.

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Company website: <http://www.newmont.com>

The Extractive Industries Transparency Initiative (EITI): www.eitransparency.org

The "Publish What You Pay" campaign: www.publishwhatyoupay.org

The World Economic Forum's Partnering Against Corruption Initiative (PACI): www.weforum.org

The Global Sullivan Principles: www.thegsp.org

The Council for Responsible Jewellery Practices (CRJP): *www.responsiblejewellery.com*

The Fund for Peace Human Rights & Business Roundtable: *www.fundforpeace.org*

U.S Department of State: <http://www.state.gov/r/pa/ei/bgn/35762.htm>